

Office of
the Child's Representative
8th Annual Report



Presented to
the Colorado General Assembly
September 2008

OCR 2008 General Assembly Report



From the Executive Director

Appreciation and Recognition of the General Assembly's Commitment to Children and their Attorneys

I am pleased to provide you with the 2008 OCR General Assembly report. This year; the eighth full year of operation, the OCR has made great strides in advocating for children in Colorado. We continue to garner praise nationally and locally for our model of services.

This year, however, has been a difficult one for Colorado's children. Juvenile delinquency and dependency and neglect cases are increasing, as a result of the many child fatalities in our state and the subsequent Child Fatality Review Reports. In order to meet the needs of the children in our state, and due to the increase in filings and the passage of SB07-226, we have added 40 new attorneys around the state. The addition of these attorneys will help to bring youth participation and voice into the courtroom when in the best interest of the child, and allow for attorneys to spend more time on each child. This will also help OCR to further achieve its mission:

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.

The state of Colorado and the children of Colorado are fortunate to have a General Assembly that supports the OCR and the office's attorneys who ensure that children do indeed have a strong, effective voice in the courtroom. The OCR thanks the General Assembly, and all of the dedicated OCR attorneys who provide this invaluable service to the children of Colorado.

OCR is pleased to report our progress to the General Assembly in the improvement of best interest representation for children this past year (September 2007 through September 2008). 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.

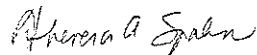
The office thanks the members of the General Assembly, who through the JBC, approved the increase in the hourly rate of pay to \$65 an hour. This increase enables children's attorneys to fully and properly investigate each case, and provide meaningful representation to the children in our state. Also, because of this increase, OCR recruited many seasoned attorneys from the field, including former DA's, judges, judicial law clerks and PD's.

I am grateful that the legislature was able to continue to fund our training budget this year. Because of all of the nuances in juvenile and pediatric law, and the addition of many attorneys to our contract list, it is imperative to continue to fund training. We appreciate that the members of the legislature, and the Senate and House Judiciary Committees are available to discuss issues that impact children and families, and for inviting us to participate in committees that help to shape policy in Colorado.

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

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The Office of the Child's Representative (OCR) is required by state statute, Section 13-91-105, C.R.S., to submit an annual report in September to the General Assembly. This report provides an update of the OCR's activities for the past year, including those conducted to meet the office's statutorily mandated responsibility to provide and oversee best interest legal representation for children in Colorado. The report also includes an overview of this year's major accomplishments, fiscal management of appropriations and the OCR's goals for the upcoming year.

Please Note: For informational purposes, this report often refers to "attorney representation" and "attorney services" in the broad sense. All attorney services that fall under the auspices of the OCR are "best interest" representation of children. The guardian ad litem, child's representative and attorney child and family investigator zealously advocate for, and/or make recommendations in the child's best interests.

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I. OCR Stories

A Denver GAL had a case with an infant in foster care that needed a heart transplant. The parents of the infant were not stable, and the infant was removed from her parents at birth. The child had hypoplastic left heart syndrome. In hypoplastic left heart syndrome, the left side of the heart -- including the aorta, aortic valve, left ventricle and mitral valve is underdeveloped.

The baby often seems normal at birth, but will need medical attention within a few days of birth. Babies with this syndrome become ashen, have rapid and difficult breathing and have difficulty feeding. This heart defect is usually fatal within the first days or months of life if untreated. The GAL said this infant had a blue complexion, and was on oxygen.

