



# Colorado Office of the Child's Representative

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## Winter 2015 Newsletter

### Notes from the Executive Director

Happy Holidays to all! December is such a wonderful time of year. Though the days are short, they are full of holiday cheer and tradition. Christmas lights, menorahs, holiday treats, and special events abound.

We hope to visit with each of you at our annual **OCR Holiday Party** on Friday, December 18<sup>th</sup> from 4pm to 6pm in the Grand Atrium at the Colorado Supreme Court!

Making the holidays special for those we care about is the real magic of the season. But let's face it—on top of busy personal and professional obligations, this time of year can be overwhelming. Seasonal stress can also impact the nature of the work you do. As attorneys for children, you often put your clients' needs before your own. That may be especially true during the holidays, which are particularly tough for children and young people who are separated from their families.

That's why it's so important to be sure to take care of yourself at this time of year. Monitoring our

own physical and mental health is key to meeting all of the demands of our professional and busy lives. In fact, the Colorado Supreme Court has declared January of 2016 "Wellness Month" for this very reason.

So, as you decorate and shop and bake and work hard on behalf of your clients' best interests, take time to nurture yourself. I wish each of you the very best of this most generous time of the year. ♦



Linda Weinerman,  
Executive Director



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# Meet an OCR Attorney



Each quarter, the OCR will feature an attorney in our newsletter and on our website. Learn about the individuals who make OCR's mission a reality through their passion, skill, and dedication to Colorado's kids!



*Richard Slosman practices in the 20th Judicial District as a Guardian ad litem and Respondent Parent Counsel.*

**Q: Why did you choose to practice child welfare law?**

**A:** In the 1990s I worked as a psychotherapist for families and children involved with the child welfare and juvenile justice systems. It was work that developed from a passion in wanting to help people make positive changes in their lives. By the late 90s, I recognized that, as much as I enjoyed addressing the mental health issues of my clients, a guardian *ad litem* was in a much more potent role to promote lasting positive changes both for clients and also within these systems themselves. That is why I decided on entering law school.

**Q: What has been the most rewarding moment for you while working with children and families in the D&N system?**

**A:** If I may take a bit of license with what is meant by a moment, let me say that the most rewarding experience has been being part of the huge and valuable transformations that have been made in this field over the last couple of decades. Granted, I was on the sidelines for much of it, yelling my disgust like a rabid spectator, but at times I got my hands dirty too. There is so much good that has happened. Much better adherence to legal procedures for protecting rights. Much better understanding of the needs of people and how to use systems to effectuate change. Much better appreciation of the value of helping people make changes for themselves and creating better coordinated services that utilize clients' own capacity for change.... A particular area important to me has been the recognition of the deleterious effects of emotional trauma and the benefit of using services to create healthy attachment relationships to heal them.

OCR has been essential in facilitating these and other positive changes. It has been an honor to have contracted with OCR.

Alright, I'll give some discrete moments but I can't give just one. The youth who was reunited with his father after nine years with the help of the legal system; the mother who, when faced with losing her children, finally came through her substance abuse addictions to work on her own childhood trauma; the child who, with support, was able to stand up to her mother's abusive behaviors and develop new healthy parenting relationships. It has been a true joy to be part of these and other significant transformations in people's lives.

**Q: Describe a challenge you face doing this work and your strategies to overcome it.**

**A:** There are so many challenges but one that I would like to address is the seeming vagueness of some of the statutes dictating dependency and neglect law. It took me some years to appreciate and even more to learn the procedures that make this area of law definite and effective. For example, "Best Interest" and "Reasonable Efforts" can sometimes be ambiguous concepts in the law, but learning early on in a case what needs to happen to make a needed change and framing it in terms of services in a treatment plan that is "reasonably calculated" to reunify a child can have a positive lasting impact on these families.

**Q: What advice do you have for an attorney that is new to child welfare law?**

**A:** Listen to your heart, learn the rules (all of them) and follow both.

**Q: What drives you to continue in this line of work and do you have any advice for a seasoned attorney?**

**A:** My advice is to take care of yourself. For me, the drive has never been an issue because there is such an enjoyable—sometimes addictive—quality to working with people, especially children, involved in the child welfare system. This intense work, though, takes a toll. So, it has been essential for me to learn good skills for self-care, healthy boundaries, relaxing vacations....

**Q: Share a litigation strategy or case when you were successful despite opposition from other parties to the case.**

**A:** An unsuccessful contest to a change of venue request by DHS comes to mind. I lost both at the trial level and on appeal (turns out change of venue is not seen as a final order, crazy as it seems). Though I lost, in some very important ways I achieved what my child-client needed.

