



Office of the

Alternate Defense



counsel

**FISCAL YEAR 2021-2022
BUDGET REQUEST**

November 1, 2020

Lindy Frolich, Director

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Table of Contents

Executive Letter	1
Budget Summary	
Budget Summary Narrative	5
Budget Change Summary, by Fund Source	6
FY2021-22 Reconciliation of Agency Request	7
Agency Overview	
Organizational Chart	9
Background	11
Statutory Mandated/Directive	11
Mission	11
Vision	11
Total Caseload and Case Type Data	12
Decision Item(s)	
DI 1 # R-1 : Caseload Decrease	29
Schedules	
Schedule 2	31
Schedule 3	32
Schedule 5	38
Schedule 7	39
Schedule 10	40
POTS Template and Summary	41
Appendix A - Caseload Totals by District and Colorado Judicial Districts Map	43
Appendix B - Prior Year Legislation, Hot Topics, and Cases that May Affect OADC	49
Appendix C - Agency Objectives and Performance Measures	63
Appendix D - Long Range Financial Plan	76

November 1, 2020

To the Citizens and Legislators of the State of Colorado:

The Office of the Alternate Defense Counsel (OADC) was created in 1996 to provide qualified defense counsel for indigent defendants and juveniles where the Office of the State Public Defender (OSPD) has a conflict of interest. On March 13, 2020, we closed our administrative office due to COVID-19, and it has remained closed since then. While it was not difficult to transform our 16-member administrative office to a work-from-home group, our contractors out in the field have continued to do the best job they can to represent the indigent defendants and juveniles to which they are appointed.

The following table shows changes in the OADC's caseload since FY12, corresponding expenditures, and increase in transactions processed.

	FY12 Actual	FY13 Actual	FY14 Actual	FY15* Actual	FY16 Actual	FY17 Actual	FY18 Actual	FY19** Actual	FY20 Actual	FY12 to FY19 % change
Caseload	12,585	13,290	15,085	16,680	18,244	20,103	22,638	25,022	24,085	91.38%
Caseload % change	5.95%	5.60%	13.51%	10.57%	9.38%	10.19%	12.61%	10.53%	-3.74%	
Expenditures	\$ 22,187,179	\$ 22,660,445	\$ 25,453,717	\$29,694,094	\$30,037,642	\$32,935,253	\$35,367,129	\$39,698,549	\$39,471,286	77.90%
Expenditures % change	8.25%	2.13%	12.33%	16.66%	1.16%	9.65%	7.38%	12.25%	-0.57%	
Transactions	43,327	46,144	53,440	59,057	64,997	72,753	98,891	121,981	137,050	216.32%
Transactions % change	9.03%	6.50%	15.81%	10.51%	10.06%	11.93%	35.93%	23.35%	12.35%	
Average Case Transactions	3.44	3.47	3.54	3.54	3.56	3.62	4.37	4.87	5.69	65.3%

*In FY15, there was an 8% rate increase for attorney contractors, a 14% increase for investigators, and a 20% increase for Paralegals, resulting in a disproportionate increase in expenditures for that year.

**In FY19, there was an 6.7% rate increase for attorney contractors, a 7% increase for investigators, and a 10% increase for Paralegals, resulting in a disproportionate increase in expenditures for that year.

As this table shows, the number of cases handled by the Agency in any fiscal year is unpredictable, although interestingly, in the past five years, the Agency's caseload has increased by approximately 10% each year, followed by a decline in cases in FY20, which we believe is primarily related to COVID-19.

The following chart shows our Long Bill appropriation together with any supplemental budget appropriation, as well as figure-setting decreases and year-end transfers. It also shows the year-end reversion to the General Fund, which was quite significant in FY20, likely due to COVID-19.

	FY15	FY16	FY17	FY18	FY19	FY20
Long Bill	\$ 29,645,966	\$ 30,062,991	\$ 31,403,173	\$ 31,738,129	\$ 42,020,721	\$ 48,139,361
Supplemental	\$ 75,116	\$ 1,513,302	\$ 620,334	\$ 3,655,200	\$ 3,861,102	\$ 30,617
Add-On					\$ (2,198,408)	\$ (2,225,997)
Expenditures	\$ 30,359,185	\$ 31,562,890	\$ 32,932,573	\$ 35,367,129	\$ 39,698,549	\$ 39,471,286
Transfers	\$ 640,000		\$ 911,747			\$ (1,000,000)
Reversion	\$ 1,897	\$ 13,403	\$ 2,681	\$ 26,200	\$ 3,984,866	\$ 5,472,695

Appendix A has two pie charts; one shows the distribution of cases by Judicial District and the other breaks down the OADC’s Conflict-of-interest Contracts and Mandated Costs Expenditures by Judicial District. A state map with the number of cases by Judicial District is also included. Although the OADC cannot control or influence the *number* of cases, the OADC has successfully contained the biggest cost-driver, the number of attorney hours spent on each case. In fact, the average number of attorney hours per case has steadily decreased, as has the average cost per case, apart from a slight increase in the average cost per case in FY19 and FY20, and an insignificant increase in the average number of attorney hours per case in FY20.

Contain Case Cost		FY14 Actual	FY15* Actual	FY16 Actual	FY17 Actual	FY18 Actual	FY19** Actual	FY20 Actual	FY21 Budget	FY22 Request	FY14 to FY20 % change
Contain the total number of Attorney hours per case. Includes all case type hours.	Target	19.64	19.64	19.64	19.64	15.27	15.27	14.33	13.75	13.79	-23.0%
	Actual	17.91	16.57	15.91	15.27	14.33	13.75	13.79			
	% change	-0.2%	-7.5%	-4.0%	-4.0%	-6.2%	-4.0%	0.3%			
Average Cost per Case	Target	n/a	n/a	n/a	\$1,581	\$1,523	\$1,523	\$1,456	\$1,474	\$1,498	-6.1%
	Actual	\$1,596	\$1,722	\$1,581	\$1,523	\$1,456	\$1,474	\$1,498			
	% change	0.2%	7.9%	-8.2%	-3.7%	-4.4%	1.2%	1.6%			

**In FY15, there was an 8% rate increase for attorney contractors, a 14% increase for Investigators, and a 20% increase for Paralegals, resulting in a disproportionate increase in expenditures for that year.*

***In FY19, there was an 6.7% rate increase for attorney contractors, a 7% increase for Investigators, and a 10% increase for Paralegals, resulting in a disproportionate increase in expenditures for that year.*

For the last several years, my letter to you and our budget have focused on various or OADC innovations that support our contractors in the field, in order to keep the above-displayed numbers as low as possible. Because the primary focus of the last eight months has been on representing clients in need in the midst of a pandemic, this year’s budget is focused on that instead.

