



JUDICIAL BRANCH
**OFFICE OF THE
ALTERNATE DEFENSE COUNSEL**

**FISCAL YEAR 2012-2013
BUDGET REQUEST**

Lindy Frolich, Alternate Defense Counsel Director

Table of Contents

I.	Executive Letter	2
II.	Agency Overview	
	Background	4
	Statutory Mandate	4
	Mission Statement	4
	Vision Statement	4
	Organizational Chart	5
	Objectives and Strategies	6
	Core Objectives and Performance measures	7
	Prior Year Legislation	17
	Hot Topics	18
	Cost Savings Measures	22
	Cases that may affect OADC	24
	Work Load Indicators	25
III.	Budget Overview	
	Budget Summary Narrative	26
	Summary of Budget Changes	28
	Budget Change Details by Line Item	29
	Schedule 7 - Summary of Supplemental Bills	31
	Schedule 8 - Common Policy Summary	32
	Salary Adjustments, STD, AED, SAED Request	33
IV.	Long Bill Detail	
	Schedule 2 Summary	34
	Long Bill Overview by Line Item	35
	Schedule 3	37
V.	Change Requests	
	Schedule 12 - Summary of Change Requests	45
	# 1 Base Reduction	46



State of Colorado

Office of the Alternate Defense Counsel

Lindy Frolich, Director

www.coloradoadc.org

Denver Office
1580 Logan Street, #330
Denver, Colorado 80203
Phone: (303) 832-5300
Fax: (303) 832-5314

Western Slope Office
446 Main Street
Grand Junction, CO 81501
Phone: (970) 261-4244
Fax: (970) 245-8714

October 31, 2011

To the Citizens and Legislators of the State of Colorado:

Each person accused of a crime has a constitutional right to be represented by counsel at each critical stage of the action against him or her. This right only has meaning if counsel is competent, effective, and zealous. This constitutional right applies not only to the wealthy in the United States, but also to the poor. ***The Office of the Alternate Defense Counsel (OADC) was created by the Colorado Legislature (C.R.S. § 21-2-101, et. seq) to provide state wide representation in criminal and juvenile delinquency cases when the Office of the Public Defender has a conflict of interest and therefore cannot ethically represent the indigent defendant.*** The OADC has become a national model for indigent defense assigned counsel programs. Both the director and deputy director have been invited to other states to present the Colorado model for court-appointed counsel programs, and have worked with other states to initiate similar programs. OADC continues to explore and implement strategies to control case costs while providing effective court-appointed counsel.

Today, in every courtroom in Colorado, there are OADC contract lawyers available to accept court appointments. Before the creation of the OADC in 1996, there was no standardized method for court appointments. Lawyers were randomly appointed by the court and payments were administered by the Colorado State Public Defender's Office. An indigent defendant or juvenile delinquent might receive court-appointed counsel with little or no experience, or counsel with significant experience. There was no training, no oversight, and very little accountability.

During its formative years the OADC focused on establishing the infrastructure needed to develop a systematic method for appointing counsel. As the agency began formalizing the process of court-appointed counsel, the priority was to insure competent, qualified counsel state wide. Since its inception the agency has strived to provide competent, effective representation for indigent defendants while keeping administrative costs low.

From 1996 until 2006, the agency's case load increased from approximately 7,000 cases per year to more than 12,000. Once the infrastructure was well-established, the doors were open to explore ways to become more efficient. In order to keep administrative costs low, and use state resources to pay contractors directly, the OADC began developing its automated payment system, WEBPAY, in FY2002. By FY2005, all regular contractors were billing on line and continue to do so today. The agency continues to refine this system to further simplify contractor billing while improving data collection. Beginning this year the agency is working toward a paperless billing system.

The OADC has identified those costs that are truly uncontrollable and determined areas that can be impacted by increased efficiencies. At the beginning of the current budget crisis, in 2009, OADC immediately put into place additional cost saving measures. Many of these are listed in previous budgets as well as this budget. Through this budgetary crisis, OADC has kept case costs down and lawyer hours constant. The OADC is continuing to provide quality representation at a reasonable cost. Our goal is to continue to explore new ways to reduce the cost of court-appointed counsel representation, while maintaining quality representation.

Sincerely,

A handwritten signature in purple ink, appearing to read "Lindy Frolich".

Lindy Frolich
Director

The Office of the Alternate Defense Counsel

II. Agency Overview

Background

The United States and Colorado Constitutions provide every accused person with the right to be represented by counsel in criminal prosecutions. U.S. Const., amend. VI; Colo. Const., art. II, §16. This constitutional right has been interpreted to mean that counsel will be provided at state expense for indigent persons in all cases in which incarceration is a possible penalty.

The Office of the Alternate Defense Counsel (OADC) was established pursuant to C.R.S. § 21-2-101, *et. seq.* as an independent governmental agency of the State of Colorado Judicial Branch. The OADC is funded to provide legal representation for indigent persons in criminal and juvenile delinquency cases in which the State Public Defender has a conflict of interest.

Statutory Mandate/Directive

The Office of the Alternate Defense Counsel is mandated by statute to "provide to indigent persons accused of crimes, *legal services that are commensurate with those available to non-indigents*, and conduct the office in accordance with the Colorado Rules of Professional Conduct and with the American Bar Association Standards relating to the administration of criminal justice, the defense function." C.R.S. § 21-2-101(1) (emphasis added).

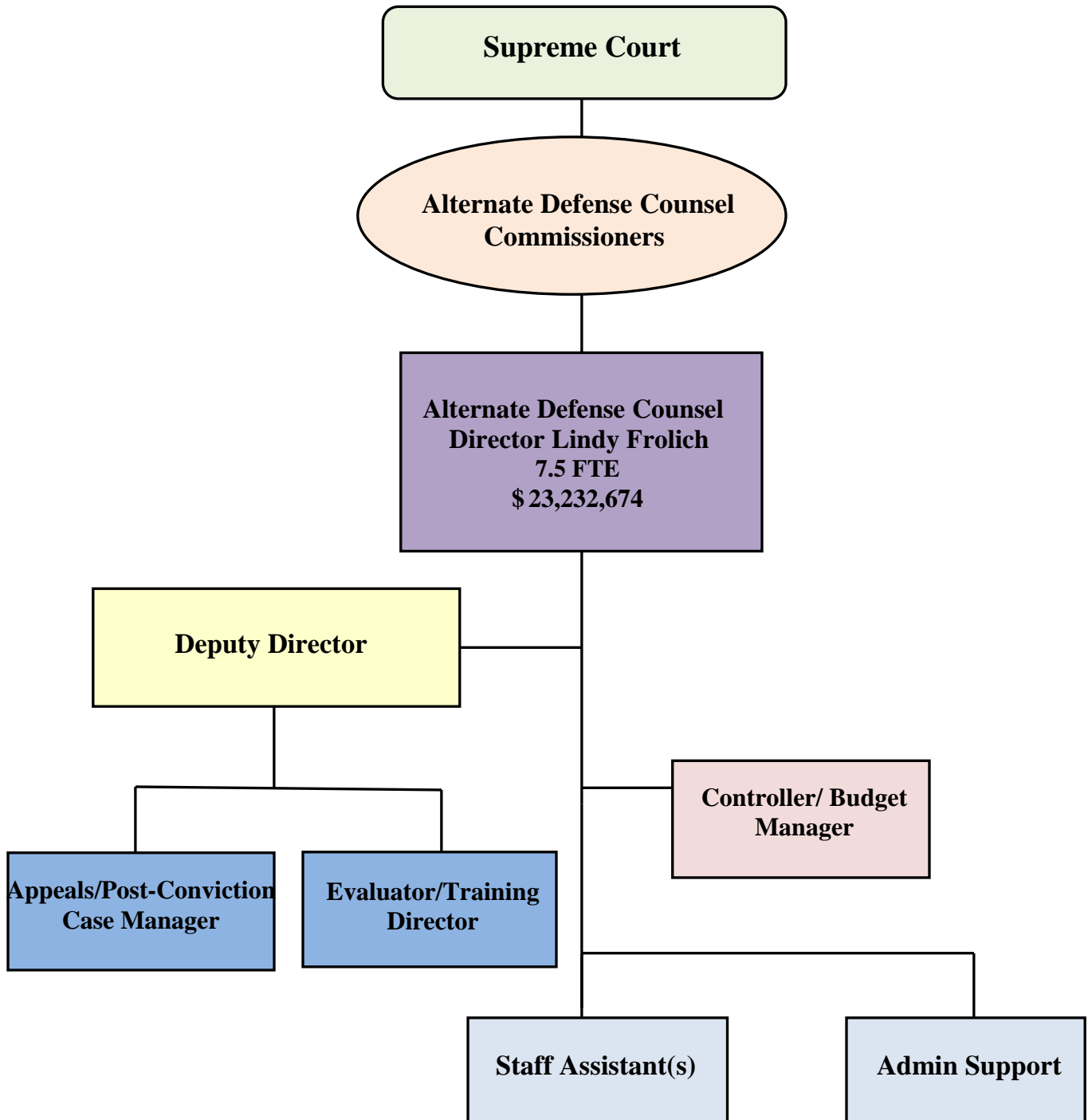
Mission

The mission of the Office of the Alternate Defense Counsel is to provide indigent individuals (adults and juveniles) charged with crimes the best legal representation possible. This representation *must* uphold the federal and state constitutional and statutory mandates, ethical rules, and nationwide standards of practice for defense lawyers. As a state agency, the OADC strives to achieve this mission by balancing its obligation to provide effective counsel to the accused with its responsibility to the taxpayers of the State of Colorado. The OADC is committed to insuring that indigent defendants receive the best legal services available.

Vision

★ *To create an environment that promotes thorough evaluation, training, and technology, such that the Office of the Alternate Defense Counsel is recognized as a national leader in the delivery of competent and cost-effective legal representation to indigent defendants.*

**Organizational Chart
Judicial Branch
Office of the Alternate Defense Counsel**



July 1, 2011

Objectives

I. PROVIDE COMPETENT LEGAL REPRESENTATION STATE-WIDE.

The OADC contracts with over 400 private lawyers across Colorado to represent indigent defendants where the public defender's office has a conflict of interest. Although each of these lawyers is an independent contractor, the OADC is committed to insuring that the representation is of the highest quality possible. The lawyer contractors utilize investigators, paralegals and experts, who are also independently monitored by the OADC.

II. PROVIDE COST-EFFECTIVE LEGAL REPRESENTATION STATE-WIDE.

The OADC has no control over the number of criminal cases filed or prosecutors' charging decisions. However, the OADC is constantly seeking ways to maintain or reduce the average cost per case.

Strategies

- Maintain current compensation rates for all contractors.
- Monitor and contain total hours per case and ancillary costs.
- Provide statewide training for lawyers, investigators, paralegals and court personnel.
- Provide cost effective research tools and resources to OADC contractors to make them more effective and efficient.
- Evaluate, monitor, and audit contractors on an ongoing basis.

Core Objectives & Performance Measures

Performance Measure A.		FY06 Actual	FY07 Actual	FY08 Actual	FY09 Actual	FY10 Actual	FY11 Actual	FY12 Budget	FY13 Request
Maintain compensation rates for contractors. Initial goal set in FY2004-2005 was to reach competitive rates by FY2008-2009 of \$75 per hour.	Target	\$55	\$60	\$68	\$75	\$75	\$75	\$75	\$75
	Actual	\$47 No funding received for rate increase	\$57	\$60	\$65	Status Quo	Status Quo	Status Quo	Status Quo

The American Bar Association (ABA) standards require that court-appointed attorney compensation be “reasonable” and “adequate.” The federal courts have indicated that they believe courts should pay court-appointed attorneys a rate that covers overhead and provides reasonable remuneration.