The change of venue request was made after three years when DHS suddenly realized the child's family resided 1½ miles into a different county. Change of venue after three years would have been difficult for the child at any point, as she struggles seriously with disorganized emotional attachment capacities. She needs consistency in relationships more so than the average person her age. Change of venue meant change of providers, DHS personnel, and even a judge—all of whom provided her a feeling of emotional security. But change of venue when it was filed was particularly onerous as it came at a time when she was finally beginning to make some progress in therapy. It would have stomped out the small but meaningful steps she was beginning to take. The six months it took the litigation to transpire allowed her to utilize therapy successfully, which would have been impossible had the rug been pulled from under her by changing services and relationships too soon. This was a perfect example to me of why I went to law school. As a psychotherapist, I would have felt overwhelmed by the change of venue request when it was made. As a GAL, I could do something beneficial about it. ♦



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# Winter Legal Review

Summaries of new cases and legislation brought to you by OCR's Staff Attorneys

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### ■ 1. Colorado Court of Appeals

**A.W., 2015 COA 144 (October 8, 2015):** In this decision, the Court of Appeals affirms the trial court's adjudication of A.W. dependent and neglected. In doing so, the Court rejects three arguments raised by the mother. First, the Court holds that the trial court did not abuse its discretion in denying a motion by mother to continue the adjudicatory trial. Mother's motion was based on unavailability of a witness. Both §19-3-505 (3), requiring a finding that continuances beyond sixty days after service of the petition are in the best interests of the child, and CJD 96-08, requiring a finding of manifest injustice to grant a continuance, place the matter within the sound discretion of the trial court. A denial based on mother's failure to exercise due diligence to secure the witness by serving the witness with the subpoena would be within the trial court's discretion; because mother did not include a transcript of the hearing in which she denied the continuance, the Court of Appeals assumes mother did not make the proper showing. Second, the Court holds that evidence of the mother's prior dependency and neglect case was admissible. Because these acts were relevant under a prospective harm analysis, their admissibility did not turn on Colorado Rule of Evidence 404(b) and the analysis set forth in *People v. Spoto*, 795 P.2d 1314. Finally, the Court holds that the trial court did not abuse its discretion in denying mother's motion for a new trial, as mother's motion was not supported by an affidavit and therefore did not comply with C.R.C.P. 59(d)(1).

**S.T., 2015 COA 147 (October 8, 2015):** This case involves a challenge to the court's subject matter jurisdiction to enter APR orders to a relative after the father prevailed at an adjudicatory trial. The Court of Appeals vacates the APR order and remands the case to the trial



court to discharge the father and child from any existing temporary orders and to dismiss the proceeding. In doing so, the court rejects the contention of the Department and GAL that the appeal should be dismissed due to its untimeliness, reasoning that the finality provision set forth by §19-1-109(2)(c) turns on a dispositional order, which was not entered in this case, and that a challenge to a court's subject matter jurisdiction may be considered at any time. The Court resolves the subject matter jurisdictional issue in favor of the appellant father, determining that when the juvenile court found that the allegations in the petition concerning the father were not proven, the court did not have jurisdiction to enter any orders beyond dismissing the petition. As mother entered into an adjudication order, this decision analyzes the impact of the line of cases stating that adjudication is to the status of the child and explains how these cases do not allow the court's jurisdiction to continue even after one parent has entered an admission when the other parent has prevailed at an adjudicatory trial. The Court of Appeals also considers the impact of this decision on cases in which a parent may be relatively uninvolved in the child's life prior to the D&N case and unknown to the department. Note that the issues in this case relate to the issues currently before the Supreme Court in *J.G.*, which was set for oral argument 11/3.

### ■ 2. Legislative Update

The Legislative Session starts January 13, 2016. OCR is communicating with Legislators and preparing for the upcoming Session. We anticipate that the driving issue in 2016 will be the State's budget. ♦



## SPOTLIGHT ON OCR Committee Work



The OCR recognizes that 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:** 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.

■ **Colorado's Dependency and Neglect System Reform Program (DANSR) Executive Oversight Committee:** In October 2014, Colorado became one of five states to win an Office of Juvenile Justice and Delinquency Prevention Statewide System Reform Program (SSRP) award. This federal initiative is intended to infuse effective drug court practices into dependency and neglect cases across the state. The Executive Director serves on this committee. Additionally, an OCR Staff Attorney serves on the **DANSR Data Workgroup**.

