



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

**FISCAL YEAR 2013-2014
BUDGET REQUEST**

Lindy Frolich, Alternate Defense Counsel Director

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State of Colorado

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October 31, 2012

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. The agency continues to work toward a paperless billing system.

The OADC has identified those costs that are truly uncontrollable and delineated 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.

As part of this continuing effort to provide quality representation at a reasonable cost, OADC has begun a centralized system of legal resources and technology for its contractors. In order to institutionalize this system, the OADC is requesting 1.0 FTE, to create the position of Coordinator of Legal Resources and Technology, funded by an offset in the Conflict of Interest Contract service appropriation line item. The duties of this position will include: acquiring current criminal law information; maintaining the accuracy of that information; developing technologies to improve access to the information; remaining current on the technology necessary for access to the information; and disseminating the information to the OADC contractors. Our goal is to continue to explore new ways to reduce the cost of court-appointed counsel representation, while maintaining quality representation.

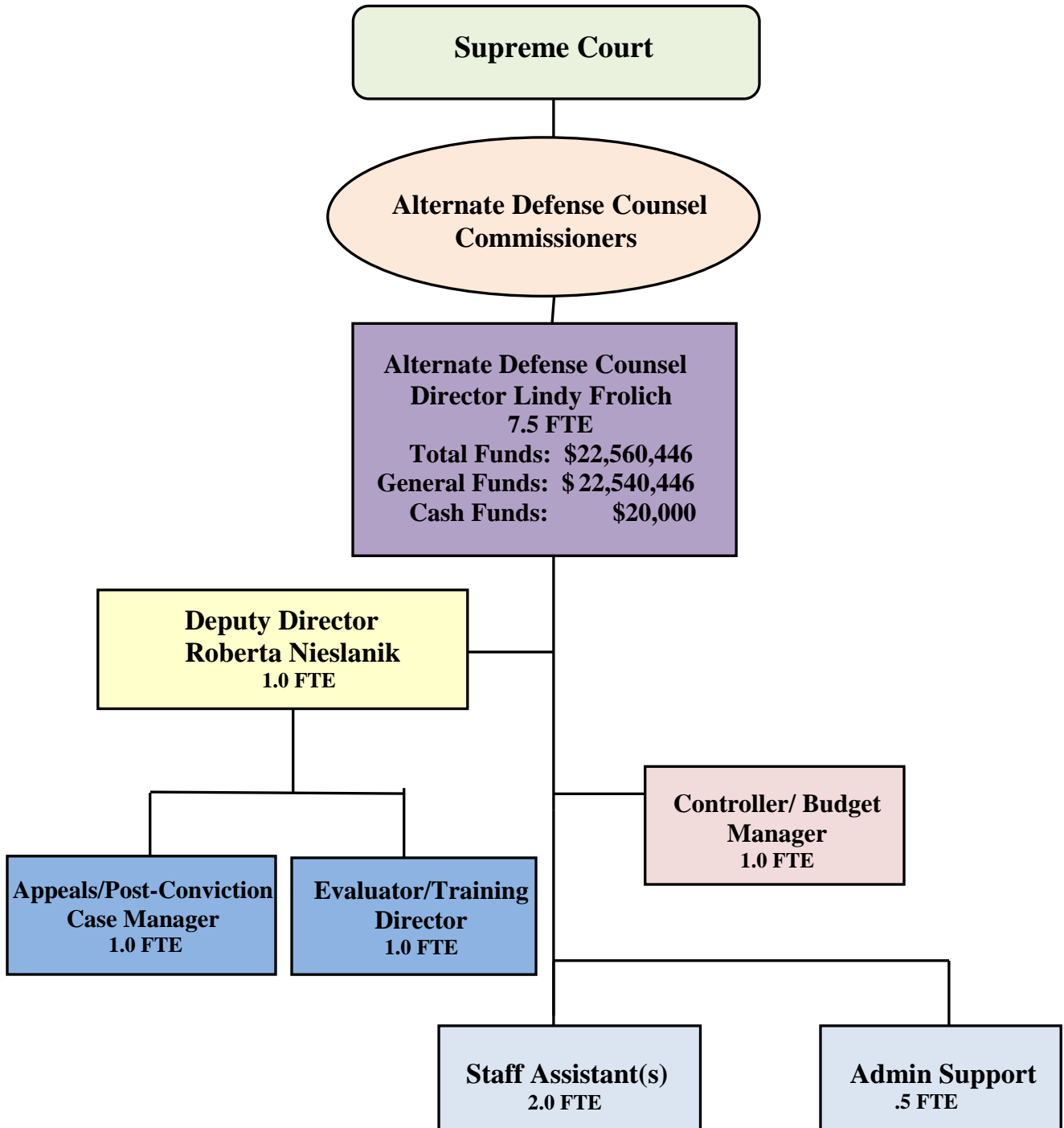
Sincerely,



Lindy Frolich
Director

II. Agency Overview

Organizational Chart Judicial Branch Office of the Alternate Defense Counsel



July 1, 2012

The Office of the Alternate Defense Counsel

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.*

PRIOR YEAR LEGISLATION

HB12-1271 - Juvenile Direct File Limitations

This act amended limited the offenses for which a juvenile may be subject to direct filing as an adult. The act also limits direct file cases to juveniles age 16 or 17. After a juvenile is charged in district court, the juvenile may petition the adult court for a reverse-transfer hearing to transfer the case to juvenile court. If, after a reverse-transfer hearing, the court finds that the juvenile and community would be better served by juvenile proceedings, the court shall order the case transferred to juvenile court. If, after a preliminary hearing, the district court does not find probable cause for a direct-file-eligible offense, the court shall remand the case to the juvenile court.

HB12-1213 - Escape From Community Corrections Program

A conviction for escape or attempted escape shall not be used for the purpose of adjudicating a person as a habitual criminal unless the escape or attempt to escape is from a county jail or a correctional facility.

HOT TOPICS

COST SAVING MEASURES:

Over the past several years, OADC has instituted several cost savings measures. Some of these include, paperless discovery, shared discovery resources in multi-codefendant Grand Jury cases, on site scanning of Department of Corrections records, district court files and files located at Public Defender offices throughout the state. In addition, OADC has developed and instituted an in-house case management system for appeals and post-conviction cases, and a one person interface system with all judicial districts clerks, court reporters and appellate courts staff members. Each of these measures has produced cost savings. The proposed Coordinator of Legal Research and Technology is a similar cost savings measure. The coordinated centralization and dissemination of reliable up-to-date legal research to all OADC contractors will increase cost savings.

EVIDENCE BASED SMARTER SENTENCING:

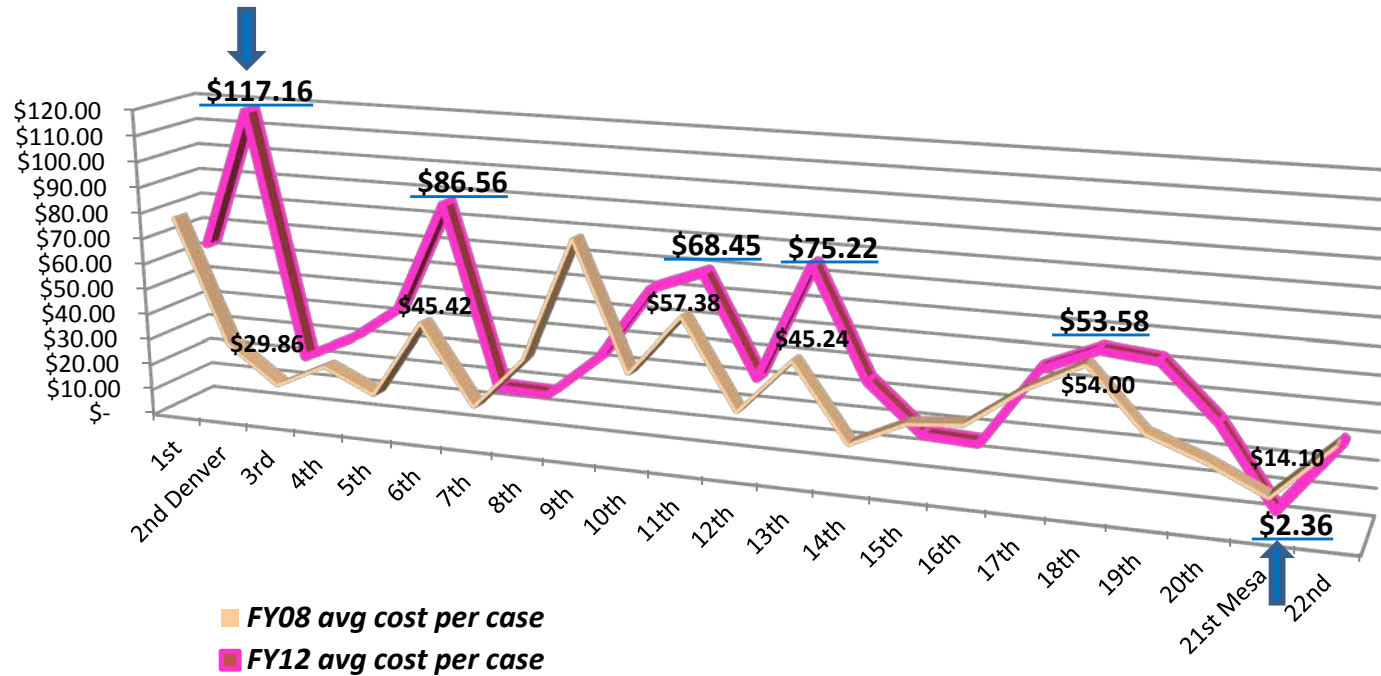
The 2011 Legislature addressed this issue in two ways: 1) by amending the sentencing statute; and 2) by changing the requirements of presentence reports issued by Probation Services. Evidence Based Decision Making (EBDM) in the criminal justice system is recognized across the nation for producing safer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

OADC has a pilot sentencing project in Mesa County/21st Judicial District. This project includes specific training on EBDM and additional resources designed to use EBDM data and methods to promote smarter sentencing decisions. In addition, OADC has begun statewide training on this important topic and has made the social science research available in the Brief and Motions bank.

DISCOVERY:

The cost of discovery has been an ongoing issue for the past several years. The following chart and table demonstrate that the cost of discovery to OADC has significantly increased in some jurisdictions from FY2008 to FY2012. (Note – the 21st Judicial District is an electronic discovery system.)