In FY2004, the Joint Budget Committee recommended that the judicial agencies work together to have Court Appointed Counsel hourly rates consistent within the judicial branch. In fiscal year 2004-2005, a judicial department study recommended an hourly rate of \$71.00 per hour for attorney contractors. Because of the great disparity between \$47 per hour and \$71 per hour, the JBC recommended a five year implementation plan to secure a rate of \$75 per hour. The agencies have continued to pursue these hourly increases as the State of Colorado general fund has allowed. The OADC is not requesting an hourly rate increase for fiscal-year 2012-2013 due to the current state of the economy and the state’s budget shortfall.

As lawyers gain experience they are able to increase their private client base, where they may be paid anywhere from \$150 to \$350 per hour. This makes them less willing to accept court appointments. In an effort to at least maintain the current hourly rate, the OADC continues to seek alternative solutions to control its expenditures. These efforts include contract fees for most post-conviction and some appellate cases; curtailing some expert costs; increased monitoring of investigator and paralegal requests; expanding the brief and motions bank; providing expert research assistance and legal motion drafting as requested. The disparity between the private hourly rate and the OADC \$65 hourly rate continues to deter some attorneys from contracting with the OADC.

Evaluation of Prior Year Performance:

For the last three fiscal years, the OADC has not requested a rate increase due to the uncertainty of the economy and state budget shortfalls. The minimal rate increases in prior years has assisted with recruitment and retention of competent lawyers.

On January 1, 2010, the federal government raised its court-appointed attorney’s¹ hourly rate to \$125 per hour; for capital crime (death penalty) cases, the new hourly rate is \$178 per hour.

¹ Federal court-appointed attorneys are referred to as Criminal Justice Act (CJA) lawyers.

Key Indicators:

State of Colorado Felony Type	Hourly Rate Effective 1/1/1991	Hourly Rate Effective 7/1/1999 ¹	Hourly Rate Effective 2/1/2003 ¹	Hourly Rate Effective 7/1/2003 ¹	Hourly Rate Effective 7/1/2006 ¹	Hourly Rate Effective 7/1/2007 ¹	Hourly Rate Effective 7/1/2008 ¹
Death Penalty	\$40 out court \$50 in-court (\$41.66) ²	\$65	\$60	\$65	\$85	\$85	\$85
Felony A	\$40 out court \$50 in-court (\$41.66) ²	\$51	\$46	\$51	\$60	\$63	\$68
Felony B	\$40 out court \$50 in-court (\$41.66) ²	\$47	\$42	\$47	\$56	\$59	\$65
Juv, Misd, DUI, Traffic	\$40 out court \$50 in-court (\$41.66) ²	\$45	\$40	\$45	\$54	\$57	\$65

- ¹ In court and out of court are paid at the same rate.
- ² Based on the ABA standard (for every 6 hours worked 1 hour is in-court and 5 hours are out-of-court).

CJA Rates	Hourly Rate Effective 1984	Hourly Rate Effective 1/2000	Hourly Rate Effective 4/2001	Hourly Rate Effective 5/2002	Hourly Rate Effective 1/2006	Hourly Rate Effective 5/2007	Hourly Rate Effective 1/2008	Hourly Rate Effective 3/2009	Hourly Rate Effective 1/2010
Death Penalty	4/24/96 \$125			2/1/2005 \$160	\$163	\$166	\$170	\$175	\$178
Non-Capital	\$40 out court \$60 in-court (\$43.33) ²	\$50 out court \$70 in-court (\$53.33) ²	\$55 out court \$75 in-court (\$58.33) ²	\$90	\$92	\$94	\$100	\$110	\$125

State of Colorado Attorney General rate-blended rate for Attorney/Paralegal	FY03	FY04	FY05	FY06	FY07	FY08	FY09	FY10	FY11	FY12
Legal Service Rate	\$59.80	\$60.79	\$61.57	\$64.45	\$67.77	\$72.03	\$75.10	\$75.38	\$73.37	\$75.71

Performance Measure B.		FY10 Actual	FY11 Actual	FY12 Projection	FY13 Request
Contain the total number of Attorney hours per case. Includes all case type hours.	Target Attorney hours	19.64	19.64	19.64	19.64
	Actual	20.81	19.22		
Contain the total Attorney hours per case excluding Death Penalty cases.	Target Attorney hours	18.65	18.65	18.65	18.65
	Actual	18.93	16.96		
Contain the total Attorney hours per Death Penalty case.	Target Attorney hours	2,362.27	2,362.27	2,362.27	2,362,27
	Actual	1,843.97	1,936.80		
Contain the total Attorney hours per Type A Felony case.	Target Attorney hours	46.47	46.47	46.44	46.44
	Actual	49.74	44.46		
Contain the total Attorney hours per Type B Felony case.	Target Attorney hours	15.48	15.48	15.48	15.48
	Actual	16.45	14.73		
Contain the total Attorney hours per Adult Misdemeanor/Juvenile.	Target Attorney hours	7.81	7.81	7.24	7.24
	Actual	7.26	6.96		
Keep ancillary costs per case to a minimum.	Target Ancillary	\$119.73	\$119.73	\$124.07	\$124.07
	Actual	\$120.16	\$120.38		

Strategy:

The OADC reviews each individual contractor bill for reasonableness and accuracy. In an effort to increase the quality and efficiency of the OADC contract attorneys, the agency has implemented and will continue to seek out measures that will reduce billable contractor hours and associated ancillary costs. These measures include:

1. Continuing the in-house appellate case management system that streamlines the OADC appellate cases from inception through transmittal of the record on appeal.
2. Continuing the in-house post-conviction case management system to include triage and per case fee contracting.
3. Contracting with document management and paralegal professionals who specialize in organization and distribution of discovery in Colorado Organized Crime Control Act (COCCA) cases, death penalty cases, and other voluminous cases.
4. Attorney access to electronic court records pursuant to HB 08-1264.

5. Expanding and promoting the Brief and Motions Bank.
6. Providing expert legal research and legal motion drafting assistance.
7. Evaluating contractor efficiency and auditing contractor billing.
8. Closely monitoring expert requests.
9. Coordinating cost reduction methods for electronic discovery charged by individual district attorney offices across the state.
10. Training paralegals and attorneys for electronic filing of appellate briefs.

Evaluation of Prior Year Performance:

As you can see from the above tables, the agency has reduced the number of billable hours per case type except in capital cases. The implementation of cost saving measures as listed in the following paragraphs has reduced attorney billable hours:

Discovery: The OADC continues to provide electronic distribution of discovery in certain cases. Contracting with document management and paralegal professionals has allowed the OADC to take several thousand pages of paper discovery (costing a minimum of fifteen cents up to fifty cents per page to reproduce), and reduce it to one or two compact disks, costing very little to reproduce.

Although the use of modern technology has reduced the distribution cost of discovery in complex cases, the discovery costs paid to most district attorneys' offices statewide continues to increase. This increase is even more pronounced because the OADC caseload statewide has decreased. (***See Hot Topics, Discovery, page 18***)

Electronic Access to Court Records: OADC lawyers continue to benefit from access to electronic court records. As one contractor commented:

once again I must tell you what invaluable support you provide for all your contractorsbeing able to check on co-defendants and find out what is going on with their cases, who the attorneys are so we can contact them, is so essential. We previously could do it through co-courts or lexisnexis...well you could, but it gets expensive fast. It makes such a difference in talking to the DA to know what everyone else in the case is doing and what is realistic.

Appellate and Post-Conviction Cases: The agency has successfully reduced the number of attorney hours per case for appellate and post-conviction appointments. The agency's former appellate paralegal pilot program has transitioned to an appellate case management position, and now also includes case management for post-conviction cases. In addition to reducing the number of hours per case, this has dramatically shortened the time frame needed for post-conviction cases, by providing the attorneys with significant information regarding the case upon appointment. Feedback from OADC contractors, court clerks and judges has all been positive.

Evaluation and Auditing of Contractors: The OADC continues to audit individual contractors to analyze their billing procedures and patterns. The OADC has tailored trainings to address time management inefficiencies in order to reduce the number of hours per case.

Death Penalty: Capital cases are the most expensive case class. This includes lawyer time, investigator time, paralegal time, and all other ancillary costs. As long as there is a death penalty in Colorado, and OADC has a case, it will be expensive.

There is currently one death penalty case pending on the trial court level. The defendant is represented by OADC contractors. There are two death penalty cases proceeding under the Unitary Appeal Bill, and both defendants are represented by OADC contractors.

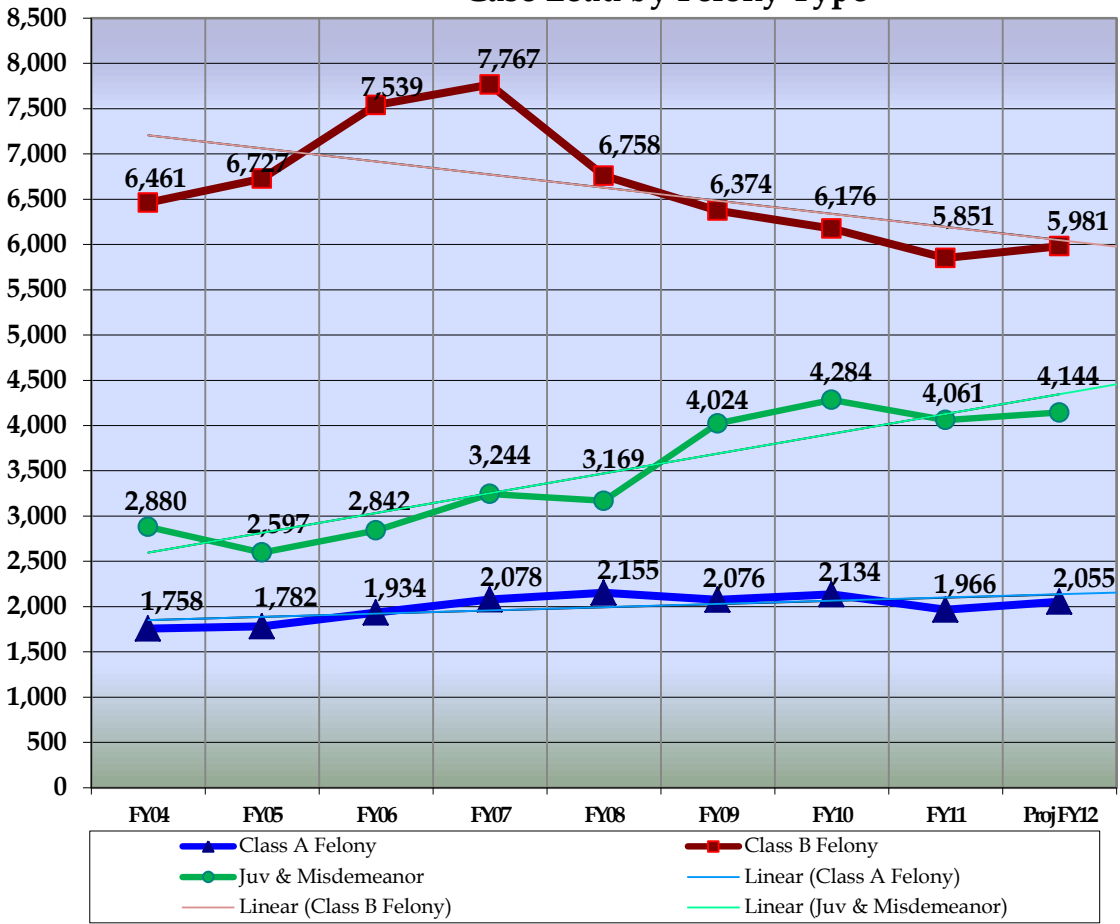
All of these death penalty cases arise out of prosecutions from the 18th Judicial District.

Key Workload Indicators:

The following table includes trial, appellate, post-conviction and special proceedings grouped by felony class type.