The initial treatment for hypoplastic left heart syndrome is the Norwood Procedure, and then two additional surgical procedures. This infant had two of the three required surgeries to correct the heart, but surgery did not remedy the defect, and a transplant was the only option left for the baby to live. The transplant team did not want to consider her for a transplant because they considered foster care unstable and not a permanent placement. In order for the baby to have the transplant, she needed medicine at the same time every day so that her body could prepare for the transplant and not reject the new heart. Additionally, the child would need medication for the rest of her life to support her heart function. The transplant team and the treating physician were reluctant; they did not think that foster care would provide a chance for her to have the medicine at the same time every day, thus compromising the transplant. The GAL was able to meet with the transplant team and convince them that foster care was a viable option as the baby would be placed in a foster home that could meet her medical and emotional needs, and then into an adoptive placement. The team and the doctors never believed that foster care and adoption can provide a healthy and stable environment. The department, even though they wanted the baby to have the transplant, was unable to convince the transplant team that the baby was in a stable placement. The GAL continued to lobby the transplant team on behalf of this baby. In fact, the GAL worked to find the foster mother, who was a nurse, and through the GAL's advocacy, the baby was placed on the transplant list. She had a successful heart transplant and is being adopted on December 23rd, just in time for the adoptive family to celebrate with extended family for the holidays. She is almost two years old now.

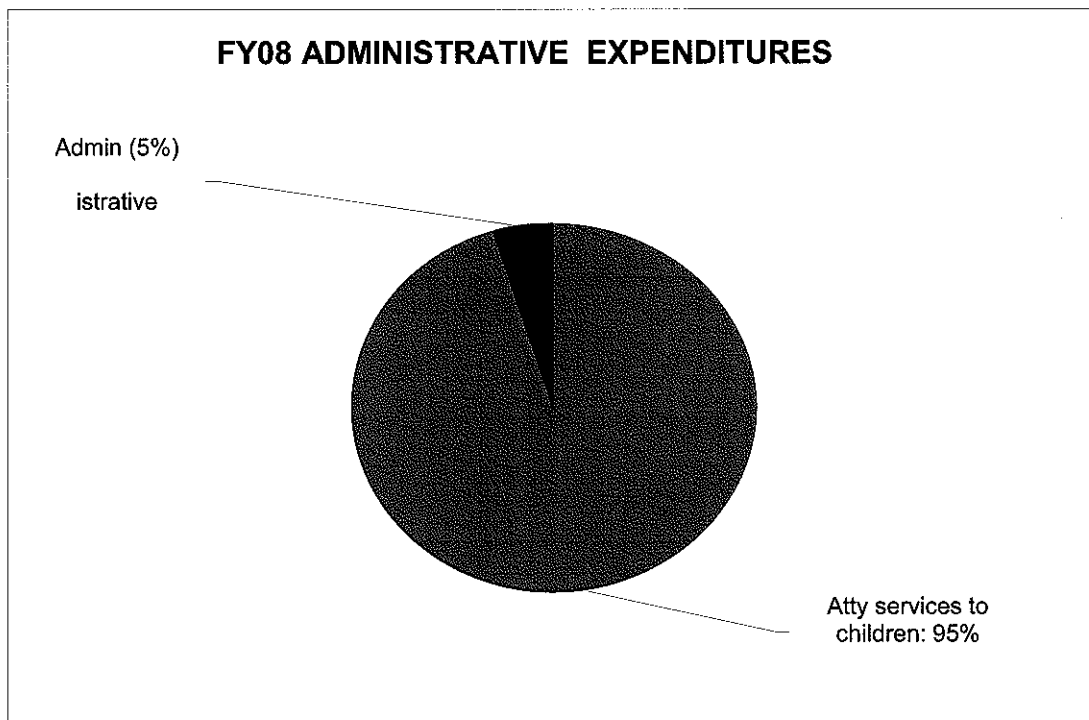
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II. Introduction and General Overview: What Is the OCR, Who Does It Serve, and How Can It Assist You as Legislators Representing Your Constituency?

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-five 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 **13,500 cases**, approximately **20,000** children, representing a 4.13% increase over FY07. 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.



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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 who are skilled attorneys with impressive backgrounds. For example, Michael Brass, who works out in the 13th JD was an Adams' County District Court DA; Catherine Madsen, attended the CU Juvenile Law Clinic and had the first termination trial ever in the 9th JD, Skeet Johnson, retired from the Denver Public Defender's office after 25 years, Doris Waters, in the 1st JD, the Chair of the Juvenile law section, and a former partner in a well-known family law firm, Jami Vigil, 2nd JD, speaks Spanish fluently, and Barbara Carroll, in the 18th JD, formerly a county attorney in Arizona. 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 **20,000 children were represented**. 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 a competent 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.

