



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

**FISCAL YEAR 2014-2015**  
**BUDGET REQUEST**

**Lindy Frolich, Alternate Defense Counsel Director**

# Table of Contents

<b>I.</b>	<b>Executive Letter</b>	3
<b>II.</b>	<b>Agency Overview</b>	
	Organizational Chart	5
	Background	6
	Statutory Mandate	6
	Mission Statement	6
	Vision Statement	6
	Prior Year Legislation	7
	Hot Topics	8
	Cases that may affect OADC	9
	Work Load Indicators	13
<b>III.</b>	<b>Agency Objectives and Performance Measures</b>	
	Objectives and Strategies	15
	Core Objectives Performance measures	15
<b>IV.</b>	<b>Budget Request</b>	
	Schedule 13 R#1	30
	R-1 Case Load Increase	31
	Schedule 13 R#2	34
	R-2 Contractor Hourly Rate Increase	35
	Schedule 13 R#3	41
	R-3 Increase Training Cash Funds Spending Authority	42
<b>V.</b>	<b>Long Bill Detail</b>	
	Schedule 2 Summary	45
	Long Bill Overview by Line Item	46
	Schedule 3 Line Item by Year	48
	Schedule 5 Line Item to Statute	54
	Schedule 7 Summary of Supplemental Bills	55
	Schedule 8 Common Policy Summary	56
	Salary Adjustments, STD, AED, SAED Request	57
	Detail of Salary Adjustments	57



# State of Colorado

## Office of the Alternate Defense Counsel

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October 31, 2013

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 State Public Defender (OSPD) has a conflict of interest and therefore cannot ethically represent the indigent defendant or juvenile.*** The OADC has become a nationally recognized model that other states look to when designing or improving their system for appointing counsel to represent indigent defendants and juveniles. 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 OSPD. 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 2007, the agency's caseload increased from approximately 7,000 cases per year to more than 13,000. 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 FY02. By FY05, 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, such as the extraordinary cost of death penalty cases or caseload increases, and delineated areas that can be impacted by increased efficiencies. At the beginning of the recent 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.

Last year the legislature enacted a pay equity measure that increased the salaries of the OSPD and the Department of Law. Because there have been no requests for rate increases since 2009, OADC lawyer contractors are \$10 per hour behind the hourly rate increase endorsed by the JBC in 2005. This year OADC is requesting a much overdue rate increase for all of its contractors. The agency's goal is to continue to explore new ways to increase the efficiency of court-appointed counsel representation while maintaining quality representation.

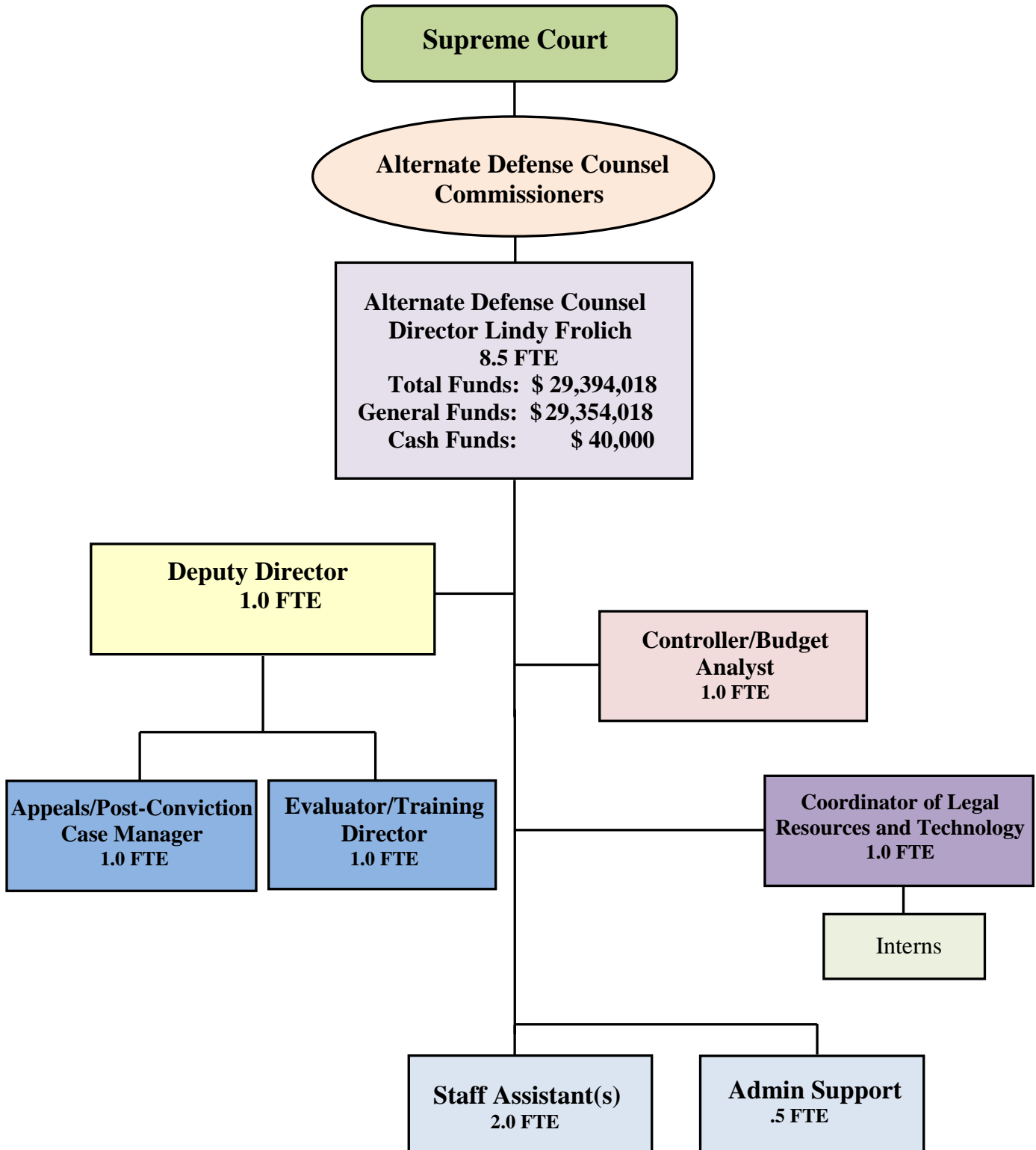
Sincerely,

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

Lindy Frolich  
Director

## II. Agency Overview

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



# 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 where the Office of the State Public Defender (OSPD) has an ethical 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 commitment to insuring that indigent defendants and juveniles receive high quality, effective legal services with its responsibility to the taxpayers of the State of Colorado.

## Vision

- ★ *To foster high-quality, cost-effective legal representation for indigent defendants and juveniles through exemplary training, thorough evaluation, and the effective use of modern technology.*

## ***PRIOR YEAR LEGISLATION***

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**HB 13-1210** makes Colorado law consistent with recent United States Supreme Court decisions regarding the right to legal counsel during all critical stages of a criminal case, including plea negotiations. It repeals the statute that requires an indigent person charged with a misdemeanor, petty offense, motor vehicle or traffic offense to meet with the prosecuting attorney before legal counsel is appointed. This bill is significant in providing counsel not only for plea negotiations but also for bond determinations.

**SB13-250** created a separate sentencing grid for drug offenses. The sentencing distinction between serious drug dealers and drug users is much more defined. The new scheme emphasizes treatment over incarceration for the drug abuser and addict. The statute includes:

- Expanded opportunities for the drug offender to avoid a felony conviction. Current law makes drug offenders eligible for a deferred judgment, which enables an offender to avoid a permanent criminal conviction if the offender successfully completes a probationary period. The new law allows a repeat drug offender who possesses a small amount of a Schedule I or II drug to avoid a felony conviction and earn a misdemeanor conviction if the offender completes probation or community corrections with substance abuse treatment.
- Courts are also required to consider and exhaust all treatment options before incarceration.
- Courts may continue a defendant's treatment and deferred judgment over the prosecution's objection if continuation would meet the goals of sentencing in any case, i.e. rehabilitation and integration.
- Decreased the sentencing ranges for all drug offenses and time periods of parole.
- Expanded funding for treatment by requiring that savings in corrections be reallocated to expand treatment and recovery services to people involved in the criminal justice system.
- Comprehensive data collection and a report to the General Assembly by December 31, 2016 on the impact of SB 13-250 in order to ensure that the changes are working to improve outcomes in the criminal justice system.

**HB13-1156** creates prefiling diversion programs for adults statewide and creates a state grant program so district attorneys can apply for funding to create or expand an adult prefiling diversion program. The district attorney is required to develop eligibility guidelines and may enter into a diversion agreement with a defendant for up to two years without filing a criminal case against the defendant so long as the defendant complies successfully with treatment and other terms of the diversion agreement.

**HB13-1160** is a comprehensive overhaul of the current theft statute amending the criminal penalties for theft and repealing theft of rental property and theft by receiving as separate statutes and incorporating these crimes into the theft statute. It also changes the penalties for various offense levels by increasing the dollar amounts that determine whether the offense is a misdemeanor or a felony, and at what level.

## ***HOT TOPICS***

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### **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 it is unconstitutional to sentence juveniles charged as adults to a mandatory sentence of life without the possibility of parole. In Colorado there are 50 individuals sentenced to a mandatory life without the possibility of parole for an offense that was committed when they were juveniles. OADC contractors have been appointed to every case where the OSPD 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 effectively and efficiently.

### **STATEWIDE JUVENILE LAW ASSESSMENT**

The National Juvenile Defender Center (NJDC) released its Colorado Assessment of Access to Counsel and Quality Representation in Juvenile Delinquency Proceedings in January, 2013. Partially as a result of this Assessment, the legislature enacted HJR13-1019 which created a legislative interim committee to study the role of defense counsel in the juvenile justice system. This committee's report to the Legislative Council is due in November 2013. The OADC is currently working on addressing areas of concern mentioned in the assessment to insure improved representation for juveniles in Colorado.

### **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 while more effectively using scarce resources. Colorado's Mesa County is in the implementation phase of an intense EBDM plan of the National Institute of Corrections (NIC) nationwide technical assistance grant. More information is available at [www.ebdmoneless.org](http://www.ebdmoneless.org). NIC has recently requested applications from *states* that are interested in statewide efforts to bring EBDM to the entire state system of criminal justice.

OADC continues its pilot sentencing project in Mesa County (21<sup>st</sup> 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 its Brief and Motions Bank.

### **DISCOVERY**

The OADC is participating in the Discovery Task Force created by SB13-246, that will prepare a final report by January 31, 2014. This report shall include recommendations for legislation, technology inserts, and non-legislative processes that would improve the criminal discovery process.



## COST SAVING MEASURES

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

## IMMIGRATION

The number of post-conviction cases based on inadequate advice regarding immigration consequences has increased, especially in light of *Padilla v. Kentucky*, 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*.

## ***CASES THAT MAY AFFECT OADC***

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### DEFENDANT'S RIGHT TO COUNSEL

*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.

*People v. Nozolino*, 298 P.3d 915 (Colo. 2013). In *Nozolino*, the Colorado Supreme Court held that a criminal defendant has the right to continue with his court-appointed counsel when there is a waivable conflict and must be given an opportunity to waive that ethical conflict. (The OSPD was dismissed as counsel in a murder case for an ethical conflict of interest even though the client requested an opportunity to waive any conflict and continue with the public defender's office.)

### 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 (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*, No. 07CA2467 (Colo. App. Sept. 13, 2012), as modified on denial of reh'g (Nov. 1, 2012), cert. granted, 12SC932, 2013 WL 3323179 (Colo. July 1, 2013) (unpublished). The Court of Appeals found the JLWOP sentence unconstitutional, and remanded for a resentencing hearing pursuant to *Miller v. Alabama*, 132 S.Ct. 2455 (2012). This case has been appealed to the Colorado Supreme Court and the summary of the issue on review is: “Whether, after *Miller v. Alabama*, 132 S.Ct. 2455 (2012), invalidated mandatory life without parole for juveniles, the court of appeals erred by remanding the defendant's case for resentencing instead of upholding the defendant's life sentence and remanding the case to reflect that the defendant will be eligible for parole after forty calendar years.”

*People v. Banks*, 2012 COA 157, reh'g denied (Nov. 29, 2012), cert. granted, 12SC1022, 2013 WL 3168752 (Colo. June 24, 2013) (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. This case has also been appealed to the Colorado Supreme Court and the summary of the issues on review are: “Whether, after *Miller v. Alabama*, 132 S.Ct. 2455 (2012), the Eighth Amendment to the U.S. Constitution is violated by the imposition on a juvenile of a sentence of mandatory life sentence with the potential for parole after forty years,” and “Whether the court of appeals exceeded its judicial authority by re-writing the criminal sentence statutes in a way not authorized or compelled by Colorado statutes or sound “severability” analysis.”

## INEFFECTIVE ASSISTANCE OF COUNSEL

### Immigration Consequences:

*Padilla v. Kentucky*, 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*, 291 P.3d 16 (Colo. 2012). A Crim. P. 35(c) petition cannot be filed to attack a deferred judgment and sentence. Mr. Kazadi pleaded guilty in exchange for a deferred judgment and sentence (“DJS”) on the felony count, and received a final sentence on the misdemeanor. After he was taken into custody by ICE to face removal proceedings, he filed a postconviction motion challenging his guilty plea on ineffective assistance of counsel grounds, raising a *Kentucky v. Padilla* claim that his counsel failed to correctly advise him of the deportation consequences of his plea. Because he received a deferred judgment on the felony count, the Colorado Supreme Court agreed that he cannot file a Crim. P. 35(c) motion on the felony because his conviction is technically not final, however, he can file a Rule 35(c) motion on the misdemeanor (because it is final), and he can file a motion to withdraw the guilty plea under Crim. P. 32(d). This case was remanded for further proceedings, i.e. a simultaneous Crim. P. 35(c) on the misdemeanor and a Crim. P. 32(d) on the felony.

