Colorado Office of the Child's Representative

SMART Government Act

Presentation to Joint Senate and House Judiciary Committee

December 11, 2013

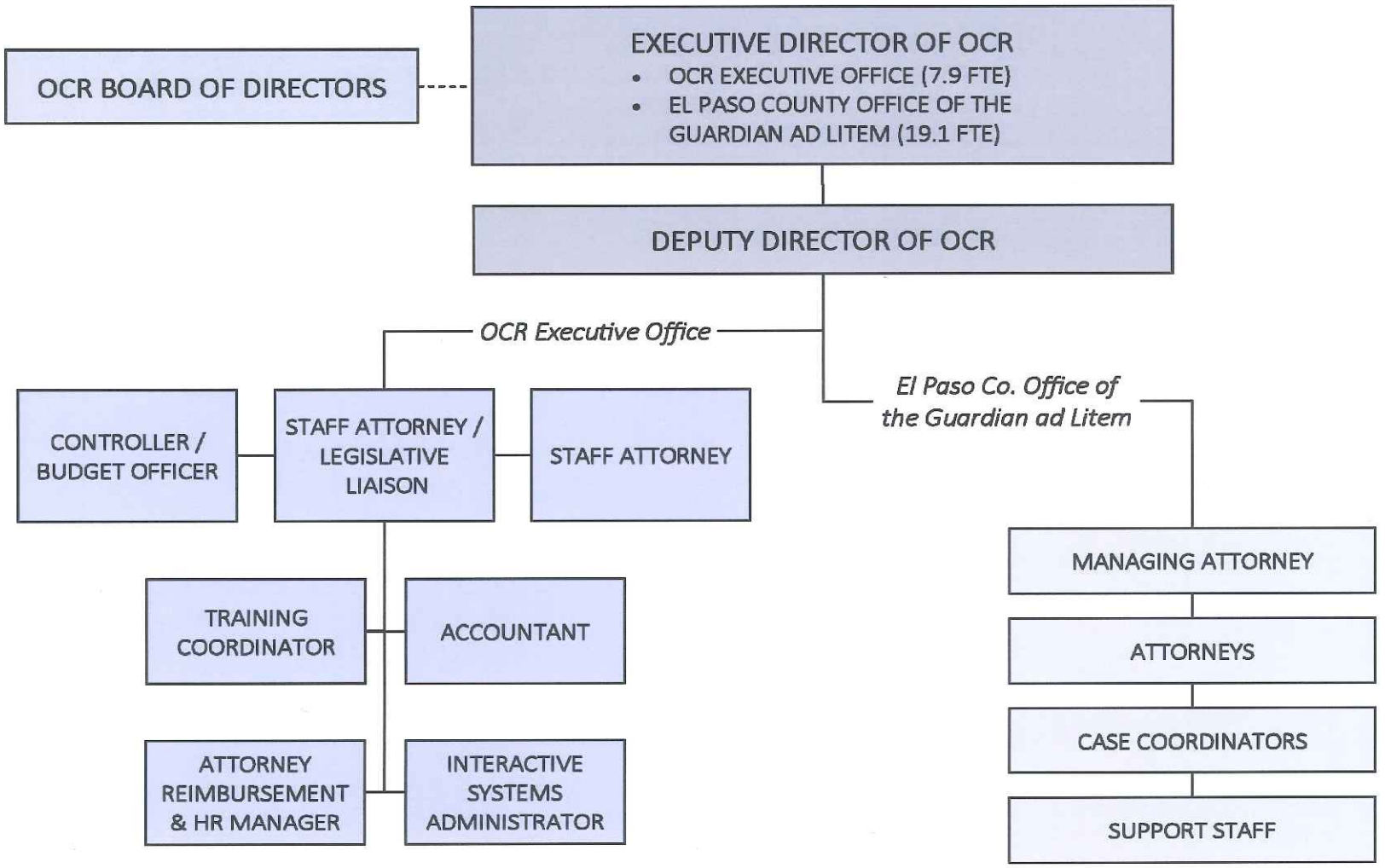
Attachment P

OCR Mission

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, charged with delinquent acts and without a parent available to protect their best interests during the proceedings, or impacted by high conflict parenting time disputes. As a state agency, the OCR is accountable to the State of Colorado to achieve this mission in the most cost-efficient manner without compromising the integrity of services or the safety and well-being of children. The OCR is committed to ensuring that children whose interests are represented by its contract attorneys, Colorado's most vulnerable and marginalized population in the courts, receive the best legal services available to protect and promote their safety and well-being and to have their voice heard throughout all aspects of a case.