**Average Cost of Discovery per Case Appointment
charged by Judicial District District Attorney Office's for Fiscal Year 2008 compared to 2012**



Discovery Costs per District over the last five years

Jud District	Counties in District	Avg cost per appt FY07-08	Avg cost per appt FY08-09	Avg cost per appt FY09-10	Avg cost per appt FY10-11	Avg cost per appt FY11-12	% COST change from fy08-fy12
1st	Gilpin/Jefferson	\$ 78.13	\$ 65.01	\$ 65.72	\$ 61.74	\$ 62.60	-19.9%
2nd	Denver	\$ 29.86	\$ 32.74	\$ 35.68	\$101.84	\$117.16	292.4%
3rd	Huerfano/Las Animas	\$ 15.32	\$ 30.93	\$ 16.67	\$ 17.46	\$ 21.01	37.2%
4th	El Paso/Teller	\$ 24.78	\$ 25.12	\$ 31.57	\$ 25.76	\$ 30.27	22.2%
5th	ClearCreek/Eagle/Lake/Summit	\$ 15.75	\$ 32.45	\$ 22.18	\$ 26.71	\$ 44.10	180.0%
6th	Archuleta/La Plata/San Juan	\$ 45.42	\$ 51.85	\$ 20.65	\$ 43.32	\$ 86.56	90.6%
7th	Delta/Gunnison/Hinsdale/Montrose/Ouray	\$ 15.23	\$ 17.38	\$ 22.00	\$ 14.13	\$ 16.89	10.9%
8th	Jackson/Larimer	\$ 35.45	\$ 87.02	\$ 76.21	\$ 63.50	\$ 16.39	-53.8%
9th	Garfield/Pitkin/Rio Blanco/Glenwood	\$ 82.43	\$ 27.76	\$ 38.97	\$ 23.12	\$ 32.96	-60.0%
10th	Pueblo	\$ 34.18	\$ 43.40	\$ 54.99	\$ 50.40	\$ 60.65	77.4%
11th	Chaffee/Custer/Fremont/Park	\$ 57.38	\$ 89.39	\$101.35	\$ 80.04	\$ 68.45	19.3%
12th	Alamosa/Conejos/Costilla/Mineral/Rio Grande/Saguache	\$ 24.17	\$ 17.17	\$ 37.26	\$ 27.77	\$ 30.86	27.7%
13th	Kit Carson/Logan/Morgan/Phillips/Sedgwick/Washington/Yuma	\$ 45.24	\$ 48.23	\$ 59.61	\$ 69.05	\$ 75.22	66.3%
14th	Grand/Moffat/Routt (some attrny pay)	\$ 16.57	\$ 50.25	\$ 43.21	\$ 23.88	\$ 34.02	105.4%
15th	Baca/Cheyenne/Kiowa/Prowers	\$ 26.39	\$ 20.94	\$ 17.55	\$ 21.19	\$ 16.09	-39.0%
16th	Bent/Crowley/Otero	\$ 28.30	\$ 49.53	\$ 27.39	\$ 27.54	\$ 15.16	-46.4%
17th	Adams/Broomfield	\$ 43.08	\$ 43.00	\$ 41.64	\$ 48.24	\$ 44.63	3.6%
18th	Arapahoe/Douglas/Elbert/Lincoln	\$ 54.00	\$ 41.01	\$ 46.37	\$ 65.26	\$ 53.58	-0.8%
19th	Weld	\$ 31.72	\$ 36.41	\$ 41.22	\$ 47.01	\$ 51.61	62.7%
20th	Boulder	\$ 23.97	\$ 33.95	\$ 46.66	\$ 32.25	\$ 31.81	32.7%
21st	Mesa	\$ 14.10	\$ 15.26	\$ 20.40	\$ 8.95	\$ 2.36	-83.3%
22nd	Dolores/Montezuma	\$ 34.62	\$ 24.88	\$ 35.17	\$ 31.92	\$ 29.19	-15.7%
	Average cost per case appointment	\$36.25	\$39.16	\$43.21	\$50.07	\$48.35	33.4%

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 continues to contract with a criminal defense lawyer who specializes in immigration law to consult with OADC contractors to insure compliance with *Padilla*.

JUVENILE LIFE WITHOUT PAROLE (JLWOP)

In the case of *Miller v. Alabama*, 132 S.Ct. 2455 (June 25, 2012), the United States Supreme Court held that it is unconstitutional to sentence juveniles charged as adults to a mandatory sentence of life without the possibility of parole. There are 51 individuals sentenced to a mandatory life without the possibility of parole for an offense that was committed when they were juveniles. The Office of the Alternate Defense Counsel has worked with the Colorado State Public Defender's office to determine which of these individuals could be represented by the state public defender's office for resentencing, and which cases required the appointment of OADC. This process has been completed, and OADC contractors have been assigned to each of the cases where the public defender's office has declared a conflict. In recognition of the unique nature of this United States Supreme Court mandate, the OADC has been actively working with the Colorado Juvenile Defender Coalition (CJDC) to insure that the OADC contractors are adequately trained and informed on how to handle these resentencing hearings.

CASES THAT MAY AFFECT OADC

DEFENDANT'S RIGHT TO COUNSEL ON FIRST ADVISEMENT

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.

PROHIBITION AGAINST SENTENCING JUVENILES TO LIFE IN PRISON WITHOUT THE POSSIBILITY OF PAROLE (JLWOP)

Graham v. Florida, 130 S.Ct. 2011 (May 17, 2010). The Eighth Amendment prohibits imposition of a life without parole (LWOP) sentence on juvenile offenders 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.

Miller v. Alabama, 132 S.Ct. 2455 (U.S. June 25, 2012). The United States Supreme Court granted a new sentencing hearing to two state prisoners convicted of murders that occurred when the defendants were under 18 years of age. The Court held that a mandatory sentence of life without parole (LWOP) for juveniles who commit homicide is unconstitutional.

People v. Tate, 07CA2467 (Colo. App. September 13, 2012) (unpublished). The Court of Appeals found the JLWOP sentence unconstitutional, and remanded for a resentencing hearing pursuant to *Miller v. Alabama*, *supra*.

People v. Banks, 12CA157 (Colo. App. September 27, 2012) (published). The Court of Appeals found the JLWOP sentence unconstitutional, but remanded for the juvenile to be sentenced to life with the possibility of parole after 40 years.

SEARCH OF CELL PHONES

People v. Taylor, 12CA91 (Colo. App. June 7, 2012). Police searched the defendant's cell phone immediately after arresting him for participation in a controlled drug buy. The Court of Appeals expressed some concern regarding the scope of searches of personal devices containing large amounts of personal information but says that on the facts of this case (which included the lack of a password locking the phone) the search was reasonable.

INEFFECTIVE ASSISTANCE OF COUNSEL

IMMIGRATION CONSEQUENCES:

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.

People v. Kazadi, 11SC264 (Colo. Sept. 12, 2011). The defendant alleged that his counsel rendered ineffective assistance in not correctly advising him of the deportation consequences of his plea. Because he received a deferred judgment and conviction on the felony count, the Court of Appeals ruled that he could only challenge his misdemeanor conviction. *Certiorari* is granted on the question: "Whether a criminal defendant has the right to apply for post-conviction review of a deferred judgment pursuant to section C.R.S. §18-1-410, (2010) and Crim. P. 35(c)."

A number of trial court orders denying of post convictions motions have been reversed on appeal on the issue of faulty advisement of immigration consequences. *See: People v. Tolossa*, 11CA0148 (Colo. App. June 28, 2012) and *People v. Trevizo-Estrada*, 10CA2568 (April 19, 2012), (both reversing denial of 35(c) motions).

PLEA BARGAIN STAGE OF CASE:

Missouri v. Frye, 132 S.Ct. 1399 and *Lafler v. Cooper*, 132 S.Ct. 1376 (March 21, 2012). The Sixth Amendment right to the effective assistance of counsel extends to negotiation and consideration of plea offers. Conviction at trial does not necessarily preclude a finding of prejudice, but the issues of both prejudice and remedy are complex and case-specific.

RIGHT TO COUNSEL:

Martinez v. Ryan, 132 S.Ct. 1309 (March 20, 2012). "Where, under state law, ineffective-assistance-of-trial-counsel claims must be raised in an initial-review collateral proceeding, a procedural default will not bar a federal habeas court from hearing those claims if, in the initial-review collateral proceeding, there was no counsel or counsel in that proceeding was ineffective."

DISCOVERY ISSUE

People v. Krueger, 12 CA 80, (Colo. App. May 10, 2012). A criminal defendant does not have a right to review all discovery materials. Counsel's decision to limit his access to selected discovery materials does not create a conflict warranting substitution of counsel.

CONFRONTATION CLAUSE ISSUES

Williams v. Illinois, 132 S.Ct. 2221 (June 18, 2012). The confrontation clause was not violated when a DNA expert testified about results of DNA testing performed by another analyst who did not testify. Cellmark lab analyzed DNA from a rape victim's swab and developed a male profile. The Cellmark employee did not testify and that report was not introduced. Instead, the analyst who analyzed the defendant's DNA sample testified that his DNA matched that sample tested by the Cellmark technician. Four justices held that this did not violate the Sixth Amendment, because the Cellmark report was not entered into evidence and was not admitted for the truth of the matter asserted but was rather used as a premise for the prosecutor's question. A fifth Justice rejected this analysis in its entirety but concurred based only on his view of what constitutes testimonial evidence. The four dissenters believed that the Cellmark report was offered for the truth of the matter asserted, was testimonial, and was a crucial link in the State's case and would find a confrontation clause violation.

People v. Casias, 12CA117, 2012 (Colo.App. July 19, 2012). The trial court did not abuse its discretion by requiring a defense expert to testify in person and not *via* video-conferencing.

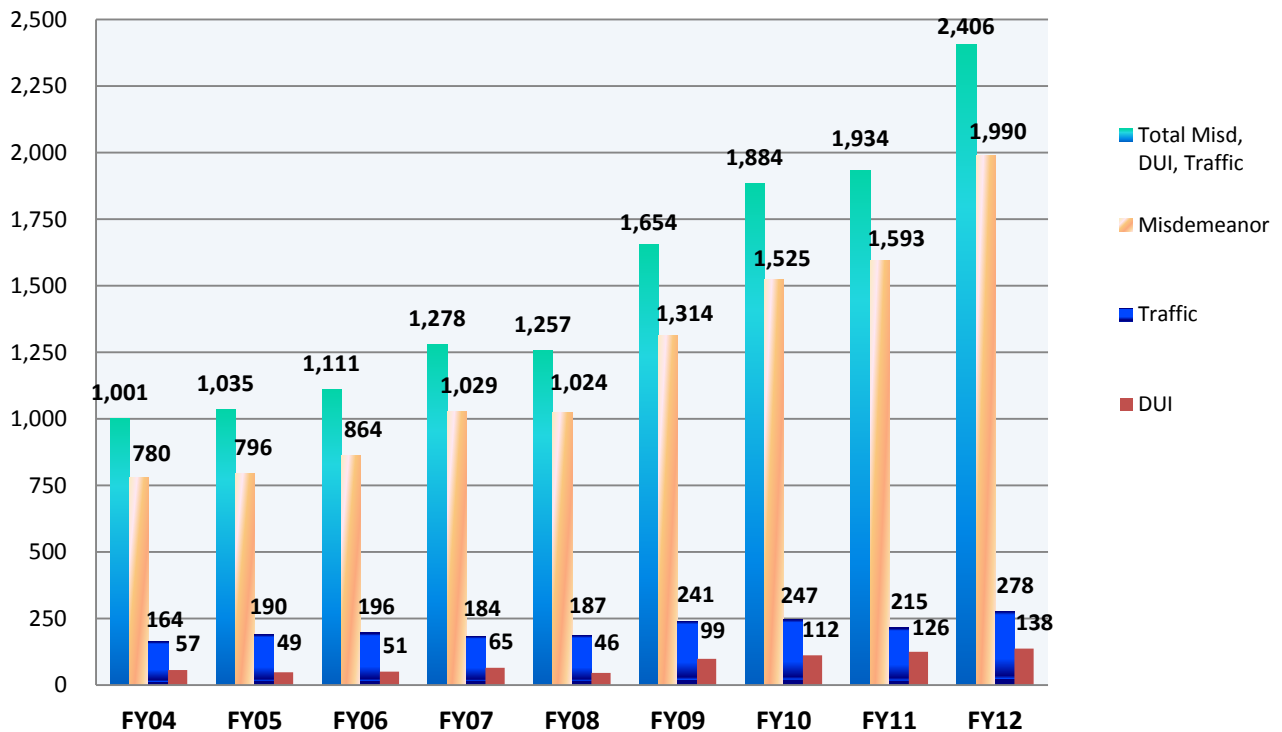
WORK LOAD INDICATORS

Additional information not previously noted:

Total Case Load and Case Type:

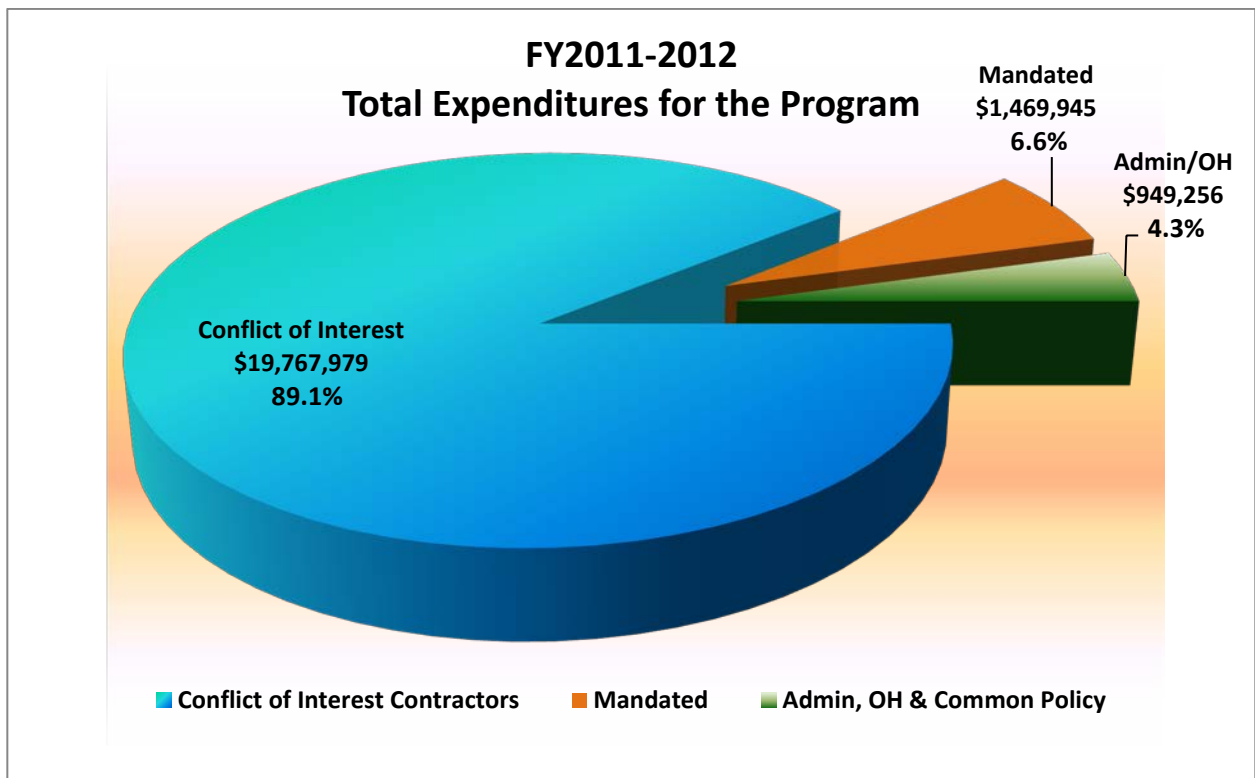
	Actual FY07	Actual FY08	Actual FY09	Actual FY10	Actual FY11	Actual FY12	Budget FY13	Request FY14
<i>Trial Case Types:</i>								
<i>F1 - Death Penalty</i>	5	4	4	4	3	2	4	2
<i>F1 - W/O Death Penalty</i>	128	150	145	145	126	111	128	108
<i>F2-F3</i>	2904	2642	2532	2604	2409	2323	2253	2398
<i>F4-F6</i>	5124	4372	4028	3894	3754	4064	4212	3976
<i>Juvenile</i>	1621	1528	1803	1808	1542	1496	1442	1558
<i>Misd DUI Traffic</i>	1278	1257	1654	1884	1934	2406	2047	2409
<i>Other</i>	6	2	2	2	1	1	0	0
Total Trial Cases	11,066	9,955	10,168	10,304	9,769	10,403	10,086	10,451
Appeal Cases	654	708	765	725	717	691	727	725
Post-Conviction Cases	514	523	492	489	429	471	487	488
Special Proceedings	855	896	1,049	1,040	963	1,020	1,001	1,029
Total Cases	13,089	12,082	12,474	12,594	11,878	12,585	12,301	12,693
% Inc/(Dec) Prior Year	6.3%	(7.7%)	3.2%	.9%	(5.7%)	6%	(2.3%)	3.2%

Detail of Misdemeanor, Traffic and DUI Case Increases



Total Case Payment Transactions Processed by the Agency:

	Actual FY07	Actual FY08	Actual FY09	Actual FY10	Actual FY11	Actual FY12	Budget FY13	Request FY14
Case Load	13,089	12,082	12,474	12,594	11,878	12,585	12,301	12,693
Payment Transactions	34,795	38,390	41,524	42,819	39,794	43,327	42,069	43,156
Avg. Case Transactions	2.66	3.18	3.33	3.40	3.35	3.44	3.42	3.40



III. Agency Objectives and Performance Plans

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 through FY12	FY13 Budget	FY14 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
	Actual	\$47 No funding received for rate increase	\$57	\$60	\$65	Status Quo	\$65

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 2013-2014 due to the current state of the economy.

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 four 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. Assuming the economy continues to improve, OADC anticipates requesting a rate increase in Fiscal Year 2014-2015.

On January 1, 2010, the federal government raised its court-appointed attorney’s¹ hourly rate to \$125 per hour and 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 Attorney/Paralegal/Legal Asst.	FY03	FY04	FY05	FY06	FY07	FY08	FY09	FY10	FY11	FY12	FY13
Legal Service Rate	\$59.80	\$60.79	\$61.57	\$64.45	\$67.77	\$72.03	\$75.10	\$75.38	\$73.37	\$75.71	\$77.25

Performance Measure B.		FY10 Actual	FY11 Actual	FY12 Actual	FY13 Projection	FY14 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	19.64
	Actual	20.81	19.22	18.91		
Contain the total Attorney hours per case excluding Death Penalty cases.	Target Attorney hours	18.65	18.65	18.65	18.65	18.65
	Actual	18.93	16.96	16.78		
Contain the total Attorney hours per Death Penalty case.	Target Attorney hours	2,362.27	2,362.27	2,362.27	2,697.46	2,697.46
	Actual	1,843.97	1,936.80	2,697.46		
Contain the total Attorney hours per Type A Felony case.	Target Attorney hours	46.47	46.47	46.44	46.44	46.44
	Actual	49.74	44.46	44.76		
Contain the total Attorney hours per Type B Felony case.	Target Attorney hours	15.48	15.48	15.48	15.48	15.48
	Actual	16.45	14.73	14.81		
Contain the total Attorney hours per Adult Misdemeanor/Juvenile.	Target Attorney hours	7.81	7.81	7.24	7.24	7.24
	Actual	7.26	6.96	7.20		
Keep ancillary costs per case to a minimum.	Target Ancillary	\$119.73	\$119.73	\$124.07	\$120.38	\$120.38
	Actual	\$120.16	\$120.38	\$116.80		

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.

Evaluation of Prior Year Performance:

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

Legal Resources and Technology: The OADC Brief and Motions bank, coupled with the legal research assistance to OADC contractors, are creating a centralized system of legal resources and technology available to all contractors to reduce duplication of efforts.

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 and 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.

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

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 that post-conviction cases are open, 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 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.

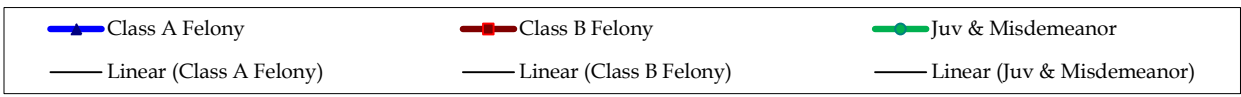
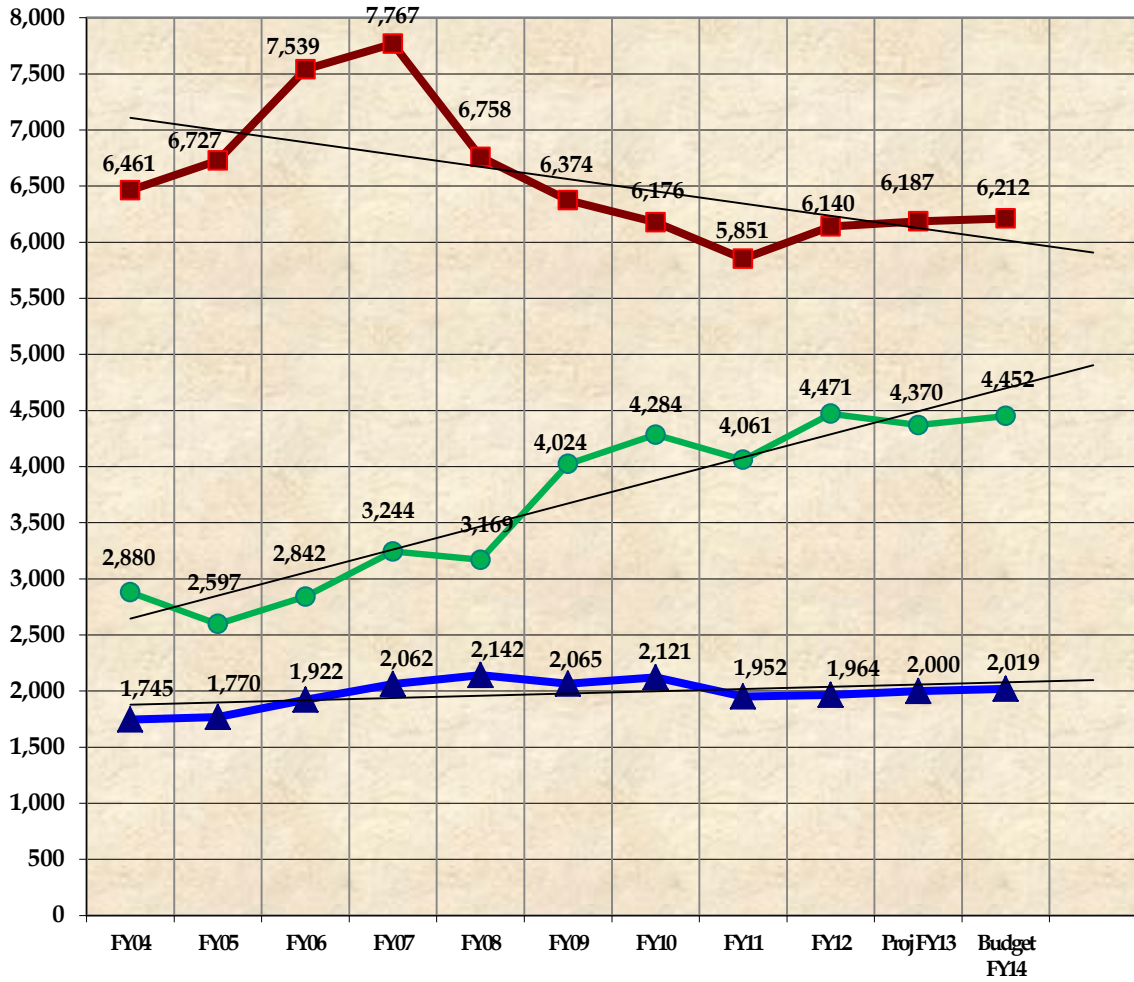
All of these death penalty cases arise out of prosecutions from the 18th Judicial District.

Key Workload Indicators:

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

	Actual FY07	Actual FY08	Actual FY09	Actual FY10	Actual FY11	Actual FY12	Budget FY13	Request FY14
<u>Death Penalty</u>								
Cases	16	13	11	13	14	10	13	10
Attorney Hours	9,371	13,516	20,521	23,972	27,115	26,974	26,847	26,974
<u>Type A Felonies</u>								
Cases	2,062	2,142	2,065	2,121	1,952	1,964	1,999	2,019
Attorney Hours	94,454	104,256	109,497	105,497	86,788	87,907	92,834	93,762
<u>Type B Felonies</u>								
Cases	7,767	6,758	6,374	6,176	5,851	6,140	6,005	6,212
Attorney Hours	122,681	104,954	97,180	101,578	86,194	90,194	92,957	96,162
<u>Adult, Misd, Juv</u>								
Cases	3,244	3,169	4,024	4,284	4,061	4,471	4,284	4,452
Attorney Hours	26,699	23,610	29,141	31,091	28,245	32,200	31,023	32,232
Total Cases	13,089	12,082	12,474	12,594	11,878	12,585	12,301	12,693

Case Load by Case Type



Performance Measure C.		FY11 Actual	FY12 Actual	FY13 Estimate	FY14 Request
Sponsor X number of trainings annually for attorneys, investigators, paralegals, and court personnel.	Target	10	10	12	12
	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 FY2012, the OADC recognized a need to provide increased technology training for its contractors, and provided hands on training in technology tools such as Adobe Acrobat Professional for use with electronic discovery and transcript review.