	Actual FY06	Actual FY07	Actual FY08	Actual FY09	Actual FY10	Actual FY11	Estimate FY12	Budget FY13
<u>Death Penalty</u>								
Cases	12	16	13	11	13	14	13	14
Attorney Hours	1,984	9,371	13,516	20,521	23,972	27,115	24,388	30,599
<u>Type A Felonies</u>								
Cases	1,922	2,062	2,142	2,065	2,121	1,952	2,042	2,061
Attorney Hours	94,689	94,454	104,256	109,497	105,497	86,788	94,830	95,713
<u>Type B Felonies</u>								
Cases	7,539	7,767	6,758	6,374	6,176	5,851	5,981	6,005
Attorney Hours	114,301	122,681	104,954	97,180	101,578	86,194	92,607	92,957
<u>Adult, Misd, Juv</u>								
Cases	2,842	3,244	3,169	4,024	4,284	4,061	4,144	4,222
Attorney Hours	22,221	26,699	23,610	29,141	31,091	28,245	29,984	30,550
Total Cases	12,315	13,089	12,082	12,474	12,594	11,878	12,180	12,302

Case Load by Felony Type



Performance Measure C.		FY10 Actual	FY11 Actual	FY12 Approp.	FY13 Request
Sponsor X number of trainings annually for attorneys, investigators, paralegals, and court personnel.	Target	10	10	10	11
	Actual	12	12		

Strategy:

Based on the Performance audit of 2006 the agency recognized the need for additional evaluation, monitoring and training of contractors. Since then the agency has developed three basic components to its training program.

1. Assess and determine the types of training needed for OADC contractors and court personnel.
2. Organize and present continuing legal education training for OADC lawyers, investigators, and paralegals.
3. Facilitate access to trainings by in-person attendance, DVD reproduction, and web broadcasting.

Evaluation of Prior Year Performance:

The OADC met and exceeded its training program target. The attendance at the trainings surpassed expectations and feedback was excellent. The agency was able to train on a variety of subjects that concern its contractors. For contractors who are unable to attend in-person, most trainings are Webcast and accessible to anyone with a high speed internet connection.

During FY2011, the OADC recognized a need to provide increased technology training for its contractors, and has begun providing hands on training in technology tools such as Adobe Acrobat Professional.

Key Workload Indicators:

	Actual FY10	Actual FY11	Estimate FY12	Budget FY13
Death Penalty Training	16 hours 50 Attendees	13 hours 20 Attendees	16 hours 50 Attendees	16 hours 35 Attendees
Appellate Training	12 hours 100 Attendees	15 hours 75 Attendees	16 hours 120 Attendees	
Client-Centered Representation	6 hours 75 Attendees	6 hours 45 Attendees		6 hours 60 Attendees
Ethics for Lawyers		6 hours 75 Attendees	6 hours 90 Attendees	
Veterans Advocacy	16 hours 160 Attendees			
Trial Practice Institute	25 hours 35 Attendees	35 hours 35 Attendees	35 hours 35 Attendees	35 hours 35 Attendees
Juvenile Training		18.5 hours 230 Attendees	30 hours 180 Attendees	12 hours 100 Attendees
Post-Conviction Training	4 hours 35 Attendees	3 hours 35 Attendees		3 hours 40 Attendees
Court-link Training	6 hours 50 Attendees			
Making the Record	4 hours 60 Attendees			
Effective Representation Post-Padilla	1.5 hours 40 Attendees			
GLBT issues in Domestic Violence Cases	2 hours 30 Attendees			
Legislative Update	1.5 hours 35 Attendees			
Investigator Training		12 hours 125 Attendees		6 hours 75 Attendees
Sentencing		4.5 hours 25 Attendees	6 hours 60 Attendees	6 hours 50 Attendees
Jury Selection Workshop			12 hours 20 Attendees	12 hours 35 Attendees
Adobe Prof. Training			22.5 hours 150 Attendees	12 hours 60 Attendees
Time Management/Efficiency		9 hours 76 Attendees	7 hours 50 attendees	6 hours 50 Attendees
Paralegal Training		3 hours 30 Attendees	15 hours 100 Attendees	8 hours 50 Attendees
Story Telling Workshop		24 hours 15 Attendees		

Performance Measure D.		FY10 Actual	FY11 Actual	FY12 Approp.	FY13 Request
Provide Cost-Effective Research Tools and Resources to ADC Contractors	Target	Increase brief and motions bank content/ materials by 20%. Contractors trained in its use.	Maintain and increase content in brief and motions bank by 10%. Ongoing training on use of brief and motions bank.	Update and improve brief bank, and implement legal research and motion drafting pilot project.	Update and improve and expand legal research pilot project.
	Actual	Over 2,300 documents.	Over 2,700 documents. Average users per month: 95.		

Strategy:

In an effort to promote quality and efficiency in OADC contractors, the agency recognized the need for providing cost-effective research tools and resources. To accomplish this, the agency is:

1. Continuing to improve and expand the Brief and Motions Bank.²
2. Implementing a legal research and motion drafting pilot project.
3. Training on electronic tools and resources.

Evaluation of Prior Year Performance:

In FY2011, the Bank grew to over 2,700 documents, broken down into searchable categories. As one rural-based contractor commented:

Hi Lindy: it was good to see you in Grand Junction on Friday. As I told you then, and now I repeat: the motion bank is a wonderful idea and a great tool to save time and gather new points to one's own motion. When I need to file a motion, I go to the bank and always find a motion I can develop, use, or simply get ideas from. This truly saves a lot of time, and I would recommend to all ADC members: please use the motion bank, and you will see how helpful it is.

The agency has also recognized a need for legal research and drafting assistance. Earlier this year the agency notified its contractors that this assistance was available on a first come, first serve basis. Preliminary responses indicate the likelihood of success for this program. The following comment comes from a contractor who has over 20 years of criminal defense experience: *“Thank you very much for your help, it saved me a day’s worth of research.”*

Key Workload Indicators: *As noted above.*

² The Brief and Motions Bank is an electronic data base containing high quality briefs and motions that have been indexed by topic. OADC contractors can use this resource as a starting point to efficiently address important legal issues in their cases.

Performance Measure E.		FY09 Actual	FY10 Actual	FY11 Actual	FY12 Approp.	FY13 Request
Interview contract applicants; evaluate contractors prior to contract renewal date, and ongoing performance monitoring. Contract with investigators.	Target Attorney	100%	100%	100%	100%	100%
	Actual	99%	99%	99%		
	Target Investigator	50%	50%	100%	100%	100%
	Actual	50%	25%	87%		

Strategy:

Pursuant to the state performance audit of 2006, the OADC began a process to insure that all OADC lawyers and investigators are under a current contract. This process includes interviewing and evaluating all attorney contractors and contracting with investigators. To accomplish this, the agency has developed 7 basic components:

1. Maintain a tracking system for all attorney and investigator vendors that includes contract renewal dates.
2. Contact and request renewal applications from attorney contractors, interview and evaluate contractor, and renew contract if appropriate.
3. Receive feedback from judicial districts concerning OADC lawyers.
4. Verify attorney status with the Office of Attorney Regulation.
5. Monitor and evaluate lawyer court room practices.
6. Mandate training and testing for investigators prior to contract issuance or renewal.
7. Conduct audit and time-efficiency studies of select OADC contract attorneys.

Evaluation of Prior Year Performance:

As the numbers above indicate, the agency has essentially interviewed and approved or denied contracts with all contract attorneys. All attorneys are on a contract renewal cycle. The agency also has a procedure in place to process applications from new attorneys.

The State of Colorado does not have a formal licensing procedure for private investigators, nor does it appear that it will in the near future. Based on this OADC has developed a training and screening/testing process to be used prior to issuance or renewal of investigator contracts. Full implementation of this process is expected in FY2012. As a result of this modification to the investigator approval process not all investigators are under contract.

Key Workload Indicators:

	Actual FY09	Actual FY10	Actual FY11	Estimate FY12	Budget FY13
Lawyer Contracts (New/Renewed)	126	130	160	118	160
Investigator Contracts	72	30	19	96	20

PRIOR YEAR LEGISLATION

11HB1180: Concerning Using Individualized Assessments to Aid Judges in Imposing Criminal Sentences that Reduce the Likelihood of Criminal Offenders Committing Additional Criminal Acts

This bill adds to the Colorado Criminal Code a fifth purpose for sentencing: To select for each convicted offender a sentence, sentence length, and level of supervision that addresses the offender's individual characteristics and reduces the potential that the offender will engage in criminal conduct after completing his or her sentence. The bill requires each presentence report submitted by a probation officer to a court to include:

- (1) results of an actuarial risk and needs assessment;
- (2) whether the defendant is a suitable candidate for an alternative to a prison sentence;
- (3) appropriate conditions of supervision if the defendant is sentenced to probation; and
- (4) projected costs associated with each sentencing option available to the court.

The court shall consider the purposes of sentencing in granting probation or imposing any other sentence.

Temporary modification to the contribution rates for Public Employee's Retirement Association 11SB076. For the state's fiscal year 2011-2012, the employer rate is again reduced 2.5%, from 10.15% to 7.65% and the member rate is again increased 2.5%, resulting in a new employee contribution rate of 10.5%.

HOT TOPICS

EVIDENCE BASED SMARTER SENTENCING:

The 2011 Legislature addressed this issue in two ways: 1) by amending the sentencing statute, and 2) by changing the requirements of presentence reports issued by Probation Services.³ Evidence Based Decision Making (EBDM) in the criminal justice system is recognized across the nation for producing safer communities and more effectively using scarce resources. Colorado's Mesa County was recently chosen by the National Institute of Corrections (NIC) as one of three communities nationwide to participate in an intense EBDM implementation plan. More information is available at <http://www.cepp.com/EBDM.OneLess/>.

OADC has begun a pilot sentencing project in Mesa County/21st Judicial District. This includes specific training on EBDM and additional resources designed to use EBDM data and methods to promote smarter sentencing decisions.

DISCOVERY:

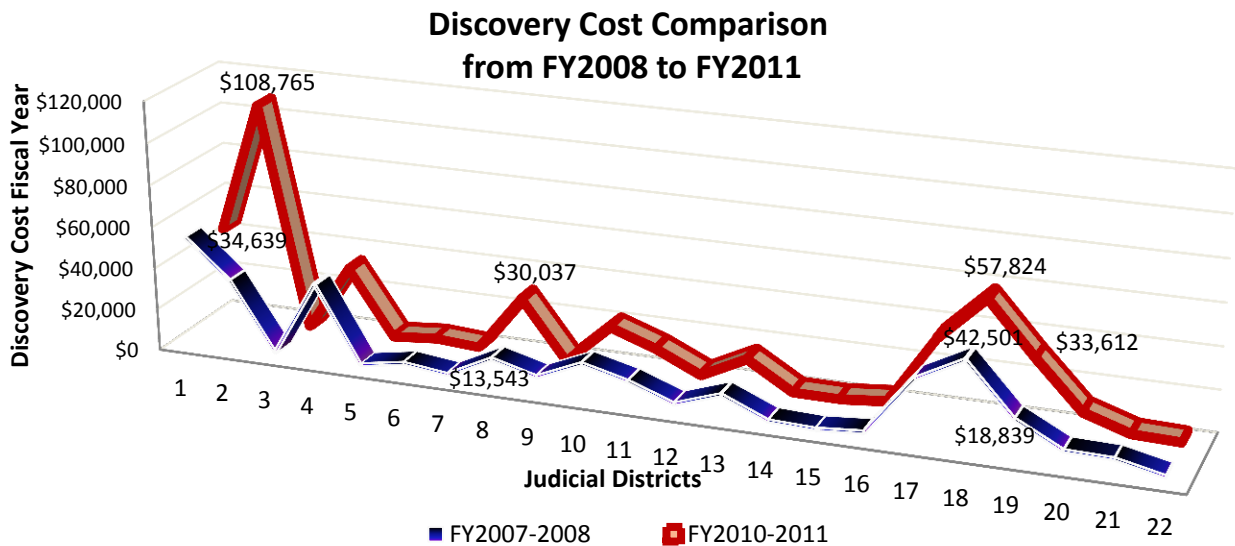
The cost of discovery has been an ongoing issue for the past several years. During FY2011, OADC conducted a survey of each judicial district's discovery costs, and has prepared the following table for informational purposes. As this table indicates, the cost of discovery varies from no charge (see 21st JD, where discovery is electronic only), to \$0.50 per page, as well as a wide range of charges for different types of media associated with discovery in a case.