We have created the following tools to assist our contractors out in the field:

1. A Pandemic Litigation Task Force readily available to consult with and provide resources to contractors;
2. A COVID-19 Resources tab on our website: <https://www.coloradoadc.org/public-information/covid-19-resources>;
3. COVID-19 Updates by Judicial District;
4. Regularly updated Department of Corrections, Jail, and Juvenile Facility Visitation information on our website;
5. A Racial Justice Resources tab on our website: <https://www.coloradoadc.org/public-information/racial-justice-resources>;
6. A COVID-19 specific section in our eLibrary;
7. Investment in a new Learning Management System that has enabled us to provide high-quality virtual training to contractors throughout the state;
8. Frequent roundtables and town hall meetings to discuss issues surrounding litigation and practice during COVID-19 in appellate, post-conviction, trial, and municipal courts. Attendance at these roundtables has been great, and feedback has been overwhelmingly positive;
9. The juvenile coordinator and social work coordinators have created monthly, virtual Juvenile Roundtables to gather and share information regarding COVID in connection with juvenile defense work;
10. The social work program has created an additional opportunity for FSW/FCA contractors to connect with the Social Worker coordinators for additional support and guidance each week during designated, virtual “office hours.”

We also disseminate information as quickly as we can to our contractors by way of a general “Daily Update” and also with specific Juvenile Division updates. Early in the pandemic and for several weeks thereafter, because of the volume and speed of information about court operations, facility visitation, and the pandemic itself, updates literally went out every day. In recent weeks, the “Daily Update” has become a weekly update but still serves as an effective way to get pertinent and time-sensitive information to our contractors.

Our contractors’ responses to our many efforts since the onset of the pandemic have been very positive:

- The materials I received [from the Pandemic Litigation Task Force] were very helpful and very much appreciated. Having those supports is so reassuring, thank you.
- [The Pandemic Litigation Task Force] researchers are doing an incredible job, and they are quick!
- The motions and information I received [from the Pandemic Litigation Task Force] were incredible. I wish I could have done that myself. Totally impressed.
- Thank you for helping [with visitation at a county jail]! It is particularly pertinent since we (were) possibly on the cusp of a COVID outbreak at our jail.
- We have had a very short timeframe in which to address a number of issues in our case and the task force has been willing and available at all hours to help. They have provided a wealth of useful materials, been willing to do legal research on novel issues with a very quick turnaround, and have been very supportive – something we really need in these very stressful times. We will make sure to provide our materials back to the task force so no one has to reinvent the wheel.

- The daily update emails have meant a lot during this crazy time. Good to have the info, of course, but also good to feel some togetherness and camaraderie in our isolation.
- As I think we all are, I am obsessively worrying about my clients, inmates, indigent communities, okay, essentially everyone! I don't think you can fathom how helpful and supportive ADC and your daily updates are to motivate and assuage all during these difficult times.
- I'm thankful that...there's a legal researcher or case assistant at the ready to help save me time and energy when I'm maxed out.
- I am writing to thank you and to let you know that the work that [your researcher] has done with respect to guidance and drafting a response to the DA's motions to continue due to COVID-19 and blanket demands for waivers of speedy trial has been invaluable. Her work is excellent and has really been helpful.
- And a HUGE thank you to all of you for supporting and enabling us to do the work we love for the people we care about. The OADC has been a gift to me. To a person, you are the best of the best!!! Thank you all for everything you do every day to help to make our small piece of earth a better place.

These are just a few examples of the email feedback we received. As we enter the ninth month of the COVID-19 pandemic, we continue to expand services to our contractors to keep them safe while effectively representing their clients. At the same time, we continue to dedicate ourselves to keeping costs down through efficient management practices and procedures and fulfilling our constitutional mandate of providing effective representation to indigent individuals in juvenile and adult court. We are hopeful that in FY2021-22 we can finally turn our focus away from COVID-19 and focus solely on the latter.

Sincerely,



Lindy Frolich

BUDGET SUMMARY NARRATIVE

The total FY 2021-22 budget request for the Office of the Alternate Defense Counsel is \$47,645,395 and 16.0 FTE.