Key Workload Indicators:

	Actual FY11	Actual FY12	Estimate FY13	Budget FY14
Death Penalty Training	13 hours 20 Attendees	15 hours 32 Attendees	16 hours 35 Attendees	
Appellate Training	15 hours 75 Attendees	4.5 hours 34 Attendees		
Client-Centered Representation	6 hours 45 Attendees		6 hours 60 Attendees	
Ethics for Lawyers	6 hours 75 Attendees	5 hours 40 Attendees		5 hours 30 Attendees
Trial Practice Institute	35 hours 35 Attendees	39 hours 32 Attendees	35 hours 35 Attendees	35 hours 35 Attendees
Juvenile Training	18.5 hours 230 Attendees	4 hours 8 sessions 260 Attendees	3 hours 4 sessions 100 Attendees	3 hours 5 sessions 75 Attendees
Post-Conviction Training	3 hours 35 Attendees	2 hours 14 Attendees	3 hours 40 Attendees	7 hours 40 Attendees
Investigator Training	12 hours 125 Attendees		6 hours 75 Attendees	6 hours 45 Attendees
Sentencing	4.5 hours 25 Attendees		6 hours 50 Attendees	6 hours 2 sessions 50 Attendees
Habitual Criminal		4.25 hours 53 Attendees		
Jury Selection Workshop		12 hours 22 Attendees	12 hours 35 Attendees	
Adobe Prof. Training		1.5 hours 30 sessions 143 Attendees	1.5 hours 8 sessions 60 Attendees	2 hours 6 sessions 25 Attendees
Time Management/Efficiency	3 hours 76 Attendees	2.5 hours 16 Attendees		
Paralegal Training	3 hours 30 Attendees	4 hours 2 sessions 60 Attendees	8 hours 50 Attendees	4 hours 25 Attendees
Story Telling Workshop	24 hours 15 Attendees	10 hours 4 sessions 23 Attendees		
Communication for Trial Lawyers		6 hours 10 Attendees		6 hours 10 Attendees
Criminal Law Update		2 hours 8 sessions 285 Attendees	2 hours 8 sessions 200 Attendees	2 hours 8 sessions 200 Attendees
Train the Trainers			15 hours 25 Attendees	15 hours 25 Attendees
Organized Crime Act				5 hours 25 Attendees

Performance Measure D.		FY11 Actual	FY12 Actual	FY13 Approp.	FY14 Request
Provide Cost-Effective Research Tools and Resources to ADC Contractors	Target	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. 40% increase in monthly users.	Continue to populate and update brief and motions bank, and populate 80% of the browse categories. Train contractors on use. 20% increase in monthly users.	Continue to populate and update brief and motions bank and populate 100% of existing browse categories. Add categories as needed. Increase usage to 50% of OADC contractors.
	Actual	Over 2,700 documents. Average users per month: 95.	Over 3,000 documents. Average users per month: 161.		
Provide legal research assistance	Target	N/A	30 cases	60 cases	120 cases
	Actual	N/A	47 cases		
Provide monthly summaries of new opinions.	Target	N/A	N/A	Quarterly summaries	12 monthly summaries
	Actual	N/A	N/A		

Strategy:

To advance 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. Improving and expanding the Brief and Motions bank.²
2. Providing legal research and motion drafting assistance to contractors.
3. Providing timely case law summaries of new criminal legal opinions issued by the Colorado Court of Appeals and the Colorado Supreme Court.
4. Analyzing and introducing best practice applications to OADC contractors.

Evaluation of Prior Year Performance:

In FY2012, the Bank grew to over 3,000 documents, broken down into searchable categories. The agency has also recognized a need for legal research and drafting assistance. Since the agency notified its contractors that this assistance was available, numerous contractors have used this resource.

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.		FY11 Actual	FY12 Actual	FY13 Approp.	FY14 Request
Interview contract applicants; evaluate contractors prior to contract renewal date, and ongoing performance monitoring. Contract with investigators.	Target Attorney	100%	100%	100%	100%
	Actual	99%	98%		
	Target Investigator	100%	100%	100%	100%
	Actual	87%	99%		

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 include contract renewal dates.
2. Contact and request renewal applications from attorney contractors, interview and evaluate contractors, and renew contracts 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 and investigators. All attorneys are on a contract renewal cycle. The agency also has a procedure in place to process applications from new attorneys and investigators. 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 training and screening/testing process to be used prior to issuance or renewal of investigator contracts. Full implementation of the training and screening/testing process was initiated in FY2012. OADC met its performance goal for investigator contracting in FY2011-12.

Key Workload Indicators:

	Actual FY11	Actual FY12	Budget FY13	Request FY14
Anticipated Attorney contracts (new/renewals)	174	121	130	157
Attorney Contracts Completed	160	90		
Attorney Contracts Incomplete	6	7		
Total Agency Attorney Contractors	417	383		
Anticipated Investigator contracts (new/renewals)	45	72	17	12
Investigator Contracts Completed	19	75		
Investigator Contracts Incomplete	16	1		
Total Agency Investigator Contractors	124	106		

IV. Budget Request

FY2013-2014 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>
HB12-1335	FY13 Long Bill	7.5	22,560,446	22,540,446	20,000	0	0
FY2013 Appropriation (July 1, 2012)		7.5	22,560,446	22,540,446	20,000	0	0
<u>Salary Survey and Anniversary</u>							
	FY2014 Salary Survey (for 11 months)		9,613	9,613			
	FY2014 Merit Pay (for 11 months)		10,417	10,417			
Total Salary Survey and Anniversary			20,030	20,030	0	0	0
<u>FY2014 Common Policies</u>							
<u>Increases/(Decreases)</u>							
	Health/Life/Dental Increase		2,555	2,555			
	Short Term Disability		135	135			
	Amortization Equalization						
	Disbursement (PERA)		3,498	3,498			
	Supple Amortization Equalization						
	Disbursement (PERA)		4,008	4,008			
	Leased Space- Annual Escalation		0	0			
Total Common Policy Adjustments			10,196	10,196	0	0	0
<u>Decision Line Item</u>							
R-1	Legal Resource & Tech Coordinator	0.9	0	0			
NP-1	Reappropriate Lease Line Item to Judicial		(35,880)	(35,880)			
Total FY2014 Decision Items		0.9	(35,880)	(35,880)	0	0	0
Total FY2014 Budget Request		8.4	\$22,554,792	\$22,534,792	\$20,000	0	0
Change for FY2014			(5,654)				
	% change	12.3%	0.0%				

FY2013-2014 Budget Reconciliation Detail by Line Item
Judicial Branch
Office of the Alternate Defense Counsel
FY2014 Line Item Calculations

Long Bill Line Item	Total	FTE	General Fund	Cash Funds	CF E	F F
<i>Personal Services</i>						
Previous Year Long Bill Appr. (HB12-1335)	\$706,089	7.5	\$706,089	-	-	-
FY 2013-14 Salary Survey	\$9,613		\$9,613	-	-	-
FY 2013-14 Performance-based Pay	\$10,417		\$10,417	-	-	-
FY2013-14 R-1 Legal Resource & Technology Coordinator	\$99,144	0.9	\$99,144	-	-	-
Personal Services Appropriation Request	\$825,263	8.4	\$825,263	\$0	\$0	\$0
<i>Health/Life/Dental</i>						
Previous Year Long Bill Appr. (HB12-1335)	\$92,641		\$92,641	-	-	-
FY2013-14 R-1 Legal Resource & Technology Coordinator	\$4,421		\$4,421	-	-	-
Estimated Changes Per Statewide Request	\$2,555		\$2,555	-	-	-
Health/Life/Dental Appropriation Request	\$99,617	0.0	\$99,617	\$0	\$0	\$0
<i>Short Term Disability</i>						
Previous Year Long Bill Appr. (HB12-1335)	\$1,089		\$1,089	-	-	-
FY2013-14 R-1 Legal Resource & Technology Coordinator	\$169		\$169	-	-	-
Estimated Changes Per Statewide Request	\$135		\$135	-	-	-
Short Term Disability Appropriation Request	\$1,393	0.0	\$1,393	\$0	\$0	\$0
<i>PERA- AED</i>						
Previous Year Long Bill Appr. (HB12-1335)	\$19,488		\$19,488	-	-	-
FY2013-14 R-1 Legal Resource & Technology Coordinator	\$3,169		\$3,169	-	-	-
Estimated Changes Per Statewide Request	\$3,498		\$3,498	-	-	-
PERA - AED Appropriation Request	\$26,155	0.0	\$26,155	\$0	\$0	\$0
<i>PERA- SAED</i>						
Previous Year Long Bill Appr. (HB12-1335)	\$16,667		\$16,667	-	-	-
FY2013-14 R-1 Legal Resource & Technology Coordinator	\$2,850		\$2,850	-	-	-
Estimated Changes Per Statewide Request	\$4,008		\$4,008	-	-	-
PERA - SAED Appropriation Request	\$23,525	0.0	\$23,525	\$0	\$0	\$0

FY2013-2014 Budget Reconciliation by Line Item Con't
Judicial Branch
Office of the Alternate Defense Counsel
FY2014 Line Item Calculations

Operating

Previous Year Long Bill Appr. (HB12-1335)	\$67,030		\$67,030	-	-	-
FY2013-14 R-1 Legal Resource & Technology Coordinator	\$2,180		\$2,180	-	-	-
Operating Appropriation Request	\$69,210	0.0	\$69,210	\$0	\$0	\$0

Leased Space

Previous Year Long Bill Appr. (HB12-1335)	\$35,880		\$35,880	-	-	-
NP-1 Transfer Lease Appropriation to Judicial Dept	(\$35,880)		(\$35,880)	-	-	-
Annual Escalation Per Statewide Request	0		0	-	-	-
Leased Space Appropriation Request	\$0	0.0	\$0	\$0	\$0	\$0

Training/Conference

Previous Year Long Bill Appr. (HB12-1335)	\$40,000		\$20,000	\$20,000	-	-
Training/Conference Appropriation Request	\$40,000	0.0	\$20,000	\$20,000	\$0	\$0

Conflict of Interest Contracts

Previous Year Long Bill Appr. (HB12-1335)	\$20,001,448		\$20,001,448	-	-	-
FY2013-14 R-1 Legal Resource & Technology Coordinator	(\$111,933)		(\$111,933)	-	-	-
Conflict Contracts Appropriation Request	\$19,889,515	0.0	\$19,889,515	\$0	\$0	\$0

Mandated

Previous Year Long Bill Appr. (HB12-1335)	\$1,580,114		\$1,580,114	-	-	-
Mandated Appropriation Request	\$1,580,114	0.0	\$1,580,114	\$0	\$0	\$0

GRAND TOTAL - FY2013-14 REQUEST	\$22,554,792	8.4	\$22,534,792	\$20,000	\$0	\$0
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Schedule 13
FY2013-14 Funding Request R-1

Department: Office of the Alternate Defense Counsel (agency within the Judicial Branch)
 Request Title: Legal Resource and Technology Coordinator
 Agency Approval: *Lyan* 10/18/12 Decision Item FY 2013-14