A number of trial court orders denying 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 Crim. P. 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 Post Conviction Stage:**

*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*, 12CA80, (Colo. App. May 10, 2012). A criminal defendant does not have a right to review all discovery material. Counsel’s decision to limit the client’s 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 the 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 rather was 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 court of appeals found the trial court did not abuse its discretion by requiring a defense expert to testify in person and not *via* video-conferencing. As such, defense counsel will be required to have defense experts in the trial courtroom more frequently.

## **NO “CONDITIONAL” PLEA BARGAINS IN COLORADO**

In three cases, *Neuhaus v. People*, 289 P.3d 19 (Colo. Nov. 19, 2012)(Arapahoe County), *People v. Hoffman*, 289 P.3d 24 (Colo. Nov. 19, 2012)(Mesa County), and *Escobedo v. People*, 289 P.3d 25 (Colo. Nov. 19, 2012) (Denver County), the Colorado Supreme Court banned the practice of

“conditional plea bargaining” in Colorado because there is no statute or rule that provides for it. In the federal system – and in most jurisdictions in Colorado prior to these decisions – if the prosecution and the judge agreed to the procedure, the defendant could enter a guilty plea but still take a very limited appeal on one particular issue that was important to him. The most common example is drug cases: The defendant files a motion to suppress the evidence based on Fourth Amendment grounds that he believes his constitutional rights to be free of unreasonable searches or seizures was violated. If the defendant loses the motion, his or her conviction is usually assured. The defendant who loses the suppression motion enters a plea bargain with the caveat that he or she can appeal that one limited issue. It is a waste of judicial resources to take the case through an entire trial, just to preserve the right to appeal the search and seizure motion. This is a highly efficient, fair procedure that has been used in Colorado for years even though there is not a specific rule providing for it.

### **SEXUALLY VIOLENT PREDATOR DESIGNATION**

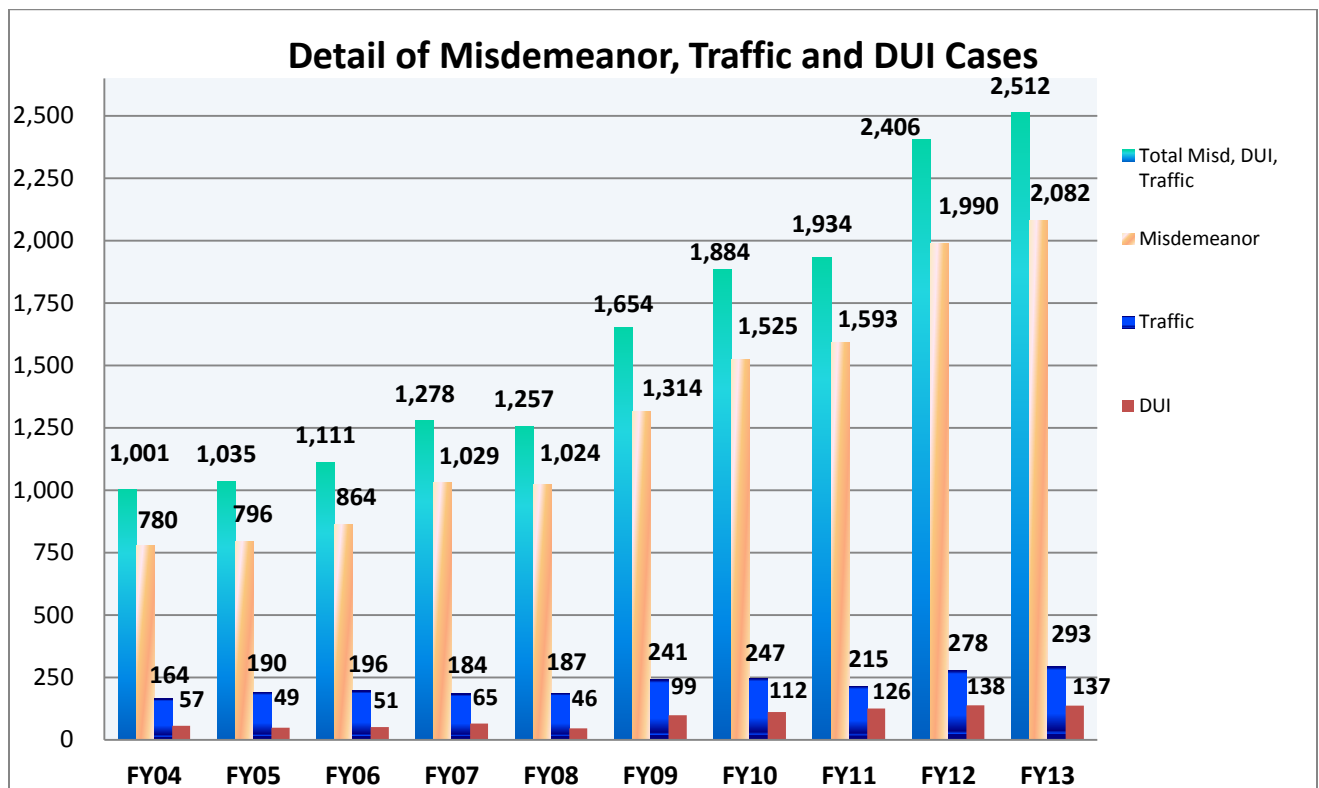
The Colorado Supreme Court continues to take and decide cases regarding SVP designation, making increasingly complex this area of law and emphasizing the need to ensure that counsel have sufficient training and resources to handle this area of law. SVP designation is a status that a judge can make at the conclusion of a case involving a sex assault related crime. It triggers reporting requirements and other forms of supervision. This designation comes as part of the criminal case, so OADC lawyers must be trained on this area of law and have sufficient investigative and attorney resources to litigate issues that arise. Notably, there were a very large number of reported cases about SVP designation and sex offender registration this year – no less than 5 out of the Colorado Supreme Court and at least 7 out of the Colorado Court of Appeals. In five cases issued simultaneously on July 1, 2013, the Colorado Supreme Court set forth detailed requirements and factors that trial courts must consider in deciding whether to make an SVP designation. In three cases they affirmed the SVP designation, but they reversed it in two others. *Allen v. People*, 2013 CO 44, *People v. Gallegos*, 2013 CO 45, *Uribe-Sanchez v. People*, 2013 CO 46, *Candelaria v. People*, 2013 CO 47, and *People v. Hunter*, 2013 CO 48. The Colorado Supreme Court has already granted certiorari on yet another case to be decided in the coming year. Sometimes, the sheer volume of cases coming out on a general topic is the tip of the iceberg, meaning that there may be many more cases that are being litigated around the state on these topics that may not result in a published opinion, but which have an impact on resources.

# WORK LOAD INDICATORS

Additional information not previously noted:

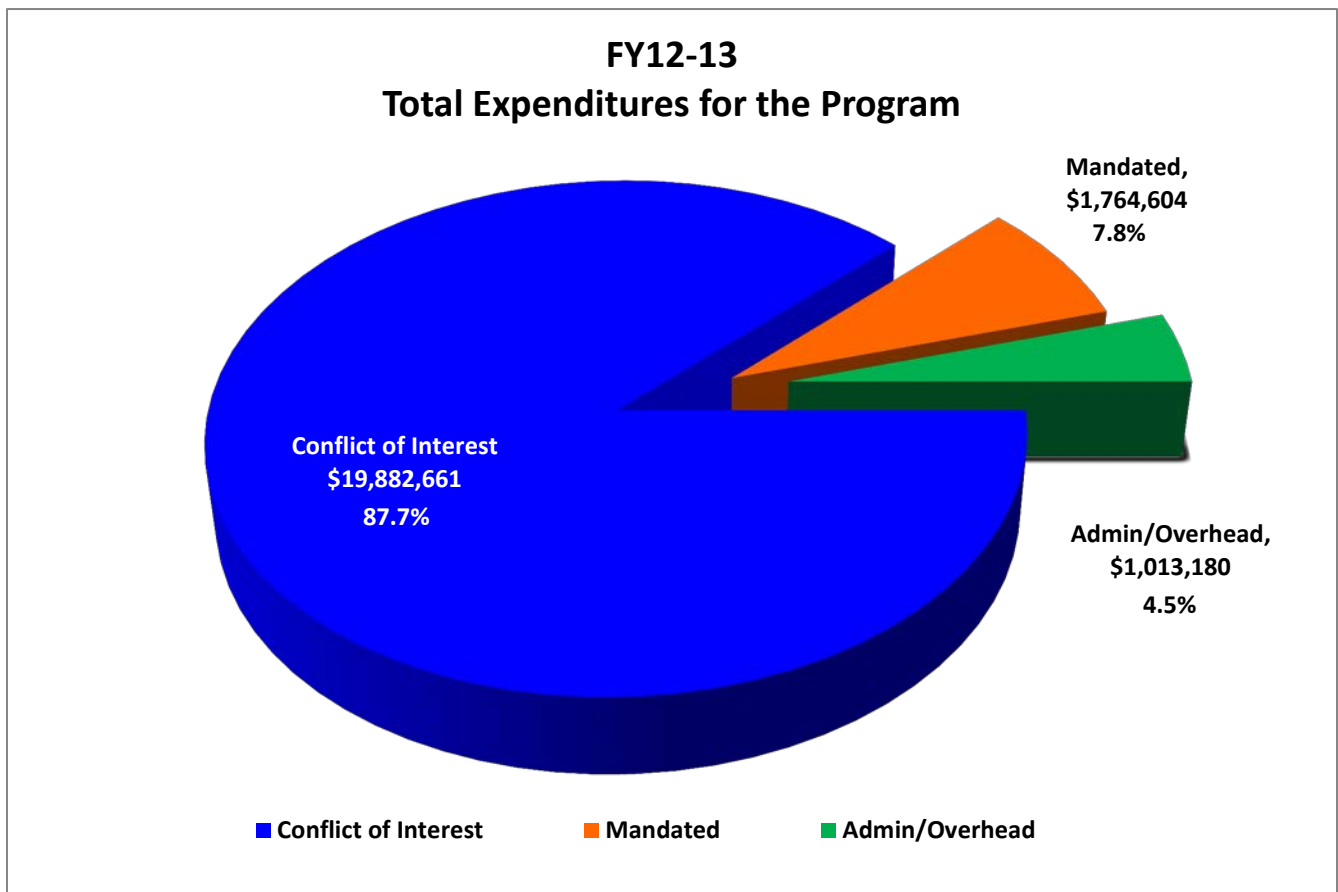
## Total Caseload and Case Type

<i>Trial Case Types:</i>	FY08 Actual	FY09 Actual	FY10 Actual	FY11 Actual	FY12 Actual	FY13 Actual	FY14 Budget	FY15 Request
<i>F1 Death Penalty</i>	4	4	4	3	2	2	2	2
<i>F1 Non-Death Penalty</i>	150	145	145	126	111	104	118	118
<i>F2-F3</i>	2,642	2,532	2,604	2,409	2,323	2,533	2,671	2,671
<i>F4-F6</i>	4,372	4,028	3,894	3,754	4,064	4,512	4,717	4,717
<i>Juvenile</i>	1,528	1,803	1,808	1,542	1,496	1,235	1,507	1,507
<i>Adult Probation</i>	2	2	1	1	1	0	0	0
<i>Mis DUI Traffic</i>	1,257	1,654	1,884	1,934	2,406	2,512	2,708	2,708
<i>35b &amp; 35c</i>	0	0	0	0	0	0	0	0
<b>Total Trial Cases</b>	<b>9,955</b>	<b>10,168</b>	<b>10,340</b>	<b>9,769</b>	<b>10,403</b>	<b>10,898</b>	<b>11,724</b>	<b>11,724</b>
<b>Appeal Cases</b>	<b>708</b>	<b>765</b>	<b>725</b>	<b>717</b>	<b>691</b>	<b>697</b>	<b>708</b>	<b>708</b>
<b>35b/35c &amp; Post Conviction</b>	<b>523</b>	<b>492</b>	<b>489</b>	<b>429</b>	<b>471</b>	<b>461</b>	<b>460</b>	<b>460</b>
<b>Other Special Proceedings</b>	<b>896</b>	<b>1,049</b>	<b>1,040</b>	<b>963</b>	<b>1,020</b>	<b>1,234</b>	<b>1,587</b>	<b>1,587</b>
<b>Total Cases</b>	<b>12,082</b>	<b>12,474</b>	<b>12,594</b>	<b>11,878</b>	<b>12,585</b>	<b>13,290</b>	<b>14,479</b>	<b>14,479</b>
	-7.69%	3.24%	0.96%	-5.69%	5.95%	5.60%	8.95%	0.00%



**Total Case Payment Transactions Processed by the Agency:**

	FY08 Actual	FY09 Actual	FY10 Actual	FY11 Actual	FY12 Actual	FY13 Actual	FY14 Budget	FY15 Request
Caseload	12,082	12,474	12,594	11,878	12,585	13,290	14,479	14,479
Transactions	38,390	41,524	42,819	39,794	43,327	46,144	52,512	52,512
Average Case Transactions	3.18	3.33	3.40	3.35	3.44	3.47	3.63	3.63



### III. Agency Objectives and Performance Plan

#### Objectives

#### I. PROVIDE COMPETENT LEGAL REPRESENTATION STATE-WIDE FOR INDIGENT DEFENDANTS AND JUVENILES.

The OADC contracts with approximately 400 private lawyers across Colorado to represent indigent defendants where the OSPD has a conflict of interest. Each of these lawyers is an independent contractor. Investigators, paralegals, experts, and other ancillary services are available to these lawyers through the OADC. The agency is committed to insuring that the representation is of the highest quality possible.