In court proceedings, the Attorneys file motions, practice discovery, litigate the case, file reports, call upon experts in a case, present evidence and file appeals. Out of court activities include home visits, foster parent visits, and contact with schools. They are independent of the Department of Social Services, and are not constrained by the budgets of the department, and their only concern is the best interests of the child.

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

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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 these case types, the court appoints an attorney or mental health professional child and family investigator to investigate and make best interest recommendations concerning parenting time and decision making. These services are overseen by the court pursuant to CJD 04-08. In a minority of cases, if the parents are indigent then the state will pay for these services. If the court appoints a state-paid mental health professional, the State Court Administrator's Office compensates for their services. If parties are indigent, and the court appoints a state-paid attorney, those child and family investigators or child's legal representatives fall under the oversight of OCR.

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 OCR will arrange for legislators to meet with the GALs in their district to gain personal knowledge of the unique issues that impact children within their communities. For example, information regarding trends in your district in such areas as truancy, delinquency, child abuse or participation in model courts around the state.
- The OCR can provide legislators with data on the number of cases involving children, the case types in which children are represented, the issues presented in those cases and how these statistics have changed over time, and what is causing increases or decreases in child abuse filings over a period of 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.
- 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

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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
- 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

I. Provide oversight

(a) OCR's annual contract process.

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.

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. We revised our evaluation form this year to provide specific examples of what exceeds expectations, meets expectations and what below expectations means. 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 2007/2008 application. Every application is considered, as contracts are not automatically renewed.

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Prior to the commencement of the contract period, in 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 in each judicial district. 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, this year, we responded to the needs of several jurisdictions that were filing cases at an alarming rate and added additional GAL positions. 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.

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 40 new qualified and dedicated attorneys into the field and; 3) renewing contracts of the majority of attorneys who provide exceptional services.

(b) Complaint process

In fiscal year 2008, 19 formal complaints were filed and fully investigated. Of those 19 complaints, all but one involved Guardians ad litem in dependency and neglect cases. The OCR Deputy Director investigates each complaint, spending an average of 10 hours on each. One complaint involved a Child and Family Investigator in a domestic relations case. Of the 19 complaints, two were founded. In the first founded complaint, the Guardian ad litem did not visit the children in their initial placement in foster care within the 30 day timeframe for that initial visit. Additionally, the Guardian ad litem failed to return phone calls from family members including a relative who was the primary caregiver for the children at the time the case was filed. OCR concluded that the attorney did not conduct an independent investigation into the children's circumstances and failed to meet her professional responsibilities to the children. As a result of that investigation, the attorney voluntarily suspended her contract to provide Guardian ad litem services in dependency and neglect cases and a new Guardian ad litem was appointed to represent the children in that case. In the second founded complaint, the Guardian ad litem aligned with the County Department of Human Services in seeking removal of children from a foster home where they had lived for almost a year without conducting any independent investigation into the circumstances. As a result of this founded complaint, OCR investigated the attorney's caseload. That investigation revealed significant concerns about this Guardian ad litem's independence from the County Department of Human Services in general. As a result, OCR terminated the attorney's contract to do Guardian ad litem work. The 17 complaints that were unfounded had full investigations the results of which were documented and kept on file in the OCR office.

(c) Audit Process

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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 2007-2008, OCR conducted an audit of attorney services in the 7th Judicial District. The work of seven attorneys with Guardian ad litem contracts was randomly sampled for compliance with the visitation requirement of Chief Justice Directive 04-06. All seven of the attorneys reviewed were in compliance with the visitation requirements of the Chief Justice Directive. Interviews with relatives and foster parents revealed a high level of satisfaction with the professionalism and follow up of the Guardians ad litem.