Colorado Office of the Child's Representative (OCR) Organizational Chart

November 1, 2013



What OCR Does

- ✓ Oversees attorneys who provide children with legal representation as guardians *ad litem* (GALs), Child Legal Representatives (CLRs), and Child and Family Investigators (CFIs)
  - ➢ Provides judicial districts with lists of attorneys eligible for appointment
  - ➢ Evaluates attorneys
  - ➢ Monitors attorney compliance with practice standards

- ✓ Improves representation for Colorado's most vulnerable children by
  - ➢ Establishing minimum practice standards
  - ➢ Training attorneys, court personnel, and other stakeholders
  - ➢ Providing litigation support
  - ➢ Providing accessible high-quality statewide training

What OCR Does

Manage appropriations to ensure that tax dollars are used for only allowable expenditures

- Establishes case maximums
- Evaluates excess and extraordinary litigation expense requests
- Conducts monthly analysis by case type, judicial district, and, as indicated, attorney
- Creates and analyzes quarterly reports by case type, judicial district, and, as indicated, attorney

Who OCR Serves

- ✓ Children in Colorado courts who have been
  - Abused and neglected (80% of OCR's appropriation)
  - Charged with delinquent acts and without a parent or guardian able to protect the child's best interests during the proceedings
  - Impacted by high-conflict domestic relations disputes
  - Probate
  - Other: D&N appeals, mental health & criminal
- ✓ Nearly 17,500 children in FY 2012-13

  71% of these children are victims of serious child maltreatment and neglect

OCR STRATEGIC PLAN 2013-2016 SUMMARY

VISION

Each Colorado child in need of an OCR attorney will receive comprehensive legal advocacy from an attorney who has expertise in juvenile law and will diligently and effectively represent the child's legal interests in a cost-effective manner.

OCR FY 12-13 PRIORITIES

1. The OCR will contract with qualified and skilled attorneys to provide effective legal advocacy to children involved in the court system.
2. The OCR will provide attorney services in a cost-effective manner.

Goal 1: The OCR will provide effective attorney services to children through skilled and qualified attorneys.	A. Provide and maintain lists of qualified attorneys sufficient to meet needs in judicial districts B. Contract with attorneys based on data illustrating compliance with CJD and OCR practice standards C. Establish fair and reasonable compensation for OCR attorneys D. Investigate alternative models of providing legal representation E. Develop strategies to recruit attorneys
Goal 2: The OCR will establish efficiencies in attorney practice and billing.	A. Maximize use and effectiveness of OCR's on-line case management/billing system B. Provide litigation support and facilitate practice innovations C. Process, manage, and evaluate attorney billings
Goal 3: The OCR will ensure attorneys remain current in state and federal law and regulations, social science research, and evidence-based services.	A. Provide statewide training to attorneys B. Require attorneys to meet minimum training requirements C. Disseminate updates on developments in law and social science and maintain current and relevant resources for attorney's use

Key Activities and Operations

- Establish attorney qualifications and practice standards
- Evaluate and provide oversight of attorney practice
- Contract with attorneys according to district needs
- Establish fair compensation rates
- Consider attorney's requests for fees in excess of OCR's set case maximums and litigation support expenses
- Provide statewide training of and support for attorneys
- Investigate alternative models of providing legal representation
- Engage with community stakeholders to ensure appropriate attorney involvement
- Maximize use and effectiveness of OCR's electronic case management/billing system
- Maintain billing policies and procedures which promote competent, efficient, and appropriate legal representation
- Process, manage, and evaluate attorney billings
- Manage appropriations and assess program needs

OUTCOMES

- ✓ OCR policy, support, oversight, and training promotes effective legal services and advocacy
- ✓ Costs are reasonable and justified
- ✓ OCR provides sufficient qualified attorneys to meet children's needs in each judicial district
- ✓ Individual attorney data supports contracting decisions
- ✓ OCR's compensation rate is fair and realistic
- ✓ OCR systems and support promote optimum use of tax dollars

Performance Management System

OCR Provides Legal Services Through Three Models Of Representation

Independent contractors: The OCR contracts with over 230 independent contractors throughout Colorado. These contract entities are small businesses and include sole practitioners and law firms.

OCR's El Paso County GAL Office: This "staff model" office is in its thirteenth year of operation. The model employs 13 attorneys and five case coordinators. Each of these employees is a FTE.

OCR's Multidisciplinary Law Office (MDLO) Pilot Program: Through an RFP process, the OCR contracted with three law offices to provide multidisciplinary GAL services in Denver and Arapahoe Counties between January 1, 2011 and July 31, 2014. The OCR is evaluating the effectiveness of the MDLO.