Line Item Information		FY 2012-13		FY 2013-14		FY 2014-15
		1	2	3	4	6
	Fund	Appropriation FY 2012-13	Supplemental Request FY 2012-13	Base Request FY 2013-14	Funding Change Request FY 2013-14	Continuation Amount FY 2014-15
Total of All Line Items	Total	20,904,452	-	20,904,452	0	0
	FTE	7.5	-	7.5	0.9	1.0
	GF	20,904,452	-	20,904,452	0	0
	CF	-	-	-	-	-
Personal Services	Total	706,089	-	706,089	99,144	108,154
	FTE	7.5	-	7.5	0.9	1.0
	GF	706,089	-	706,089	99,144	108,154
	CF	-	-	-	-	-
Health, Life and Dental	Total	92,641	-	92,641	4,421	4,421
	FTE	-	-	-	-	-
	GF	92,641	-	92,641	4,421	4,421
	CF	-	-	-	-	-
Short-Term Disability	Total	1,089	-	1,089	169	184
	FTE	-	-	-	-	-
	GF	1,089	-	1,089	169	184
	CF	-	-	-	-	-
SB04-257 AED	Total	19,488	-	19,488	3,169	3,844
	FTE	-	-	-	-	-
	GF	19,488	-	19,488	3,169	3,844
	CF	-	-	-	-	-
SB06-235 Supplemental AED	Total	16,667	-	16,667	2,850	3,594
	FTE	-	-	-	-	-
	GF	16,667	-	16,667	2,850	3,594
	CF	-	-	-	-	-
Operating	Total	67,030	-	67,030	2,180	950
	FTE	-	-	-	-	-
	GF	67,030	-	67,030	2,180	950
	CF	-	-	-	-	-
Conflicts	Total	20,001,448	-	20,001,448	(111,933)	(121,147)
	FTE	-	-	-	-	-
	GF	20,001,448	-	20,001,448	(111,933)	(121,147)
	CF	-	-	-	-	-

Letternote Text Revision Required? Yes: No:
 Cash or Federal Fund Name and COFRS Fund Number: N/A
 Reappropriated Funds Source, by Department and Line Item Name: N/A
 Approval by OIT? Not Required
 Schedule 13s from Affected Departments: N/A



Judicial Branch
Office of the Alternate Defense Counsel

Lindy Frolich
Executive Director

FY 2013-14 Funding Request

Agency Priority: Decision Item R - 1			
Legal Resources and Technology Coordinator			
Summary of Funding/FTE Change for FY2013-14	Total Funds	General Funds	FTE
Support of central administrative office/conflict of interest contractors.	\$ 0	\$ 0	1.0

Request Summary:

Under both the United States and Colorado Constitutions, as well as state law, defendants and juveniles in criminal and delinquency cases are to be afforded due process in the courts, including the right to effective and competent legal representation, regardless of their financial ability. The OADC is requesting an additional 1.0 FTE to create the position of a Coordinator of Legal Resources and Technology. This position will promote our agency's vision of "creating 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." The funding for this full time position will be offset by additional savings achieved in the Conflict of Interest Contract service appropriation line item.

Problem and Opportunity:

The OADC contracts with nearly 400 lawyers across the state to represent indigent defendants in criminal and juvenile cases where the public defender's office has an ethical conflict of interest. Because each of these lawyers is an independent contractor, there has been no centralized system for providing resources and sharing ideas. Until recently, the OADC paid each lawyer to research the law and draft pleadings, even if the OADC had already paid another attorney to do the same legal research in a different case. Changes in technology over the last five years have significantly impacted every area of criminal litigation. These technological advancements affect everything from the way evidence is introduced in court, to how case files are managed to how research is performed. Some of these technological advancements create greater efficiencies while other "latest greatest" gadgets and software end up wasting time and money. Overall OADC lawyer contractor hours increase as each individual OADC contracting attorney struggles to keep up with these changes. To address these increased costs, the agency began a pilot program to create a centralized repository for briefs, motions, outlines and other legal resources related to criminal law. This pilot program has expanded to include legal research assistance, and case summaries of every new criminal law related opinion that is issued by the state appellate courts. The success of this pilot program can be seen by a decrease in average attorney hours per case in the last couple of years. In order to institutionalize and insure the continuation and expansion of this pilot program into a fully

functional program of the OADC, and remain abreast of burgeoning technologies, a full-time position is required.

Brief Background:

In 2008, OADC started developing an electronic on-line Brief and Motions bank to begin centralizing legal resources for OADC contractors. Initially, many hours were spent researching technological models and software components required to develop the infrastructure for a viable Brief and Motions bank. The agency then began accumulating briefs, motions and other material related to criminal law to populate the bank. Each document that goes into the bank is vetted for accuracy of content and clarity of thought. By 2010, the Brief and Motions bank was fully functional and available to OADC contractors, but still limited in scope. Since the implementation of the Brief and Motions bank, use by OADC contractors has skyrocketed. From 2010 to 2011 there was a 58% increase in usage; and from 2011 to 2012, usage increased an additional 42%. As one contractor stated: "For me, the brief bank is really useful because I hate to reinvent the wheel."

The OADC, in February 2011, further centralized its legal resources by offering research and writing assistance to OADC contractors. This assistance consists of anything from answering a simple request for a case cite for a legal proposition to a full memorandum on a complex area of law, or drafting, reviewing or editing briefs or motions before they are submitted to the court. The response has been overwhelmingly positive:

"Have used research assistance on a few cases....It is extremely helpful. I have consulted on issues ranging from whether to file a Rule 21 to brainstorming new arguments on newly enacted statutes. He (the research assistance contractor) is always prepared with case law and tips on the best way to approach a situation keeping in mind the argument and the appellate process. Great asset!"

"Thank you for (the research assistance in this case). (The) analysis is very helpful and probably saved me two hours of time. I still have to review and analyze the cases provided. However, I believe this is a great resource for ADC attorneys."

The next piece to be integrated into the OADC centralized resources was the review and summarization of state appellate court opinions as they are issued by the Colorado Supreme Court and the Colorado Court of Appeals. Since January 2012, OADC has contracted with an attorney to summarize the cases and disseminate the summaries to all OADC contractors. These summaries are also integrated into the Brief and Motions bank. This resource has empowered OADC contractors to have at their fingertips the most current changes in the law, saving legal research time, and claims of ineffective assistance of counsel. Again the response has been overwhelmingly positive:

"I cannot keep up with the law. The case summaries really help."

"I save all of the summaries so I can go back to them."

"They (the case summaries) are invaluable in learning of supplemental authority that we should be submitting in pending cases and in staying abreast of the law for future cases."

“Wanted to thank you for the monthly summaries and analysis of new court decisions. It is a really helpful service and much appreciated.”

The Brief and Motions bank contains over 3,000 documents including a motions, briefs, jury instructions, and other research materials. When research and writing assistance is provided, the end result is also incorporated into the Brief and Motions bank. The materials in the bank are linked to a table of contents so that contractors can click on a subject and acquire motions or recent case law on a given topic. To date there are over 1,000 categories available to OADC contractors. Research assistance was provided in 47 cases FY11-12. In FY2013, the OADC began linking its internal database with Westlaw, through a process called Westlaw KM (knowledge management). Responses to this latest innovative technological tool have been positive. As one OADC contractor commented: “Adding the brief bank to Westlaw was a brilliant idea and saves time for sure.”

Proposed Solution:

The OADC proposes adding 1.0 FTE, to create a position of Coordinator of Legal Resources and Technology, funded by an offset in the Conflict of Interest Contract service appropriation line item. The duties of this position will include: acquiring current criminal law information; maintaining the accuracy of that information; developing technologies to improve access to the information; remaining current on the technology necessary for access to the information; and disseminating the information to the OADC contractors. The proliferation of materials has required a corresponding increase in the amount of time necessary to manage the Brief and Motions bank. Outdated materials must be removed while new materials are being added, to keep the bank current. This position will also begin creating practice manuals that provide guidance to OADC attorneys in various areas of criminal law and procedure. The manuals will contain up-to-date law and practice in particular areas, with clear examples of what the OADC considers quality written and oral advocacy. Each manual will be cross-referenced to materials stored in the Brief and Motions bank. By unifying these tasks into a single position efficiencies will be created through centralization of information. A single person would maintain a large repository of information thus reducing the replication of work and the resulting duplication of expense that is created when individual contractors handle the same issues. A full-time Coordinator would also enable the agency to expand the resources available to its contractors by utilizing interns. An internship program would provide practical experience to law students, while expanding the scope of the Brief and Motions bank and research and writing assistance. This will help the OADC continue to control the average billable attorney hours per case, while maintaining high quality representation for indigent defendants and juveniles in criminal cases.

Alternatives:

The alternative to not funding a new FTE with an offset in the Conflicts line item is to leave the allocation where it is and continue contracting with an experienced private lawyer, on a part-time basis, to update and populate the existing Brief and Motions bank, provide limited assistance on cases, and sporadic updates on new law as opinions are issued. The OADC will be unable to maximize the positive effects of a centralized system of resources for its contractors and the practical uses of available technology. The agency would have to forego an intern program because there

would be insufficient qualified supervision. This alternative is not recommended because the reliability and efficacy of the Brief and Motions bank would be limited by the part-time nature of this venture and the agency would only be able to assist a minimal number of lawyer contractors with research questions and issues. The end result would be a reduced ability to control the average billable attorney hours per case, and less effective representation for indigent defendants and juveniles.

Anticipated Outcomes:

To save the taxpayers money while meeting the agency's performance measures.

Operational Details:

The Coordinator will be tasked with acquiring information, maintaining its accuracy, and insuring ease of access. This information may take the form of motions, briefs, jury instructions, research or any other resource helpful to the competent and ethical practice of criminal law. The Coordinator will also be responsible for actively assisting the attorneys in utilizing these legal resources, creating manuals on specific areas of criminal law and procedure, and providing timely summaries of Colorado criminal law related cases as opinions are issued. Staying abreast of current technological trends and vetting them for viability in indigent criminal law is also a critical piece of this position. Finally, supervising interns to assist with legal research, writing manuals, and keeping the Brief and Motions bank current will be a vital part of this position.

Why this is the best possible alternative:

The OADC believes it is best to hire one full time employee who can coordinate the Brief and Motions bank administration, the research and writing assistance, the case law review, intern supervision, and technological support. This individual would have an extensive knowledge of the contents of the Brief and Motions bank, be up-to-date on changes in criminal law, and have access to assistance for legal research projects. This would enable the Coordinator to handle requests for research and writing assistance quickly and efficiently.

Once a research request is completed any written materials can be uploaded to the Brief and Motions bank for future use by OADC contractors. One individual's comprehensive knowledge of the contents of the bank will also enable the OADC to determine areas of law where additional materials and manuals should be generated. Finally, having the case summaries done by the same individual and uploaded to the Brief and Motions bank will insure the vitality and robustness of the Bank.

Assumptions for Calculations:

The following is assuming 11 months with the position starting July 1, 2013 due to the June 30, 2014 pay shift into fiscal year 2014-2015. The agency is not requesting furniture for this position.