Additionally, an audit of a particular attorney's caseload in the 11th judicial district was initiated in response to concerns expressed by another professional. A sampling of that Guardian ad litem's caseload revealed that in several instances, the attorney had not met his obligation to visit the child in a timely manner. The attorney's contract with OCR has been terminated.

(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: OCR assists the attorneys by guiding them to appropriate professionals, written materials, and other resources. We also provide litigation support, appellate support and retain experts for our attorneys. In Fiscal Year '09, we revised our handbook for new GALs, created a motions bank on our website, revamped our website, conducted training for new GALs, and set up an informal mentoring program.
- (b) Response to inquiries from judicial districts. The OCR also receives inquiries 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. The OCR update is available to the public on the OCR website.

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(d) The OCR listserv. 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 new website has links to national organizations and resources for use by the general public and OCR attorneys. This is the first revision of the website since the creation of the office in 2001. 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 programs, CASA programs and the bar associations.

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

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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. During the 2008 legislative session, the OCR and ADC were graciously funded for an additional pay raise to \$65/hour.

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.

- National Association for Children Annual Conference, August 2007 – This national conference with over 800 attorneys was held in Keystone, Colorado, and OCR was able to fund many GAL scholarships to this specialized training. The training provided much information and the following are just a few examples of the many topics: 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 the obtaining Birth Certificates– This DVD focuses on how to obtain vital documents for foster youth. We collaborated with Kippi Clausen, and the youth at the Mile High United Way on this DVD. We distributed to SB 64 task force.
- OCR and University of Colorado Law School symposium II, November 2007- The theme of this symposium was “Consulting with Children on Permanency, Developing Best Practices.” The goal of the workshop is to help participants develop a plan for implementing S.B.07-226 that will work best in their area, given the unique needs of the location. Invited workshop participants include youth who have recently aged out, judges and magistrates, legislators, county attorneys, guardians ad litem, respondent parent’s counsel, service providers, and CASA volunteers. The broad language of S.B. 226 raises numerous questions, such as how to develop a process that incorporates this requirement, how to make good use of everyone’s time, how to prepare the youth for the hearing, how to identify a youth’s needs, and how and when to bring in support people to the hearing. We will address these questions and more during the day-long workshop.
- Jim Casey Youth Opportunity Initiative -Ryan Burke, OCR training coordinator, travelled to San Antonio at the request of the Mile High United Way to participate in this conference that works with all of the Jim Casey sites to improve the lives of foster children. spoke about the needs of foster youth the Women in Law and Accounting Networking Group in Denver.
- OCR’s Leap Year Conference-held in Steamboat Springs in February, this conference included presentations on youth perspective in foster care, appellate issues, and DYC.

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- OCR's Local SBO7-226 trainings- OCR held five week long brown bag trainings and two full day trainings around the state to help GALs and judges facilitate best practices for using SBO7- 226. This fall, we will train in Grand Junction, Fort Morgan and Alamosa on SB 226.
- CDHS Child Welfare Conference—This conference held in Keystone is the yearly conference sponsored by CDHS. For the second consecutive year, OCR staff has participated in the planning phases of this conference with CDHS, SCAO and county attorneys to incorporate “jurisdictional teams” to participate in this conference. For the first time, there was a specific legal track for attorneys. OCR staff also presented at the conference.
- Fall Training—The OCR fall conference will be held on Sept. 22-23 in Broomfield. The training will focus on delinquency and domestic relations cases.

D. Recommend and establish minimum practice and training standards.

Last year, we mentioned in this report that OCR was participating in 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. This committee continues to meet on a regular basis and will conclude meeting at the end of 2008. The committee is using a detailed matrix to define training for all professionals involved in foster care. We will soon distribute on next DVD 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 currently drafting revisions to the CJD 04-06 for our attorneys during coming year in order to incorporate the new provisions in SBO7-226.