FY 2020-21 Appropriation \$ 52,067,382

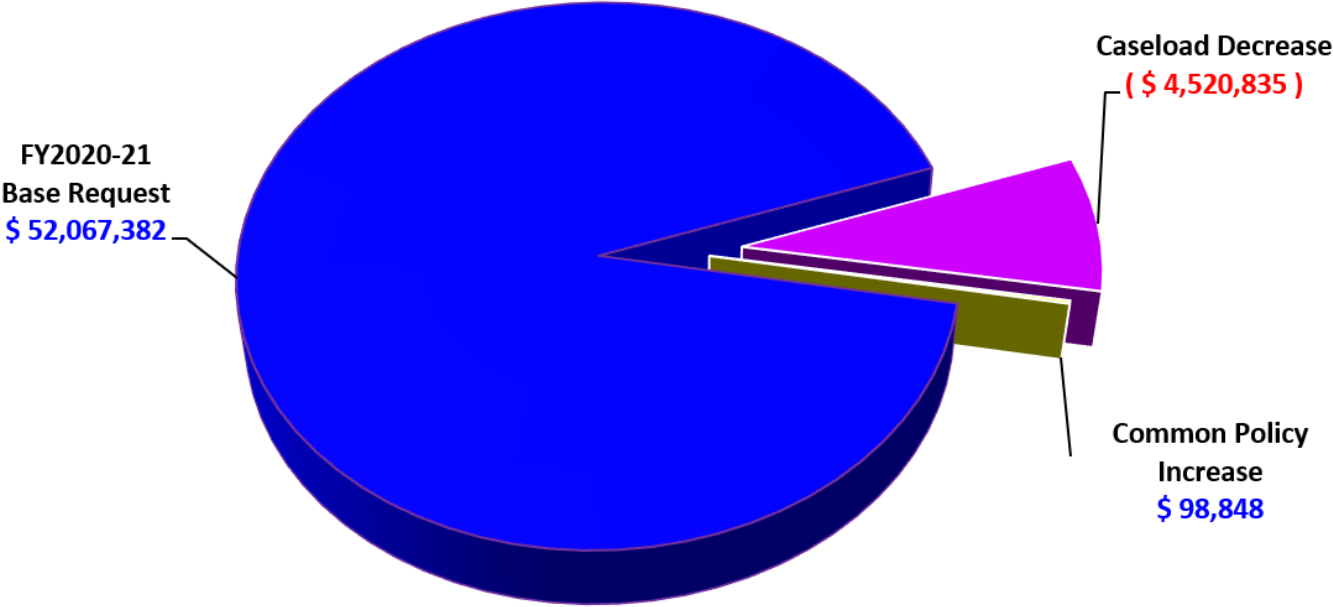
PLUS Common Policy Adjustments \$98,848

FY 2021-22 Base Request of \$ 52,166,230

PLUS DI 1 – Change Request – OADC Caseload GF **Decrease** of \$4,520,835

FY 2021-22 Budget Request of \$ 47,645,395

FY 2021-22 Budget Request



The Office of the Alternate Defense Counsel
FY 2021-22 Budget Change Summary - by Fund Source

	FTE	Total	GF	CF
Long and Special Bill				
HB 20-1360 Office of the Alternate Defense Counsel	16.0	\$52,067,382	\$51,987,382	\$80,000
Total FY2020-21 Appropriation	16.0	\$52,067,382	\$51,987,382	\$80,000
Common Policy Adjustments				
PERA Annualization FY21 SB19-200	0.0	\$9,024	\$9,024	\$0
Health Life Dental	0.0	\$102,375	\$102,375	\$0
Short Term Disability	0.0	(\$151)	(\$151)	\$0
AED	0.0	(\$6,200)	(\$6,200)	\$0
SAED	0.0	(\$6,200)	(\$6,200)	\$0
Total Common Policy Adjustments	0.0	\$98,848	\$98,848	\$0
Total FY 2021-22 Base Request	16.0	\$52,166,230	\$52,086,230	\$80,000
Budget Change Requests				
DI # R-1 Caseload Decrease (FY22) - Conflicts of Interest Contracts	0.0	(\$4,230,957)	(\$4,230,957)	\$0
DI # R-1 Caseload Decrease (FY22) - Mandated Costs	0.0	(\$289,878)	(\$289,878)	\$0
Total Decision Items/Budget Amendments	0.0	(\$4,520,835)	(\$4,520,835)	\$0
Total FY 2021-22 Budget Request	16.0	\$47,645,395	\$47,565,395	\$80,000
Change from FY 2020-21	0.0	(\$4,421,987)	(\$4,421,987)	\$0
% Change from FY 2020-21	0.0%	-8.5%	-8.5%	0.0%

Office of the Alternate Defense Counsel
 FY2021-22 RECONCILIATION OF AGENCY REQUEST

Long Bill Line Items	Total Funds	FTE	General Funds (GF)	Cash Funds (CF)
Personal Services				
FY 2020-21 Long Bill Appropriation, HB 20-1360	\$ 1,661,623	14.0	\$ 1,661,623	\$ -
FY 2020-21 Total Appropriation	\$ 1,661,623		\$ 1,661,623	\$ -
PERA Annualization FY21 SB19-200	\$ 9,024		\$ 9,024	\$ -
FY 2021-22 Base Request	\$ 1,670,647	14.0	\$ 1,670,647	\$ -
FY 2021-22 November 01 Request	\$ 1,670,647	14.0	\$ 1,670,647	\$ -
Health Life and Dental (HLD)				
FY 2020-21 Long Bill Appropriation, HB 20-1360	\$ 124,336	-	\$ 124,336	\$ -
FY 2020-21 Total Appropriation	\$ 124,336		\$ 124,336	\$ -
Total Compensation Common Policy (incremental change)	\$ 102,375	-	\$ 102,375	\$ -
FY 2021-22 Base Request	\$ 226,711	-	\$ 226,711	\$ -
FY 2021-22 November 01 Request	\$ 226,711	-	\$ 226,711	\$ -
Short Term Disability (STD)				
FY 2020-21 Long Bill Appropriation, HB 20-1360	\$ 2,773	-	\$ 2,773	\$ -
FY 2020-21 Total Appropriation	\$ 2,773		\$ 2,773	\$ -
Total Compensation Common Policy (incremental change)	\$ (151)	-	\$ (151)	\$ -
FY 2021-22 Base Request	\$ 2,622	-	\$ 2,622	\$ -
FY 2021-22 November 01 Request	\$ 2,622	-	\$ 2,622	\$ -
S.B 04-257 Amortization Equalization Disbursement (AED)				
FY 2020-21 Long Bill Appropriation, HB 20-1360	\$ 88,118	-	\$ 88,118	\$ -
FY 2020-21 Total Appropriation	\$ 88,118		\$ 88,118	\$ -
Total Compensation Common Policy (incremental change)	\$ (6,200)	-	\$ (6,200)	\$ -
FY 2021-22 Base Request	\$ 81,918	-	\$ 81,918	\$ -
FY 2021-22 November 01 Request	\$ 81,918	-	\$ 81,918	\$ -
S.B. 06-235 Supplemental Amortization Equalization Disbursement (SAED)				
FY 2020-21 Long Bill Appropriation, HB 20-1360	\$ 88,118	-	\$ 88,118	\$ -
FY 2020-21 Total Appropriation	\$ 88,118		\$ 88,118	\$ -
Total Compensation Common Policy (incremental change)	\$ (6,200)	-	\$ (6,200)	\$ -
FY 2021-22 Base Request	\$ 81,918	-	\$ 81,918	\$ -
FY 2021-22 November 01 Request	\$ 81,918	-	\$ 81,918	\$ -
Operating Expenses				
FY 2020-21 Long Bill Appropriation, HB 20-1360	\$ 120,887	-	\$ 120,887	\$ -
FY 2020-21 Total Appropriation	\$ 120,887		\$ 120,887	\$ -
FY 2021-22 Base Request	\$ 120,887	-	\$ 120,887	\$ -
FY 2021-22 November 01 Request	\$ 120,887	-	\$ 120,887	\$ -