Calculation Assumptions:					
Personal Services -- Based on the OADC position R43010, at the middle of the pay range, will require a monthly salary of \$8,076.					
Operating Expenses -- Base operating expenses are included per FTE for \$500 per year. In addition, for regular FTE, annual telephone costs assume base charges of \$450 per year.					
Standard Capital Purchases -- Each additional employee necessitates the purchase of a Personal Computer \$900, Office Suite Software \$330, and office furniture \$3,473. The OADC is not requesting funding for office furniture.					
General Fund FTE -- New full-time General Fund positions are reflected in FY 2013-14 as 0.92 FTE to account for the pay-date shift.					
Expenditure Detail		FY 2013-14		FY 2014-15	
Personal Services:		FTE	\$	FTE	
	Monthly Salary				
Position 1	\$ 8,076	0.9	88,839	1.0	96,912
PERA			9,017		9,837
AED			3,169		3,844
SAED			2,850		3,594
Medicare			1,288		1,405
STD			169		184
Health-Life-Dental			4,421		4,421
Subtotal Position 1, 1.0 FTE		0.9	\$ 109,753	1.0	\$ 120,197
Subtotal Personal Services		0.9	\$ 109,753	1.0	\$ 120,197
Operating Expenses					
Regular FTE Operating Expenses	500	1.0	500	1.0	500
Telephone Expenses	450	1.0	450	1.0	450
PC, One-Time	1,230	1.0	1,230		
Office Furniture, One-Time	3,473		0		
Subtotal Operating Expenses			\$ 2,180		\$ 950
Conflicts			(111,933)		(121,147)
Subtotal Conflicts			\$(111,933)		\$(121,147)
		0.9	\$ 0	1.0	\$ 0
<i>General Fund:</i>			\$0		\$0
<i>Cash funds:</i>			\$0		\$0

Rates Used	FY 2013-14	FY 2014-15
PERA	10.15%	10.15%
AED	3.5670%	3.9670%
SAED	3.2083%	3.7083%
Medicare	1.45%	1.45%
STD	0.190%	0.190%
Health-Life-Dental	4,421.04	4,421.04

Consequences if not funded:

If this proposed position is not funded by a transfer from the Conflict of Interest line item, OADC anticipates that it will be more difficult to control attorney hours and/or cost per case, in both the long and short run. As more types of technologies are introduced in courtrooms, OADC contractors will fall further behind in adapting to these changes. Information systems, no matter how well-designed, quickly become obsolete without appropriate maintenance and attention. Other brief and motions banks the agency researched became less vital and robust because of lack of resources. Research systems that are poorly funded and maintained tend to be unreliable and outdated, and therefore not used. If this were to happen attorneys would again be spending more hours researching legal issues that other attorneys have already been paid to research in other cases. If a transfer of funds to create an additional FTE position is not approved the OADC will continue to do its best to provide the resources as outlined in this decision item, but will be handicapped by the reliance on independent contractors versus one centralized FTE to coordinate and provide the majority of the support.

Impact to Other State Government Agency: The OADC is willing to share access to the Brief and Motions bank, the criminal law case summaries, and any manuals that are created with the Colorado State Public Defender.

Cash Fund Projections: None

Relation to Performance Measures:

Performance Measure B: Contain the total number of Attorney hours per case.

Performance Measure D: Provide Cost-Effective Research Tools and Resources to ADC Contractors

Supplemental, 1331 Supplemental, or Budget Amendment Criteria: N/A

Current Statutory Authority of Needed Statutory Change: N/A

Schedule 13
FY2013-14 Funding Request NP-1
Office of the Alternate Defense Counsel

Department: <u>Office of the Alternate Defense Counsel (agency within the Judicial Branch)</u>						
Request Title: <u>Reappropriate Leased Space Line Item from OADC to Judicial for Ralph L. Carr Center</u>						
Agency Approval: <u><i>Lj m</i> 10/18/12</u> <input checked="" type="checkbox"/> Decision Item FY 2013-14						
Line Item Information		FY 2012-13		FY 2013-14		FY 2014-15
		1	2	3	4	6
	Fund	Appropriation FY 2012-13	Supplemental Request FY 2012-13	Base Request FY 2013-14	Funding Change Request FY 2013-14	Continuation Amount FY 2014-15
Total of All Line Items	Total	35,880	-	35,880	(35,880)	(35,880)
	FTE	-	-	-	-	-
	GF	35,880	-	35,880	(35,880)	(35,880)
	CF	-	-	-	-	-
Leased Space	Total	35,880	-	35,880	(35,880)	(35,880)
	FTE	-	-	-	-	-
	GF	35,880	-	35,880	(35,880)	(35,880)
	CF	-	-	-	-	-

Letternote Text Revision Required? Yes: No:
 Cash or Federal Fund Name and COFRS Fund Number: N/A
 Reappropriated Funds Source, by Department and Line Item Name: N/A
 Approval by OIT? Not Required
 Schedule 13s from Affected Departments: Judicial Branch



Judicial Branch
Office of the Alternate Defense Counsel

Lindy Frolich
Executive Director

FY 2013-14 Funding Request

Agency Priority: Non-Priority #1
Re-appropriate Lease Space Line Item to Judicial Department

Summary of Incremental Funding Change for FY2013-14	Total Funds	Re-appropriate General Funds	FTE
Re-appropriate general funding from Lease Space Line Item of the Office of the Alternate Defense Counsel(OADC) to the Judicial Department for the Ralph L. Carr Justice Center	\$ (35,880)	\$ (35,880)	0.00

Request Summary:

This request is to re-appropriate general fund dollars from the Office of the Alternate Defense Counsel's, an independent agency of the judicial branch, Leased space line item to the Judicial Department's, Ralph L. Carr Justice Center line item.

Problem or Opportunity:

Senate Bill 08-206 authorized the construction of a new state justice center the Ralph L. Carr Justice Center. The act's legislative declaration stated that the new state justice center shall initially include the following agencies:

- Colorado Supreme Court and the Supreme Court Law Library (currently located in leased space in the Denver Post building at 101 W. Colfax)
- Colorado Court of Appeals (also located at 101 W. Colfax)
- Judicial Department administrative offices (also located at 101 W. Colfax)
- Office of the State Public Defender (central administrative and appellate offices are currently located in leased space at 1290 Broadway)
- **Office of the Alternate Defense Counsel** (currently located in leased space at 1580 Logan Street)
- Office of the Child's Representative (also leasing space at 1580 Logan Street)
- Department of Law (currently leasing space within the Capitol Complex at 1525 Sherman Street; also rents private storage space)

All of the justice-related judicial independent agencies will relocate to the Ralph L. Carr Justice Center between February and June 2013. The OADC administrative office is to be located within the justice center as per SB 08-206.

Brief Background:

Senate Bill 08-206, The Judicial Department is planning for state agencies to begin making lease payments for the Judicial Center beginning in July 2013. During the FY2012-2013 budget briefing, the Joint Budget Analyst suggested that the Judicial Branch request a single leased space

appropriation related the Justice Center rather than requesting separate leased space appropriation for each agency within the judicial branch. Thus, a consolidation of the judicial branch's independent agencies administrative Denver office lease space line items into one line item that resides within the judicial department for the Ralph L. Carr Justice Center, during the FY2013-2014 budget process. The JBC staff anticipates that the independent agencies' FY 2013-14 budget requests will reflect the related changes in leased space.

Proposed Solution:

All funding for the OADC Administrative office will reside with the Judicial Department leased space appropriation related to the judicial center. Therefore, the Judicial Department is requesting a single leased space appropriation related to the Judicial Center to include judicial independent agencies that are required to be located at the Ralph L. Carr Justice Center, rather than requesting separate leased space appropriations for each independent agency within the Judicial Branch. This appropriation would be comprised of those sources that support the administrative operations of each of the judicial branch independent agency tenants, which for the OADC is general fund dollars.

Alternatives:

The alternative is for the Office of the Alternate Defense Counsel to maintain its current general fund appropriated to the Leased Space line item and the agency, individually, request the annual incremental increases in the lease and associated building maintenance expenses.

Anticipated Outcomes:

The expected outcome is that the agency's lease appropriation will be re-appropriated and reside within the judicial departments' budget to be used for the OADC lease payment. The judicial department will submit one annual budget request for the leased spaces and ongoing maintenance expenses of the Ralph L. Carr Justice Center, instead of 5 separate requests and line item appropriations.

Assumptions for Calculations:

The current fiscal year, FY2012-2013, OADC Lease line item appropriation is \$35,880. This appropriation is for twelve months' rent and includes applicable building maintenance charges that are allocated to each tenant at its current location at 1580 Logan Street, Suite 330. The current lease expires March 2013 and the agency will thereafter be located in the Ralph L. Carr Justice Center.

If this request is not approved the OADC, will need to request a common policy/decision item for the following general fund dollars:

	FY2012-2013 (Existing Leased Space at 1580 Logan Street)	FY2013-2014 (Judicial Center)
	SF/a \$ per SF Total	SF/a \$ per SF Total
Office Space	1,993 \$18.00 \$35,880	4,865 \$14.41 \$70,101
Storage	Included in rental agreement	124 \$8.00 \$992
Total	\$35,880	\$71,093

Consequences if not funded:

If the request is not funded, the agency will request a Budget Amendment to its FY2013-2014 Budget Request.

Impact to Other State Government Agency:

The independent judicial agencies that are to reside in the Ralph L. Carr Justice Center will not be requesting annual lease/lease operating increases during each fiscal year budgeting cycle.

Cash Fund Projections:

None

Relation to Performance Measures:

This is a Non-Priority request and doesn't affect any of the performances measures of the OADC.

Supplemental, 1331 Supplemental, or Budget Amendment Criteria:

N/A

Current Statutory Authority of Needed Statutory Change:

N/A

V. LONG BILL DETAIL

SCHEDULE 2 SUMMARY

Department Summary Judicial Branch Office of the Alternate Defense Counsel C.R.S. §21-2-101								
	Actual FY2010-2011		Actual FY2011-2012		Appropriation FY2012-2013		Request FY2013-2014	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
Department Total								
Total	20,496,407	7.5	22,187,179	7.5	22,560,446	7.5	22,554,792	8.4
GF	20,476,407	7.5	22,167,179	7.5	22,540,446	7.5	22,534,792	8.4
CF	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 FY2011		Actual FY2012		Appr FY2013		Budget FY2014	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<i>Personal Services</i>								
Total	690,609	7.5	694,474	7.5	706,089	7.5	805,233	8.4
GF	690,609	7.5	694,474	7.5	706,089	7.5	805,233	8.4
CF								
<i>Health/Life/Dental</i>								
Total	72,791	0.0	80,225	0.0	92,641	0.0	99,617	0.0
GF	72,791		80,225		92,641		99,617	
CF								
<i>Short Term Disability</i>								
Total	1,029	0.0	1,103	0.0	1,089	0.0	1,393	0.0
GF	1,029		1,103		1,089		1,393	
CF								
<i>Salary Survey</i>								
Total	0	0.0	0	0.0	0	0.0	9,613	0.0
GF	0		0		0		9,613	
CF								
<i>Pay Performance</i>								
Total	0	0.0	0	0.0	0	0.0	10,417	0.0
GF	0		0		0		10,417	
CF								
<i>PERA - AED</i>								
Total	13,727	0.0	16,364	0.0	19,488	0.0	26,155	0.0
GF	13,727		16,364		19,488		26,155	
CF								
<i>PERA - SAED</i>								
Total	9,909	0.0	13,062	0.0	16,667	0.0	23,525	0.0
GF	9,909		13,062		16,667		23,525	
CF								
<i>Operating</i>								
Total	68,844	0.0	71,316	0.0	67,030	0.0	69,210	0.0
GF	68,844		71,316		67,030		69,210	
CF	0		0		0		0	

<p style="text-align: center;">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</p>								
	Actual FY2011		Actual FY2012		Appr FY2013		Budget FY2014	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<i>Leased Space</i>								
Total	36,577	0.0	32,345	0.0	35,880	0.0	0	0.0
GF	36,577		32,345		35,880		0	
CF								
<i>Training/Conference</i>								
Total	41,000	0.0	40,367	0.0	40,000	0.0	40,000	0.0
GF	21,000		20,367		20,000		20,000	
CF	20,000		20,000		20,000		20,000	
<i>Conflict Contracts</i>								
Total	18,132,047	0.0	19,767,979	0.0	20,001,448	0.0	19,889,515	0.0
GF	18,132,047		19,767,979		20,001,448		19,889,515	
CF								
<i>Mandated</i>								
Total	1,429,874	0.0	1,469,944	0.0	1,580,114	0.0	1,580,114	0.0
GF	1,429,874		1,469,944		1,580,114		1,580,114	
CF								
Department Total								
Total	20,496,407	7.5	22,187,179	7.5	22,560,446	7.5	22,554,792	8.4
GF	20,476,407	7.5	22,167,179	7.5	22,540,446	7.5	22,534,792	8.4
CF	20,000		20,000		20,000		20,000	
CFE								
FF								