FY 2014-15 Budget Requests

Caseload/work-load increase

- 95% of OCR's budget is spent on attorney services
- FY 11-12 reverse supplemental of $1,000,662 and reverted $691,185
- FY 12-13 increase of $842,013 in workload costs

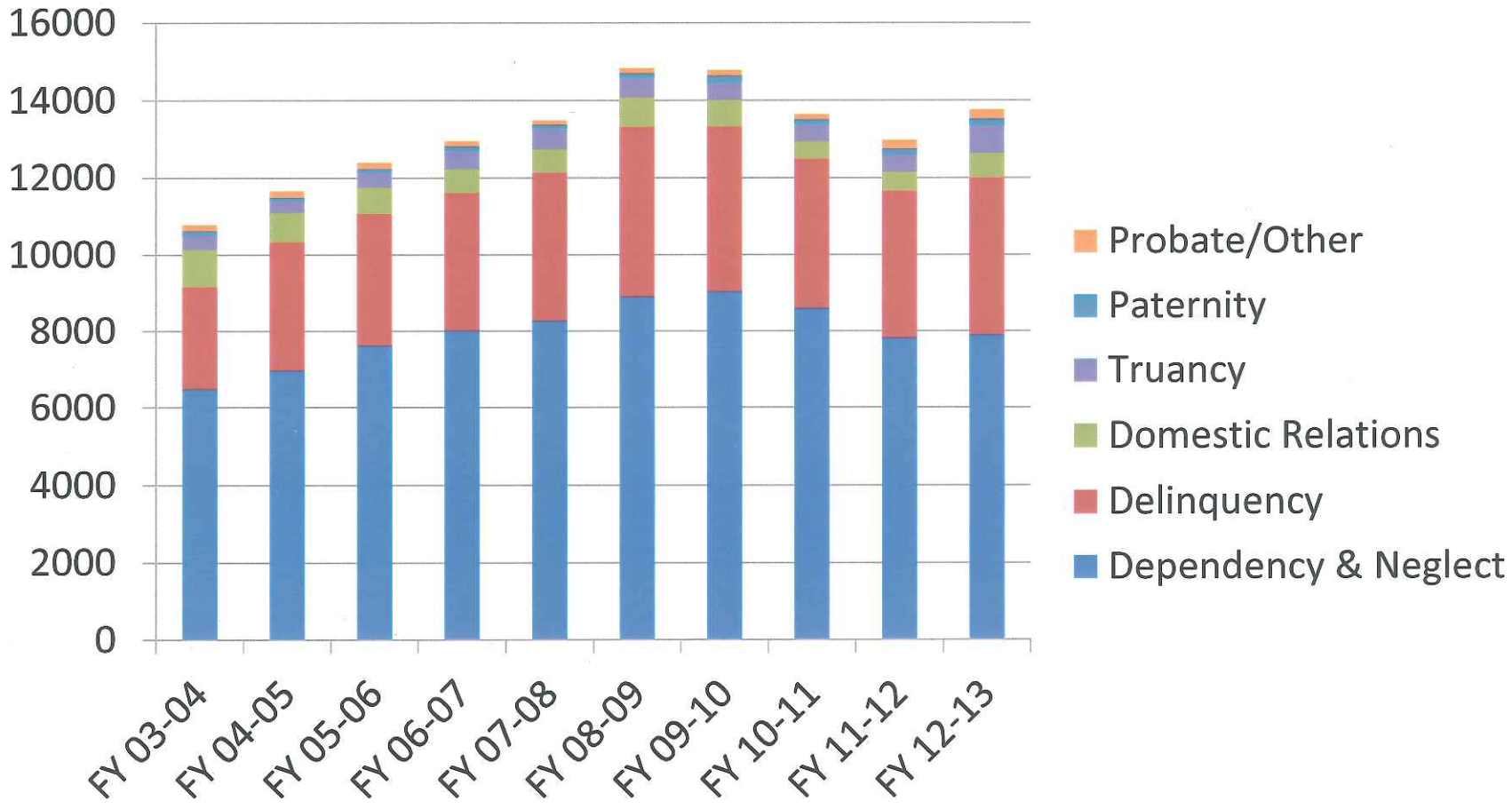
Salary Adjustment for OCR staff

- Joined Department of Law's annual market review
- Salaries are, on average, 32% below that of other government attorneys
- Salaries are misaligned and create a "significant disadvantage in the market"

Increase hourly rates

- Rate has not increased since FY 08-09
- CBA 2012 Economic Survey Snapshot of practitioners
- 173-473% below market
- Paralegals without experience are paid $79/hr; $14/hour more than current rate
- Affects ability to attract & maintain attorneys in rural areas