Jud District	Cost per page	Audio	Video	CD	DVD	Photo per page	OTHER
1	\$0.35	N/C	N/C	N/C	N/C	\$5	*No charge unless lost/misplaced then charge is \$15 per disc/\$5.00 per sheet
2	\$0.50	\$15	\$15	\$15	\$18	\$1	
3	\$0.25	\$5		\$5	\$5	\$1	Dispatch log and Recording 78.00
4	\$0.25	\$5	\$5	\$16	\$5	\$5	Initial Discovery CD \$16, High Volume Case \$50, Juvenile \$10, County \$8, Supp \$2 +.10 pg
5	\$0.25	\$5	\$25	\$5	\$5	\$1 color	Cost for postage on copies .50 for 1st oz +
6	\$0.25	\$5	\$15		\$15	\$15	Initial Disc CD \$15, High Volume \$50
7	\$0.40	\$1	\$2	\$1	\$1	\$1	No Scanning capability
8	\$.25 B/W, \$1 Color			\$12	\$17		Base charge Class F1=\$200; F2 to F3=\$65; F4 to F6= \$40; Juv \$25; Misdemeanor \$15,
9	N/A	\$6	\$6	\$6 +0.27	\$6. 0.42	\$6	County up to \$6, District up to \$20, Staff time up to \$20 per hour. No paper discovery

³ See HB 11-1180

Jud District	Cost per page	Audio	Video	CD	DVD	Photo per page	OTHER
10	\$0.50	\$7	\$10	\$5	\$8	\$10 plus cost	Faxed discovery \$.75 page, Scanned \$15 + over 300 pages \$50.00; Polaroids \$1.00 per copy + \$5.00 prep, DA-\$10 prep+ \$1 pp
11	\$0.50			\$5	\$5	\$0.50	
12	\$0.50	\$3	\$5	\$5	\$10	\$0.55	
13	\$0.35	\$8	\$8	\$8	\$8		
14	\$0.25	\$15	\$25	\$15	\$15	\$0.50	
15	\$0.25	\$3.50	\$5.50	\$5	\$10		
16	\$0.25			\$15	\$15		
17	\$0.15 - \$0.28	\$6	\$12	\$8 Cnty / \$15 other	\$15	\$15	\$1 per CD, \$15 per Cd for major cases, Microfilm .40 per page
18	\$.20 b/w, \$1 color	\$13	\$26	\$10	\$15		Initial discovery \$15 + \$1.42 additional, high volume initial \$50 + \$1.42
19	\$2 + \$.25	\$5	\$10	\$10	\$10		
20	\$0.25	\$5	\$15	\$15	\$15	\$15	If scanned pgs exceed 1000, \$50
21	No charge						Discovery is electronic- is no charge. Implemented on-line system late 2010.
22	\$0.25	\$5	\$5	\$5	\$5	\$5	pp=private practice, pd=public defender

The following chart and table demonstrate that the cost of discovery to OADC has significantly increased in some jurisdictions from FY2008 to FY2011, in spite of a decrease in cases:



Discovery Costs per District over the last four years

Jud District	Counties in District	FY07-08	FY08-09	FY09-10	FY10-11
1st	Gilpin/Jefferson	\$52,973	\$49,083	\$49,419	\$45,315
2nd	Denver	\$34,639	\$39,354	\$36,861	\$108,765
3rd	Huerfano/LasAnimas	\$2,022	\$5,289	\$2,084	\$2,148
4th	ElPaso/Teller	\$38,204	\$39,708	\$42,614	\$33,930
5th	ClearCreek/Eagle/Lake/Summit	\$1,827	\$3,667	\$2,528	\$2,938
6th	Archuleta/LaPlata/SanJuan	\$5,496	\$6,377	\$1,776	\$4,808
7th	Delta/Gunnison/Hinsdale/Montrose/Ouray	\$3,045	\$5,111	\$6,160	\$3,406
8th	Jackson/Larimer	\$13,543	\$33,328	\$37,190	\$30,037
9th	Garfield/Pitkin/RioBlancoGlenwood	\$7,913	\$3,553	\$3,702	\$2,358
10th	Pueblo	\$17,125	\$19,619	\$26,562	\$21,771
11th	Chaffee/Custer/Fremont/Park	\$11,821	\$19,488	\$21,384	\$14,328
12th	Alamosa/Conejos/Costilla/Mineral/RioGrande/Sauache	\$4,036	\$2,713	\$4,620	\$4,416
13th	Kit Carson/Logan/Morgan/Phillips/Sedgwick/Washington/Yuma	\$11,445	\$14,324	\$15,319	\$15,123
14th	Grand/Moffat/Routt	\$2,253	\$4,171	\$4,105	\$2,125
15th	Baca/Cheyenne/Kiowa/Prowers	\$1,478	\$1,319	\$1,808	\$1,971
16th	Bent/Crowley/Otero	\$3,254	\$9,757	\$4,301	\$3,994
17th	Adams/Broomfield	\$31,063	\$31,561	\$32,732	\$36,710
18th	Arapahoe/Douglas/Elbert/Lincoln	\$42,501	\$38,342	\$39,225	\$57,824
19th	Weld	\$18,839	\$27,162	\$26,589	\$33,612
20th	Boulder	\$7,430	\$8,793	\$16,798	\$11,222
21st	Mesa	\$6,924	\$8,548	\$11,403	\$4,134
22nd	Dolores/Montezuma	\$2,112	\$2,040	\$2,040	\$3,479
		\$319,944	\$373,307	\$389,220	\$444,414

IMMIGRATION:

The number of post-conviction cases based on inadequate advisement regarding immigration consequences has increased, especially in light of *Padilla v. Kentucky*, 379 U.S. 759, 130 S.Ct. 1473 (March 31, 2010). The *Padilla* case mandates that criminal defense lawyers properly advise defendants of the possible immigration consequences related to their case. Immigration law is highly technical, specialized and constantly changing. Judges, prosecutors and defense lawyers are inadequately prepared to keep abreast of all the immigration consequences in criminal cases. The OADC is utilizing a criminal defense lawyer who specializes in immigration law to consult with OADC contractors to insure compliance with *Padilla*.

CASELOAD CHANGES:

Contrary to what many experts contemplated, the downturn in the economy has *not* produced an increase in criminal cases in Colorado or nationwide. In fact, over the last five fiscal years there has been a 22.7% decrease in criminal case filings across the state. The passage of SB07-260, “Concerning Changes to Criminal Laws to Reduce the Costs of Incarceration,” had another cost benefit. It has reduced the cost of OADC appointments per fiscal year for certain theft and criminal mischief cases, by increasing the threshold for the case being filed as a felony from \$500 to \$1000. Over the last four years, the agency’s expenditures have decreased an average of \$94,071 per fiscal year due to this downgrade of felony charges to misdemeanors as seen in the following table:

	FY2007 Cases	FY2011 Cases	Inc/- dec	Avg. Lawyers hours per Case	Avg. Lawyer Cost per Case
<i>Criminal Mischief Felony (class F4)</i>	149	105	-29.5%	13.54	\$880.01
<i>Criminal Mischief Misd/Juv</i>	217	275	26.7%	6.48	\$421.20
Average savings per case					\$458.81
Fiscal year savings ased on decrease of F4's 44					\$20,187.64
<i>Theft (class F4)</i>	1,300	717	-44.8%	13.54	\$880.10
<i>Theft Misd/Juv</i>	271	432	59.4%	6.48	\$421.20
Average savings per case					\$458.90
Fiscal year savings based on increase of misd cases of 161					\$73,882.90
Annualized fiscal year savings					<u>\$94,070.54</u>

TRIAL AND CASE EVIDENTIARY CHANGES:

Where previously evidentiary issues associated with new technology included: fingerprints; DNA; and firearms; new technology has introduced text messaging, internet trails, social networking sites and cellphone photos, etc. These new “evidentiary” issues are flooding the courts statewide. Many cases now call for cellphone record subpoenas, and require the involvement of computer experts, data transfer experts, and transcriptionists and/or additional time to listen to and interpret recorded telephone calls. The admissibility of these new technologies is also being litigated in the courts.

COST SAVING MEASURES

PAPERLESS DISCOVERY:

Jefferson County OADC Discovery Process: The OADC has created and implemented an innovative discovery project in Jefferson County to expedite and consolidate discovery for its contractors. Twice a week a contract paralegal travels to Jefferson County to pick up new discovery. This is in place of each lawyer making arrangements to pick up discovery, and billing the OADC for the required service and travel time. The discovery is then taken to a central document imaging expert, who processes the discovery into readable/searchable files and then posts it to a secure cloud based server. Since January, 2011, more than 247,000 files for over 400 cases have been audited, processed, rendered searchable and posted on the OADC discovery server. As one ADC contractor has commented:

*I wanted to tell you how great the ADC discovery process is in Jeffco. Getting the discovery on line from RD is super-efficient and in a big case like **People v. XXXX** with many, many pages of discovery both lawyers are able to get it quickly and completely. Since Jeffco police agencies seem to continue to investigate and generate reports right up until trial it is reassuring that we get the discovery as soon as RD can scan it and send it to us. It is also so great that neither co-counsel nor I need to spend time and ADC's money driving to pick up discovery. And the searching capacity is great. During the preliminary hearing, I couldn't locate a specific page and co-counsel searched and quickly could give me the Bates number.*

Multi co-defendant and Grand Jury Discovery Process: The OADC is using many forms of technology to better manage discovery. This technology is utilized in state wide grand jury cases, Colorado Organized Crime Control Act cases, and other large complex cases.

Department of Corrections (DOC) Record Scanning

Many criminal cases require securing inmate records from the Department of Corrections (DOC). The records facility for DOC is located in Colorado Springs. The DOC charges \$0.25 per page for copies of their records. They charge an additional \$15.00 per hour for DOC staff time if their staff makes the copies. OADC is allowed to scan the records on its own equipment for \$0.05 per page. OADC is beginning to utilize a contractor in Colorado Springs to scan records requested by an OADC lawyer, regardless of where that lawyer is located, and then transmit those records electronically back to the lawyer. It is anticipated that this will save both time and money.

CASE MANAGEMENT SERVICES:

Appellate and Post-Conviction Case Management Program

OADC has scrutinized attorney hours on appellate cases. This analysis disclosed that there were a predictable number of hours spent by lawyers in “perfecting,” essentially gathering, the appellate record. Each lawyer interacted with court clerks in all twenty-two judicial districts, often with poor

results. In 2007, OADC brought this process in-house with our appellate paralegal. OADC has demonstrated a per case decrease in the hours spent preparing these appeals. Last fiscal year, OADC added post-conviction cases to its in-house program. The OADC paralegal manages the post-conviction cases from first contact with the district court through retrieval of relevant documents and contracting and assignment of counsel. Initial indications are that this case management modality provides prompter and more efficient representation; it actually shortens the life span of most cases.