#### II. PROVIDE COST-EFFECTIVE LEGAL REPRESENTATION STATE-WIDE FOR INDIGENT DEFENDANTS AND JUVENILES.

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

#### Strategies

- Increase 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 promote effectiveness and efficiency.
- Evaluate, monitor, and audit contractors on an ongoing basis.

#### Core Objectives & Performance Measures

Performance Measure A.		FY 06 Actual	FY 07 Actual	FY 08 Actual	FY 09-13 Actual	FY 14 Budget	FY15 Request
Increase compensation rates for contractors. Initial goal set in FY04-05 was to reach competitive rates by FY08-09 of \$75 per hour for lawyers.	Target	\$55	\$60	\$67.50	\$75	\$75	\$75
	Actual	\$47 *	\$57	\$60	\$65	\$65	<i>Pending Approval</i>

\* No funding received for rate increase

#### *Strategy:*

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 FY04, the Joint Budget Committee (JBC) 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 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 did not request an hourly rate increase for fiscal-years 2010-2014 due to the state of the economy.

***Evaluation of Prior Year Performance:***

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

On January 1, 2010, the federal government raised its court-appointed attorney’s<sup>1</sup> hourly rate to \$125 per hour and for capital crime (death penalty) cases, the hourly rate was \$178 per hour. Per memo of the Administrative Office of the United States Court dated August 22, 2013, this rate has been reduced for work performed from September 1, 2013 through September 30, 2014 by \$15.00 per hour, to \$110 per hour and \$163 per hour respectively.

***Key Indicators:***

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

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

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



CJA Rates	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 - 8/2013	Hourly Rate Effective 9/2013 - 9/2014
Death Penalty	2/1/2005	\$163	\$166	\$170	\$175	\$178	\$163
	\$160						
Non-Capital	\$90	\$92	\$94	\$100	\$110	\$125	\$110

State of Colorado Attorney General rate-blended rate Attorney/Paralegal/Legal Asst.	FY06	FY07	FY08	FY09	FY10	FY11	FY12	FY13	FY14
Legal Service Rate	\$64.45	\$67.77	\$72.03	\$75.10	\$75.38	\$73.37	\$75.71	\$77.25	\$91.08 *

\* \$91.08 amount pulled from the Department of Law FY14 Long Bill (SB 13-230) page 134.

Performance Measure B.		FY10 Actual	FY11 Actual	FY12 Actual	FY13 Actual	FY14 Budget	FY15 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	19.64
	Actual	20.81	19.22	18.91	17.94		
Contain the total Attorney hours per case excluding Death Penalty cases.	Target Attorney hours	18.65	18.65	18.65	18.65	18.65	18.65
	Actual	18.93	16.96	16.78	15.85		
Contain the total Attorney hours per Death Penalty case.	Target Attorney hours	2,362.27	2,362.27	2,362.27	2,697.46	2,787.74	2,787.74
	Actual	1,843.97	1,936.80	2,697.46	2,787.74		
Contain the total Attorney hours per Type A Felony case.	Target Attorney hours	46.47	46.47	46.44	46.44	46.44	46.44
	Actual	49.74	44.46	44.76	43.00		
Contain the total Attorney hours per Type B Felony case.	Target Attorney hours	15.48	15.48	15.48	15.48	15.48	15.48
	Actual	16.45	14.73	14.81	13.83		
Contain the total Attorney hours per Adult Misdemeanor/Juvenile.	Target Attorney hours	7.81	7.81	7.24	7.24	7.24	7.24
	Actual	7.26	6.96	7.20	6.94		
Keep ancillary costs per case to a minimum.	Target Ancillary	\$119.73	\$119.73	\$124.07	\$120.38	\$132.78	\$132.78
	Actual	\$120.16	\$120.38	\$116.80	\$132.78		

***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 and paper discovery charges from individual district attorney offices across the state. The OADC director is participating in the statutorily mandated Discovery Task Force in the hopes of containing or reducing discovery costs paid by the State of Colorado.
10. Identifying and promoting technologies that increase attorney efficiency.

***Evaluation of Prior Year Performance:***

As can be seen from the above table, the agency continues to contain the number of billable hours per case. The implementation of cost saving measures as listed in the following paragraphs has contained attorney billable hours.

**Legal Resources and Technology:** The OADC Brief and Motions Bank, coupled with the legal research assistance to OADC contractors, have created a centralized system of legal resources and technology available to all contractors to reduce duplication of efforts. This past year OADC has highlighted the creation of practitioner manuals in specific topic areas (character evidence, self-defense, sex offenders, juveniles, and conspiracy charges to name a few) as a priority. As one contractor commented,

I am reading your memo on self-defense now and I'll check out the materials in our motions and brief bank. This is just what I need. Thank you all very much!!!

**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 thousands of pages of paper discovery and reduce it to an electronic format, costing very little to reproduce. Although OADC's use of modern technology has reduced the distribution cost of

discovery in complex cases, the discovery costs paid to many 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 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. Each post-conviction case is triaged by a very experienced post-conviction lawyer who produces a memorandum suggesting a course of action for the assigned lawyer. Based on this memorandum a contract price is assigned to the case. This process has dramatically shortened the time that post-conviction cases are open by providing the attorneys with significant information regarding the case at the time of appointment. Feedback from OADC contractors, court clerks and judges has all been positive. As one OADC contractor stated:

As an ADC attorney whose caseload contains mostly of postconviction 35c cases, the process ADC has installed for obtaining and providing initial court documents to the attorney works effectively and efficiently. The process saves me time and saves ADC money.

OADC is also currently involved in an *ad hoc* brainstorming group with other stakeholders (Court of Appeals judges and staff, Department of Law Appellate Division, and the OSPD Appellate Division) to explore options to streamline post-conviction appeals.

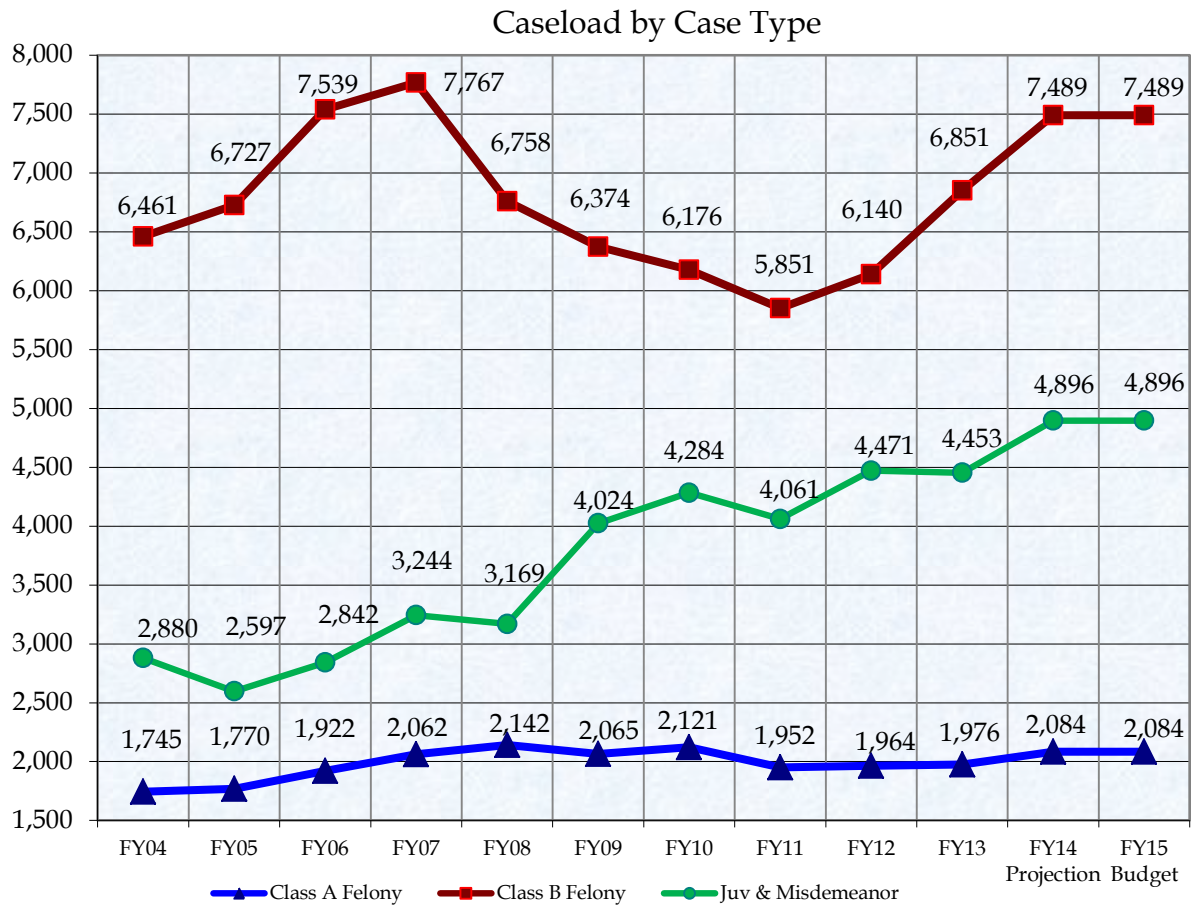
**Evaluation and Auditing of Contractors:** The OADC continues to audit individual contractors and analyze their billing procedures and patterns. The OADC has tailored trainings to address time management inefficiencies to reduce the number of hours per case.

**Death Penalty:** Capital cases are the most expensive case class. This includes attorney time, investigator time, paralegal time, and ancillary costs. As long as there is a death penalty in Colorado, and OADC has a case, it will be expensive. Currently OADC has one death penalty case pending on the trial court level. 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 18<sup>th</sup> Judicial District.

**Key Workload Indicators:**

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

	Actual FY08	Actual FY09	Actual FY10	Actual FY11	Actual FY12	Actual FY13	Budget FY14	Request FY15
<b>Death Penalty</b>								
Cases	13	11	13	14	10	10	10	10
Attorney Hours	12,922	19,731	23,290	26,266	26,047	26,567	28,007	28,007
<b>Type A Felonies</b>								
Cases	2,142	2,065	2,121	1,952	1,964	1,976	2,084	2,084
Attorney Hours	97,269	101,378	98,774	80,980	81,712	78,640	82,902	82,902
<b>Type B Felonies</b>								
Cases	6,758	6,374	6,176	5,851	6,140	6,851	7,489	7,489
Attorney Hours	93,907	87,124	91,916	77,339	81,257	84,891	89,493	89,493
<b>Adult, Misd, Juv</b>								
Cases	3,169	4,024	4,284	4,061	4,471	4,453	4,896	4,896
Attorney Hours	20,608	25,154	27,453	25,127	28,274	26,985	28,447	28,447
<b>Total Cases</b>	<b>12,082</b>	<b>12,474</b>	<b>12,594</b>	<b>11,878</b>	<b>12,585</b>	<b>13,290</b>	<b>14,479</b>	<b>14,479</b>



Performance Measure C.		FY11 Actual	FY12 Actual	FY13 Actual	FY14 Budget	FY15 Request
Sponsor X number of trainings annually for attorneys, investigators, paralegals, and court personnel.	Target	10	10	12	12	15
	Actual	12	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 through in-person attendance, DVD reproduction, and webcasting.

***Evaluation of Prior Year Performance:***

The OADC met 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 and/or recorded and reproduced on DVD. As one contractor commented,

Webcasting CLE's is invaluable for me, a lawyer in Grand Junction. I have attended a half dozen CLE's via webcasts. It is likely I would have attended at best one or two of those CLE's if I had to travel to Denver, where CLE's typically are given.

During FY12, 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. The demand and provision of this type of training continued in FY13.

**Key Workload Indicators:**

	<b>Actual FY13</b>	<b>Budget FY14</b>	<b>Request FY15</b>
Appellate Training	17 hours 102 Attendees		20 hours 120 Attendees
Research and Motions Practice			6 hours 40 Attendees
Ethics for Lawyers	7 hours 38 Attendees	5 hours 30 Attendees	7 hours 30 Attendees
Trial Practice Institute	35 hours 35 Attendees	35 hours 35 Attendees	35 hours 45 Attendees
Juvenile Training	8 hours 60 Attendees	15 hours 75 Attendees	7 hours 50 Attendees
Post-Conviction Training	5.5 hours 40 Attendees	7 hours 40 Attendees	
Social Work Training			12 hours 10 Attendees
Investigator Training	6.5 hours 56 Attendees	6 hours 45 Attendees	6 hours 35 Attendees
Sentencing	13 hours 59 Attendees	12 hours 50 Attendees	7 hours 50 Attendees
Adobe Prof. Training	24 hours 54 Attendees	12 hours 25 Attendees	8 hours 25 Attendees
Legal Technology			8 hours 30 Attendees
Paralegal Training		4 hours 25 Attendees	6 hours 25 Attendees
Communication for Trial Lawyers		6 hours 10 Attendees	
Criminal Law Update	15 hours 225 Attendees	15 hours 200 Attendees	15 hours 200 Attendees
Train the Trainers	15 hours 21 Attendees	15 hours 25 Attendees	
Organized Crime Act	5.5 hours 69 Attendees	5 hours 25 Attendees	
Evidence and Objections			6 35 Attendees
Plea Bargaining and Negotiation			6 hours 50 Attendees
Mental Health Pleas and Defenses			6 hours 40 Attendees

Performance Measure D.		FY11 Actual	FY12 Actual	FY13 Actual	FY14 Budget	FY15 Request
Provide Cost-Effective Research Tools and Resources to OADC 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 and Motions 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.	Over 5,000 documents. Average users per month: 250
	Actual	Over 2,700 documents. Average users per month: 95	Over 3,000 documents. Average users per month: 161	Over 3,600 documents. Average users per month: 180		
Provide legal research assistance	Target	N/A	30 cases	60 cases	120 cases	200 cases
	Actual	N/A	47 cases	120 cases		
Provide summaries of new opinions.	Target	N/A	N/A	Quarterly summaries	12 monthly summaries	50 weekly summaries
	Actual	N/A	N/A	Monthly Summaries		

**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;<sup>2</sup>
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, the Colorado Supreme Court, the 10<sup>th</sup> Circuit, and the United States Supreme Court;
4. Analyzing and introducing best practice applications to OADC contractors;
5. Creating comprehensive manuals on complex but frequently used subject matters such as character evidence, self-defense, sex offenders, juvenile, and conspiracy charges.