Office of the Alternate Defense Counsel
 FY2021-22 RECONCILIATION OF AGENCY REQUEST

Long Bill Line Items	Total Funds	FTE	General Funds (GF)	Cash Funds (CF)
Training and Conferences				
FY 2020-21 Long Bill Appropriation, HB 20-1360	\$ 100,000	-	\$ 20,000	\$ 80,000
FY 2020-21 Total Appropriation	\$ 100,000		\$ 20,000	\$ 80,000
FY 2021-22 Base Request	\$ 100,000	-	\$ 20,000	\$ 80,000
FY 2021-22 November 01 Request	\$ 100,000	-	\$ 20,000	\$ 80,000
Conflict-of-interest Contracts				
FY 2020-21 Long Bill Appropriation, HB 20-1360	\$ 46,493,770	-	\$ 46,493,770	\$ -
FY 2020-21 Total Appropriation	\$ 46,493,770		\$ 46,493,770	\$ -
FY 2021-22 Base Request	\$ 46,493,770	-	\$ 46,493,770	\$ -
Reversion	\$ -	-	\$ -	\$ -
DI # R-1 Caseload Decrease (FY22)	\$ (4,230,957)		\$ (4,230,957)	\$ -
FY 2021-22 November 01 Request	\$ 42,262,813	-	\$ 42,262,813	\$ -
Municipal Court Program				
FY 2020-21 Municipal Courts, SB 18-203	\$ 202,306	2.0	\$ 202,306	\$ -
FY 2020-21 Total Appropriation	\$ 202,306	2.0	\$ 202,306	\$ -
FY 2021-22 Base Request	\$ 202,306	2.0	\$ 202,306	\$ -
FY 2020-21 Municipal Courts, SB 18-203	\$ -	-	\$ -	\$ -
FY 2021-22 November 01 Request	\$ 202,306	2.00	\$ 202,306	\$ -
Mandated Costs				
FY 2020-21 Long Bill Appropriation, HB 20-1360	\$ 3,185,451	-	\$ 3,185,451	\$ -
FY 2020-21 Total Appropriation	\$ 3,185,451		\$ 3,185,451	\$ -
FY 2021-22 Base Request	\$ 3,185,451	-	\$ 3,185,451	\$ -
Reversion	\$ -	-	\$ -	\$ -
DI # R-1 Caseload Decrease (FY22)	\$ (289,878)	-	\$ (289,878)	\$ -
FY 2021-22 November 01 Request	\$ 2,895,573	-	\$ 2,895,573	\$ -
FY 2020-21 Total Appropriation (Long Bill plus Special Bills)	\$ 52,067,382	16.0	\$ 51,987,382	\$ 80,000
FY 2021-22 Base Request	\$ (4,421,987)	16.0	\$ (4,421,987)	\$ -
FY 2021-22 November 01 Request	\$ 47,645,395	16.0	\$ 47,565,395	\$ 80,000

AGENCY ORGANIZATIONAL CHART

THE OFFICE OF THE ALTERNATE DEFENSE COUNSEL



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THE OFFICE OF THE ALTERNATE DEFENSE COUNSEL

Background

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

The Office of the Alternate Defense Counsel (OADC) was established pursuant to [C.R.S. § 21-2-101, et seq.](#) as an independent governmental Agency of the State of Colorado Judicial Branch. The OADC is funded to provide legal representation for indigent persons in criminal and juvenile delinquency cases in which the 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 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 ensuring 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, evaluation, and the effective use of modern technology and evidence-based best practices.

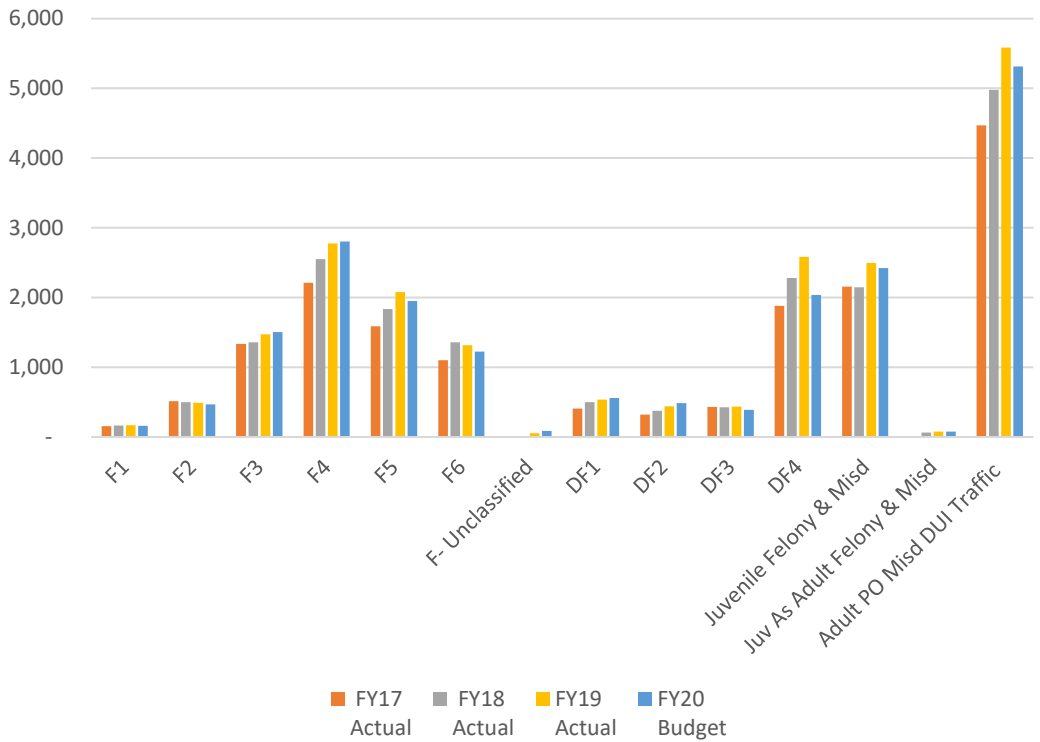
See [Appendix B](#) for Prior Year Legislation, Hot Topics, and Cases that May Affect OADC.