Appointments Paid
FY 03-04 through FY 12-13



What an OCR attorney does

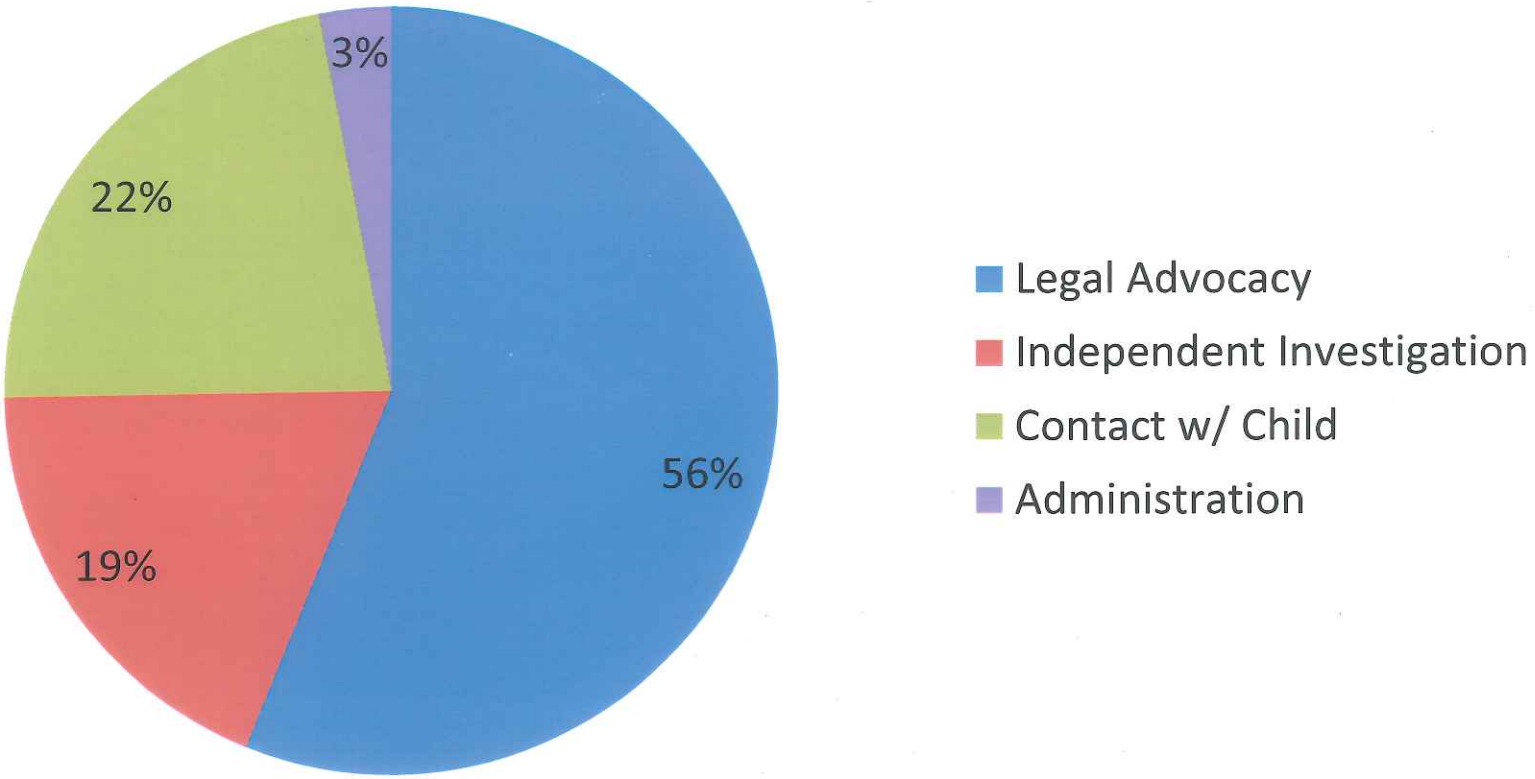
Legal advocate who

- ✓ Ensures legal standards are applied to each case
- ✓ Conducts an independent investigation
- ✓ Protects child's rights
- ✓ Advocates on behalf of the child's best interests
- ✓ Ensures placement and services serve the individual child's best interests