SCHEDULE 3 - Program Detail
Reconciliation by Line Item
Office of the Alternate Defense Counsel

ITEM	Actual FY2010-2011		Actual FY2011-2012		Approp FY2012-2013		Request FY 2013-14	
	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
Deputy Director	123,067	1.0	123,067	1.0		1.0	123,067	1.0
FY2014 R-1 Legal Resource & Tech Coordinator		0.0		0.0		0.0	88,839	0.9
Evaluator/Trainer Staff Attorney	96,936	1.0	96,936	1.0		1.0	96,936	1.0
Budget Analyst/Controller	79,968	1.0	6,664	0.1				
Controller/Budget Manager			78,804	0.9		1.0	85,968	1.0
Legal Assistant/Appellate Paralegal	54,444	1.0	4,537	0.1				
Appellate Post Conviction Coordinator			55,638	0.9		1.0	60,696	1.0
Administrative Specialist	17,893	0.5	20,400	0.5		0.5	21,600	0.5
Staff Assistant II	110,796	2.0	110,796	2.0		2.0	110,796	2.0
Continuation Salary Subtotal	611,702	7.5	625,440	7.5	615,409	7.5	716,500	8.4
Other Personal Services								
PERA on Continuation Subtotal	45,589		45,242		62,464		72,725	
Medicare on Continuation Subtotal	8,487		8,663		8,923		10,389	
Contractual Services	24,766		15,129		9,800		950	
Termination/Retirement Payouts	65				9,493		4,669	
Personal Services Subtotal	690,609	7.5	694,474	7.5	706,089	7.5	805,233	8.4
Pots Expenditures								
Health/Life/Dental	72,791		80,225		92,641		95,196	
FY2014 R#1 Legal Resource & Tech Coordinator							4,421	
Short Term Disability	1,029		1,103		1,089		1,224	
FY2014 R-1 Legal Resource & Tech Coordinator							169	
Salary Survey							9,613	
Performance Based Pay (non-add)							10,417	
AED	13,727		16,364		19,488		22,986	

SCHEDULE 3 - Program Detail
Reconciliation by Line Item
Office of the Alternate Defense Counsel

ITEM	Actual FY2010-2011		Actual FY2011-2012		Approp FY2012-2013		Request FY 2013-14	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
FY2014 R-1 Legal Resource & Tech Coordinator							3,169	
SAED	9,909		13,062		16,667		20,675	
FY2014 R-1 Legal Resource & Tech Coordinator							2,850	
Personal Services Total Detail	788,065	7.5	805,228	7.5	835,974	7.5	975,953	8.4
Personal Services Reconciliation Authorization								
Long Bill Request	690,704	7.5	706,089.0	7.5	706,089	7.5		7.5
Supplemental PERA Reduction SB11-076			(15,385)					
FY14 Decision Items								
R-1 Legal Research & Technology Coordinator								0.9
Health/Life/Dental	72,424		80,682		92,641			
Short Term Disability	954		1,089		1,089			
Salary Survey								
Anniversary/Merit Pay								
AED	14,564		17,026		19,488			
SAED	10,513		13,590		16,667			
Transfer In from Mandated			2,137					
Transfer to Operating	(1,093)							
Reversion	(1)							
Personal Services Authorization	788,065	7.5	805,228	7.5	835,974	7.5	0	8.4
General Fund Cash Funds	788,065		805,228		835,974		975,953	

SCHEDULE 3 - Program Detail
Reconciliation by Line Item
Office of the Alternate Defense Counsel

ITEM	Actual FY2010-2011		Actual FY2011-2012		Approp FY2012-2013		Request FY 2013-14	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<u>Operating Expenses/Capital Outlay</u>								
2230 Equip Maintenance/Repair Svcs	584		390				150	
2231 IT Hardware Maintenance & Repair Services	8,520		10,100				8,416	
2232 IT Software Maintenance Upgrade	3,000		3,000				3,900	
2253 Rental Of Equipment	2,761		2,879				2,980	
2511 In-State Common Carrier Fares	212		0				450	
2512 In-State Pers Travel Per Diem	2,480		1,839				2,021	
2513 In-State Pers Vehicle Reimbsmt	3,343		2,635				2,086	
2522 Is/Non-Empl - Pers Per Diem	398		232				790	
2523 Is/Non-Empl - Pers Veh Reimb	600		506				1,155	
2531 Os Common Carrier Fares	1,504		2,474				1,650	
2532 Os Personal Travel Per Diem	1,506		2,845				768	
2541 Os Non-Empl- Common Carrier			511					
2631 Comm Svcs From Outside Sources	11,381		9,672				10,350	
2680 Printing/Reproduction Services							1,200	
2820 Other Purchase Services			450					
2831 Storage - Pur Services	110		110					
3110 Other Supplies & Materials	3		6				168	
3114 Custodial Supplies	70							
3115 Data Processing Supplies	465		45				1,560	
3116 Noncap It - Purchased Pc Sw	2,079		2,075				1,905	
3118 Food And Food Serv Supplies	352		160				350	
3120 Books/Periodicals/Subscription	1,464		728				625	
3121 Office Supplies	2,458		3,513				2,460	
3123 Postage	5,403		5,708				6,992	

SCHEDULE 3 - Program Detail
Reconciliation by Line Item
Office of the Alternate Defense Counsel

ITEM	Actual FY2010-2011		Actual FY2011-2012		Approp FY2012-2013		Request FY 2013-14	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
3124 Printing/Copy Supplies	4,671		4,423				3,718	
3128 Noncapitalized Equipment	2,328		2,852				680	
3132 Noncap Office Furn/Office Syst	48						633	
3140 Noncapitalized PC - (Individual Items Under \$5,000)	6,687		6,280				2,035	
3141 Noncapitalized IT - Server (Individual Items Under \$5,000)	153		2,307				4,831	
3143 Noncapitalized IT - Other Items Under \$5,000)	1,207		185				1,540	
3146 Noncap IT - Purchased Server SW	159		879				1,060	
3147 Noncap IT - Purchased Network SW			368				1,130	
4140 Dues And Memberships	3,104		2,629				2,740	
4220 Registration Fees	1,794		1,515				867	
Operating Expenses Total Detail	68,844	0.0	71,316	0.0	67,030	0.0	69,210	0.0
Operating Reconciliation								
Long Bill Appropriation	67,030		67,030		67,030		67,030	
<i>FY2014 Decision Item</i>								
R-1 Legal Resource & Technology Coordinator							2,180	
Transfer to/from Personal Services	1,093							
Transfer from Leased Space	721		3,168					
Transfer to/from Mandated			2,203					
Reversion			(1,085)					
Operating Costs Authorization	68,844	0.0	71,316	0.0	67,030	0.0	69,210	0.0
General Fund	68,844		71,316		67,030		69,210	
Cash Funds								

SCHEDULE 3 - Program Detail
Reconciliation by Line Item
Office of the Alternate Defense Counsel

ITEM	Actual FY2010-2011		Actual FY2011-2012		Approp FY2012-2013		Request FY 2013-14	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
Leased Space								
Leased Space	36,577		32,345		35,880		-	
Leased Space Total Detail	36,577	0.0	32,345	0.0	35,880	0.0	-	0.0
Reconciliation								
Long Bill Appropriations	39,999		40,544		35,880		35,880	
<i>FY2012 Supplemental HB12-1187</i>			(4,664)					
<i>FY2014 Decision Item</i>								
<i>NP-1 Reapprop Lease Line Item to Judicial</i>							(35,880)	
Transfer to/from Operating	(721)		(3,168)					
Transfer to/from Training	(1,000)		(367)					
Reversion	(1,701)							
Leased Space Authorization	36,577	0.0	32,345	0.0	35,880	0.0	-	0.0
General Fund	36,577		32,345		35,880		-	
Cash Funds								
Training/Conference								
Training Conference	41,000		40,367		40,000		40,000	
Training/Conference Detail	41,000	0.0	40,367	0.0	40,000	0.0	40,000	0.0
Reconciliation								
Long Bill Appropriations	40,000		40,000		40,000		40,000	
Transfer to/from Lease	1,000		367					
Training/Conference Authorized	41,000	0.0	40,367	0.0	40,000	0.0	40,000	0.0
General Fund	21,000		20,367		20,000		20,000	
Cash Funds	20,000		20,000		20,000		20,000	

SCHEDULE 3 - Program Detail
Reconciliation by Line Item
Office of the Alternate Defense Counsel

ITEM	Actual FY2010-2011		Actual FY2011-2012		Approp FY2012-2013		Request FY 2013-14	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<u>Conflict of Interest Contracts</u>								
Conflict of Interest Contracts	18,132,047		19,767,979		20,001,448		19,889,515	
Conflict of Interest Total Detail	18,132,047	0.0	19,767,979	0.0	20,001,448	0.0	19,889,515	0.0
<u>Reconciliation</u>								
Long Bill Appropriations	21,956,638		20,692,161		20,001,448		20,001,448	
<i>FY2011 Supplemental SB11-209</i>								
DI #101 Case Load & Redistribution	(2,194,046)							
<i>FY2012 Supplemental HB12-1335 Add-On</i>								
<i>FY2014 Decision Items</i>								
R-1 Legal Resource & Technology Coordinator							(111,933)	
Transfer to/ from Mandated								
Reversion	(1,630,545)		(73,035)					
Conflict of Interest Authorization	18,132,047	0.0	19,767,979	0.0	20,001,448	0.0	19,889,515	0.0
General Fund	18,132,047		19,767,979		20,001,448		19,889,515	
Cash Funds								

SCHEDULE 3 - Program Detail
Reconciliation by Line Item
Office of the Alternate Defense Counsel

ITEM	Actual FY2010-2011		Actual FY2011-2012		Approp FY2012-2013		Request FY 2013-14	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
Mandated Costs								
Mandated Costs	1,429,874		1,469,944		1,580,114		1,580,114	
Mandated Costs Total Detail	1,429,874	0.0	1,469,944	0.0	1,580,114	0.0	1,580,114	0.0
Reconciliation								
Long Bill Appropriations	1,663,839		1,589,848		1,580,114		1,580,114	
<i>FY2011 Supplemental SB11-209</i>	<i>(86,665)</i>							
DI #101 Case Load & Redistribution								
<i>FY2012 Supplemental HB12-1335 Add-On</i>			<i>(22,408)</i>					
Transfer to/from Operating			<i>(2,203)</i>					
Transfer to/from Personal Services			<i>(2,137)</i>					
Reversion	<i>(147,300)</i>		<i>(93,156)</i>					
Mandated Costs Authorization	1,429,874	0.0	1,469,944	0.0	1,580,114	0.0	1,580,114	0.0
General Fund	1,429,874		1,469,944		1,580,114		1,580,114	
Cash Funds								
Long Bill Group/Division Total								
Grand Total - with Pots	20,496,407	7.5	22,187,179	7.5	22,560,446	7.5	22,554,792	8.4
General Fund	20,476,407	7.5	22,167,179	7.5	22,540,446	7.5	22,534,792	8.4
Cash Funds	20,000	0.0	20,000	0.0	20,000	0.0	20,000	0.0

**Schedule 5 - Line Item to Statute
Judicial Branch
Office of the Alternate Defense Counsel
FY 2013-2014 Budget Request
November 1, 2012**

This Long Bill Group funds the total program of the Office of the Alternate Defense Counsel.