<sup>2</sup> 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.

***Evaluation of Prior Year Performance:***

In FY13, the Bank grew to over 3,500 documents, broken down into searchable categories. The agency has also recognized a need for legal research and drafting assistance. The agency receives numerous requests for this assistance every week. 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. Another contractor stated, “Thank you SO much! This information has been incredibly helpful. ....you are definitely earning your keep!”

***Key Workload Indicators:*** As noted above.

Performance Measure E.		FY12 Actual	FY13 Approp	FY14 Budget	FY15 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	98%	99%		
	Target Investigator	100%	100%	100%	100%
	Actual	99%	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 contractors 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.
7. Conduct audit and time-efficiency studies of select OADC contractors.
8. Require at least 5 hours of juvenile or defense specific CLE training per year.

***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 and investigators are on a contract renewal cycle. The agency also has a procedure in place to process applications from new attorneys and investigators. In 2011, the Colorado legislature passed HB11-1195 (voluntary licensure of private investigators). In spite of this legislation there is no mandatory licensing for investigators, so OADC is continuing its training and screening/testing process prior to issuance of investigator contracts. Full implementation of the training and screening/testing process was initiated in FY12. OADC met its performance goal for investigator contracting in FY12-13.



*Key Workload Indicators:*

	Actual FY11	Actual FY12	Actual FY13	Budgeted FY14	Request FY15
<b>Anticipated Attorney contracts (new/renewals)</b>	<b>174</b>	<b>121</b>	<b>130</b>	<b>157</b>	<b>99</b>
Attorney Contracts Completed	160	90	135		
Attorney Contracts Incomplete	6	7	3		
<b>Total Agency Attorney Contractors</b>	<b>417</b>	<b>383</b>	<b>397</b>		
<b>Anticipated Investigator contracts (new/renewals)</b>	<b>45</b>	<b>72</b>	<b>17</b>	<b>11</b>	<b>77</b>
Investigator Contracts Completed	19	75	13		
Investigator Contracts Incomplete	16	1	1		
<b>Total Agency Investigator Contractors</b>	<b>124</b>	<b>106</b>	<b>108</b>		

## IV. Budget Request

**FY2014-2015 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>
SB13-230      FY14 Long Bill	<b>8.5</b>	22,896,598	22,876,598	20,000	0	0
<b>FY2014 Appropriation (July 1, 2013)</b>	<b>8.5</b>	22,896,598	22,876,598	20,000	0	0
<b><u>Salary Survey and Anniversary</u></b>						
FY2015 Salary Survey Request (for 11 months)		(2,299)	(2,299)			
FY2015 Merit pay (for 11 months)		961	961			
<b>Total Salary Survey and Anniversary</b>		<b>(1,338)</b>	<b>(1,338)</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b><u>FY2015 Common Policies Increases/(Decreases)</u></b>						
Personal Services		16,149	16,149			
Health/Life/Dental Increase		13,586	13,586			
Short Term Disability		197	197			
Amortization Equalization Disbursement (PERA)		6,141	6,141			
Supple Amortization Equalization Disbursement (PERA)		6,558	6,558			
<b>Total Common Policy Adjustments</b>		<b>42,632</b>	<b>42,632</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b><u>Decision Line Item</u></b>						
R-1 Case Load Increase	0.0	2,876,140	2,876,140			
R-2 Attorney/Investigator/Paralegal Hourly Rate Increase	0.0	3,559,986	3,559,986			
R-3 Increase Training Cash Funds Spending Authority	0.0	20,000		20,000		
<b>Total FY2015 Decision Items</b>	<b>0.0</b>	<b>6,456,126</b>	<b>6,436,126</b>	<b>20,000</b>	<b>0</b>	<b>0</b>
<b>Total FY2015 Budget Request</b>	<b>8.5</b>	<b>29,394,018</b>	<b>29,354,018</b>	<b>40,000</b>	<b>0</b>	<b>0</b>
Change for FY2015		<b>6,497,420</b>	<b>6,477,420</b>	<b>20,000</b>	<b>0</b>	<b>0</b>
% change	0.0%	28.4%	28.3%	100.0%		

**FY2014-2015 Budget Change Detail by Line Item**  
**Judicial Branch**  
**Office of the Alternate Defense Counsel**  
**FY2015 Line Item Calculations**

Long Bill Line Item	Total	FTE	General Fund	Cash Funds	CFE	FF
<b><i>Personal Services</i></b>						
Previous Year Long Bill Appr. (SB13-230)	\$805,230	8.5	\$805,230	-	-	-
Previous Year Long Bill Salary Survey	\$12,817		\$12,817			
Previous Year Long Bill Performance-based Pay	\$10,408		\$10,408			
Estimated Changes Per Statewide Request Personal Services	\$16,149		\$16,149			
Estimated Changes Per Statewide Request Salary Survey	(\$2,299)		(\$2,299)	-	-	-
Estimated Changes Per Statewide Request Performance-based Pay	\$961		\$961	-	-	-
<b>Personal Services Appropriation Request</b>	<b>\$843,266</b>	<b>8.5</b>	<b>\$843,266</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b><i>Health/Life/Dental</i></b>						
Previous Year Long Bill Appr. (SB13-230)	\$99,113		\$99,113	-	-	-
Estimated Changes Per Statewide Request	\$13,586		\$13,586	-	-	-
<b>Health/Life/Dental Appropriation Request</b>	<b>\$112,699</b>	<b>0.0</b>	<b>\$112,699</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b><i>Short Term Disability</i></b>						
Previous Year Long Bill Appr. (SB13-230)	\$1,230		\$1,230	-	-	-
Estimated Changes Per Statewide Request	\$197		\$197	-	-	-
<b>Short Term Disability Appropriation Request</b>	<b>\$1,427</b>	<b>0.0</b>	<b>\$1,427</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b><i>PERA- AED</i></b>						
Previous Year Long Bill Appr. (SB13-230)	\$23,089		\$23,089	-	-	-
Estimated Changes Per Statewide Request	\$6,141		\$6,141	-	-	-
<b>PERA - AED Appropriation Request</b>	<b>\$29,230</b>	<b>0.0</b>	<b>\$29,230</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b><i>PERA- SAED</i></b>						
Previous Year Long Bill Appr. (SB13-230)	\$20,771		\$20,771	-	-	-
Estimated Changes Per Statewide Request	\$6,558		\$6,558	-	-	-
<b>PERA - SAED Appropriation Request</b>	<b>\$27,329</b>	<b>0.0</b>	<b>\$27,329</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b><i>Operating</i></b>						
Previous Year Long Bill Appr. (SB13-230)	\$69,210		\$69,210	-	-	-
<b>Operating Appropriation Request</b>	<b>\$69,210</b>	<b>0.0</b>	<b>\$69,210</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b><i>Leased Space</i></b>						
Previous Year Long Bill Appr. (SB13-230)	\$0		\$0	-	-	-
Annual Escalation Changes Per Statewide Request	\$0		\$0	-	-	-
<b>Leased Space Appropriation Request</b>	<b>\$0</b>	<b>0.0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**FY2014-2015 Budget Change Detail by Line Item Con't**  
**Judicial Branch**  
**Office of the Alternate Defense Counsel**  
**FY2015 Line Item Calculations**

<b>Long Bill Line Item</b>	<b>Total</b>	<b>FTE</b>	<b>General Fund</b>	<b>Cash Funds</b>	<b>CFE</b>	<b>FF</b>
<b><i>Training/Conference</i></b>						
Previous Year Long Bill Appr. (SB13-230)	\$40,000		\$20,000	20,000	-	-
R-3 Increase Training Cash Funds Spending Authority	\$20,000			20,000		
<b>Training/Conference Appropriation Request</b>	<b>\$60,000</b>	<b>0.0</b>	<b>\$20,000</b>	<b>40,000</b>	<b>\$0</b>	<b>\$0</b>
<b><i>Conflict of Interest Contracts</i></b>						
Previous Year Long Bill Appr. (SB13-230)	\$20,234,616		\$20,234,616	-	-	-
R-1 Case Load Increase	\$2,443,547		\$2,443,547			
R-2 Attorney/Investigator/Paralegal Hourly Rate Increase	\$3,559,986		\$3,559,986			
<b>Conflict Contracts Appropriation Request</b>	<b>\$26,238,149</b>	<b>0.0</b>	<b>\$26,238,149</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b><i>Mandated</i></b>						
Previous Year Long Bill Appr. (SB13-230)	\$1,580,114		\$1,580,114	-	-	-
R-1 Case Load Increase	\$432,593		\$432,593			
<b>Mandated Appropriation Request</b>	<b>\$2,012,707</b>	<b>0.0</b>	<b>\$2,012,707</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>GRAND TOTAL - FY2013-14 REQUEST</b>	<b>\$29,394,018</b>	<b>8.5</b>	<b>\$29,354,018</b>	<b>\$40,000</b>	<b>\$0</b>	<b>\$0</b>

## Change Request

<b>Schedule 10</b> <b>Summary of Change Requests ( DI )</b> <b>Judicial Branch</b> <b>Office of the Alternate Defense Counsel</b> <b>FY 2014-2015 Budget Request</b>								
ID#	Priority	Decision Items	FTE	Total	GF	CF	CFE	FF
1	R-1	Case Load Increase		\$2,876,140	\$2,876,140			
2	R-2	Attorney/Investigator/Paralegal Hourly Rate Increase		\$3,559,986	\$3,559,986			
3	R-3	Increase Training Cash Funds Spending Authority		\$20,000		\$20,000		
<b>Total</b>			<b>0.0</b>	<b>\$6,456,126</b>	<b>\$6,436,126</b>	<b>\$20,000</b>	<b>\$0</b>	<b>\$0</b>

**Schedule 13**  
**FY14-15 Funding Request R-1**

**Schedule 13**  
**Funding Request for the 2014-15 Budget Cycle**

**Department:** Office of the Alternate Defense Counsel (agency within the Judicial Branch)

**Request Title:** Case Load Increase

**Priority Number:** R-1

**Dept. Approval Date:** 10/21/2013

- |   |
|---|
| <input checked="" type="checkbox"/> <b>Decision Item FY 2014-15</b> |
| <input type="checkbox"/> <b>Base Reduction Item FY 2014-15</b>      |
| <input checked="" type="checkbox"/> <b>Supplemental FY 2013-14</b>  |
| <input type="checkbox"/> <b>Budget Amendment FY 2014-15</b>         |

Line Item Information		FY 2013-14		FY 2014-15		FY 2015-16
		1	2	3	4	5
	Fund	Appropriation FY 2013-14	Supplemental Request FY 2013-14	Base Request FY 2014-15	Funding Change Request FY 2014-15	Continuation Amount FY 2015-16
<b>Total of All Line Items</b>	<b>Total</b>	21,814,730	2,876,140	24,690,870	-	24,690,870
	FTE	-	-	-	-	-
	GF	21,814,730	2,876,140	24,690,870	-	24,690,870
	GFE	-	-	-	-	-
	CF	-	-	-	-	-
	RF	-	-	-	-	-
	FF	-	-	-	-	-
<b>Conflicts of Interest Contracts</b>	<b>Total</b>	20,234,616	2,443,547	22,678,163	-	22,678,163
	FTE	-	-	-	-	-
	GF	20,234,616	2,443,547	22,678,163	-	22,678,163
	GFE	-	-	-	-	-
	CF	-	-	-	-	-
	RF	-	-	-	-	-
	FF	-	-	-	-	-
<b>Mandated</b>	<b>Total</b>	1,580,114	432,593	2,012,707	-	2,012,707
	FTE	-	-	-	-	-
	GF	1,580,114	432,593	2,012,707	-	2,012,707
	GFE	-	-	-	-	-
	CF	-	-	-	-	-
	RF	-	-	-	-	-
	FF	-	-	-	-	-

Letternote Text Revision Required? Yes:  No:  If yes, describe the Letternote Text Revision:

Cash or Federal Fund Name and COFRS Fund Number:

Reappropriated Funds Source, by Department and Line Item Name:

Approval by OIT? Yes:  No:  Not Required:

Schedule 13s from Affected Departments:

Other Information:



Judicial Branch  
**Office of the Alternate Defense Counsel**  
**FY 2014-15 Funding Request**

Lindy Frolich  
 Executive Director

<b>Agency Priority: Decision Item R-1 Caseload Increase</b>			
<b>Summary of Funding/FTE Change for FY14-15</b>	<b>Total Funds</b>	<b>General Funds</b>	<b>FTE</b>
<b>Caseload Increase</b>	<b>\$ 2,876,140</b>	<b>\$ 2,876,140</b>	<b>0.00</b>

**Request Summary:**

The OADC is requesting an increase of \$2,443,547 for its Conflicts of Interest appropriation and \$432,593 for its Mandated appropriation or a total of \$2,876,140 to fund the agency’s projected caseload increase.