Examples

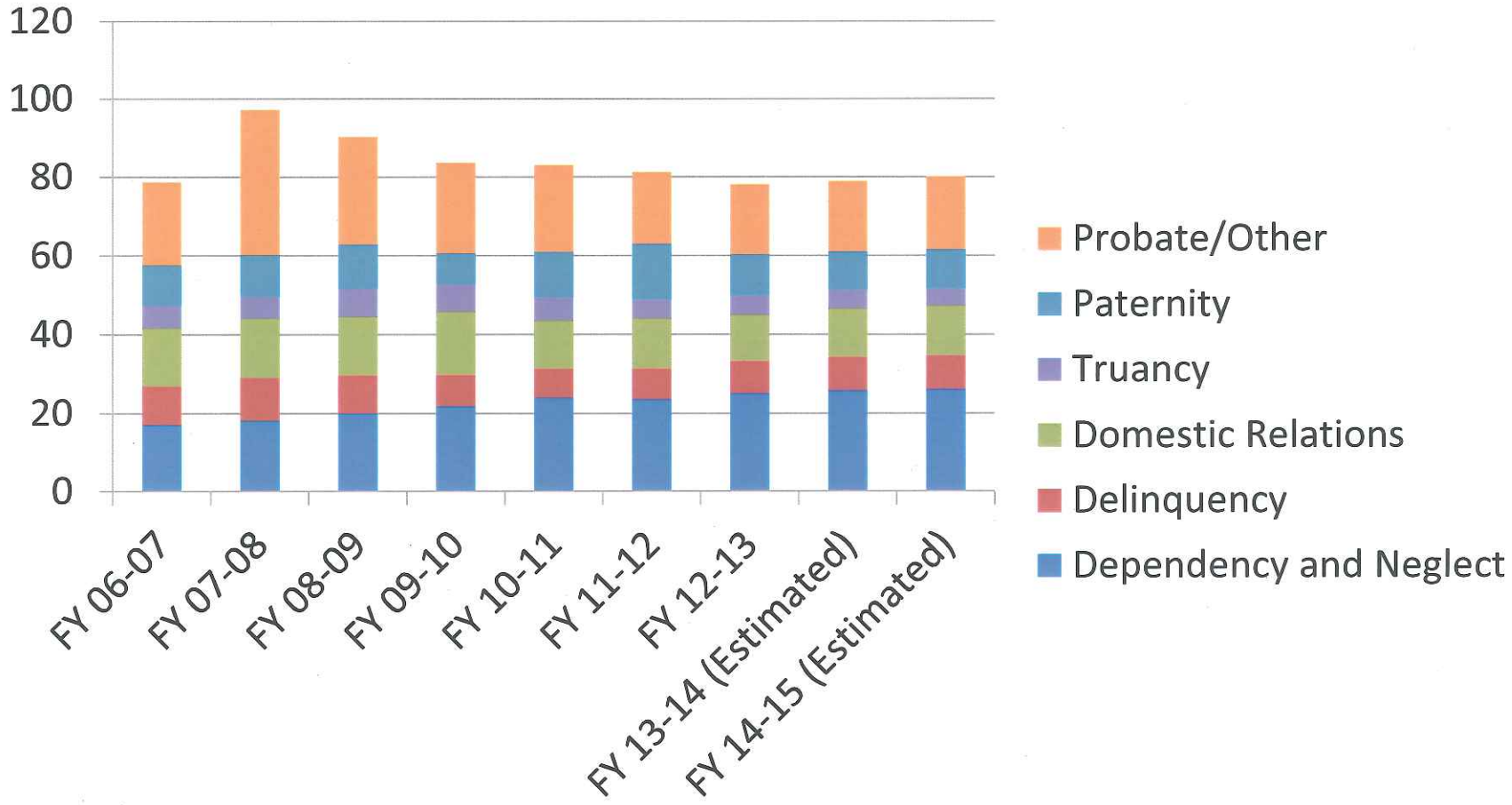
- *Diligent search for relatives*
- *Sibling placement and contact*
- *Court's jurisdiction continues to age 21*
- *Legally secure appropriate permanent placement*

Attorney Use of Time



Workload

(Hours Per Appointment)



Contractor Rate

OCR is mandated to establish "fair and realistic state rates by which to compensate state-appointed guardians ad litem … which will be sufficient to attract and retain high-quality, experienced attorneys to serve as guardians ad litem."

Ten Year History of OCR Rates	
FY	Hourly Rate
03-04	$45 out-of-court $55 in-court
06-07	$57
07-08	$60
08- present	$65

2013 Market Rates	
Position/Contract	Hourly Rate
Attorney General Contract Rate	$94.95 (SB 13-230 footnote 45)
Federal Attorney Contract Rate	$125 (temporarily reduced to $110 due to sequestration)
Association w/o experience at law firm	$166 Average (CBA 2012 Economic Survey Snapshot)
Paralegal w/o experience at law firm	$79 Average (CBA 2012 Economic Survey Snapshot)

OCR State Employees

- In September 2013, OCR joined the Office of the Colorado State Attorney General's annual market review.
- The OCR salaries are, on average, **32%** percent below that of other government attorneys.
- The office's salary ranges are **misaligned** and create a "**significant disadvantage in the market.**"

OCR State Employees

Benchmark Title	OCR Title	No. of Attorneys *	OCR Average	Salary Survey	% Difference
Deputy AG	Managing Attorney	1	$103,967	$144,498	*-39%*
1st Asst. AG	Asst. Managing Attorney	1	$90,368	$118,160	*-30.8%*
Sr. AG	Senior Attorney	3	$75,148	$99,479	*-32.4%*
Asst. AG	Mid Level Atty	5	$59,954	$76,244	*-27.2%*
Attorney 1	Entry level atty	2	$50,500	$61,873	*-22.5%*