See [Appendix C](#) for the Agency’s Objectives and Performance Measures.

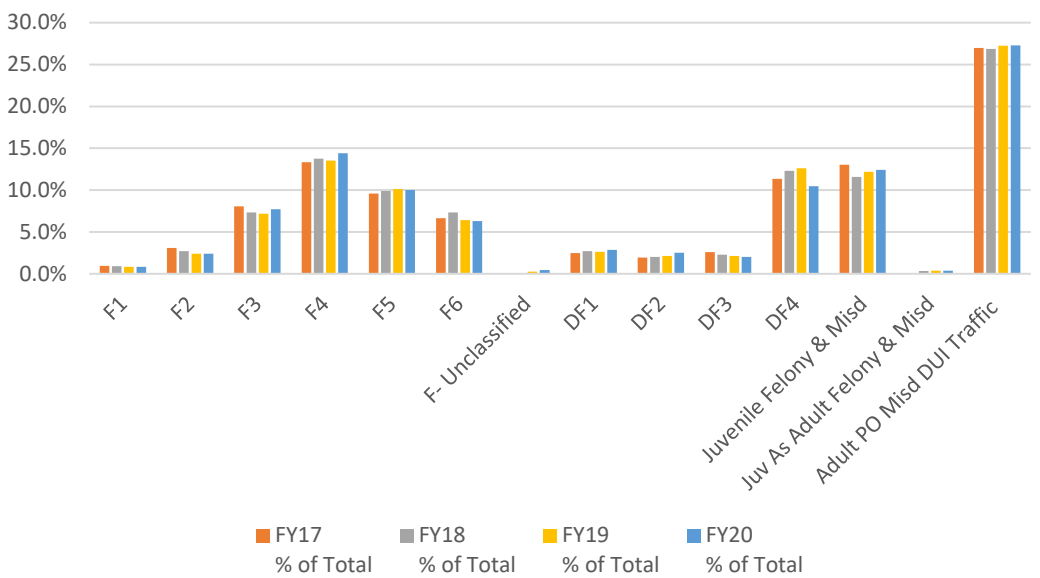
WORKLOAD INDICATORS

Trial Cases	FY17 Actual	FY17 % of Total	FY18 Actual	FY18 % of Total	FY19 Actual	FY19 % of Total	FY20 Actual	FY20 % of Total
<i>F1</i>	156	0.9%	167	0.9%	169	0.8%	162	0.8%
<i>F2</i>	514	3.1%	499	2.7%	489	2.4%	467	2.4%
<i>F3</i>	1,337	8.1%	1,360	7.3%	1,475	7.2%	1,506	7.7%
<i>F4</i>	2,210	13.3%	2,551	13.8%	2,774	13.5%	2,806	14.4%
<i>F5</i>	1,586	9.6%	1,836	9.9%	2,078	10.1%	1,948	10.0%
<i>F6</i>	1,101	6.6%	1,357	7.3%	1,318	6.4%	1,225	6.3%
<i>F- Unclassified</i>			1	0.0%	53	0.3%	86	0.4%
<i>DF1</i>	407	2.5%	498	2.7%	538	2.6%	559	2.9%
<i>DF2</i>	322	1.9%	377	2.0%	441	2.1%	486	2.5%
<i>DF3</i>	429	2.6%	425	2.3%	434	2.1%	390	2.0%
<i>DF4</i>	1,879	11.3%	2,279	12.3%	2,584	12.6%	2,038	10.5%
<i>Juvenile Felony & Misd</i>	2,156	13.0%	2,149	11.6%	2,498	12.2%	2,421	12.4%
<i>Juv As Adult Felony & Misd</i>			65	0.4%	78	0.4%	76	0.4%
<i>Adult PO Misd DUI Traffic</i>	4,468	27.0%	4,981	26.9%	5,586	27.2%	5,314	27.3%
Total	16,565	100.0%	18,545	100.0%	20,515	100.0%	19,484	100.0%