■ **The Child Welfare Training Steering Committee:** A committee of the Colorado Department of Human Services (CDHS), county departments, and stakeholders working to redesign training models for social workers and supervisors to help improve outcomes for children and families. The Executive Director and Training Coordinator serve on this committee.

■ **Child Welfare Executive Leadership Council (CWELC):** CDHS formed the council to bring together executive leaders in child abuse prevention and protective services from across Colorado to provide advice and counsel to CDHS on matters related to protecting vulnerable children and advancing our child protective services system. The Executive Director serves on the council. OCR attorney staff members serve on the following CDHS subcommittees:

- **Title IV-E Waiver Steering Committee.** This steering committee is a part of the Child Welfare Executive Leadership Council community engagement structure.
- **Pathways to Success Steering Committee.** Tasked with developing a plan to align services and systems for transition age youth and young adults in order to improve outcomes and lessen experiences of homelessness, survival crime and human trafficking among youth exiting care.
- **Educational Outcomes Steering Committee.** Tasked with developing and guiding a shared work plan toward meeting the goals and corresponding benchmarks outlined in the *Blueprint for Change: Education Success for Children in Foster Care*, a publication of the Legal Center for Foster Care and Education.

■ **Children's Justice Act Task Force.** Reviews and evaluates State investigative, administrative and judicial handling of cases of child abuse and neglect, including child sexual abuse and exploita-

tion, cases involving suspected child maltreatment related fatalities and cases involving a potential combination of jurisdictions, such as intrastate, interstate, Federal-State, and State-Tribal. The Task Force makes policy and training recommendations to child welfare agencies and the judiciary.

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

■ **Colorado Child Fatality Prevention Review Team:** The Colorado Department of Public Health and Environment's state-wide multidisciplinary team 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 an ex-officio member of the Colorado Court Improvement Committee (CIC) without voting rights. The CIC focuses on improving the justice system for children, especially children in dependency and neglect cases. The CIC oversees the federal grant given to each state to improve the Dependency Court System. OCR attorney staff serve on the following subcommittees:

- **Permanent Home Workgroup:** The Executive Committee of the CIC appointed the Permanent Home Workgroup to examine and issue recommendations regarding practices and procedures for determining when children in dependency and neglect proceedings have been placed in a permanent home.
- **Court Improvement Plan (CIP)/ICWA Sub-Committee:** CIP formed the ICWA sub-committee for the purpose of developing an Indian Child Welfare Act (ICWA) compliance action plan.
- **Best Practice Court Team & Family Treatment Drug Court Convening Planning Committee:** A multidisciplinary committee convened by the State Court Administrator's Office for the purpose of planning the annual BPCT/FTDC Convening for judicial district teams.

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## Financials: Budget Update

### Fiscal Year 2016-17 Budget Request

The OCR submitted the Fiscal Year 2017 Budget Request on October 30, 2015. The request includes quotes from young people, parents, and caregivers about their OCR attorneys. These quotes highlight the difficulty of child welfare law and the value that GALs bring to ensuring that Colorado's children have their needs met. Available at: [www.coloradochildrep.org/ocr-fy17-budget-request](http://www.coloradochildrep.org/ocr-fy17-budget-request).

Significant items include:

- A reduction in its court-appointed counsel appropriation of approximately \$319,000 based on actual expenditures from fiscal year 2014-15 and expected trends through 2017.
- The reclassification of its Program Administrator to an Information Systems Manager to align the position with its responsibilities.
- An increase 0.2 FTE for the Information Systems Manager position based on workload.

JBC staff presented the budget to the Committee on November 18. The OCR received several questions from the Committee and provided responses prior to its budget hearing. Linda Weirnerman presented the OCR budget request to the JBC at the December 2nd budget hearing. The budget process will remain relatively quiet until the figure-setting process begins and the Long Bill is introduced in late March 2016.

### Fiscal Year 2015-16

#### First Quarter Financial Update

Analysis of first quarter financial report (July - September 2015) shows the OCR operating within its 2015-16 budget. Court-appointed counsel (CAC) expenditures are slightly below fiscal year 2014-15 levels. While it appears that CAC expenditures for the year will be below prior year levels (and under the FY 2015-16 budget), it is premature to estimate any savings with only 3 months of data to analyze. OCR staff will continue to monitor expenditures and prepare preliminary estimates for FY 2015-16 as more data becomes available. ♦

## OCR Committee Work

(Continued from page 4)