* One vacancy

OCR Evaluation of Attorney

A. Statewide Annual Appraisal Process for all attorneys
B. Tri-Annual Extensive Application Process for attorneys in one-third of judicial districts (instituted in FY 12-13)
    1. Interviews of children/youth, parents, caregivers
    2. Structured Court Observations
    3. Writing sample
    4. Expanded stakeholder feedback
    5. C.A.R.E.S. reports
    6. Meetings with key stakeholders
    7. Individual meeting with attorney
C. Ongoing Monitoring and Periodic Audits of Attorney Activity
D. OCR's Formalized Complaint Process

Annual Statewide Appraisal

Training

OCR requires its attorneys to attend 10 hours of OCR sponsored training each year

FY 12-13: OCR provided **70.25** hours

Community Stakeholder Engagement

Meetings

Surveys

Certification

Compliance w/ CJD

Malpractice Insurance

Disciplinary History

C.A.R.E.S. Reports

Child Count

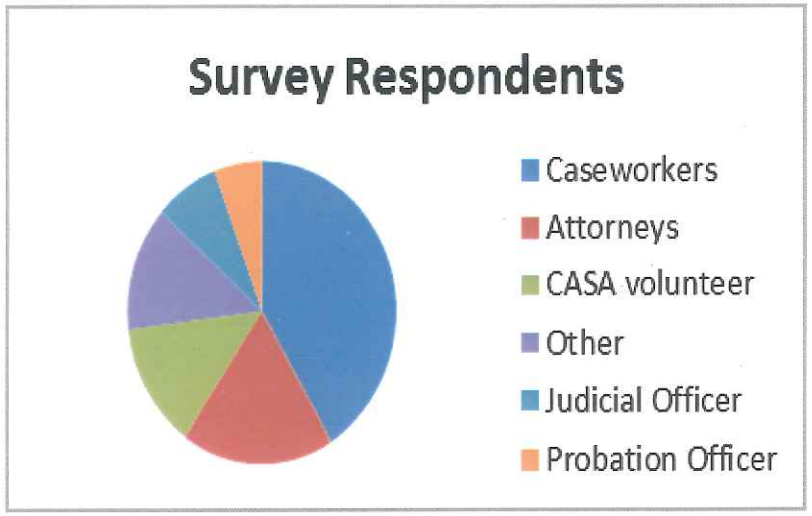
Summary of Activity

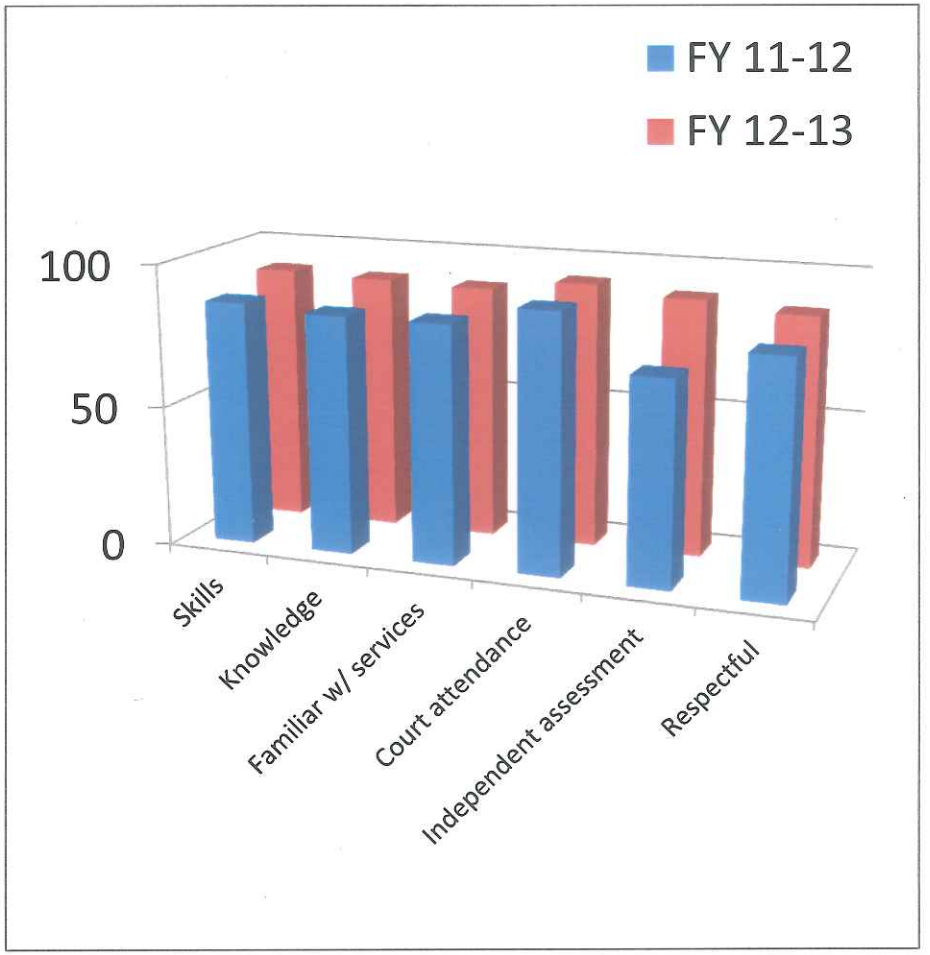
30-Day Report

Annual Stakeholder Survey

FY 2011-12 OCR received electronic survey responses regarding 215 GALs

FY 2012-13 OCR received electronic survey responses regarding 191 GALs





C.A.R.E.S. Reports Examples

- 30-day visit data

  94% of GALs visited child in placement within 30 days of appointment in FY 12-13

- Children/youth 12 yoa and older personally appeared at Permanency Hearings

  56% of children in FY 12-13

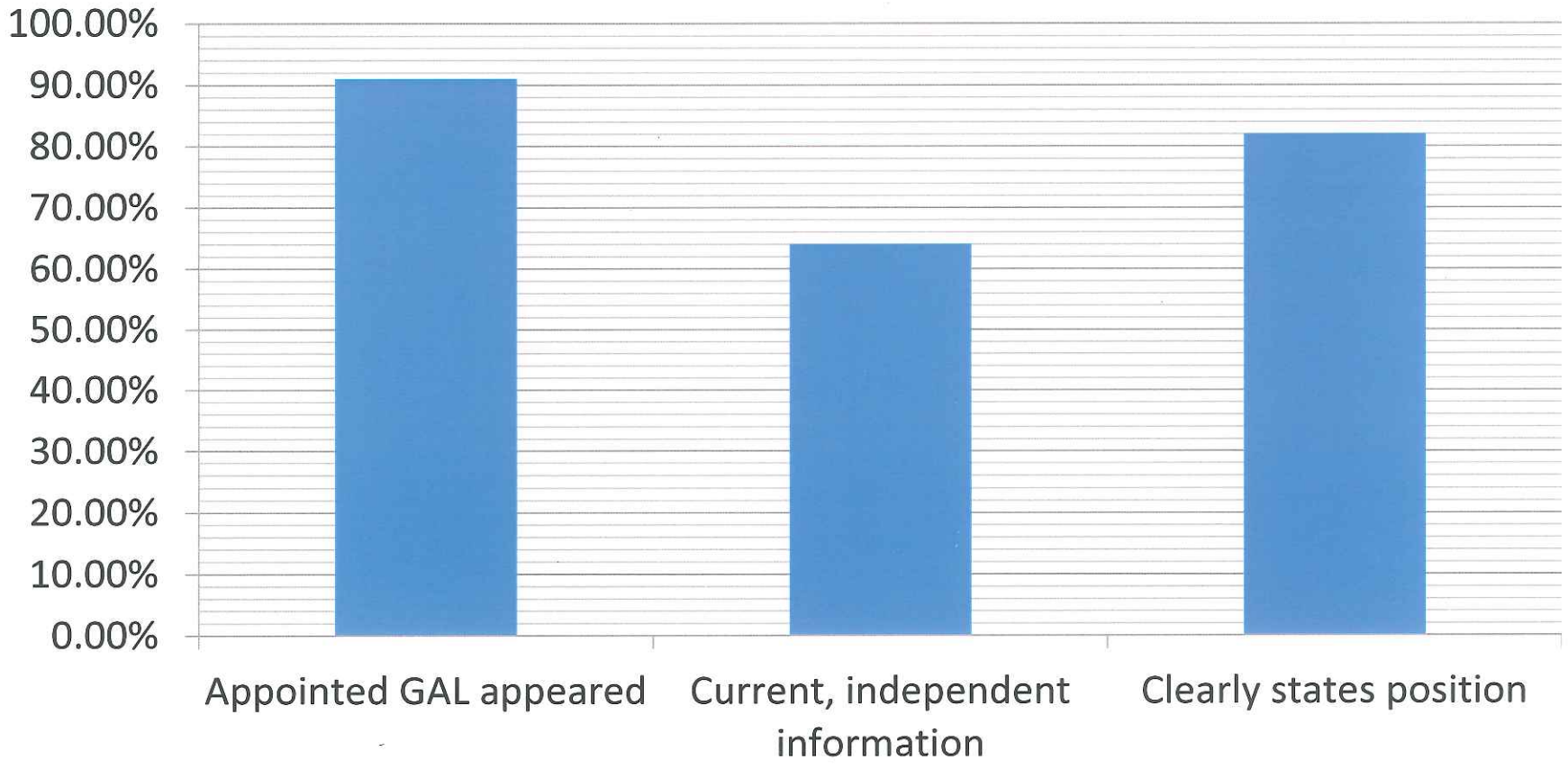
C.A.R.E.S.
Colorado Attorney Reimbursement Electronic System