**Problem and Opportunity:**

In the FY13-14 OADC Budget Request the agency predicted that it would have a 3.2% caseload increase from FY13 to FY14. However, FY13 year-end numbers showed a final case count of 13,290, almost 1,000 cases more than its FY13 prediction of 12,301, and nearly 700 more than its FY14 projection of 12,693. Comparing the agency’s FY13 1<sup>st</sup> quarter caseload activity to that of FY14 1<sup>st</sup> quarter caseload clearly shows an approximate 14% increase. This higher than anticipated FY13 caseload coupled with the aggressive FY14 1<sup>st</sup> quarter is driving the caseload increase request for the FY14-15 Budget. This FY14-15 caseload increase will allow the OADC to fulfill its constitutional mandate of providing representation to indigent defendants.

**Brief Background:**

The OADC is mandated to provide indigent individuals (adults and juveniles) charged with crimes with the best legal representation possible when the OSPD has an ethical conflict. The agency has no ability to accurately predict or control its caseload. This can be seen by looking at the number of cases in the following chart:

	<b>FY08 Actual</b>	<b>FY09 Actual</b>	<b>FY10 Actual</b>	<b>FY11 Actual</b>	<b>FY12 Actual</b>	<b>FY13 Actual</b>	<b>FY14 Budget</b>	<b>FY15 Request</b>
Caseload	12,082	12,474	12,594	11,878	12,585	13,290	14,479	14,479

Unlike the OSPD, who has full-time FTE’s, the OADC pays for every hour worked on every case.

**Proposed Solution:**

Increase the agency’s total budget by \$2,876,140 in order to accommodate the increasing caseload.

**Alternatives:**

None. Without this funding the OADC will not be able to pay its contractors.

**Anticipated Outcomes:**

The agency is meeting and exceeding its goal of containing its costs per case. Since the agency has no control over the number of cases it is mandated to handle, the anticipated outcome is that the agency will be able to pay its contractors for work performed.

**Operational Details:**

The caseload increase will be added to the OADC budget beginning July 1, 2015, for all work performed in the Conflicts of Interest and Mandated appropriation lines. The OADC will further review caseload trends and request any increases or decreases as necessary to adequately align the agency’s budget with the actual activity.

**Why this is the best possible alternative:**

This is the best alternative because it ensures that current year, caseload driven expenditures are appropriately met in a timely and efficient manner.

**Assumptions for Calculations:**

The main assumption for this calculation is the sharp increase in FY14 quarter (Q) 1 case load and expenditure increase in the Conflicts of Interest and Mandated lines in comparison to FY(13) Q1. In FY13 Q1 cases totaled 4,284. In FY14 Q1, cases totaled 4,875, an increase of 591 cases, or 13.8%. The expenditures for this same time period mirrored that caseload increase by jumping from \$3,404,278 in FY13 to \$3,883,076 in FY14, an increase of \$478,798 or 14.06%.

<b>FY13 Conflicts ( Q1 )</b>		Actual FY13 through 9.30.12 broken down by category				
	<b>Death Penalty</b>	<b>A Felonies</b>	<b>B Felonies</b>	<b>Misd / Traffic / DUI / Juv</b>	<b>Q1 Cases</b>	
Cases	8	816	2,285	1,181	4,290	
Expenditures	\$527,062	\$1,055,520	\$1,238,995	\$333,453	\$3,155,031 Conflicts	
					\$249,247 Mandated	
					<b>\$3,404,278</b> Total	
<b>FY14 Conflicts ( Q1 )</b>		Actual FY14 through 9.30.13 broken down by category				
	<b>Death Penalty</b>	<b>A Felonies</b>	<b>B Felonies</b>	<b>Misd / Traffic / DUI / Juv</b>	<b>Q1 Cases</b>	
Cases	8	926	2,559	1,387	4,880	
Expenditures	\$599,824	\$1,220,145	\$1,392,954	\$385,849	\$3,598,773 Conflicts	
					\$284,303 Mandated	
					<b>\$3,883,076</b> Total	
<b>Conflicts ( Q1 ) % chng</b>		Actual FY13 vs FY14 Q1 ( Jul - Sep ) broken down by category				
	<b>Death Penalty</b>	<b>A Felonies</b>	<b>B Felonies</b>	<b>Misd / Traffic / DUI / Juv</b>	<b>%</b>	
Cases	0.00%	13.48%	11.99%	17.44%	<b>13.75%</b>	
Expenditures	13.81%	15.60%	12.43%	15.71%	<b>14.06%</b>	



**Consequences if not funded:**

Request an Emergency Supplemental at year end, request transfer of funding from another Judicial agency if available, or hold back end of fiscal year expenditures and pay them in the following fiscal year.

**Impact on Other State Government Agency:** There is no impact to other state agencies.

**Cash Fund Projections:** None

**Relation to Performance Measures: Performance Measure B.** The OADC's number one goal is to provide competent and cost-effective legal representation state wide for indigent juveniles and adults.

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

**Current Statutory Authority of Needed Statutory Change:** N/A

**Schedule 13**  
**FY14-15 Funding Request R-2**

**Schedule 13**  
**Funding Request for the 2014-15 Budget Cycle**

**Department:** Office of the Alternate Defense Counsel (agency within the Judicial Branch)

**Request Title:** Attorney/Investigator/Paralegal Hourly Rate Increase

**Priority Number:** R-2

**Dept. Approval Date:** 10/21/2013

- |   |
|---|
| <input checked="" type="checkbox"/> <b>Decision Item FY 2014-15</b> |
| <input type="checkbox"/> <b>Base Reduction Item FY 2014-15</b>      |
| <input type="checkbox"/> <b>Supplemental FY 2013-14</b>             |
| <input type="checkbox"/> <b>Budget Amendment FY 2014-15</b>         |

Line Item Information		FY 2013-14		FY 2014-15		FY 2015-16
		1	2	3	4	5
Fund		Appropriation FY 2013-14	Supplemental Request FY 2013-14	Base Request FY 2014-15	Funding Change Request FY 2014-15	Continuation Amount FY 2015-16
<b>Total of All Line Items</b>	<b>Total</b>	20,234,616	-	20,234,616	3,559,986	3,559,986
	FTE	-	-	-	-	-
	GF	20,234,616	-	20,234,616	3,559,986	3,559,986
	GFE	-	-	-	-	-
	CF	-	-	-	-	-
	RF	-	-	-	-	-
	FF	-	-	-	-	-
<b>Conflicts of Interest Contracts</b>	<b>Total</b>	20,234,616	-	20,234,616	3,559,986	3,559,986
	FTE	-	-	-	-	-
	GF	20,234,616	-	20,234,616	3,559,986	3,559,986
	GFE	-	-	-	-	-
	CF	-	-	-	-	-
	RF	-	-	-	-	-
	FF	-	-	-	-	-

Letternote Text Revision Required? Yes:  No:  If yes, describe the Letternote Text Revision:

Cash or Federal Fund Name and COFRS Fund Number:

Reappropriated Funds Source, by Department and Line Item Name:

Approval by OIT? Yes:  No:  Not Required:

Schedule 13s from Affected Departments:

Other Information:



Judicial Branch  
**Office of the Alternate Defense Counsel**  
**FY 2014-15 Funding Request**

Lindy Frolich  
 Executive Director

<b>Agency Priority: Decision Item R-2</b>			
<b>Hourly Rate Increase</b>			
<b>Summary of Funding/FTE Change for FY14-15</b>	<b>Total Funds</b>	<b>General Funds</b>	<b>FTE</b>
<b>Conflicts of Interest appropriation adjustment for Attorney/Investigator/Paralegal hourly rate increase.</b>	<b>\$ 3,559,986</b>	<b>\$ 3,559,986</b>	<b>0.00</b>

**Request Summary:**

**It is time to catch up to where we were supposed to be in 2009.**

From 2006 to 2009, the Office of the Alternate Defense Counsel (OADC), the Office of the Child's Representative (OCR) and the State Court Administrator's Office (SCAO) worked in unison using the SCAO's 2003 Attorney Rate Review to determine adequate attorney, investigator and paralegal rates. The goal behind this effort has been to attract and retain qualified attorneys, investigators and paralegals, who perform court appointed services efficiently and effectively for the representation of indigent defendants and juveniles, as required by Colorado statutes and the Colorado and United States Constitutions.

In order to insure that the criminally accused continue to receive high quality and effective representation the OADC must pay its contractors competitive rates. There was a five year plan, which began in 2004, to reach the attorney rate of \$75 per hour by 2009. The OADC requested and ultimately received increases to the average rate for court appointed counsel of \$65 per hour. OADC is now 6 years and \$10 per hour behind the universally agreed upon attorney rate of \$75 per hour. Therefore the agency is requesting a \$10 per hour rate increase for its contract attorneys to raise the hourly rate to \$75 per hour. The OADC is also at least 6 years behind the recommended rates for paralegals and investigators and is requesting a \$5 per hour increase, raising the rates to \$30 per hour for paralegals, and \$41 per hour for investigators.

**Problem and Opportunity:**

Since 2004, there has been an acknowledgement that court appointed counsel and related contractor rates in Colorado are not competitive. The Joint Budget Committee's plan to incrementally increase attorney rates to \$75 per hour, and to phase in that rate by 2009, was derailed by the economic downturn. As a result of the economy rebounding, the legislature significantly increased the Colorado Department of Law and the Office of the State Public Defender salaries in FY13-14. See SB13-230. The time is ripe to increase OADC attorney rates to that recommended in 2007; \$75 per hour, investigator rates to \$41 per hour, and paralegal rates to \$30 per hour.

## **Brief Background:**

Beginning with the OADC's Fiscal Year 2007 budget request, the OADC began seeking increases in the hourly rate paid to its contractors. In a joint request with the SCAO and the OCR in FY07, the OADC requested an increase in the attorney hourly rate to \$60 per hour; the JBC approved a rate of \$57 per hour. For FY08, the OCR and OADC requested a rate increase to \$67.50 per hour; the JBC approved an hourly rate of \$60 per hour for all court-appointed attorneys, including those paid by the SCAO. For FY09, the OADC requested a rate increase to \$68; the JBC approved an hourly rate of \$65 per hour.

During the FY07 budget process, the JBC asked the SCAO, OCR, and OADC to create a five-year plan to achieve competitive rates. The OADC proposed phasing in rate increases in Fiscal Years 2007, 2008, and 2009, ultimately reaching an hourly rate of \$75 beginning FY09. The OADC stated that after achieving the \$75 hourly rate in FY09, it would continue to work with SCAO and OCR in FY10 and beyond to consider various methodologies to determine appropriate adjustments in the rates. For FY10-14, the OADC did not request a rate increase. In summary, after a series of steady rate increases during FY07-09, the rate has remained stagnant despite a plan to increase the rate to \$75 per hour by FY09. *Prior to the rate increases in FY07-09, there had been only one \$5 per hour increase since 1990.*

The Office of the Alternate Defense Counsel (OADC) contracts with attorneys at fixed hourly rates to represent indigent individuals charged with crimes where there is the possibility of being incarcerated and the OSPD cannot represent these individuals due to an ethical conflict of interest. OADC must enter into contracts that "provide for reasonable compensation and reimbursement for expenses necessarily incurred." C.R.S. §21-2-105. OADC rates paid to court appointed counsel vary by the type of charges brought against the client. ABA standards require compensation to be "reasonable" and "adequate". The federal courts have indicated that they believe that the courts should pay court-appointed attorneys a rate that covers overhead and provides reasonable remuneration.

The Judicial Department's compensation rate study of 2003 indicated that the appropriate rate for paralegals would be \$30 per hour. In FY07, both the SCAO and the OCR raised their paralegal rate to \$25 without requesting additional funding for this increase. This is because these two departments do not utilize paralegals to the same extent as the OADC. In FY08 the OADC requested, and received funding to raise its paralegal rate to \$25 per hour to be commensurate with the OCR and the SCAO. The OADC is striving to increase its use of paralegals in order to help reduce the number of attorney hours per case. In order to continue recruiting and retaining qualified paralegals, the OADC is requesting that the hourly paralegal rate be increased to the 2003 recommended rate of \$30 per hour.

In that same 2003 compensation survey study, the rate range for investigators supports a rate increase to \$41 per hour. OADC investigator contractors currently are paid at a rate of \$36 per hour. The current request to increase investigator rates to \$41 per hour is five years overdue. Criminal defense investigators are an essential part of criminal defense.

The following outlines the historical rates paid to OADC contractors

Felony Type	Hourly Rate Effective 1/1/1991	Hourly Rate Effective 7/1/1999 <sup>1</sup>	Hourly Rate Effective 2/1/2003 <sup>1</sup>	Hourly Rate Effective 7/1/2003 <sup>1</sup>	Hourly Rate Effective 7/1/2006 <sup>1</sup>	Hourly Rate Effective 7/1/2007 <sup>1</sup>	Hourly Rate Effective 7/1/2008 – 6/30/2014 <sup>1</sup>
Death Penalty (DP)	\$40 out court \$50 in-court (\$41.66) <sup>2</sup>	\$65	\$60	\$65	\$85	\$85	\$85
Felony A	\$40 out court \$50 in-court (\$41.66) <sup>2</sup>	\$51	\$46	\$51	\$60	\$63	\$68
Felony B	\$40 out court \$50 in-court (\$41.66) <sup>2</sup>	\$47	\$42	\$47	\$56	\$59	\$65
Juv, Misd, DUI, Traffic	\$40 out court \$50 in-court (\$41.66) <sup>2</sup>	\$45	\$40	\$45	\$54	\$57	\$65
Attorney Travel	\$40	\$25	\$30	\$30	\$54	\$57	\$65
Paralegal	\$20	\$20	\$20	\$20	\$20	\$20	\$25
Investigator	\$33	\$33	\$33	\$33	\$33	\$33	\$36
Investigator (DP)	\$33	\$33	\$33	\$33	\$36	\$36	\$39

<sup>1</sup> All hours are paid at the same rate.