- **Colorado Dependency & Neglect Judicial Institute Planning Committee:** A multi-disciplinary committee convened by the State Court Administrator's Office and Dean for the purpose of planning the annual D&N Judicial Institute for judicial officers in dependency court.
- **Juvenile Justice Delinquency Prevention Council provides statewide leadership and advocacy to improve the juvenile justice system, prevent delinquency, and ensure equal justice and accountability for all youth while maximizing community safety.**
  - **Professional Development Committee:** A committee tasked with developing a set of core competencies and an action plan for youth serving professionals to establish standard training and a uniform understanding of core principles needed to work with youth. The committee also works to increase training capacity and identify the various professionals and stakeholders that should participate in the trainings.
  - **Juvenile Justice Code Review:** Newly formed committee reviewing Article 2 of Title 19 in light of latest scientific evidence and emerging best practices for system involved youth.
- **Colorado CASA**
  - **Board:** The OCR's Executive Director serves as a community member of the Colorado CASA Board.
  - **Legislative Committee:** OCR Staff Attorney/Legislative Liaison is a member of the CASA legislative committee.
- **Collaboration in 2015 and Beyond:** County, state, agency and provider stakeholders meet to discuss relevant issues, initiatives, and potential legislative agendas concerning child welfare.
- **Colorado Bar Association**
  - **Juvenile Law Section:** The OCR Deputy Director is a co-editor for the Juvenile Law section of the Colorado Lawyer which involves obtaining article submissions and editing them for publication in the Colorado Lawyer. The OCR Legislative Liaison is a member of the JLS Public Policy Committee.
  - **Colorado Women's Bar Association Public Policy Committee:** OCR's legislative Liaison is a member.
- **Legislative 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.
  - **Respondent Parents' Counsel Work Group (SB 14-203)**
  - **Child Protection Ombudsman Advisory Work Group (SB 14-201)**
  - **Mental Illness in Criminal and Juvenile Justice Systems Task Force Juvenile Justice and Mental Health Subcommittee of the Legislative Task Force on the Mentally Ill in Criminal Justice (SB 14-021):** This subcommittee 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. Additional focus areas include housing and competency restoration.
- **American Bar Association Section of Litigation Children's Rights Litigation Committee - Right to Counsel Strategy Committee.** The group works to promote the importance of lawyers for children in dependency cases.
- **Colorado Juvenile Defender Coalition.** The CJDC is a non-profit organization dedicated to ensuring excellence in juvenile defense and justice for all children in Colorado. OCR's Deputy Director serves as a member of the CJDC board. ♦

## Case Management & Billing

### CFI Transition

Beginning Jan. 1, 2016, all CFI contracts—both attorney and non-attorney—will be managed by the Office of the State Court Administrator (SCAO). Many thanks to the OCR contract attorneys who have done this important work over the years!

**Please remember that all work done on CFI appointments through date of service Dec. 31, 2015 must be entered into the CARES system by 5pm on January 8, 2016. After that date, OCR will no longer be processing CFI appointments. Work done from dates of service January 1, 2016 forward must be entered into the SCAO payment system.**

### Billing Reminder for DR/PAT Cases

Billing for Domestic Relations and Paternity cases is handled differently than other case types. In addition to the DR/PAT supplemental manual found at [tinyurl.com/jmgeq4w](http://tinyurl.com/jmgeq4w), these tips will help ensure prompt payment for your work:

- 1) When you receive an order of appointment, please review the order to verify that it includes indigence findings that meet the OCR guidelines.
- 2) Once you determine your case qualifies for state pay, enter the case into the CARES system. Remember all cases must be entered in the correct format, which is two digits for the year, two for the case type, and three for the case number, unless the case number is four digits long. Examples: 10JV006, 09DR156, 12JD023, 11JV1523.
- 3) Appoint yourself to the case.
- 4) Send the order to [Melanie Jannicelli](#). ♦



The OCR is pleased to feature this original artwork by youth **Jessica Fontanilla**. The image evokes the feeling of being “under water.” Art and poetry can often be a wonderful outlet for court-involved youth; please contact [Amanda Donnelly](#) if a young person you work with would like to feature his or her creative work in the OCR newsletter.



## TRAINING RESOURCES



- ➔ **Education:** President Obama recently signed into law the Every Student Succeeds Act (ESSA), the first major overhaul of federal education law in over a decade. The law now requires states to ensure certain protections for students in foster care, addressing the role of state and local education agencies to support school stability and collaborate with child welfare agencies. Please see the Legal Center for Foster Care and Education press release at [tinyurl.com/phenzme](http://tinyurl.com/phenzme).