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 office is a staff model office of state employees that fall under the oversight of the OCR. This staff model office is similar to the way a local Public Defender's office provides attorney services. The office was created in December 1999 in response to Senate Bill 99-215, which directed the Judicial Department to pilot alternative methods of providing GAL services. The goal of this pilot program was to determine if higher quality services could be provided through a staff model at the same or less cost as the then existing attorney payment process (contract/hourly billing model). 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 .

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

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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) was \$37 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 7,500 children. This year alone, the office successfully closed 463 D & N cases and 106 Delinquency cases. 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.

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IV. OCR BUDGET AND AUDIT OVERVIEW

A. Efficiencies

The OCR continues to work with various judicial districts to create efficiencies in the appointments of GALs for various types of cases. As a result of our 2006-07 audit, we collaborated with SCAO and Mary Flanagan, to train judges to not appoint attorneys that were not approved by OCR, and if non-approved OCR attorneys were appointed, the OCR would not process payment. 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 37% of the number of these cases paid.

B. Trends

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.

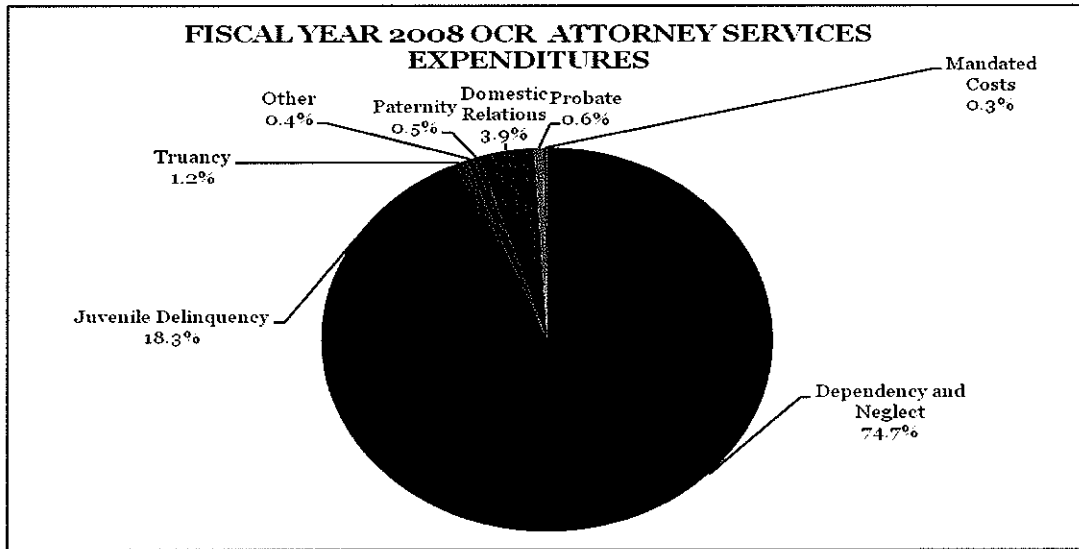
Comparison of OCR Cases Paid FY07 and FY08¹

Case Type	FY07	FY08	Increase/ (Decrease)	% change
Dependency & Neglect	8,012	8,269	257	3.21%
Juvenile Delinquency	3,594	3,874	280	7.79%
Domestic Relations	624	606	(18)	(2.88%)
Truancy	458	514	56	12.23%
Paternity	126	108	(18)	14.29%
Probate	105	73	(32)	(30.48%)
Other	45	56	11	24.44%
Total	12,964	13,500	536	4.13%

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 52,672 payments during Fiscal Year 2008, an increase of above 5% over the previous year, and an increase of more than 42% over Fiscal Year 2007. 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.