<sup>2</sup> Based on the ABA standard (for every 6 hours worked 1 hour is in-court and 5 hours are out-of- court).

The costs of operating a law practice (malpractice insurance, rent, support staff, etc.) continue to rise. The Colorado state court appointment rates are far below the rates paid in private practice. For instance, attorneys in private practice receive anywhere from \$150 to \$350 per hour, depending on their experience, difficulty of the case, geographic location and other factors. An example of this can be found in the recently published Colorado Bar Association 2012 Economic Survey Snapshot, <http://www.cobar.org/repository/LPM%20Dept/Economic%20Survey/Snapshot%20Final%20Report.pdf> (see chart below).

Associates	Mean (Avg)	25th %	Median	75th %	95th %
Associates w/o exp	\$ 166	\$ 140	\$ 165	\$ 200	\$ 248
Associates w/ 1-3 yrs exp	\$ 181	\$ 155	\$ 175	\$ 200	\$ 275
Associates w/ 4-5 yrs exp	\$ 202	\$ 175	\$ 200	\$ 229	\$ 281
Associates w/ 6-9 yrs exp	\$ 218	\$ 180	\$ 210	\$ 250	\$ 300
Associates w/ 10+ yrs exp	\$ 235	\$ 185	\$ 240	\$ 275	\$ 338

Paralegals	Mean (Avg)	25th %	Median	75th %	95th %
Paralegals w/o exp	\$ 79	\$ 64	\$ 76	\$ 100	\$ 116
Paralegals w/ 1-3 yrs exp	\$ 85	\$ 65	\$ 80	\$ 100	\$ 132
Paralegals w/ 4-5 yrs exp	\$ 95	\$ 75	\$ 90	\$ 100	\$ 152
Paralegals w/ 6-9 yrs exp	\$ 99	\$ 80	\$ 100	\$ 115	\$ 152
Paralegals w/ 10+ yrs exp	\$ 117	\$ 89	\$ 110	\$ 140	\$ 197

A survey conducted by the OADC and the OCR in 2013, indicated that their attorney contractors averaged between \$150 and \$350 per hour for their private practice cases. This same survey indicated private rates for investigators and paralegals averaged between \$50 and \$100 per hour. The current OADC rates fall far below these numbers. In fact, the OADC pays only \$85 per hour for attorney representation on death penalty cases and either \$65 to \$68 per hour for attorneys depending on the type of alleged crime. Current investigator rates are \$36 per hour, and OADC paralegals are paid \$25 per hour. Such rates make it difficult for many contractors to continue to take cases – especially when these cases involve complex factual and legal matters requiring a great deal of time. Many contractors continue to accept court appointments through OADC because they believe that representing indigent clients – even at a cost to themselves – is imperative to protecting the rights and freedoms required by our constitution and insuring a fair system of justice. As the United States Supreme Court stated 50 years ago in *Gideon v. Wainwright*, 372 U.S. 335, 344 (1963):

*[R]eason and reflection require us to recognize that in our adversary system of criminal justice, any person hauled into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided for him. This seems to us to be an obvious truth. Governments, both state and federal, quite properly spend vast sums of money to establish machinery to try defendants accused of crime. Lawyers to prosecute are everywhere deemed essential to protect the public's interest in an orderly society. Similarly, there are few defendants charged with crime, few indeed, who fail to hire the best lawyers they can get to prepare and present their defenses. That government hires lawyers to prosecute and defendants who have the money hire lawyers to defend are the strongest indications of the wide-spread belief that lawyers in criminal courts are necessities, not luxuries. The right of one charged with crime to counsel may not be deemed fundamental and essential to fair trials in some countries, but it is in ours. From the very beginning, our state and national constitutions and laws have laid great emphasis on procedural and substantive safeguards designed to assure fair trials before impartial tribunals in which every defendant stands equal before the law. This noble ideal cannot be realized if the poor man charged with crime has to face his accusers without a lawyer to assist him.*

### **Proposed Solution:**

Increase the hourly rate for attorneys to \$75 per hour, for investigators to \$41 per hour, and for paralegals to \$30 per hour.

### **Alternatives:**

There are three alternatives: fully fund the request, partially fund the request or not fund the request.

### **Anticipated Outcomes:**

The acquisition and retention of qualified contractors to insure the provision of effective and efficient legal services to indigent defendants and juveniles.

## Operational Details:

The rate increases will be incorporated into the OADC online payment system beginning July 1, 2015, for all work performed after that date. These rate increases will continue in effect until and unless the rates change again. The OADC staff will review the maximum allowable total charges on pretrial, trial and appellate cases with an eye toward accounting for the rate increase. All contractors will be notified of the rate increases and their effective date so they can adjust their billing accordingly.

## Why this is the best possible alternative:

The OADC believes that if the rates paid to contractors do not remain competitive, experienced contractors will decline OADC work. Experienced lawyers, investigators and paralegals are more effective and efficient. There may be a steady supply of newly minted inexperienced lawyers who will do the OADC work, but our history shows that new inexperienced lawyers lack competency in various areas of criminal and juvenile defense representation. The lack of competencies ultimately *costs* OADC more money in inefficiencies, post-conviction claims, and constant training on the basics of representation.

## Assumptions for Calculations:

It is predicted that the additional cost in increasing the attorney, investigator, and paralegal hourly rates will increase the FY15 budget by \$3,559,986. This calculation is based on the most recent FY13 caseload totals, estimated FY15 hours, and proposed hourly rate increase. Below are the calculations for the OADC assumptions regarding the impact of those changes:

	FY13 Hours	Estimated FY15 Hours	FY13 Rate	Revised Rate	FY13 Expenditures	Expenditures w/ increase	Estimated Increase to FY15 Budget due to rate increase
Attorney	\$190,516.40	\$198,584.26	\$ 65.00	\$ 75.00	\$ 12,383,566.00	\$ 14,893,819.19	\$ 2,510,253.19
Attorney (DP)	\$ 26,566.95	\$ 27,682.76	\$ 85.00	\$ 95.00	\$ 2,258,190.75	\$ 2,629,862.38	\$ 371,671.63
Attorney Trvl	\$ 21,388.00	\$ 22,286.30	\$ 65.00	\$ 75.00	\$ 1,390,220.00	\$ 1,671,472.20	\$ 281,252.20
					\$ 14,641,756.75	\$ 19,195,153.77	\$ 3,163,177.02
Paralegal	\$ 8,596.64	\$ 14,241.50	\$ 25.00	\$ 35.00	\$ 214,916.00	\$ 300,882.40	\$ 85,966.40
Paralegal (DP)	\$ 7,856.46	\$ 8,186.43	\$ 25.00	\$ 35.00	\$ 196,411.50	\$ 274,976.10	\$ 78,564.60
					\$ 411,327.50	\$ 575,858.50	\$ 164,531.00
Investigator	\$ 39,830.80	\$ 41,504.35	\$ 36.00	\$ 41.00	\$ 1,433,908.80	\$ 1,633,062.80	\$ 199,154.00
Investigator (DP)	\$ 11,186.90	\$ 9,762.50	\$ 39.00	\$ 44.00	\$ 436,289.10	\$ 492,223.60	\$ 55,934.50
Investigator Trvl	\$ 11,890.99	\$ 12,390.41	\$ 36.00	\$ 41.00	\$ 428,075.64	\$ 487,530.59	\$ 59,454.95
					\$ 2,298,273.54	\$ 2,612,816.99	\$ 314,543.45
					\$ 17,351,357.79	\$ 22,383,829.26	\$ 3,642,251.47

**Consequences if not funded:**

In 2013, the Department of Law and the Office of the State Public Defender each received significant pay increases for lawyers and ancillary staff. Part of the discussion centered on salary survey results and the lengthy time period these agencies had gone without a pay increase. The “news” of the raises has trickled down to OADC contractors, many of whom actually make less money than their counterparts in these state jobs. Just as the lackluster funding of positions at the OSPD affected their morale, the same is true regarding the OADC contractors. As one investigator wrote recently, “*If the public defender's office is getting a 21% raise, it would seem only fair for the state to give a similar increase to the ADC.*” Although the economy has been very sluggish, private practice costs have continued to grow. For example, few rents have *decreased*.

**Impact on Other State Government Agency:**

There is no impact to other state agencies.

**Cash Fund Projections:** None

**Relation to Performance Measures:**

**Performance Measure A:** Increase compensation rates for contactors. Initial goal set in FY 2004-05 was to reach competitive rates by FY 2008-09 of \$75 per hour for lawyers.

**Supplemental, 1331 Supplemental, or Budget Amendment Criteria:** Decision item base increase is calculated factoring in the FY13-14 caseload increase Supplemental of \$2,876,140.

**Current Statutory Authority of Needed Statutory Change:** N/A



**Schedule 13**  
**FY14-15 Funding Request R-3**

**Schedule 13**  
**Funding Request for the 2014-15 Budget Cycle**

**Department:** Office of the Alternate Defense Counsel (agency within the Judicial Branch)

**Request Title:** Increase Training Cash Funds Spending Authority

**Priority Number:** R-3

**Dept. Approval Date:** 10/21/2013

**Decision Item FY 2014-15**  
 **Base Reduction Item FY 2014-15**  
 **Supplemental FY 2013-14**  
 **Budget Amendment FY 2014-15**

Line Item Information		FY 2013-14		FY 2014-15		FY 2015-16
		1	2	3	4	5
	Fund	Appropriation FY 2013-14	Supplemental Request FY 2013-14	Base Request FY 2014-15	Funding Change Request FY 2014-15	Continuation Amount FY 2015-16
<b>Total of All Line Items</b>	<b>Total</b>	40,000	-	40,000	20,000	20,000
	FTE	-	-	-	-	-
	GF	20,000	-	20,000	-	-
	GFE	-	-	-	-	-
	CF	20,000	-	20,000	20,000	20,000
	RF	-	-	-	-	-
	FF	-	-	-	-	-
<b>Training</b>	<b>Total</b>	40,000	-	40,000	20,000	20,000
	FTE	-	-	-	-	-
	GF	20,000	-	20,000	-	-
	GFE	-	-	-	-	-
	CF	20,000	-	20,000	20,000	20,000
	RF	-	-	-	-	-
	FF	-	-	-	-	-

**Letternote Text Revision Required?** Yes:  No:  **If yes, describe the Letternote Text Revision:**

**Cash or Federal Fund Name and COFRS Fund Number:**

**Reappropriated Funds Source, by Department and Line Item Name:**

**Approval by OIT?** Yes:  No:  Not Required:

**Schedule 13s from Affected Departments:**

**Other Information:**

**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  
FY 2014-15 Funding Request

Lindy Frolich  
Executive Director

**Agency Priority: Decision Item R - 3**

Increase Training Cash Fund Spending Authority

Summary of Funding/FTE Change for FY14-15	Total Funds	General Funds	Cash Funds	FTE
Increase Training Cash Fund Spending Authority	\$ 20,000	\$ 0	\$ 20,000	0.00

**Request Summary:**

Increase the Office of the Alternate Defense Counsel (OADC) training cash fund spending authority by \$20,000. This request is to insure that the agency can meet the training needs of its contractors (lawyers, investigators and paralegals). The additional cash fund spending authority will allow the agency to charge additional fees for trainings to cover an increase in expenditures. The OADC is committed to webcasting and/or providing DVDs of trainings to insure that contractors outside the Denver Metropolitan area have access to training.

**The Problem and Opportunity:**

The OADC has exhausted the number of trainings it can do under its current funding structure. While there is no need for additional general fund dollars, the agency sees the opportunity to better train its three categories of contractors (lawyers, paralegals and investigators) with additional cash spending authority. More highly trained contractors correlates to more effective and efficient representation.

**Brief Background:**

The OADC's current training budget consists of a \$20,000 appropriation from the general fund and cash spending authority of \$20,000. In FY08-09, the agency's training program was expanded to allow for a full time Evaluator/Training Director. As the experience of the Training Director has increased, the training program has improved and expanded. As a result OADC is conducting trainings not only for attorneys, but for paralegals and investigators as well.

**Proposed Solution**

Through feedback from its contractors the agency has recognized a need to provide additional training throughout the year. With an additional \$20,000 in cash spending authority the agency would be able to further promote best practices and continue insuring quality representation for indigent defendants. This can only improve through additional resources to distribute training videos and materials throughout the state and through trainer development.

The OADC endeavors to webcast and/or record as many trainings as practicable. This is accomplished in a majority of the OADC trainings. These production costs exceed the revenue the

agency can currently take in. It is essential to provide quality training for all contractors across the state. This can only be accomplished by an increase in the cash spending authority that would allow OADC to charge more for the trainings in order to cover costs. Additionally there are specific legal topics that require the agency to work with experts in those topics to develop trainings. While every effort is made to obtain these services for free or a reduced cost, consultation time is necessary and requires funding. Some of these areas cannot generate enough fees to cover the costs.

The OADC occasionally pays for contractors to attend outside trainings when their needs cannot be met by the curricula developed for the year within the agency. Most notably areas such as death penalty training, DNA training, juvenile training and other highly specialized areas require outside resources. In light of the recent juvenile assessment, it is particularly important to further develop and deliver training to comply with the recommendations in the assessment.