OADC Trial Cases Workload Indicators Totals

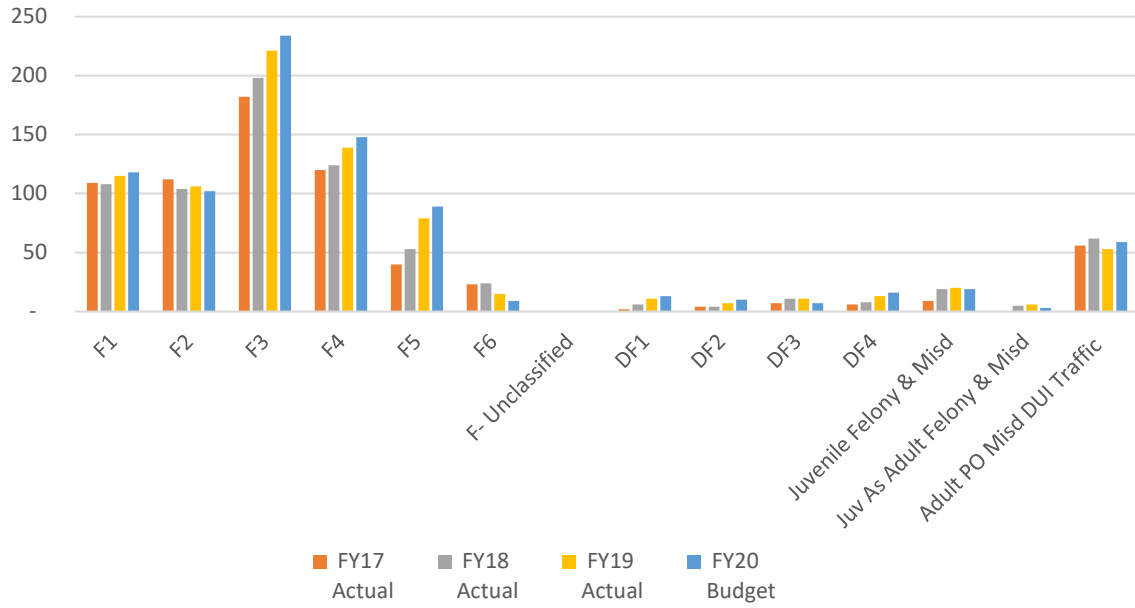


OADC Trial Cases Workload Indicators Percent of Totals

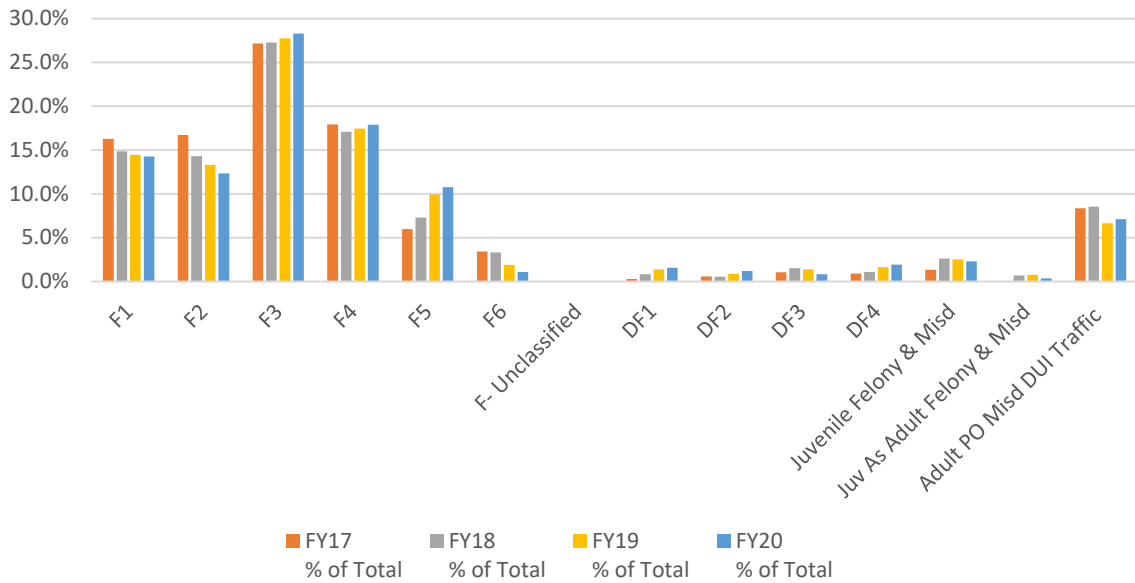


Appeal Cases	FY17 Actual	FY17 % of Total	FY18 Actual	FY18 % of Total	FY19 Actual	FY19 % of Total	FY20 Actual	FY20 % of Total
<i>F1</i>	109	16.3%	108	14.9%	115	14.4%	118	14.3%
<i>F2</i>	112	16.7%	104	14.3%	106	13.3%	102	12.3%
<i>F3</i>	182	27.2%	198	27.3%	221	27.8%	234	28.3%
<i>F4</i>	120	17.9%	124	17.1%	139	17.5%	148	17.9%
<i>F5</i>	40	6.0%	53	7.3%	79	9.9%	89	10.8%
<i>F6</i>	23	3.4%	24	3.3%	15	1.9%	9	1.1%
<i>F- Unclassified</i>	-	0.0%	-	0.0%	-	0.0%	0	0.0%
<i>DF1</i>	2	0.3%	6	0.8%	11	1.4%	13	1.6%
<i>DF2</i>	4	0.6%	4	0.6%	7	0.9%	10	1.2%
<i>DF3</i>	7	1.0%	11	1.5%	11	1.4%	7	0.8%
<i>DF4</i>	6	0.9%	8	1.1%	13	1.6%	16	1.9%
<i>Juvenile Felony & Misd</i>	9	1.3%	19	2.6%	20	2.5%	19	2.3%
<i>Juv As Adult Felony & Misd</i>	-	0.0%	5	0.7%	6	0.8%	3	0.4%
<i>Adult PO Misd DUI Traffic</i>	56	8.4%	62	8.5%	53	6.7%	59	7.1%
Total	670	100%	726	100.0%	796	100.0%	827	100.0%