Line Item Name	Line Item Description	Programs Supported	Statutory Citation
Personal Services	This line funds the personnel for the management of the OADC; Personnel process bills for services rendered to indigent defendants and the associated mandated costs; oversight of attorney and investigator contractors; such as evaluation, issuance of contracts; training; coordination of appellate and post-conviction cases.	Alternate Defense Counsel	C.R.S. § 21-2-101, <i>et. seq</i>
Health, Life and Dental Insurance	State's contribution to Health benefits for employees within the agency	Alternate Defense Counsel	C.R.S. § 21-2-101, <i>et. seq</i>
Short Term Disability	State's contribution to Health benefits for employees within the agency	Alternate Defense Counsel	C.R.S. § 21-2-101, <i>et. seq</i>
SB 04-257 Amortization Equalization Disbursement	Supplemental payment to PERA	Alternate Defense Counsel	C.R.S. § 21-2-101, <i>et. seq</i>
SB 06-235 Supplemental AED	Supplemental payment to PERA	Alternate Defense Counsel	C.R.S. § 21-2-101, <i>et. seq</i>
Salary Survey	Adjustments to State Employee Salaries based on the Total Compensation Survey	Alternate Defense Counsel	C.R.S. § 21-2-101, <i>et. seq</i>
Performance based Pay Awards	Performance based merit pay	Alternate Defense Counsel	C.R.S. § 21-2-101, <i>et. seq</i>
Operating	This line funds the operating costs for OADC personnel.	Alternate Defense Counsel	C.R.S. § 21-2-101, <i>et. seq</i>
Lease	This line funds the lease payment for operational personnel.	Alternate Defense Counsel	C.R.S. § 21-2-101, <i>et. seq</i>
Training	The line funds the training/updating for OADC contractors.	Alternate Defense Counsel	C.R.S. § 21-2-101, <i>et. seq</i>
Conflicts	This line pays for all statutorily-mandated legal services for representation of indigent defendants in which the Public Defender has a conflict.	Alternate Defense Counsel	C.R.S. § 21-2-101, <i>et. seq</i>
Mandated	This line pays for all statutorily-mandated costs associated with the representation of defendants, such as, mental health evaluations, discovery; experts, transcripts.	Alternate Defense Counsel	C.R.S. § 21-2-101, <i>et. seq</i>

Schedule 7

**Summary of Supplemental Bills
Judicial Branch
Office of the Alternate Defense Counsel
FY 2013-2014 Budget Request
November 1, 2012**

Bill Number	Line Item	FTE	Total Funds	GF	GFE	CF	CFE	FF
Appropriation FY 2012-13								
	N/A		0	0				
Total as of November 1, 2012		0.0	0	0				
Actual FY 2011-12								
SB11-076 Supplemental	Personal Services		(15,385)	(15,385)				
HB12-1187 Supplemental	Leased Space		(4,664)	(4,664)				
HB12-1335 Supplemental	Conflict Contracts		(851,147)	(851,147)				
	Mandated		(22,408)	(22,408)				
Total FY2011-12		0.0	(893,604)	(893,604)				
Actual FY 2010-11								
SB11-209 Supplemental	Conflict Contracts		(2,194,046)	(2,194,046)				
	Mandated		(86,665)	(86,665)				
Total FY2010-11		0.0	(2,280,711)	(2,280,711)				
Actual FY 2009-10								
	N/A							
Total FY2009-10		0.0						

Schedule 8

Common Policy Summary Judicial Branch Office of the Alternate Defense Counsel FY 2013-2014 Budget Request

PERA Employer Share 10.15%	Total Funds	GF	CF	CFE	FF
Actual Total FY2010-2011 7.65%	\$45,589	\$45,589			
Actual Total FY2011-2012 7.65%	\$45,242	\$45,242			
Appropriation FY2012-2013 10.15%	\$62,464	\$62,464			
Request Total FY2013-2014 10.15%	\$72,725	\$72,725			

Health/Dental/Life	Total Funds	GF	CF	CFE	FF
Actual Total FY2010-2011	\$72,791	\$72,791			
Actual Total FY2011-2012	\$80,682	\$80,682			
Appropriation FY2012-2013	\$92,641	\$92,641			
Request Total FY2013-2014	\$95,196	\$95,196			

Short Term Disability	Total Funds	GF	CF	CFE	FF
Actual Total FY2010-2011	\$1,029	\$1,029			
Actual Total FY2011-2012	\$1,089	\$1,089			
Appropriation FY2012-2013	\$1,089	\$1,089			
Request Total FY2013-2014	\$1,224	\$1,224			

Salary Survey	Total Funds	GF	CF	CFE	FF
Actual Total FY2010-2011	\$0	\$0			
Actual Total FY2011-2012	\$0	\$0			
Appropriation FY2012-2013	\$0	\$0			
Request Total FY2013-2014	\$9,613	\$9,613			

Performance/Merit Pay	Total Funds	GF	CF	CFE	FF
Actual Total FY2010-2011	\$0	\$0			
Actual Total FY2011-2012	\$0	\$0			
Appropriation FY2012-2013	\$0	\$0			
Request Total FY2013-2014	\$10,417	\$10,417			

Leased Space	Total Funds	GF	CF	CFE	FF
Actual Total FY2010-2011	\$36,577	\$36,577			
Actual Total FY2011-2012	\$32,345	\$32,345			
Appropriation FY2012-2013	\$35,880	\$35,880			
Request Total FY2013-2014	\$0	\$0			

GGCC	Total Funds	GF	CF	CFE	FF
Actual Total FY2010-2011	N/A	N/A		Approp transferred to Judicial	
Actual Total FY2011-2012	N/A	N/A			
Appropriation FY2012-2013	N/A	N/A			
Request Total FY2013-2014	N/A	N/A			

**Overview of Salary Adjustments, STD, AED, SAED
Request FY2013-2014**

<u>PROGRAM</u>	Base Salaries	FTE	Salary Adjustment	Merit Pay	PERA 10.15%	Medicare 1.45%	Total Adjustment	Total FY2014 Salaries	AED 3.567%	SAED 3.2083%	STD
Office of the Alternate Defense Counsel	626,461	7.5	8,614 (1)	9,335 (1)	65,408	9,344	92,700	719,161	22,986	20,675	1,224
TOTAL GENERAL FUND	626,461	7.5	8,614	9,335	65,408	9,344	92,700	719,161	22,986	20,675	1,224

(1) All salary survey and merit increases are calculated on eleven months due to June's payshift of prior year into next fiscal year

**Detail of Salary Adjustments, STD, AED, SAED
Request FY2013-2014**

	FTE	June 30 Base Salary \$	Salary Adjustment \$	PERA 10.15%	Medicare 1.45%	AED 3.567%	SAED 3.2083%	STD .19%	Total Salary Adjustments
Alternate Defense Counsel Director	1.0	128,598	3,684	374	53	131	118	7	4,368
Alternate Defense Counsel Deputy Director	1.0	123,067	3,526	358	51	126	113	7	4,181
Eval/Training Director	1.0	96,936	2,777	282	40	99	89	5	3,293
Controller/Budget Manager	1.0	85,968	2,463	250	36	88	79	5	2,920
Appellate Post-Conviction Coordinator	1.0	60,696	1,739	177	25	62	56	3	2,062
Staff Assistant II	2.0	110,796	3,174	322	46	113	102	6	3,764
Staff Support	0.5	20,400	584	59	8	21	19	1	693
Total Office of Alternate Defense Counsel	7.5	626,461	17,949	1,822	260	640	576	34	21,281

(1) All salary survey and merit increases are calculated on eleven months due to June's pay shift of prior year into current year.

**APPENDIX
(A)**

Chief Justice Michael L. Bender



COLORADO JUDICIAL BRANCH

*FY 2013-14 Funding Request
November 1, 2012*

Gerald Marroney
State Court Administrator

**Department Priority: #9
Request Title: Ralph L. Carr Operating Budget**

Summary of Incremental Funding Change for FY2013-14	Total Funds	General Fund	Cash Funds	Reappropriated Funds	FTE
TOTAL REQUEST (All Lines)	3,602,312	431,701	3,030,611	140,000	0.0
Administration: Ralph L. Carr Justice Center (new line)					
Total Program:	3,602,312	431,701	3,030,611	140,000	0.0
Personal Services*	266,437		126,437	140,000	0.0
Operating**	1,879,174		1,879,174		
Leased Space	431,701	431,701			
Controlled Maintenance	1,025,000		1,025,000		
*increase for CSP					
**Includes increases for contract services, parking and utilities					

Request Summary:

This request is for funding increases in order to operate the Ralph L. Carr Justice Center for a full year. The Judicial Branch received \$4.1M and 2.0 FTE in FY2013 to run the Carr Justice Center for a portion of the year, not including leased space costs. The full cost to run the facility for FY2014 will be \$9.3M. This includes costs that cover all building services such as HVAC, Electrical, Structural, Fire/Life Safety and other repairs and maintenance as well as utilities, grounds and administrative services. The cost total also includes the increased spending authority for the Controlled Maintenance funding. Adjustments for FY2014 are outlined below.

	Existing Funding	FY2014 Estimate	Change for DI	GF	CF	RE
Personal Services						
FTE	247,220	247,220	0		247,220	
Colorado State Patrol	583,563	850,000	266,437		710,000	140,000
Building Mgmt. Contra	163,766	163,766	0		163,766	
Operating						
Building Mgmt. Contra	1,672,000	3,116,234	1,444,234		3,116,234	
Parking Garage	200,700	250,000	49,300		250,000	
Other Judicial Contracts			0		0	
Utilities	270,000	660,000	390,000		660,000	
General Operating	4,360	0	(4,360)		0	
Leased Space	1,624,423	2,056,124	431,701	2,056,124		
Controlled Maint	1,000,000	2,025,000	1,025,000		2,025,000	
	5,766,032	9,368,344	3,602,312	2,056,124	7,172,220	140,000

Additionally, as reflected in the above chart, for FY2014, the Judicial Branch has consolidated the leased space lines from the Public Defender, the Office of Child's Representative, the Alternate Defense Counsel and the Independent Ethics Commission into this budget request so the Judicial Branch will carry one leased space line for all the above-mentioned agencies. Each agency has a companion request reducing its leased space line in accordance with this request. The leased space funding by agency is as follows:

	FY2013			FY2014		
	TF	GF	CF	TF	GF	CF
Judicial	1,323,343	1,151,863	171,480	1,105,813	1,105,813	
Public Defender*	391,830	391,830		798,297	798,297	
Office of Child's Rep*	44,850	44,850		80,921	80,921	
Office of Alt. Defense Counsel*	35,880	35,880		71,093	71,093	
	0	0		0		
TOTAL	1,795,903	1,624,423	171,480	2,056,124	2,056,124	0

**The FY2013 GF amount will be transferred to Judicial to cover a portion of new Carr leased space costs*

Assumptions for Calculations:

Cost assumptions for this request have come from the Colorado State Patrol, the Branch's building Management Company and facility FTE and work with budget staff from other impacted state agencies.

Cost Summary by Category

Cleaning	1,100,000
Repairs/Maintenance	1,500,000
Grounds	150,000
Administrative	530,000
	<u>3,280,000</u>
Parking Garage	250,000
Utilities	660,000
State Patrol	850,000
Facility FTE	247,220
Leased Space	2,056,124
Controlled Maintenance	2,025,000
	<u>9,368,344</u>
Total Operating Costs	

Consequences If Not Funded:

If this request is not funded, the Judicial Department will not have the necessary spending authority to operate or maintain the new Judicial Facility. Revenues in the Justice Center Cash Fund will go unused and the new facility will not be able to be occupied.

Impact to Other State Government Agencies:

This request impacts the Public Defender, the Office of the Child's Representative and the Alternate Defense Counsel in that we are consolidating their leased space, or a portion thereof, into the leased space line for the Carr Justice Center. This request also impacts the Department of Public Safety, because it will have a companion request to obtain the necessary reappropriated spending authority to receive payment for State Patrol services.

Cash Fund Projections:

This decision item will be paid for from revenue into the Justice Center Cash Fund as was laid out in the authorizing legislation, SB08-206. The fund has sufficient revenue to cover the planned expenses.

Current Statutory Authority or Needed Statutory Change:

13-1-204 C.R.S.