Time Management and Billing Training

OADC has developed contractor training that addresses billing issues and time management challenges. This training has taken place in various parts of the state and will continue throughout the next fiscal year. Contractors are shown specific examples of common billing errors; for example, the correct billing of phone calls, emails, and ancillary costs; as well as those billing errors that delay payment of invoices. The time management component of the training includes suggestions on how to improve personal efficiencies and use technology more effectively.

CASES THAT MAY AFFECT OADC

Rothgery v. Gillespie County, Texas, 128 S. Ct. 2578 U.S. (June 23, 2008). In *Rothgery*, the United States Supreme Court held that a criminal defendant's initial appearance before a judge marks the beginning of the proceedings against him and triggers the defendant's Sixth Amendment right to counsel whether or not a prosecutor is aware of or involved in that appearance.

Padilla v. Kentucky, 397 U.S. 759, 130 S.Ct. 1473 (March 31, 2010). A habeas petitioner can bring a claim for ineffective assistance of counsel where he would not have pled guilty but for the failure of his attorney to advise him of the immigration consequences of the plea. An attorney's duties include advising a defendant about the collateral consequences of the plea. The attorney's failure to advise a non-citizen defendant of the immigration consequences of pleading guilty to a crime can constitute ineffective assistance of counsel under the Sixth Amendment.

Graham v. Florida, 130 S.Ct. 2011 (May 17, 2010) The Eighth Amendment prohibits imposition of a life without parole (LWOP) sentence on juvenile offender who did not commit a homicide. States are not required to release juvenile offenders during their lifetime; however, when juvenile non-homicide offenders are sentenced to LWOP, states must provide a meaningful opportunity for release.

Work Load Indicators

Additional information not previously noted:

Total Case Load and Case Type:

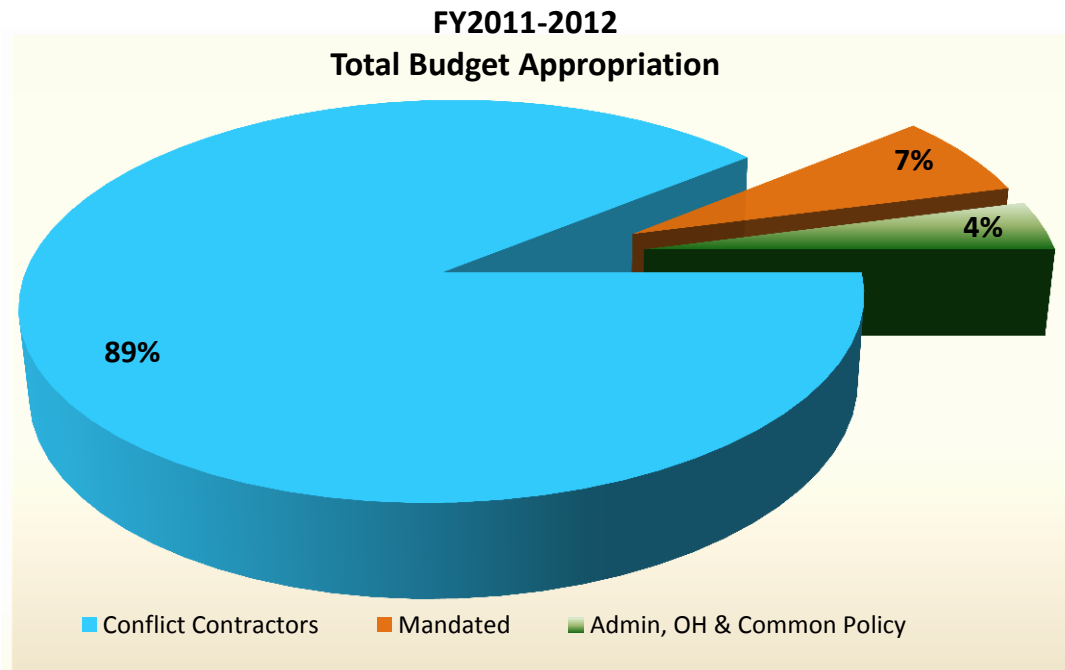
	Actual FY06	Actual FY07	Actual FY08	Actual FY09	Actual FY10	Actual FY11	Estimate FY12	Budget FY13
<i>Trial Case Types:</i>								
<i>F1 - Death Penalty</i>	4	5	4	4	4	3	3	4
<i>F1 - W/O Death Penalty</i>	150	128	150	145	145	126	136	143
<i>F2-F3</i>	2819	2904	2642	2532	2604	2409	2487	2513
<i>F4-F6</i>	4938	5124	4372	4028	3894	3754	3801	3837
<i>Juvenile</i>	1433	1621	1528	1803	1808	1542	1578	1672
<i>Misd DUI Traffic</i>	1111	1278	1257	1654	1884	1934	1976	1917
<i>Other</i>	12	6	2	2	2	1	1	1
Total Trial Cases	10,467	11,066	9,955	10,168	10,304	9,769	9,982	10,087
Appeal Cases	585	654	708	765	725	717	726	727
Post-Conviction Cases	480	514	523	492	489	429	478	483
Special Proceedings	783	855	896	1,049	1,040	963	994	1004
Total Cases	12,315	13,089	12,082	12,474	12,594	11,878	12,180	12,301
% Inc/(Dec) Prior Year	10.9%	6.3%	(7.7%)	3.2%	.9%	(5.69%)	2.5%	1%

Total Case Payment Transactions Processed by the Agency:

	Actual FY06	Actual FY07	Actual FY08	Actual FY09	Actual FY10	Actual FY11	Estimate FY12	Budget FY13
Case Load	12,314	13,089	12,082	12,474	12,594	11,878	12,185	12,301
Payment Transactions	29,601	34,795	38,390	41,524	42,819	39,794	41,185	41,823
Avg. Case Transactions	2.40	2.66	3.18	3.33	3.40	3.35	3.38	3.40

III. BUDGET OVERVIEW

OFFICE OF THE ALTERNATE DEFENSE COUNSEL Fiscal Year 2013 Budget Summary Narrative



The total FY2012-2013 budget request is for \$23,070,476 general funds, and \$20,000 cash funds. This represents a decrease of 0.6% in general funds from the FY2011-2012 appropriation, in spite of an increase in common policy items.

The Office of the Alternate Defense Counsel (OADC) has made every attempt for fiscal year 2012-2013 to prepare a budget request to the Joint Budget Committee that accurately and completely reflects our agency's operations.

During this economic downturn, the OADC has worked diligently to contain those costs that it does have control over while striving to meet its performance measures and insure the continued provision of cost effective and quality representation to indigent defendants. The agency has implemented the following cost-saving measures starting in FY2009-2010 through the current FY2012-2013 budget request:

- Appellate/post-conviction case management;
- Converting from paper to electronic documents;
- Time management and billing training;
- Usage of brief/motion bank and legal research assistance;
- Close monitoring of mandated costs.

The OADC has long suggested to the JBC that, although we **cannot** control the caseload or capital filings, we **can** work to make the agency and contractors more cost effective through structured efficiency efforts.

The increase and decrease in general funding is as follows:

1) Estimation of Common Policy and Return of State PERA Employers Contribution to 10.15%

Of the agency's FY2012-2013 general fund appropriation request, **\$16,273**, or **0.07%**, is an increase in common policy items and the sunset of SB11-76 annualized for the fiscal year 2012-2013 appropriation. These estimates are presented for informational purposes only. These estimates do not include the recommendations from the Annual Compensation Survey Report Director's letter dated August 1, 2011 which would add an additional \$14,805 to the common policy request. Included in the common policy items are the following: increased PERA amortization and supplemental amortization equalization disbursements, OADC lease space de-escalation, and the anticipated 12 months of increased 2.5% PERA Employer contributions.

2) Net Base Reduction

The OADC is requesting a general fund *net reduction* of **\$158,471**, comprised of a reduction in the Conflict of Interest line item and a minimal increase in the Mandated line item, resulting in a **0.7% decrease** in the agency's total budget. The agency had anticipated a decline in counsel appointments for Juvenile/Misdemeanors/Traffic/DUIs and an increase in type B felony cases due to the decline of the economy. Instead the reverse happened; there was a statewide decrease in all criminal filings as well as a redistribution of some cases from felony classification to misdemeanors. Even with the decline of filings, the agency believes there will be a slight increase in case load because more defendants will qualify for court appointed counsel.

FY2012-2013 Budget Change Summary
Judicial Branch
Office of the Alternate Defense Counsel

	<u>FTE</u>	<u>Total</u>	<u>GF</u>	<u>CF</u>	<u>CFE</u>	<u>FF</u>
SB11-209 FY12 Long Bill	7.5	23,248,059	23,228,059	20,000	0	0
PERA Reduced state						
SB11-76 portion		(15,385)	(15,385)			
FY2012 Appropriation (July 1, 2011)	7.5	23,232,674	23,212,674	20,000	0	0
<u>Prior Year Appropriation Changes</u>						
<u>Annualized</u>						
PERA Employers share returns						
10.15%		15,385	15,385	0	0	0
Total Prior Year Appropriation Changes		15,385	15,385	0	0	0
Annualized		15,385	15,385	0	0	0
<u>Salary Survey and Anniversary</u>						
FY2013 Salary Survey Request		0	0			
FY2013 Pay for Performance		0	0			
Total Salary Survey and Anniversary		0	0	0	0	0
<u>FY2013 Common Policies Increases/(Decreases)</u>						
Health/Life/Dental Increase		0	0			
Short Term Disability		0	0			
PERA-Amortization Equal Disbursement		2,464	2,464			
PERA-Supplemental Amortization Equal Disbursement		3,088	3,088			
Leased Space- Annual Escalation		(4,664)	(4,664)			
Total Common Policy Adjustments		888	888	0	0	0
<u>Base Reduction item</u>						
101 FY2013 BR#101		(158,471)	(158,471)			
Total FY2013 Decision Items	0.0	(158,471)	(158,471)	0	0	0
Total FY2013 Budget Request						
	7.5	23,090,476	23,070,476	20,000	0	0
Change for FY2013		(142,198)				
% change	0.0%	-0.6%				

FY2012-2013 Budget Change Detail by Line Item
Judicial Branch
Office of the Alternate Defense Counsel
FY2013 Line Item Calculations

Long Bill Line Item	Total	FTE	General Fund	Cash Funds	CFE	FF
<i>Personal Services</i>						
Previous Year Long Bill Appr. (SB 11-209)	\$706,089	7.5	\$706,089	-	-	-
Supplemental SB11-076	(\$15,385)		(\$15,385)			
FY 2012-13 Salary Survey	\$0		\$0	-	-	-
FY 2012-13 Performance-based Pay	\$0		\$0	-	-	-
Estimated Changes Per Statewide Request	\$15,385		\$15,385	-	-	-
Personal Services Appropriation Request	\$706,089	7.5	\$706,089	\$0	\$0	\$0
<i>Health/Life/Dental</i>						
Previous Year Long Bill Appr. (SB 11-209)	\$80,682		\$80,682	-	-	-
Estimated Changes Per Statewide Request	\$0		\$0	-	-	-
Health/Life/Dental Appropriation Request	\$80,682	0.0	\$80,682	\$0	\$0	\$0
<i>Short Term Disability</i>						
Previous Year Long Bill Appr. (SB 11-209)	\$1,089		\$1,089	-	-	-
Estimated Changes Per Statewide Request	\$0		\$0	-	-	-
Short Term Disability Appropriation Request	\$1,089	0.0	\$1,089	\$0	\$0	\$0
<i>PERA- AED</i>						
Previous Year Long Bill Appr. (SB 11-209)	\$17,026		\$17,026	-	-	-
Estimated Changes Per Statewide Request	\$2,464		\$2,464	-	-	-
PERA - AED Appropriation Request	\$19,490	0.0	\$19,490	\$0	\$0	\$0
<i>PERA- SAED</i>						
Previous Year Long Bill Appr. (SB 11-209)	\$13,590		\$13,590	-	-	-
Estimated Changes Per Statewide Request	\$3,088		\$3,088	-	-	-
PERA - SAED Appropriation Request	\$16,678	0.0	\$16,678	\$0	\$0	\$0
<i>Operating</i>						
Previous Year Long Bill Appr. (SB 11-209)	\$67,030		\$67,030	-	-	-
Operating Appropriation Request	\$67,030	0.0	\$67,030	\$0	\$0	\$0
<i>Leased Space</i>						
Previous Year Long Bill Appr. (SB 11-209)	\$40,544		\$40,544	-	-	-
Annual Escalation Changes Per Statewide Request	(4,664)		(4,664)	-	-	-
Leased Space Appropriation Request	\$35,880	0.0	\$35,880	\$0	\$0	\$0