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Type of Case	Amount Expended in Fiscal Year 2007	Amount Expended in Fiscal Year 2008	Increase/ (Decrease)	% Change
Dependency and Neglect	\$ 9,128,247	\$10,370,720	\$1,242,473	13.61%
Juvenile Delinquency	2,001,483	2,542,716	541,233	27.04%
Domestic Relations	525,290	546,087	20,796	3.96%
Truancy	151,299	169,856	18,557	12.27%
Paternity	73,517	68,343	(5,174)	(7.04%)
Probate	59,298	89,856	30,558	51.53%
Other	28,503	55,869	27,366	96.01%
Mandated Costs	26,342	41,080	14,737	55.94%
TOTAL	\$ 11,993,979	\$13,884,526	\$1,890,547	15.76%

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C. Fiscal Year 2008 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 Clifton Gunderson LLP in conjunction with the annual statewide financial audit performed by the Office of the State Auditor. Audit procedures performed by Clifton Gunderson LLP 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.

Because the OSA has not found problems with any of our fiscal audits in the last eight years, they proposed legislation to OCR to remove the yearly fiscal performance audit of the OCR in the 2009 session in order to create efficiencies within the state. At the audit hearing in August, the Legislative Audit Committee voted to go forward with this legislative change.

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 was very thorough, and took most of 2007 to complete. The audit hearing in front of the Legislative Audit Committee was in July 2007. No substantive findings were discovered as part of this audit. OCR underwent a performance audit of GAL services:

- The audit found that all GALs in all random cases pulled, %100 saw their children in placement.
- The auditors recognized that Colorado was a nationally recognized leader in delivery of attorney services.
- The audit found that 98% of GALs were properly appointed and that attorneys attended 99% of their hearings.
- There were no findings in complaints, billing and training.

A copy of the audit report from last year is available at <http://www.leg.state.co.us/OSA/coauditor1.nsf/ReportPublicDept?OpenForm> under the Judicial Branch.

D. OCR's Fiscal Year 2008 Expenditures

The following schedules summarize the OCR's Fiscal Year 2008 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 chart above.

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2. Administrative and Operating Costs

\$670,485 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 \$60,613 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.

5. Supplemental

OCR required an emergency supplemental during the year in the amount of \$686,137. The request was based on estimated expenditures through the remainder of the year so the billing accrual for year-end could be processed. An accrual entry is required under Generally Accepted Accounting Principles and was not optional. A total of \$135,817 was requested during the regular supplemental process to cover GAL costs. However, several unexpected factors led agency expenditures to exceed prior projection such as:

- Denver D&N filings increasing exponentially, growing nearly 50% from the last fiscal year.
- Jurisdictions implementing SB 07-226 early that required that children come to court. OCR had budgeted and planned for a bulk of these expenditures to occur in Fiscal Year 2009.
- Cases costing more than projected due to attorneys working longer hours on more complex and litigious cases.

The request was approved by the General Assembly, for which OCR is extremely appreciative.

V. OCR GOALS FOR THE UPCOMING YEAR

The OCR is pleased with the progress achieved this seventh 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. We are pleased to report that we accomplished all of the goals from last year's GA report, including: 1) set up a motions bank, 2) restore ICON access, 3) Overhaul the OCR web site, 4) Develop and provide training in SB07-226. The goals for FY09:

- Focus on Truancy and develop a truancy training program.

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- Properly fund the budget so attorneys can spend more time on cases and improve outcomes for children.
- Continue training statewide on SB07-226 for our attorneys. Upcoming fall trainings include Pueblo, Alamosa and Grand Junction.
- Work to increase awareness about the options for youth exiting foster care to ensure that youth who grow up in foster care are able to exit care with independent living options and educational options.
- As a result of the Governor's Task Force, collaborate and partner with other organizations to implement changes that will allow this state to better serve children.
- Finish revision of the CJD 04-06 and send to the Chief Justice for approval.
- Set up an experts bank for our attorneys.

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APPENDIX A – OCR LEGISLATIVE REVIEW FOR 2008 LEGISLATIVE SESSION

There is much to report on the 2008 legislative session. These are just a few of the bills that OCR monitored during 2008.

HB 08-1016, Solano, Boyd – In delinquency proceedings, requires the court, prosecution, probation officer, GAL, parent or legal guardian to advise the court if mental health services are needed. Directs the court to order a mental health screening when the issue is raised, and if an assessment is found to be needed allows the court to order an assessment. Permits the court to require a party with legal custody of the juvenile to pay for the assessment.