Interviews of Children/Youth, Parents and Caregivers

- *"I appreciate all that he has done for me. I know I wasn't the easiest case or kid to work with. I just want to thank him for everything."*
- *"She really tries to get to know you. I trust her the most out of anyone involved in my case. She is awesome."*
- *"I think we pretty much told you she rocks, I felt very secure, and I felt very secure even before we even dreamed that we could have adopted [the child]. I mean, she was just very honest and it was just really nice to have somebody whose interests were for the child."*
- *"She treated me like a human being. She did not look down on me for having a child in the system."*
- *"At one staffing, she told everyone that she did not want me in a high level placement. She tried her hardest to get me out and she succeeded."*

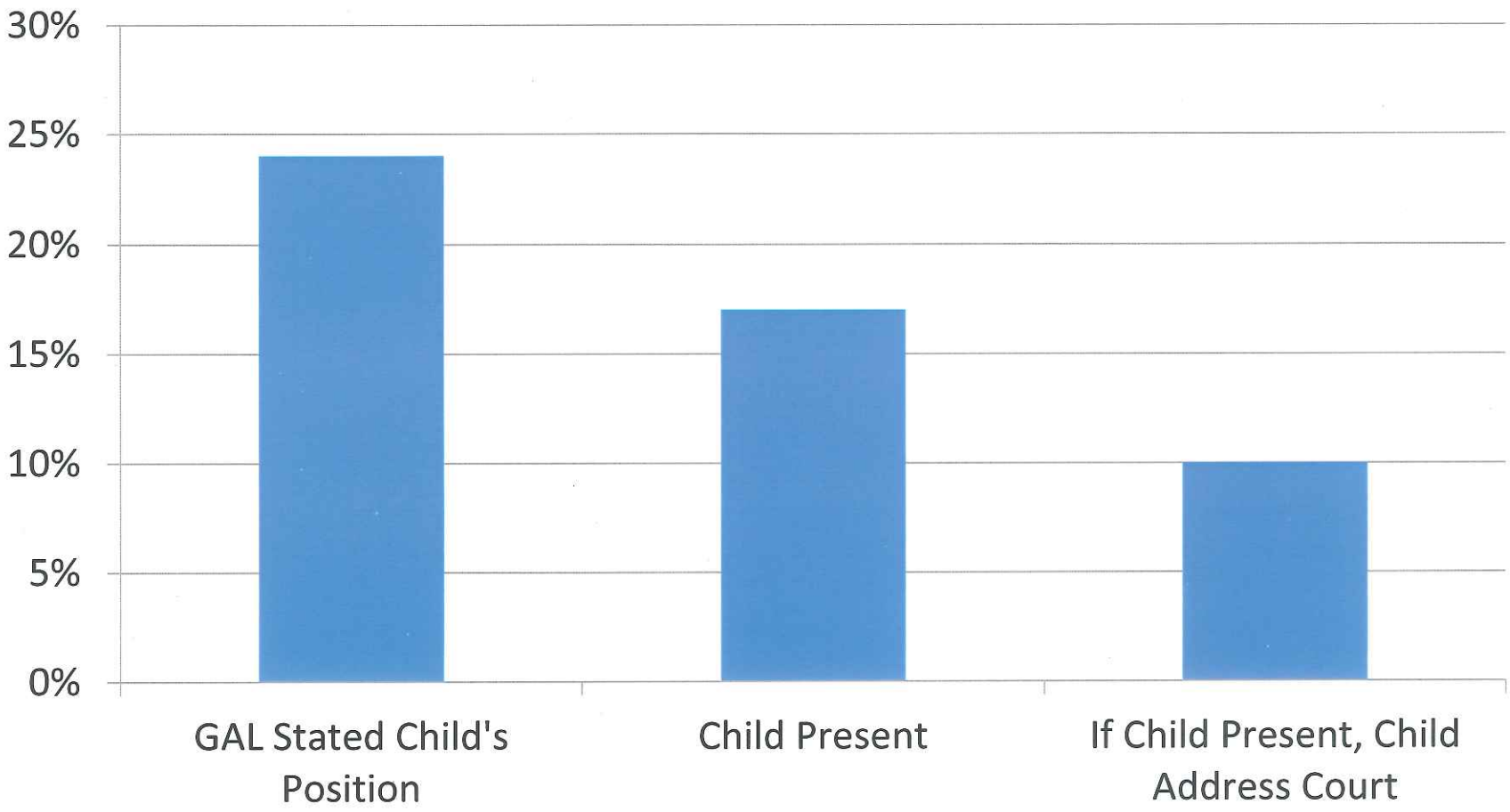
Court Observation: GAL's Advocacy

287 Court Observations involving 480 children



Court Observation: Child's Voice

287 Court Observations involving 480 children



OCR Opportunities

Regulatory Agenda – None
Legislative Agenda – None

OCR C.A.R.E.S. – System Enhancements

- Enhanced Accountability
- Greater Efficiency
- Track Outcomes
- Improved user experience