**Alternatives:**

Continue providing training at the current funding levels.

**Anticipated Outcomes:**

Providing additional and higher quality training for OADC contractors and insuring provision of training to contractors outside the Denver Metropolitan area.

**Operational Details:**

The agency's training director will oversee the cash spending authority.

**Why this is the best possible alternative:**

Increasing the agency's cash spending authority will enable the agency to improve and expand its training program without costing the State of Colorado additional General Fund dollars.

**Assumptions for Calculations:**

While other state agencies hold continuing legal education (CLE) trainings for their staff lawyers for free, such as the OSPD and the Department of Law, or pay for the cost of CLE's through the Colorado Bar Association, OADC charges *nominal fees* to help fund its training program. In addition, where the above agencies require their employees to attend specific trainings and arrange their schedules around a yearly conference, OADC does not have an annual multi-day conference. OADC contracts now require 5 CLE hours per year in the area of criminal and juvenile defense in order to continue contracting with the OADC. Given these *mandatory* CLE hours, OADC must offer additional trainings in the upcoming years. The cost of webcasting and DVD production currently surpasses the fees that OADC charges. This is solely based on the current cash funding authority of \$20,000. In addition, OADC offers "hands on" Adobe Acrobat training by a highly skilled technology specialist. This technology is key to the electronic discovery model that OADC believes will help contain discovery costs. Although OADC charges a nominal fee, the current cash spending authority limits what fees can be generated. With additional cash funding authority, OADC will be able to charge a fee that covers the cost for these technologies. The last training had 84 participants and of those 29 viewed the training via webcast. The OADC also has separate and distinct training programs for investigators and paralegals. In order for these trainings to be state-wide, they must be webcast and/or produced on DVD as well.

The OADC is requesting an additional \$20,000 cash spending authority to insure that it is able to recoup as many fees as possible to cover training costs.

**Impact on Other Government Agencies:**

If funded with additional cash spending authority, this line item will not impact directly or indirectly any line item of another government agency.

**Cash Fund Projections:** \$20,000 increase to Cash Fund, \$40,000 total Cash Fund.

**Relation to Performance Measures:** **Performance Measure B:** Contain the total number of Attorney hours per case, and **Performance Measure C:** Sponsor X number of trainings annually for attorneys, investigators, paralegals, and court personnel.

**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 FY2011-2012		Actual FY2012-2013		Appropriated FY2013-2014		Request FY2014-2015	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>Department Total</b>								
<b>Total</b>	22,187,179	7.5	22,560,446	7.5	22,882,948	8.4	29,394,018	8.5
GF	22,167,179	7.5	22,540,446	7.5	22,862,948	8.4	29,354,018	8.5
CF	20,000		20,000		20,000		40,000	
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 FY2012		Appr FY2013		Appr FY2013		Estimate FY2014		Request FY2015	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<i>Personal Services</i>										
<b>Total</b>	694,474	7.5	706,089	7.5	750,382	7.5	778,553	8.4	821,379	8.5
GF	694,474	7.5	706,089	7.5	750,382	7.5	778,553	8.4	821,379	8.5
CF										
<i>Health/Life/Dental</i>										
<b>Total</b>	80,225	0.0	92,641	0.0	92,555	0.0	110,483	0.0	112,699	0.0
GF	80,225		92,641		92,555		110,483		112,699	
CF										
<i>Short Term Disability</i>										
<b>Total</b>	1,103	0.0	1,089	0.0	1,089	0.0	1,224	0.0	1,427	0.0
GF	1,103		1,089		1,089		1,224		1,427	
CF										
<i>Salary Survey</i>										
<b>Total</b>	0	0.0	0	0.0	0	0.0	4,621	0.0	10,518	0.0
GF	0		0		0		4,621		10,518	
CF										
<i>Pay Performance</i>										
<b>Total</b>	0	0.0	0	0.0	0	0.0	16,558	0.0	11,369	0.0
GF	0		0		0		16,558		11,369	
CF										
<i>PERA - AED</i>										
<b>Total</b>	16,364	0.0	20,051	0.0	20,051	0.0	25,037	0.0	29,230	0.0
GF	16,364		20,051		20,051		25,037		29,230	
CF										
<i>PERA - SAED</i>										
<b>Total</b>	13,062	0.0	17,154	0.0	17,154	0.0	22,532	0.0	27,329	0.0
GF	13,062		17,154		17,154		22,532		27,329	
CF										

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

	Actual FY2012		Appr FY2013		Appr FY2013		Estimate FY2014		Request FY2015	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<i>Operating</i>										
<b>Total</b>	71,316	0.0	67,030	0.0	66,201	0.0	69,210	0.0	69,210	0.0
GF	71,316		67,030		66,201		69,210		69,210	
CF	0		0		0		0			
<i>Leased Space</i>										
<b>Total</b>	32,345	0.0	35,880	0.0	25,186	0.0	0	0.0	0	0.0
GF	32,345		35,880		25,186		0		0	
CF										
<i>Training/Conference</i>										
<b>Total</b>	40,367	0.0	40,000	0.0	40,549	0.0	40,000	0.0	60,000	0.0
GF	20,367		20,000		20,549		20,000		20,000	
CF	20,000		20,000		20,000		20,000		40,000	
<i>Conflict of Interest Contracts</i>										
<b>Total</b>	19,767,979	0.0	20,001,448	0.0	19,882,661	0.0	20,234,616	0.0	26,238,149	0.0
GF	19,767,979		20,001,448		19,882,661		20,234,616		26,238,149	
CF										
<i>Mandated</i>										
<b>Total</b>	1,469,944	0.0	1,580,114	0.0	1,764,604	0.0	1,580,114	0.0	2,012,707	0.0
GF	1,469,944		1,580,114		1,764,604		1,580,114		2,012,707	
CF										
<b>Department Total</b>										
<b>Total</b>	22,187,179	7.5	22,560,446	7.5	22,660,446	7.5	22,882,948	8.4	29,394,018	8.5
GF	22,167,179	7.5	22,540,446	7.5	22,640,446	7.5	22,862,948	8.4	29,354,018	8.5
CF	20,000		20,000		20,000		20,000		40,000	
CFE										
FF										

**SCHEDULE 3 - Program Detail**

ITEM	Actual FY 2011-2012		Actual FY 2012-13		Appropriated FY 2013-14		Estimated FY 2013-14		Request FY 2014-15	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b><u>Position Detail</u></b>										
Director	128,598	1.0	128,598	1.0		1.0	128,598	1.0	132,842	1.0
Deputy	123,067	1.0	123,067	1.0		1.0	123,067	1.0	127,127	1.0
Coordinator of Legal Research & Tech Coordinator		0.0		0.0		0.9	83,688	0.9	100,426	1.0
Evaluator/Trainer Staff Attorney	96,936	1.0	96,936	1.0		1.0	96,936	1.0	100,137	1.0
Controller/Budget Analyst	6,664	0.1	12,388	0.1		1.0	75,060	1.0	76,435	1.0
Controller/Budget Manager	78,804	0.9	78,804	0.9						
Legal Assistant/Appellate Paralegal	4,537	0.1								
Appellate Post Conviction Coordinator	55,638	0.9	60,696	1.0		1.0	60,696	1.0	62,698	1.0
Administrative Specialist	20,400	0.5	20,400	0.5		0.5	20,400	0.5	21,073	0.5
Staff Assistant II	110,796	2.0	110,796	2.0		2.0	110,796	2.0	114,448	2.0
<b>Continuation Salary Subtotal</b>	<b>625,440</b>	<b>7.5</b>	<b>631,685</b>	<b>7.5</b>	<b>805,230</b>	<b>8.4</b>	<b>699,241</b>	<b>8.4</b>	<b>735,186</b>	<b>8.5</b>
<b>Other Personal Services</b>										
PERA on Continuation Subtotal	45,242		64,221				69,490		75,738	
Medicare on Continuation Subtotal	8,663		9,060				9,822		10,455	
Contractual Services	15,129		31,749							
Termination/Retirement Payouts			13,668							
<b>Personal Services Subtotal</b>	<b>694,474</b>	<b>7.5</b>	<b>750,382</b>	<b>7.5</b>	<b>805,230</b>	<b>8.4</b>	<b>778,553</b>	<b>8.4</b>	<b>821,379</b>	<b>8.5</b>
<b>Pots Expenditures</b>										
Health/Life/Dental	80,225		92,555		99,113		110,483		112,699	
Short Term Disability	1,103		1,103		1,230		1,224		1,427	
Salary Survey					12,817		4,621		10,518	
Performance Based Pay (non-add)					10,408		16,558		11,369	
AED	16,364		20,051		23,089		25,037		29,230	
SAED	13,062		17,154		20,771		22,532		27,329	
<b>Personal Services Total Detail</b>	<b>805,228</b>	<b>7.5</b>	<b>881,245</b>	<b>7.5</b>	<b>972,658</b>	<b>8.4</b>	<b>959,008</b>	<b>8.4</b>	<b>1,013,952</b>	<b>8.5</b>



**SCHEDULE 3 - Program Detail**

ITEM	Actual FY 2011-2012		Actual FY 2012-13		Appropriated FY 2013-14		Estimated FY 2013-14		Request FY 2014-15	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>Personal Services Reconciliation Authorization</b>										
Long Bill Request	706,089	7.5	706,089	7.5	805,230	8.4		8.4		8.5
Supplemental PERA Reduction SB11-076	(15,385)									
Health/Life/Dental	80,682		92,641		99,113					
Short Term Disability	1,089		1,089		1,230					
Salary Survey					12,817					
Anniversary/Merit Pay					10,408					
AED	17,026		19,488		23,089					
SAED	13,590		16,667		20,771					
Transfer In from Leased Space			10,694							
Transfer In from Mandated	2,137									
Transfer In from Conflicts			34,577							
<b>Personal Services Authorization</b>	<b>805,228</b>	<b>7.5</b>	<b>881,245</b>	<b>7.5</b>	<b>972,658</b>	<b>8.4</b>	<b>0</b>	<b>8.4</b>	<b>0</b>	<b>8.5</b>
<b>General Fund</b>	<b>805,228</b>		<b>881,245</b>		<b>972,658</b>		<b>959,008</b>		<b>1,013,952</b>	
Cash Funds										
<b><u>Operating Expenses/Capital Outlay</u></b>										
1920 Personal Svcs - Professional			315							
2231 IT Hardware Maintenance & Repair Services	10,100		12,005						12,551	
2232 IT Software Maintenance Upgrade	3,000		3,000						3,136	
2253 Rental Of Equipment	2,879		2,497						2,610	
2512 In-State Pers Travel Per Diem	1,839		3,365						3,518	
2513 In-State Pers Vehicle Reimbsmt	2,635		2,192						2,621	
2522 Is/Non-Empl - Pers Per Diem	232		205						214	

**SCHEDULE 3 - Program Detail**

ITEM	Actual FY 2011-2012		Actual FY 2012-13		Appropriated FY 2013-14		Estimated FY 2013-14		Request FY 2014-15	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
2523 Is/Non-Empl - Pers Veh Reimb	506		212						222	
2531 Os Common Carrier Fares	2,474		950						993	
2532 Os Personal Travel Per Diem	2,845		1,227						1,283	
2541 Os Non-Empl- Common Carrier	511									
2631 Comm Svcs From Outside Sources	9,672		9,307						9,730	
2680 Printing/Reproduction Services			1,335						1,395	
2820 Other Purchase Services	450		913						955	
2831 Storage - Pur Services	110		130						136	
3110 Other Supplies & Materials	6		253						265	
3115 Data Processing Supplies	45		113						118	
3116 Noncap It - Purchased Pc Sw	2,075		2,015						2,107	
3118 Food And Food Serv Supplies	160		337						352	
3120 Books/Periodicals/Subscrip	728		819						856	
3121 Office Supplies	3,513		3,384						3,538	
3123 Postage	5,708		5,916						6,185	
3124 Printing/Copy Supplies	4,423		2,378						2,486	
3126 Repair & Maint Supplies			488						510	
3128 Noncapitalized Equipment	2,852		2,743						2,867	
3132 Noncap Office Furn/Office Syst			3,287						3,436	
3140 Noncapitalized PC - (Individual Items Under \$5,000)	6,280		2,933						3,066	
3141 Noncapitalized IT - Server (Individual Items Under \$5,000)	2,307									
3143 Noncapitalized IT - Other Items Under \$5,000)	185		150						157	
3146 Noncap IT - Purch Server SW	879									