FY2012-2013 Budget Change Detail by Line Item (Con't)
Judicial Branch
Office of the Alternate Defense Counsel
FY2013 Line Item Calculations

Long Bill Line Item	Total	FTE	General Fund	Cash Funds	CFE	FF
<i>Training/Conference</i>						
Previous Year Long Bill Appr. (SB 11-209)	\$40,000		\$20,000	\$20,000	-	-
Training/Conference Appropriation Request	\$40,000	0.0	\$20,000	\$20,000	\$0	\$0
<i>Conflict of Interest Contracts</i>						
Previous Year Long Bill Appr. (SB 11-209)	\$20,692,161		\$20,692,161	-	-	-
BR#1 Base Reduction Net	(\$188,419)		(\$188,419)	-	-	-
Conflict Contracts Appropriation Request	\$20,503,742	0.0	\$20,503,742	\$0	\$0	\$0
<i>Mandated</i>						
Previous Year Long Bill Appr. (SB 11-209)	\$1,589,848		\$1,589,848	-	-	-
BR#1 Base Reduction Net	\$29,948		\$29,948	-	-	-
Mandated Appropriation Request	\$1,619,796	0.0	\$1,619,796	\$0	\$0	\$0
GRAND TOTAL - FY2012-13 REQUEST	\$23,090,476	7.5	\$23,070,476	\$20,000	\$0	\$0

SCHEDULE 7

Summary of Supplemental Bills Judicial Branch Office of the Alternate Defense Counsel FY 2012-2013 Budget Request November 1, 2011								
Bill Number	Line Item	FTE	Total Funds	GF	GFE	CF	CFE	FF
Appropriation FY 2011-12								
SB11-076	Personal Services		(15,385)	(15,385)				
Total as of November 1, 2011		0.0	(15,385)	(15,385)				

Actual FY 2010-11								
SB11-209 Supplemental	Conflict Contracts Mandated		(2,194,046) (86,665)	(2,194,046) (86,665)				
Total FY2010-11		0.0	(2,280,711)	(2,280,711)				

Actual FY 2009-10								
	N/A							
Total FY2009-10		0.0						

Actual FY 2008-09								
SB09-190	Conflict Contracts		(49,064)	(49,064)				
Total FY2008-09		0.0	(49,064)	(49,064)				

Actual FY 2007-08								
	N/A							
Total FY2007-08		0.0						

SCHEDULE 8

Common Policy Summary Judicial Branch Office of the Alternate Defense Counsel FY 2012-2013 Budget Request
--

PERA Employer Share 10.15%	Total Funds	GF	CF	CFE	FF
Actual Total FY2009-2010	\$59,473	\$59,473			
Actual Total FY2010-2011 7.65%	\$45,589	\$45,589			
Appropriation FY2011-2012 7.65%	\$47,079	\$47,079			
Request Total FY2012-2013 10.15%	\$62,464	\$62,464			

Health/Dental/Life	Total Funds	GF	CF	CFE	FF
Actual Total FY2009-2010	\$65,348	\$65,348			
Actual Total FY2010-2011	\$72,791	\$72,791			
Appropriation FY2011-2012	\$80,682	\$80,682			
Request Total FY2012-2013	\$80,682	\$80,682			

Short Term Disability	Total Funds	GF	CF	CFE	FF
Actual Total FY2009-2010	\$941	\$941			
Actual Total FY2010-2011	\$1,029	\$1,029			
Appropriation FY2011-2012	\$1,089	\$1,089			
Request Total FY2012-2013	\$1,089	\$1,089			

Salary Survey	Total Funds	GF	CF	CFE	FF
Actual Total FY2009-2010	\$0	\$0			
Actual Total FY2010-2011	\$0	\$0			
Appropriation FY2011-2012	\$0	\$0			
Request Total FY2012-2013	\$0	\$0			

Performance Pay	Total Funds	GF	CF	CFE	FF
Actual Total FY2009-2010	\$0	\$0			
Actual Total FY2010-2011	\$0	\$0			
Appropriation FY2011-2012	\$0	\$0			
Request Total FY2012-2013	\$0	\$0			

Leased Space	Total Funds	GF	CF	CFE	FF
Actual Total FY2009-2010	\$32,022	\$32,022			
Actual Total FY2010-2011	\$36,577	\$36,577			
Appropriation FY2011-2012	\$40,544	\$40,544			
Request Total FY2012-2013	\$35,880	\$35,880			

GGCC	Total Funds	GF	CF	CFE	FF
Actual Total FY2009-2010	\$1,203	\$1,203			
Actual Total FY2010-2011	N/A	N/A	Approp transferred to Judicial		
Appropriation FY2011-2012	N/A	N/A			
Request Total FY2012-2013	N/A	N/A			

**OFFICE OF THE ALTERNATE DEFENSE COUNSEL
FY 2012-2013 Salary Adjustments, STD, AED, SAED Request**

<u>PROGRAM</u>	Base Salaries	FTE	Salary Adj.	Pay Perf	PERA 10.15%	Medicare 1.45%	Total Adjustment	Total FY2013 Salaries	AED 3.17%	SAED 2.71%	STD
Office of the Alternate Defense Counsel	615,409	7.5	0	0	0	0	0	615,409	19,490	16,678	1,089
TOTAL GENERAL FUND	615,409	7.5	0	0	0	0	0	615,409	19,490	16,678	1,089

IV. LONG BILL DETAIL

SCHEDULE 2 SUMMARY

Department Summary Judicial Branch Office of the Alternate Defense Counsel C.R.S. §21-2-101										
	Actual FY2009-2010		Actual FY2010-2011		Appropriation FY2011-2012		Estimate FY2011-2012		Request FY2012-2013	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
Department Total										
Total	23,202,462	7.5	20,496,407	7.5	23,232,674	7.5	23,232,674	7.5	23,090,476	7.5
GF	23,182,462	7.5	20,476,407	7.5	23,212,674	7.5	23,212,674	7.5	23,070,476	7.5
CF	20,000		20,000		20,000		20,000		20,000	
CFE										
FF										

Long Bill Overview by Line Item

Schedule 2 Department Long Bill Overview by Line Item Judicial Branch Office of the Alternate Defense Counsel C.R.S. §21-2-101										
	Actual FY2010		Actual FY2011		Appr FY2012		Estimate FY2012		Request FY2013	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<i>Personal Services</i>										
Total	704,510	7.5	690,609	7.5	690,704	7.5	690,704	7.5	706,089	7.5
GF	704,510	7.5	690,609	7.5	690,704	7.5	690,704	7.5	706,089	7.5
CF										
<i>Health/Life/Dental</i>										
Total	65,348	0.0	72,791	0.0	80,682	0.0	80,682	0.0	80,682	0.0
GF	65,348		72,791		80,682		80,682		80,682	
CF										
<i>Short Term Disability</i>										
Total	941	0.0	1,029	0.0	1,089	0.0	1,089	0.0	1,089	0.0
GF	941		1,029		1,089		1,089		1,089	
CF										
<i>Salary Survey</i>										
Total	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
GF	0		0		0		0		0	
CF										
<i>Pay Performance</i>										
Total	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
GF	0		0		0		0		0	
CF										
<i>PERA - AED</i>										
Total	11,523	0.0	13,727	0.0	17,026	0.0	17,026	0.0	19,490	0.0
GF	11,523		13,727		17,026		17,026		19,490	
CF										
<i>PERA - SAED</i>										
Total	7,080	0.0	9,909	0.0	13,590	0.0	13,590	0.0	16,678	0.0
GF	7,080		9,909		13,590		13,590		16,678	
CF										
<i>Operating</i>										
Total	68,844	0.0	67,030	0.0	67,030	0.0	67,030	0.0	67,030	0.0
GF	68,844		67,030		67,030		67,030		67,030	
CF	0		0		0		0		0	

Schedule 2
Department Long Bill Overview by Line Item (Con't)
Judicial Branch
Office of the Alternate Defense Counsel
C.R.S. §21-2-101

	Actual FY2010		Actual FY2011		Appr FY2012		Estimate FY2012		Request FY2013	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<i>Leased Space</i>										
Total	32,022	0.0	36,577	0.0	40,544	0.0	40,544	0.0	35,880	0.0
GF	32,022		36,577		40,544		40,544		35,880	
CF										
<i>Capital Outlay</i>										
Total	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
GF	0		0		0		0		0	
CF										
<i>GGCC</i>										
Total	1,203	0.0	0	0.0	0	0.0	0	0.0	0	0.0
GF	1,203		0		0		0		0	
CF										
<i>Training/Conference</i>										
Total	40,000	0.0	41,000		40,000		40,000	0.0	40,000	0.0
GF	20,000		21,000		20,000		20,000		20,000	
CF	20,000		20,000		20,000		20,000		20,000	
<i>Conflict Contracts</i>										
Total	20,760,634	0.0	18,132,047	0.0	20,692,161	0.0	20,692,161	0.0	20,503,742	0.0
GF	20,760,634		18,132,047		20,692,161		20,692,161		20,503,742	
CF										
<i>Mandated</i>										
Total	1,513,582	0.0	1,429,874	0.0	1,589,848	0.0	1,589,848	0.0	1,619,796	0.0
GF	1,513,582		1,429,874		1,589,848		1,589,848		1,619,796	
CF										
Department Total										
Total	23,202,462	7.5	20,496,407	7.5	23,232,674	7.5	23,232,674	7.5	23,090,476	7.5
GF	23,182,462	7.5	20,476,407	7.5	23,212,674	7.5	23,212,674	7.5	23,070,476	7.5
CF	20,000		20,000		20,000		20,000		20,000	
CFE										
FF										

Schedule 3
Reconciliation by Line Item
Office of the Alternate Defense Counsel

ITEM	Actual FY2009-2010		Actual FY2010-2011		Approp FY2011-2012		Estimate FY 2011-12		Request FY 2012-13	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
Position Detail										
Director	128,598	1.0	128,598	1.0		1.0	128,598	1.0	128,598	1.0
Deputy	123,067	1.0	123,067	1.0		1.0	123,067	1.0	123,067	1.0
Evaluator/Trainer Staff Attorney	96,936	1.0	96,936	1.0		1.0	96,936	1.0	96,936	1.0
Budget Analyst/Controller	79,968	1.0	79,968	1.0		1.0	79,968	1.0	79,968	1.0
Legal Assistant/Appellate Paralegal	54,444	1.0	54,444	1.0		1.0	54,444	1.0	54,444	1.0
Administrative Specialist	21,600	0.5	17,893	0.5		0.5	21,600	0.5	21,600	0.5
Staff Assistant II	110,796	2.0	110,796	2.0		2.0	110,796	2.0	110,796	2.0
Continuation Salary Subtotal	615,409	7.5	611,702	7.5	615,409	7.5	615,409	7.5	615,409	7.5
Other Personal Services										
PERA on Continuation Subtotal	59,473		45,589				47,079		62,464	
Medicare on Continuation Subtotal	8,543		8,487				8,923		8,923	
Contractual Services	21,085		24,766				9,800		4,965	
Termination/Retirement Payouts			65				9,493		14,328	
Personal Services Subtotal	704,510	7.5	690,609	7.5	690,704	7.5	690,704	7.5	706,089	7.5
Pots Expenditures										
Health/Life/Dental	65,348		72,791		80,682		80,682		80,682	
Short Term Disability	941		1,029		1,089		1,089		1,089	
Salary Survey (non-add)										
Performance Based Pay (non-add)										
AED	11,523		13,727		17,026		17,026		19,490	
SAED	7,080		9,909		13,590		13,590		16,678	
Personal Services Total Detail	789,402	7.5	788,065	7.5	803,091	7.5	803,091	7.5	824,028	7.5