HB08-1018, Primavera, Taylor – Allows non-adjacent CASA districts to jointly establish a volunteer court-appointed special advocate program.

HB 08-1019, Casso – Transfer of Education Records for foster children. Allows for records to be transferred from school districts in a timely fashion, creates educational liaisons in each school district, excuses absences for court ordered services or court hearings.

HB08-1006, Jahn, Sandoval – Requires social serves to arrange for visits between siblings in foster care within a reasonable amount of time if there is an expressed interest by siblings in visitation. Must be in the best interest of the child. If there is a criminal action pending, the department must consult with the district attorney.

HB 08-1391, Romanoff, Keller – Child Abduction Prevention Act – Creates a pilot program in DHS to provide mental health screenings, evaluations, and services for children 4-10 who have been the subject of abuse or neglect.

HB 08-1264, Roberts, Shaffer – Allows for read-only access to specific information maintained by the judicial department. Gives ICON access in juvenile delinquency and dependency and neglect proceedings to attorneys who represent the county departments of social services, OCR and ADC attorneys.

SBo8-206, Shaffer, T. Carroll – Allows for the state to pay for a new state justice center and Colorado State Museum. OCR offices will eventually be moved into this justice center. Paid for by an increase in civil filing fees.

SBo8-54, Shaffer, T. Carroll - Concerning judicial performance evaluations. Creates an executive director position appointed by the state commission on judicial performance. Specifies criteria to evaluate judges and justices. OCR executive director was asked to participate in the meetings prior to drafting of the legislation by the Chief Justice.

SBo8-183—Mitchell, Todd - Concerning the effect of DNA evidence of non-parentage on child-related orders. Allows for an order determining parentage to be set aside if DNA testing establishes that father is not the biological father and the court determines that it is in the best interest of the child. Must be filed within two years after the court enters the order.

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SBo8-99, Sandoval, Stafford – Extends Medicaid eligibility for person who are in the foster care system prior to emancipation. Youth must be in care at age of 18 to be eligible for Medicaid until 21. Requires a court or GAL to notify the youth before closing the case that they are eligible for Medicaid.

SBo8-47, Morse, Pommer - This legislation did not pass, but it would increased the amount of funding for CASA programs by raising the marriage license fee.

SBo8-66, Marshall, Williams—Allows a court to sentence to YOS a juvenile who is charged as an adult with felony murder if the juvenile pleads guilty to a class two felony if the juvenile would otherwise be eligible for a YOS sentence because of the underlying felony.

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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:

Governor's Task force on Child Welfare/HB 08-1404—Theresa Spahn, Executive Director of OCR, was appointed to the Child Welfare Action Committee, which will recommend improvements to Colorado's child-protection system following 13 child deaths at the end of 2007 and beginning of 2008. The committee was created by executive order in April and through follow-up legislation -- House Bill 1404, sponsored by Rep. Debbie Stafford and Sen. Moe Keller -- in May. The committee will deliver interim recommendations to Gov. Ritter by Oct. 31 and a final report by Dec. 31, 2009.

Executive Oversight Committee for Child and Family Services—This committee was formulated to review the statewide assessment to be given to Region 8, selecting the review sites to put forward to Region 8, identifying initial PIP areas where work can be completed prior to the review to better position us in the review.

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 is the Immediate Past President of the Women's Bar Association and 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 a member 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 and is currently focusing on how to avoid disruptions in foster care.

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.

Court Improvement Committee – OCR is an official member of the Colorado Court Improvement Committee, serving as an ex-officio member without voting rights. The CIC focuses on improving the

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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.

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.

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.

Juvenile Law Section of the Colorado Bar Association. The OCR Deputy Director is the past Chair for the committee which involves planning the section's meetings and activities for the year. The OCR Deputy Director was 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. They sponsored 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 in Denver for exposure of drugs during pregnancy.