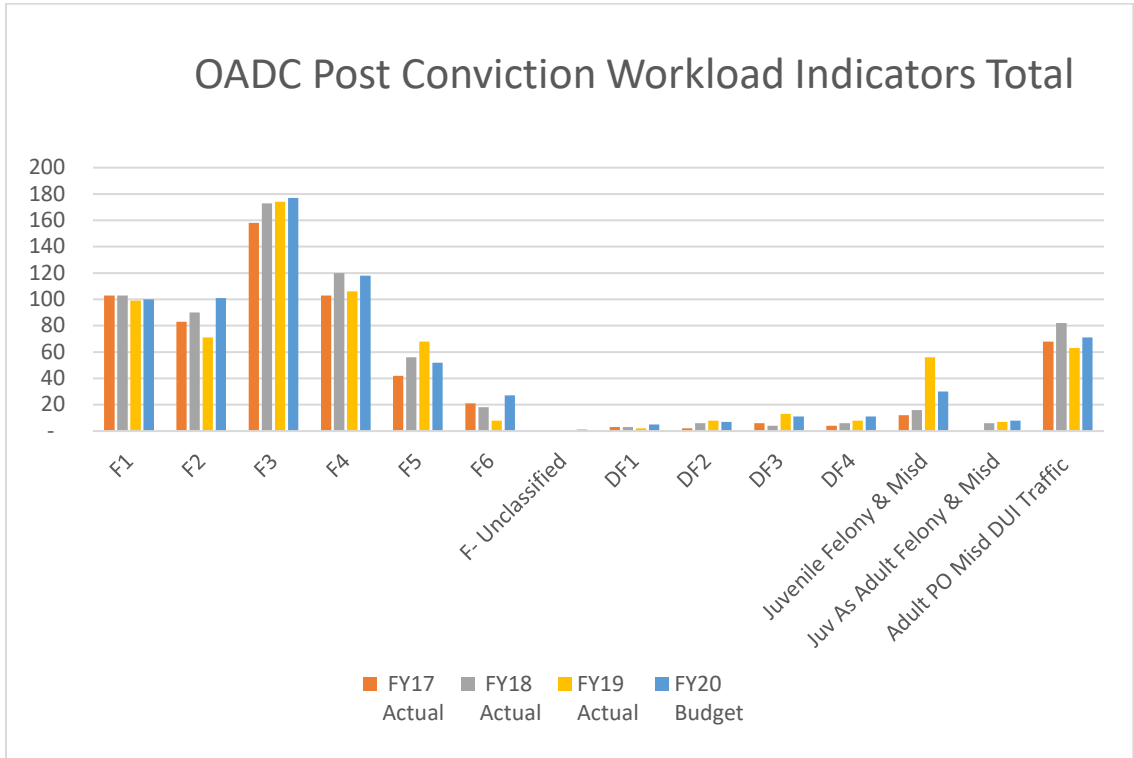
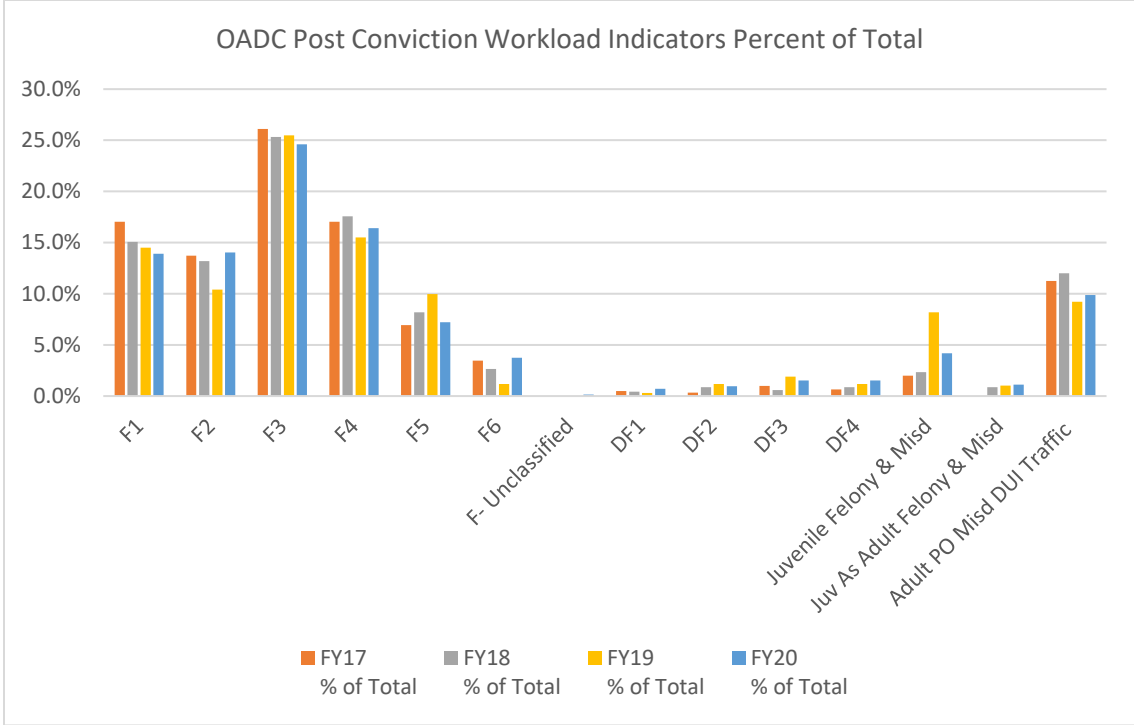
OADC Appeal Cases Workload Indicators Totals



OADC Appeal Cases Workload Indicators Percent of Totals



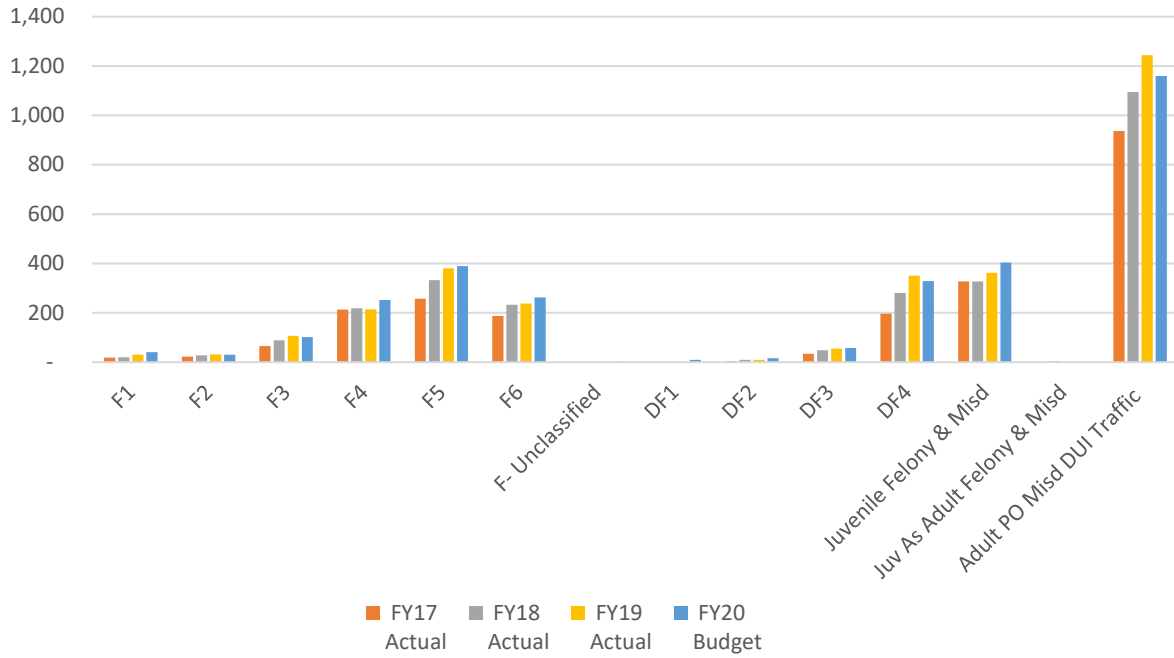
Post-Conviction Cases	FY17 Actual	FY17 % of Total	FY18 Actual	FY18 % of Total	FY19 Actual	FY19 % of Total	FY20 Actual	FY20 % of Total
<i>F1</i>	103	17.0%	103	15.1%	99	14.5%	100	13.9%
<i>F2</i>	83	13.7%	90	13.2%	71	10.4%	101	14.0%
<i>F3</i>	158	26.1%	173	25.3%	174	25.5%	177	24.6%
<i>F4</i>	103	17.0%	120	17.6%	106	15.5%	118	16.4%
<i>F5</i>	42	6.9%	56	8.2%	68	10.0%	52	7.2%
<i>F6</i>	21	3.5%	18	2.6%	8	1.2%	27	3.8%
<i>F- Unclassified</i>		0.0%	0	0.0%		0.0%	1	0.1%
<i>DF1</i>	3	0.5%	3	0.4%	2	0.3%	5	0.7%
<i>DF2</i>	2	0.3%	6	0.9%	8	1.2%	7	1.0%
<i>DF3</i>	6	1.0%	4	0.6%	13	1.9%	11	1.5%
<i>DF4</i>	4	0.7%	6	0.9%	8	1.2%	11	1.5%
<i>Juvenile Felony & Misd</i>	12	2.0%	16	2.3%	56	8.2%	30	4.2%
<i>Juv As Adult Felony & Misd</i>		0.0%	6	0.9%	7	1.0%	8	1.1%
<i>Adult PO Misd DUI Traffic</i>	68	11.2%	82	12.0%	63	9.2%	71	9.9%
Total	605	100.0%	683	100.0%	683	100.0%	719	100.0%