**SCHEDULE 3 - Program Detail**

ITEM	Actual FY 2011-2012		Actual FY 2012-13		Appropriated FY 2013-14		Estimated FY 2013-14		Request FY 2014-15	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
3147 Noncap IT - Purchased Network SW	368									
4140 Dues And Memberships	2,629		3,444						3,601	
4220 Registration Fees	1,515		289						302	
<b>Operating Expenses Total Detail</b>	<b>71,316</b>	<b>0.0</b>	<b>66,201</b>	<b>0.0</b>	<b>69,210</b>	<b>0.0</b>	<b>69,210</b>	<b>0.0</b>	<b>69,210</b>	<b>0.0</b>
<b><u>Reconciliation</u></b>										
Long Bill Appropriation	67,030		67,030		69,210		69,210		69,210	
Transfer from Leased Space	3,168									
Transfer to/from Mandated	2,203									
Transfer to/from Conflicts			(829)							
Reversion	(1,085)									
<b>Operating Costs Authorization</b>	<b>71,316</b>	<b>0.0</b>	<b>66,201</b>	<b>0.0</b>	<b>69,210</b>	<b>0.0</b>	<b>69,210</b>	<b>0.0</b>	<b>69,210</b>	<b>0.0</b>
General Fund	71,316		66,201		69,210		69,210		69,210	
Cash Funds										
<b><u>Leased Space</u></b>										
Leased Space	32,345		25,186				0		0	
<b>Leased Space Total Detail</b>	<b>32,345</b>	<b>0.0</b>	<b>25,186</b>	<b>0.0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0.0</b>
<b><u>Reconciliation</u></b>										
Long Bill Appropriations	40,544		35,880							
<i>FY2012 Supplemental HB12-1187</i>	(4,664)									
Transfer to/from Operating	(3,168)									
Transfer to/from Training	(367)									
Transfer to/from Personal Services			(10,694)							
<b>Leased Space Authorization</b>	<b>32,345</b>	<b>0.0</b>	<b>25,186</b>	<b>0.0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0.0</b>
General Fund	32,345		25,186				0		0	
Cash Funds										
<b><u>Training/Conference</u></b>										
Training Conference	40,367		40,549		40,000		40,000		60,000	
<b>Training/Conference Detail</b>	<b>40,367</b>	<b>0.0</b>	<b>40,549</b>	<b>0.0</b>	<b>40,000</b>	<b>0.0</b>	<b>40,000</b>	<b>0.0</b>	<b>60,000</b>	<b>0.0</b>

**SCHEDULE 3 - Program Detail**

ITEM	Actual FY 2011-2012		Actual FY 2012-13		Appropriated FY 2013-14		Estimated FY 2013-14		Request FY 2014-15	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b><u>Reconciliation</u></b>										
Long Bill Appropriations	40,000		40,000		40,000		40,000		40,000	
<b><i>FY2015 Decision Item</i></b>										
DI#3 - Increase Training Cash Funds Spending Authority									20,000	
Transfer to/from Lease	367									
Transfer to/from Conflicts			549							
<b>Training/Conference Authorized</b>	<b>40,367</b>	<b>0.0</b>	<b>40,549</b>	<b>0.0</b>	<b>40,000</b>	<b>0.0</b>	<b>40,000</b>	<b>0.0</b>	<b>60,000</b>	<b>0.0</b>
<b>General Fund</b>	<b>20,367</b>		<b>20,549</b>		<b>20,000</b>		<b>20,000</b>		<b>20,000</b>	
Cash Funds	20,000		20,000		20,000		20,000		40,000	
<b><u>Conflict of Interest Contracts</u></b>										
Conflict of Interest Contracts	19,767,979		19,882,661		20,234,616		20,234,616		26,238,149	
<b>Conflict of Interest Total Detail</b>	<b>19,767,979</b>	<b>0.0</b>	<b>19,882,661</b>	<b>0.0</b>	<b>20,234,616</b>	<b>0.0</b>	<b>20,234,616</b>	<b>0.0</b>	<b>26,238,149</b>	<b>0.0</b>
<b><u>Reconciliation</u></b>										
Long Bill Appropriations	20,692,161		20,001,448		20,234,616		20,234,616		20,234,616	
<b><i>FY2012 Supplemental HB12-1335 Add-On</i></b>	<b>(851,147)</b>									
<b><i>FY2014 Decision Items</i></b>										
Transfer to/ from Personal Services			(34,577)							
Transfer to/ from Operating			280							
Transfer to/ from Mandated			(84,490)							
<b><i>FY2015 Decision Items</i></b>										
DI #1 Case Load Increase									2,443,547	
DI #2 Attorney /Investigator/ Paralegal Hourly Rate Increase									3,559,986	
Reversion	(73,035)									
<b>Conflict of Interest Authorization</b>	<b>19,767,979</b>	<b>0.0</b>	<b>19,882,661</b>	<b>0.0</b>	<b>20,234,616</b>	<b>0.0</b>	<b>20,234,616</b>	<b>0.0</b>	<b>26,238,149</b>	<b>0.0</b>
<b>General Fund</b>	<b>19,767,979</b>		<b>19,882,661</b>		<b>20,234,616</b>		<b>20,234,616</b>		<b>26,238,149</b>	
Cash Funds										

**SCHEDULE 3 - Program Detail**

ITEM	Actual FY 2011-2012		Actual FY 2012-13		Appropriated FY 2013-14		Estimated FY 2013-14		Request FY 2014-15	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b><u>Mandated Costs</u></b>										
Mandated Costs	1,469,944		1,764,604		1,580,114		1,580,114		2,012,707	
<b>Mandated Costs Total Detail</b>	<b>1,469,944</b>	<b>0.0</b>	<b>1,764,604</b>	<b>0.0</b>	<b>1,580,114</b>	<b>0.0</b>	<b>1,580,114</b>	<b>0.0</b>	<b>2,012,707</b>	<b>0.0</b>
<b><u>Reconciliation</u></b>										
Long Bill Appropriations	1,589,848		1,580,114		1,580,114		1,580,114		1,580,114	
<b><i>FY2015 Decision Items</i></b>										
DI #1 Case Load Increase									432,593	
Transfer to/from Operating	(2,203)									
Transfer to/from Conflict of Interest			84,490							
Transfer to/from Personal Services	(2,137)									
Transfer from PDs (as allowed per C.R.S. 24-75-110)			100,000							
Reversion	(93,156)									
<b>Mandated Costs Authorization</b>	<b>1,469,944</b>	<b>0.0</b>	<b>1,764,604</b>	<b>0.0</b>	<b>1,580,114</b>	<b>0.0</b>	<b>1,580,114</b>	<b>0.0</b>	<b>2,012,707</b>	<b>0.0</b>
General Fund	1,469,944		1,764,604		1,580,114		1,580,114		2,012,707	
Cash Funds										
<b><u>Long Bill Group/Division Total</u></b>										
<b>Grand Total - with Pots</b>	<b>22,187,179</b>	<b>7.5</b>	<b>22,660,445</b>	<b>7.5</b>	<b>22,896,598</b>	<b>8.4</b>	<b>22,882,948</b>	<b>8.4</b>	<b>29,394,018</b>	<b>8.5</b>
General Fund	22,167,179	7.5	22,640,446	7.5	22,876,598	8.4	22,862,948	8.4	29,354,018	8.5
Cash Funds	20,000	0.0	20,000	0.0	20,000	0.0	20,000	0.0	40,000	0.0

**Schedule 5 - Line Item to Statute  
Judicial Branch  
Office of the Alternate Defense Counsel  
FY 2014-2015 Budget Request  
November 1, 2013**

Line Item Name	Line Item Description	Programs Supported by Line Item	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 Amortization Equalization Disbursement	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>
<b>This Long Bill Group funds the total program of the Office of the Alternate Defense Counsel.</b>			

## Schedule 7

Summary of Supplemental Bills Judicial Branch Office of the Alternate Defense Counsel FY 2014-2015 Budget Request November 1, 2013								
Bill Number	Line Item	FTE	Total Funds	GF	GFE	CF	CFE	FF
<b>Appropriation FY 2013-14</b>	N/A		0	0				
	<b>Total as of November 1, 2013</b>	<b>0.0</b>	<b>0</b>	<b>0</b>				
<b>Actual FY 2012-13</b>	N/A		0	0				
	<b>Total FY2012-13</b>	<b>0.0</b>	<b>0</b>	<b>0</b>				
<b>Actual FY 2011-12</b> SB11-076 Supplemental HB12-1187 Supplemental HB12-1335 Supplemental	Personal Services		(15,385)	(15,385)				
	Leased Space		(4,664)	(4,664)				
	Conflict Contracts		(851,147)	(851,147)				
	Mandated		(22,408)	(22,408)				
	<b>Total FY2011-12</b>	<b>0.0</b>	<b>(893,604)</b>	<b>(893,604)</b>				
<b>Actual FY 2010-11</b> SB11-209 Supplemental	Conflict Contracts		(2,194,046)	(2,194,046)				
	Mandated		(86,665)	(86,665)				
	<b>Total FY2010-11</b>	<b>0.0</b>	<b>(2,280,711)</b>	<b>(2,280,711)</b>				
<b>Actual FY 2009-10</b>	N/A							
	<b>Total FY2009-10</b>	<b>0.0</b>						
<b>Actual FY 2008-09</b> SB09-190	Conflict Contracts		(49,064)	(49,064)				
	<b>Total FY2008-09</b>	<b>0.0</b>	<b>(49,064)</b>	<b>(49,064)</b>				
<b>Actual FY 2007-08</b>	N/A							
	<b>Total FY2007-08</b>	<b>0.0</b>						

## Schedule 8

Common Policy Summary Judicial Branch Office of the Alternate Defense Counsel FY 2014-2015 Budget Request						
<b>PERA Employer Share</b>		<b>Total Funds</b>	<b>GF</b>	<b>CF</b>	<b>CFE</b>	<b>FF</b>
Actual Total FY2011-2012 ( 7.65% )		\$45,242	\$45,242			
Appropriation FY2012-2013 ( 10.15% )		\$62,464	\$62,464			
Appropriation FY2013-2014 ( 10.15% )		\$69,490	\$69,490			
Request Total FY2014-2015 ( 10.15% )		\$75,738	\$75,738			
<b>Health/Dental/Life</b>		<b>Total Funds</b>	<b>GF</b>	<b>CF</b>	<b>CFE</b>	<b>FF</b>
Actual Total FY2011-2012		\$80,682	\$80,682			
Appropriation FY2012-2013		\$92,641	\$92,641			
Appropriation FY2013-2014		\$110,483	\$110,483			
Request Total FY2014-2015		\$112,699	\$112,699			
<b>Short Term Disability</b>		<b>Total Funds</b>	<b>GF</b>	<b>CF</b>	<b>CFE</b>	<b>FF</b>
Actual Total FY2011-2012		\$1,089	\$1,089			
Appropriation FY2012-2013		\$1,089	\$1,089			
Appropriation FY2013-2014		\$1,224	\$1,224			
Request Total FY2014-2015		\$1,427	\$1,427			
<b>Salary Survey</b>		<b>Total Funds</b>	<b>GF</b>	<b>CF</b>	<b>CFE</b>	<b>FF</b>
Actual Total FY2011-2012		\$0	\$0			
Appropriation FY2012-2013		\$0	\$0			
Appropriation FY2013-2014		\$4,621	\$4,621			
Request Total FY2014-2015		\$10,518	\$10,518			
<b>Performance Pay</b>		<b>Total Funds</b>	<b>GF</b>	<b>CF</b>	<b>CFE</b>	<b>FF</b>
Actual Total FY2011-2012		\$0	\$0			
Appropriation FY2012-2013		\$0	\$0			
Appropriation FY2013-2014		\$16,558	\$16,558			
Request Total FY2014-2015		\$11,369	\$11,369			
<b>Leased Space</b>		<b>Total Funds</b>	<b>GF</b>	<b>CF</b>	<b>CFE</b>	<b>FF</b>
Actual Total FY2011-2012		\$32,345	\$32,345			
Appropriation FY2012-2013		\$35,880	\$35,880			
Appropriation FY2013-2014		\$0	\$0			
Request Total FY2014-2015		\$0	\$0			



**Overview of Salary Adjustments, STD, AED, SAED  
Request FY14-15**

Program	Base Salaries	FTE	Salary Adjustment	Merit Pay	PERA 10.15%	Medicare 1.45%	Total Adjustment	Total FY14 Salaries	AED 3.97%	SAED 3.71%	STD 0.19%
Office of the Alternate Defense Counsel	735,186	8.5	7,118 <sub>1</sub>	7,694 <sub>1</sub>	75,738	10,455	86,193	821,379	29,230	27,329	1,427

<b>TOTAL GENERAL FUND</b>	<b>735,186</b>	<b>8.5</b>	<b>7,118<sub>1</sub></b>	<b>7,694<sub>1</sub></b>	<b>75,738</b>	<b>10,455</b>	<b>86,193</b>	<b>821,379</b>	<b>29,230</b>	<b>27,329</b>	<b>1,427</b>
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<sup>1</sup> 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 FY14-15**

State Employees	FTE	June 30 Base Salary \$	Salary Adjustment	PERA 10.15%	Medicare 1.45%	AED 3.97%	SAED 3.71%	STD .19%	Total Salary Adjustments
Alternate Defense Counsel Director	1	\$132,842	\$ 3,985.26	\$405	\$58	\$158	\$148	\$8	\$4,761
Alternate Defense Counsel Deputy Director	1	\$127,127	\$ 3,813.82	\$387	\$55	\$151	\$141	\$7	\$4,556
Coordinator of Legal Research & Technology	1	\$100,426	\$ 3,012.77	\$306	\$44	\$120	\$112	\$6	\$3,599
Eval/Training Director	1	\$100,137	\$ 3,004.11	\$305	\$44	\$119	\$111	\$6	\$3,589
Controller/Budget Analyst	1	\$76,435	\$ 2,293.05	\$233	\$33	\$91	\$85	\$4	\$2,740
Appellate Post-Conviction Coordinator	1	\$62,698	\$ 1,880.94	\$191	\$27	\$75	\$70	\$4	\$2,247
Staff Assistant II	2	\$114,448	\$ 3,433.44	\$348	\$50	\$136	\$127	\$7	\$4,102
Staff Support	0.5	\$21,073	\$ 632.20	\$64	\$9	\$25	\$23	\$1	\$755
<b>Total Office of Alternate Defense Counsel</b>	<b>8.5</b>	<b>\$735,186</b>	<b>\$ 22,055.59</b>	<b>\$2,239</b>	<b>\$320</b>	<b>\$876</b>	<b>\$818</b>	<b>\$42</b>	<b>\$ 26,349.81</b>

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