Schedule 3
Reconciliation by Line Item
Office of the Alternate Defense Counsel

ITEM	Actual FY2009-2010		Actual FY2010-2011		Approp FY2011-2012		Estimate FY 2011-12		Request FY 2012-13	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
Personal Services Reconciliation Authorization										
Long Bill Request	706,089	7.5	690,704		706,089	7.5	706,089	7.5		7.5
Supplemental PERA Reduction SB11-076					(15,385)		(15,385)			
Health/Life/Dental	62,947		72,424		80,682		80,682			
Short Term Disability	951		954		1,089		1,089			
Salary Survey										
Anniversary/Pay for Performance										
AED	12,063		14,564		17,026		17,026			
SAED	7,412		10,513		13,590		13,590			
Transfer to Conflicts	(59)									
Transfer to Operating			(1,093)							
Reversion	(1)		(1)							
Personal Services Authorization	789,402	7.5	788,065	7.5	803,091	7.5	803,091	7.5	0	7.5
General Fund Cash Funds	789,402	7.5	788,065	7.5	803,091	7.5	803,091	7.5	824,028	7.5

Schedule 3
Reconciliation by Line Item
Office of the Alternate Defense Counsel

ITEM	Actual FY2009-2010		Actual FY2010-2011		Approp FY2011-2012		Estimate FY 2011-12		Request FY 2012-13	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<u>Operating Expenses/Capital Outlay</u>										
2230 Equip Maintenance/Repair Svcs			584				196		150	
2231 IT Hardware Maintenance & Repair Serv	7,816		8,520				8,416		8,416	
2232 IT Software Maintenance Upgrade	5,317		3,000				4,850		4,900	
2253 Rental Of Equipment	2,712		2,761				3,263		2,980	
2511 In-State Common Carrier Fares	156		212				450		450	
2512 In-State Pers Travel Per Diem	939		2,480				2,143		2,021	
2513 In-State Pers Vehicle Reimbsmt	1,398		3,343				2,025		2,086	
2522 Is/Non-Empl - Pers Per Diem	506		398				506		790	
2523 Is/Non-Empl - Pers Veh Reimb	637		600				1,155		1,155	
2531 Os Common Carrier Fares	805		1,504				1,650		1,650	
2532 Os Personal Travel Per Diem	772		1,506				768		768	
2532 Os Personal Vehicle Reimb	73									
2541 Os Non-Empl- Common Carrier	540									
2631 Comm Svcs From Outside Sources	11,203		11,381				11,460		8,760	
2831 Storage - Pur Services	165		110							
3110 Other Supplies & Materials			3				150		168	
3114 Custodial Supplies			70							
3115 Data Processing Supplies	2,033		465				3,160		1,560	
3116 Noncap It - Purchased Pc Sw	1,448		2,079				2,665		1,905	
3118 Food And Food Serv Supplies	163		352				330		350	
3120 Books/Periodicals/Subscription	588		1,464				918		890	
3121 Office Supplies	3,668		2,458				2,660		2,460	
3123 Postage	6,381		5,403				6,509		6,509	
3124 Printing/Copy Supplies	4,306		4,671				3,610		3,718	
3128 Noncapitalized Equipment	2,169		2,328				235		430	

Schedule 3
Reconciliation by Line Item
Office of the Alternate Defense Counsel

ITEM	Actual FY2009-2010		Actual FY2010-2011		Approp FY2011-2012		Estimate FY 2011-12		Request FY 2012-13	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
3132 Noncap Office Furn/Office Syst	3,874		48				640		633	
3140 Noncapitalized PC - (Individual Items Under \$5,000)	4,450		6,687				1,539		875	
3141 Noncapitalized IT - Server (Individual Items Under \$5,000)			153				1,127		6,069	
3143 Noncapitalized IT - Other Items Under \$5,000)	286		1,207				1,040		1,540	
3146 Noncap IT - Purchased Server SW			159				840		1,060	
3146 Noncap IT - Purchased Network SW	60						990		1,130	
4140 Dues And Memberships	2,805		3,104				2,740		2,740	
4220 Registration Fees	349		1,794				995		867	
Operating Expenses Total Detail	65,619	0.0	68,844	0.0	67,030	0.0	67,030	0.0	67,030	0.0
Reconciliation										
Long Bill Appropriation	67,030		67,030		67,030		67,030			
Transfer to/from Personal Services			1,093							
Transfer from Leased Space			721							
Transfer to/from Conflicts	(1,411)									
Reversion										
Operating Costs Authorization	65,619	0.0	68,844	0.0	67,030	0.0	67,030	0.0	-	0.0
General Fund Cash Funds	65,619		68,844		67,030		67,030		67,030	

Schedule 3
Reconciliation by Line Item
Office of the Alternate Defense Counsel

ITEM	Actual FY2009-2010		Actual FY2010-2011		Approp FY2011-2012		Estimate FY 2011-12		Request FY 2012-13	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
Leased Space										
Leased Space	32,022		36,577		40,544		40,544		35,880	
Leased Space Total Detail	32,022	0.0	36,577	0.0	40,544	0.0	40,544	0.0	35,880	0.0
Reconciliation										
Long Bill Appropriations	38,140		39,999		40,544		40,544			
Transfer to/from Operating			(721)							
Transfer to/from Training			(1,000)							
Reversion	(6,118)		(1,701)							
Leased Space Authorization	32,022	0.0	36,577	0.0	40,544	0.0	40,544	0.0	-	0.0
General Fund	32,022		36,577		40,544		40,544		35,880	
Cash Funds										
Purchase of Services from GGCC										
GGCC	1,203		-		-		-		-	
Purchase GGCC Total Detail	1,203	0.0	-		-		-		-	
Reconciliation										
Long Bill Appropriations	1,203		-		-		-		-	
Reversion										
Purchased GGCC Authorization	1,203	0.0	-		-		-		-	
General Fund	1,203		0		0		0		0	
Cash Funds										

Schedule 3
Reconciliation by Line Item
Office of the Alternate Defense Counsel

ITEM	Actual FY2009-2010		Actual FY2010-2011		Approp FY2011-2012		Estimate FY 2011-12		Request FY 2012-13	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<u>Training/Conference</u>										
Training Conference	40,000		41,000		40,000		40,000		40,000	
Training/Conference Detail										
	40,000	0.0	41,000	0.0	40,000	0.0	40,000	0.0	40,000	0.0
<u>Reconciliation</u>										
Long Bill Appropriations	28,000		40,000		40,000		40,000			
<i>FY2010 Decision Item</i>										
DI#102 - Increase Cash Spending Authority	12,000									
Transfer to/from Lease			1,000							
Reversion										
Training/Conference Authorized										
General Fund	20,000		21,000		20,000		20,000		20,000	
Cash Funds	20,000		20,000		20,000		20,000		20,000	
Total										
	40,000	0.0	41,000	0.0	40,000	0.0	40,000	0.0	-	0.0

Schedule 3
Reconciliation by Line Item
Office of the Alternate Defense Counsel

ITEM	Actual FY2009-2010		Actual FY2010-2011		Approp FY2011-2012		Estimate FY 2011-12		Request FY 2012-13	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<u>Conflict of Interest Contracts</u>										
Conflict of Interest Contracts	20,760,634		18,132,047		20,692,161		20,692,161		20,503,742	
Conflict of Interest Total Detail										
	20,760,634	0.0	18,132,047	0.0	20,692,161	0.0	20,692,161	0.0	20,503,742	0.0
<u>Reconciliation</u>										
Long Bill Appropriations	20,777,821		21,956,638		20,692,161		20,692,161		20,692,161	
<i>FY2010 Decision Items</i>										
DI #101 Case Load/Case Cost Increase	314,646									
<i>FY2011 Supplemental SB11-209</i>										
DI #101 Case Load & Redistribution			(2,194,046)							
<i>FY2013 Base Reduction Net</i>										
Transfer to/ from Personal Services	59									
Transfer to/ from Operating	1,411									
Transfer to/ from Mandated	116,082									
Transfer to OCR <i>(as allowed per C.R.S. 24-75-110)</i>	(449,385)									
Reversion			(1,630,545)							
Conflict of Interest Authorization										
	20,760,634	0.0	18,132,047	0.0	20,692,161	0.0	20,692,161	0.0	20,503,742	0.0
General Fund	20,760,634		18,132,047		20,692,161		20,692,161		20,503,742	
Cash Funds										

Schedule 3
Reconciliation by Line Item
Office of the Alternate Defense Counsel

ITEM	Actual FY2009-2010		Actual FY2010-2011		Approp FY2011-2012		Estimate FY 2011-12		Request FY 2012-13	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<u>Mandated Costs</u>										
Mandated Costs	1,513,582		1,429,874		1,589,848		1,589,848		1,619,796	
Mandated Costs Total Detail	1,513,582	0.0	1,429,874	0.0	1,589,848	0.0	1,589,848	0.0	1,619,796	0.0
<u>Reconciliation</u>										
Long Bill Appropriations	1,504,483		1,663,839		1,589,848		1,589,848		1,589,848	
<i>FY2010 Decision Items</i>										
DI #101 Case Load/Case Cost Increase	159,356									
<i>FY2011 Supplemental SB11-209</i>			(86,665)							
DI #101 Case Load & Redistribution										
<i>FY2013 Base Reduction Net</i>									29,948	
Transfer to/from Conflict of Interest	(116,082)									
Transfer to/from Personal Services										
Reversion	(34,175)		(147,300)							
Mandated Costs Authorization	1,513,582	0.0	1,429,874	0.0	1,589,848	0.0	1,589,848	0.0	1,619,796	0.0
General Fund	1,513,582		1,429,874		1,589,848		1,589,848		1,619,796	
Cash Funds										
<u>Long Bill Group/Division Total</u>										
Grand Total - with Pots	23,202,462	7.5	20,496,407	7.5	23,232,674	7.5	23,232,674	7.5	23,090,476	7.5
General Fund	23,182,462	7.5	20,476,407	7.5	23,212,674	7.5	23,212,674	7.5	23,070,476	7.5
Cash Funds	20,000		20,000		20,000		20,000		20,000	

V. Change Requests

Schedule 12 Summary of Change Requests Judicial Branch Office of the Alternate Defense Counsel FY 2012-2013 Budget Request								
ID#	Priority	Decision Items	FTE	Total	GF	CF	CFE	FF
1		Base Reduction Net	0	(\$158,471)	(\$158,471)			
Total			0.0	(\$158,471)	(\$158,471)	\$ -	\$ -	\$ -

**FY2013 Change Request
Judicial Branch
Office of the Alternate Defense Counsel**

Priority Number:	1
Change Request Title:	Base Reduction Net
Statutory Authority:	21-2-101 et. Seq. C.R.S. and United States Constitution

Schedule 13

		Prior-Year		Base	Base	Nov. 1	Out year
Fund		Actual	Appropriation	Request	Reduction	Request	Request
		FY2010-2011	FY2011-2012	FY2012-2013	Change Req	FY2012-2013	FY2013-2014
Alternate Defense Counsel							
Total of All Line Items	Total	19,561,921	22,756,306	22,756,306	(158,471)	23,620,477	22,123,538
	FTE	0	0	0	0	0	0
	GF	19,561,921	22,282,009	22,282,009	(158,471)	22,123,538	22,123,538
	CF	0	0	0	0	0	0
Conflict of Interest Contracts	Total	18,132,047	20,692,161	20,692,161	(188,419)	20,503,742	20,503,742
	FTE	0	0	0	0	0	0
	GF	18,132,047	20,692,161	20,692,161	(188,419)	20,503,742	20,503,742
	CF	0	0	0	0	0	0
Mandated	Total	1,429,874	1,589,848	1,589,848	29,948	1,619,796	1,619,796
	FTE	0	0	0	0	0	0
	GF	1,429,874	1,589,848	1,589,848	29,948	1,619,796	1,619,796
	CF	0	0	0	0	0	0
Letter note revised text: None							
Cash Fund name/number, Federal Fund Grant name: N/A							
Request Affects Other Departments: No							

Base Reduction FY2012-2013

Not a Supplemental or Budget Request Amendment

Request Summary:

The Office of the Alternate Defense Counsel (OADC) is requesting a *net decrease* of \$158,471 due to a redistribution of case types, implemented cost savings measures and ongoing death penalty costs.