The Foster Care Education Program (Nov. 2015 Updates) ([tinyurl.com/zk7lfpr](http://tinyurl.com/zk7lfpr))

- **New Video Released for School Districts on Best Interest Determination for Educational Stability.** As part of the Fostering Connections Act of 2008, County Departments of Human Services must develop a process to determine whether it is in a youth's best interests to remain in their school upon a change in child welfare placements, including return home. This video, made possible through funding from the Educational Stability Grant, highlights how child welfare agencies and schools can engage in a collaborative process to make the best interest determination. Available at [tinyurl.com/jt2opt5](http://tinyurl.com/jt2opt5).
  - **New School Mobility Brief on Foster Care from UNC.** This study examines "transportation-relevant" school mobility incidents for children in foster care. Available at [tinyurl.com/j3z3wh9](http://tinyurl.com/j3z3wh9).
- ➔ **Truancy:** Statewide Truancy Best Practices Committee Recommendation Report ([tinyurl.com/zyfgf8s](http://tinyurl.com/zyfgf8s)). The report provides research-based information regarding harmful consequences of detention that applies beyond truancy matters.
  - ➔ **Human Trafficking:** The new rules ([tinyurl.com/odfowdc](http://tinyurl.com/odfowdc)), effective Nov 1, 2015, focus on the identification, documentation and referral for appropriate services for any child who is in the legal custody of the County Department of Human Services who may have experienced or be at risk for experiencing sexual exploitation. In addition, the new rules require counties to report any child in their custody who is missing from out of home placement immediately to the National Center for Missing and Exploited Children and local law enforcement agencies.
  - ➔ **Teen Pregnancy:** *When You Decide: A Judge's Guide to Pregnancy Prevention Among Foster Youth* ([tinyurl.com/j6ozful](http://tinyurl.com/j6ozful)). This toolkit includes bench tools and scripts to help judges inquire into whether youth are receiving the necessary support, knowledge, and tools to make healthy long-term decisions regarding sexual activity and pregnancy planning. The resource was developed by the National Campaign to Prevent Teen and Unplanned Pregnancy and the National Council of Juvenile and Family Court Judges.
  - ➔ **Juvenile Delinquency:** ([tinyurl.com/hoarh9t](http://tinyurl.com/hoarh9t)) Chief Justice Rice requested that each of the 22 judicial districts adopt policies regarding the use of restraints on juveniles in the courtroom. In November 2015, the policies were submitted to the General Assembly. As noted by the Chief Justice, the policies reflect the diversity of our state and the various court environments. OCR will continue to work with other stakeholders on this issue.
  - ➔ **Representing Parents:** *Representing Parents in Child Welfare Cases: Advice and Guidance for Family Defenders*. Written by some of the leading parents' attorneys across the country, the book provides a comprehensive overview of various aspects of parent representation. For sale at: [tinyurl.com/jjyo6q6](http://tinyurl.com/jjyo6q6). All proceeds from the book will be donated to the ABA's Parent Representation Project. ♦



## TRAINING ALERTS



### Upcoming Trainings

Additional details and training opportunities can be found in OCR's "Training Tuesdays" email bulletin! View training details, register for trainings, and/or subscribe to future email notices at [tinyurl.com/trainingtues](http://tinyurl.com/trainingtues).

- ▶ [Engaging Fathers and Paternal Family Members: Strategies for Guardians ad Litem in Child Welfare Cases](#)
- ▶ [Core Competencies 2.0, New CJD 04-06 Standards, and Case Rounds Training](#)
- ▶ [CJD 04-06 Revisions & Reasonable Efforts Case Rounds](#)
- ▶ [Excellence in Delinquency Representation](#)

### Videos Online

Do you need to complete CLEs before the end of 2015? Visit the [Training Materials page](#) of the OCR website to view these and other recently-added FREE training videos and claim Home Study CLE credits:

- ▶ [OCR's New Attorney Orientation & Core Competencies for Dependency Attorneys](#)
- ▶ [GALs in Criminal Court: Protecting a Child's Right to Privacy](#) ♦

## MISSION STATEMENT

*The mission of the Office of the Child's Representative (OCR) is to provide competent and effective legal representation to Colorado's children involved in the court system because they have been abused and neglected, impacted by high conflict parenting time disputes, or charged with delinquent acts and without a parent able to provide relevant information to the court or protect their best interests during the proceedings.*

### OCR Board of Directors

Speaker Mark Ferrandino, Lynne Hufnagel (Co-Chair), Senator Cheri Jahn, Peg Rudden, Gwen Schooley, Maria Valdez, Joseph Wallis, (Former) Senator Al White (Co-Chair), Marc Winokur, Victoria Black (Youth Member)

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