General Description of Request:

The OADC is mandated to provide indigent individuals (adults and juveniles) charged with crimes with the best legal representation possible when the public defender has an ethical conflict. Based on this statutory and constitutional mandate, the OADC cannot control its caseload or the types of charges that are filed against individuals or the penalty that is sought. There are many other factors which affect criminal filings. Some of these factors include the economy, policy changes in District Attorney Offices, and legislative changes. In the past fiscal year, 2010-2011, the agency had a 5.7% decrease in its total case load from FY2009-2010. However, even though criminal case filings for the state are down 22.7% since they peaked in fiscal year 2006, the agency’s overall caseload does not reflect the same decline. The agency believes this is a result of more defendants qualifying for court appointed counsel due to the economic downturn.

Over the last four fiscal years, the OADC experienced a case load increase of 28.1% in Juvenile/Misdemeanor/Traffic/DUI cases and a decrease of 13.4% in type B felonies. It is axiomatic that it costs more to defend felony cases than to defend Juvenile Misdemeanor, Traffic and DUI cases.

Currently, OADC contractors represent Edward Montour, who is facing a jury trial to determine whether he should be sentenced to life or death. OADC contractors also represent Robert Ray and Sir Mario Owens, each of whom has been found guilty of first degree murder and sentenced to death. Both of these cases are now proceeding under the Unitary Appeal Bill. Because litigation in these death penalty cases continues at the same level as in FY2011, no decrease in death penalty costs is anticipated. As previously noted, all of these death penalty cases are in the 18th Judicial District.

Budget Request Fiscal Year 2012-2013			
Case Projection	12,302		
	FY11-FY12 Budget	Budget Request	Budget Difference (+savings/- under funded)
Conflicts	\$20,692,161	\$20,503,742	\$188,419
Mandated	\$1,589,848	\$1,619,796	(\$29,948)
FY2013 Request	\$22,282,009	\$22,123,538	
Budget Difference			\$158,471
Avg. cost per case		\$1,798.37	

Request break down per felony category type:

	FY2012 Budget Conflicts	Budget Request FY2012 Conflicts	Anticipated Budget Savings/(Under funded)
Death Penalty	\$2,899,319	\$3,194,030	(\$294,711)
A Felonies	\$8,006,558	\$7,870,620	\$135,938
B Felonies	\$7,369,088	\$7,094,807	\$274,282
Misd/JUV/Traffic/DUI	\$2,417,226	\$2,344,286	\$72,940
	<u>\$20,692,191</u>	<u>\$20,503,742</u>	<u>\$188,449</u>

The following tables detail average hours per felony category.

<u>Death Penalty Detail</u>					
	FY2010-2011 Actual Cost	FY2011-2012 Request	Avg Hrs	Rate	Request FY2012-2013
Cases	14	13			14
Attorney Avg Hrs	\$2,232,624	\$2,432,230	2,185.63	\$85	\$2,600,898
Paralegal Avg Hrs	\$105,575	\$107,151	351.34	\$25	\$130,177
Investigator/Inv Travel Hrs	\$244,881	\$210,056	436.68	\$39	\$314,867
Attorney Travel Hrs	\$55,185	\$93,254	65.00	\$65	\$73,060
	<u>\$2,638,265</u>	<u>\$2,842,691</u>			<u>\$3,119,002</u>
Admin Overhead - Copies	\$51,974	\$56,001	1.97%		\$61,444
Travel Mileage	\$676	\$627		\$48.26	\$13,584
	<u>\$2,690,914</u>	<u>\$2,899,319</u>			<u>\$3,194,030</u>

(1) Avg Hrs is based on ½ of the annual cost of one death penalty case that was mis-tried and then retried in FY2009. The total number of cases is 5 full time cases with minimal work performed on prior death penalty cases. That number was divided by 11 cases. The agency is expecting the equivalent number of trial hours will be spent for each team (post-conviction and appellate) under the Unitary Appeal Bill.

<u>A Felony Detail</u>					
	FY2010-2011 Actual Cost	FY2011-2012 Request	Avg Hrs	Rate	Request FY2012-2013
Cases	1,952	2,097	(2)		2,061
Attorney Avg Hrs	\$5,506,627	\$6,198,648	43.47	68	\$6,092,234
Paralegal Avg Hrs	\$224,755	\$243,252	4.64	25	\$239,076
Investigator/Inv Travel Hrs	\$812,763	\$905,904	12.02	36	\$891,836
Attorney Travel Hrs	\$377,520	\$404,826	2.97	65	\$397,876
	<u>\$6,921,665</u>	<u>\$7,752,630</u>			<u>\$7,621,022</u>
Admin Overhead	\$128,175	\$152,727	1.97%		\$150,134
Travel Mileage	\$52,115	\$101,201		\$48.26	\$99,464
	<u>\$7,101,956</u>	<u>\$8,006,558</u>			<u>\$7,870,620</u>

(2) Avg attorney hours per case FY04-FY11

B Felony Detail

	FY2010-2011	FY2011-2012	Avg		Request
	Actual Cost	Request	Hrs	Rate	FY2012-2013
Cases	5,851	6,166	(3)		6,005
Attorney Avg Hrs	5,027,035	\$5,663,060	13.94	\$65	\$5,441,131
Paralegal Avg Hrs	\$70,750	\$81,925	0.49	\$25	\$73,561
Investigator/Inv Travel Hrs	\$542,628	\$572,698	2.58	\$36	\$557,744
Attorney Travel Hrs	\$575,575	\$617,217	1.54	\$65	\$601,101
	<u>\$6,215,988</u>	<u>\$6,934,900</u>			<u>\$6,673,537</u>
Admin Overhead - Copies	\$115,108	\$136,618	1.97%		\$131,469
Travel Mileage	\$156,179	\$297,571		\$48.26	\$289,801
	<u>\$6,487,275</u>	<u>\$7,369,088</u>			<u>\$7,094,807</u>

(3) Avg attorney hours per case FY06-FY11

Misd/JUV/Traffic/DUI Detail

	FY2010-2011	FY2011-2012	Avg		Request
	Actual Cost	Request	Hrs	Rate	FY2012-2013
Cases	4,061	4,353	(4)		4,222
Attorney Avg Hrs	\$1,633,320	\$1,784,445	6.34	\$65	\$1,739,886
Paralegal Avg Hrs	\$14,875	\$21,225	0.20	\$25	\$21,110
Investigator/Inv Travel Hrs	\$63,828	\$99,684	0.60	\$36	\$91,195
Attorney Travel Hrs	\$202,670	\$259,155	0.90	\$65	\$246,987
	<u>\$1,914,693</u>	<u>\$2,164,509</u>			<u>\$2,099,178</u>
Admin Overhead - Copies	\$37,719	\$42,641	1.97%		\$41,354
Travel Mileage	\$108,126	\$210,076		\$48.26	\$203,754
	<u>\$2,060,538</u>	<u>\$2,417,226</u>			<u>\$2,344,286</u>

(4) Avg attorney hours per case FY08-FY11

Assumptions and Anticipated savings for Calculations:

The estimated caseload for FY2012-2013 is expected to increase slightly over the estimated case load for FY2011-12 by 1%. However, because the OADC has no control over the number of criminal cases filed or prosecutors' charging decisions, including the decision to seek the death penalty, the actual caseload and case type is very difficult to predict. Trial, appellate, post-conviction cases, and special proceedings are grouped together by case type because the hourly rate is determined by case type.

The OADC is anticipating that Death Penalty cases where the OADC is appointed will remain constant.

It is expected that felony B filings will remain lower than prior years and the increase in Juvenile/Misdemeanor/Traffic and DUI cases will remain constant over the next year and a half.

The anticipated average hours required for each case type have been reduced to reflect savings that the agency has seen due to the implementation of cost saving measures. The agency believes these hours should stay down but also realizes that when newly elected district attorneys take office there is typically an increased number of trials.

Administrative overhead is a percentage applied to all case types at the same percentage. This includes costs for copying, postage, in-state/out-of-state travel expenses, Public Employees' Retirement Association (PERA) contributions, etc. This percentage has decreased from 2.33% to 1.97%. The FY2013 request is expecting these costs to continue at the lower percentage due to technological advances used by lawyers.

With the passage of SB04-257 which requires PERA contributions on amounts paid to PERA retirees, including the Amortization Equal Disbursement (AED) contribution, the agency requested and received general funds of \$16,800 to meet the SB04-257 requirement in HB 06-1385 for fiscal year 2006-2007. The passage of SB06-235 Supplemental Amortization Equal Disbursement (SAED) is another contribution to PERA when the agency uses contractors with PERA benefits.

The mandated line is used to pay for case related costs such as discovery processing, reimbursement to district attorney offices for discovery costs, transcripts, witness and expert travel reimbursement, experts, and PERA employer contributions due to SB04-257 and SB06-235 relating to PERA retirees experts.

The following are mandated specific costs with the largest increases:

	FY08	FY09	FY10	FY11
PERA paid on Conflicts	\$43,520	\$54,900	\$41,259	\$59,835
PERA Mandated Costs	\$8,692	\$9,799	\$15,245	\$14,833
Transcripts	\$365,434	\$431,067	\$377,435	\$308,270
Discovery paid to local DAs/electronic duplication Grand Jury, etc.	\$470,098	\$567,917	\$635,061	\$576,568
Total	\$887,744	\$1,063,683	\$1,069,000	\$959,506

The historical average percentage of Mandated to Conflicts is approximately 7.9%.

	FY08	FY09	FY10	FY11
Total Conflicts & Mandated	\$19,475,381	\$20,692,161	\$20,760,634	\$18,132,047
Mandated Costs	\$1,549,840	\$1,589,848	\$1,513,582	\$1,429,847
Ratio	8.0%	7.7%	7.3%	7.9%
		% ratio of Mandated:		7.9%

Impact on Other Government Agencies:

Funding of these line items may not impact directly or indirectly any line item of another government agency. If the OADC is not funded, there will not be counsel available in the courts to accept appointments in which the Public Defender has a conflict thereby affecting the constitutional and statutory rights of those accused of criminal charges.

Cost Benefit Analysis:

Insures that agency mandates are met by providing individuals with constitutional and statutory services. This includes providing competent and effective legal representation state wide that is cost effective. Without the ability to reimburse contractors OADC would not have sufficient funding to meet its contractual obligations. There will be an absence of OADC contractors to accept appointments in the courts therefore impinging on individual constitutional rights.

Performance Measures:

This decision item is requested to assist the OADC in meeting the following Performance Measures:

- A. Maintain competitive hourly rates for contractors. Provide competent and effective legal representation state wide.