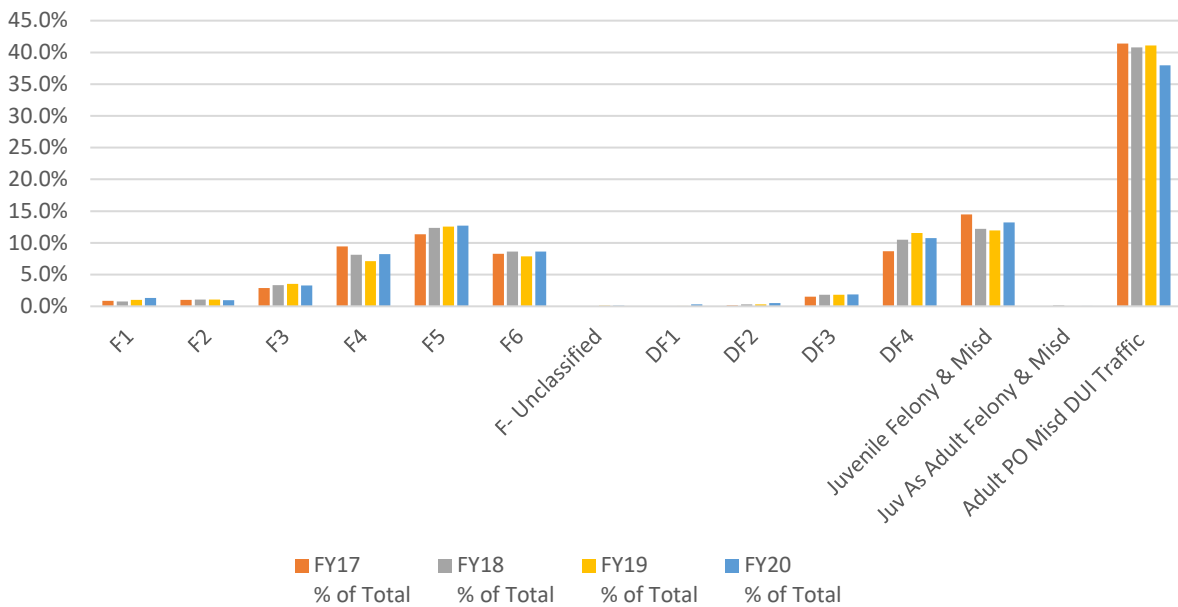
Other / Special Proceedings Cases*	FY17 Actual	FY17 % of Total	FY18 Actual	FY18 % of Total	FY19 Actual	FY19 % of Total	FY20 Actual	FY20 % of Total
F1	19	0.8%	20	0.7%	30	1.0%	41	1.3%
F2	23	1.0%	28	1.0%	32	1.1%	30	1.0%
F3	65	2.9%	89	3.3%	107	3.5%	101	3.3%
F4	213	9.4%	218	8.1%	215	7.1%	252	8.2%
F5	257	11.4%	332	12.4%	380	12.5%	389	12.7%
F6	187	8.3%	232	8.6%	238	7.9%	263	8.6%
F- Unclassified	-	0.0%	-	0.0%	3	0.1%	3	0.1%
DF1	1	0.0%	-	0.0%	2	0.1%	9	0.3%
DF2	4	0.2%	9	0.3%	9	0.3%	16	0.5%
DF3	34	1.5%	49	1.8%	55	1.8%	57	1.9%
DF4	196	8.7%	281	10.5%	350	11.6%	328	10.7%
Juvenile Felony & Misd	327	14.4%	327	12.2%	362	12.0%	404	13.2%
Juv As Adult Felony & Misd	-	0.0%	4	0.1%	1	0.0%	2	0.1%
Adult PO Misd DUI Traffic	937	41.4%	1,095	40.8%	1,244	41.1%	1160	38.0%
Total	2,263	100.0%	2,684	100.0%	3,028	100.0%	3,055	100.0%

* Other/Special Proceedings include: Community Corrections Violations, Deferred Judgement Revocations, Motions to Withdraw Plea's- 32(d), Petitions for Certiorari, Probation Revocations or Modifications, Reviews of Magistrate's Order, Rule 21 petitions, Special Proceedings, and YOS Revocations.

Special Proceedings Workload Indicators Total

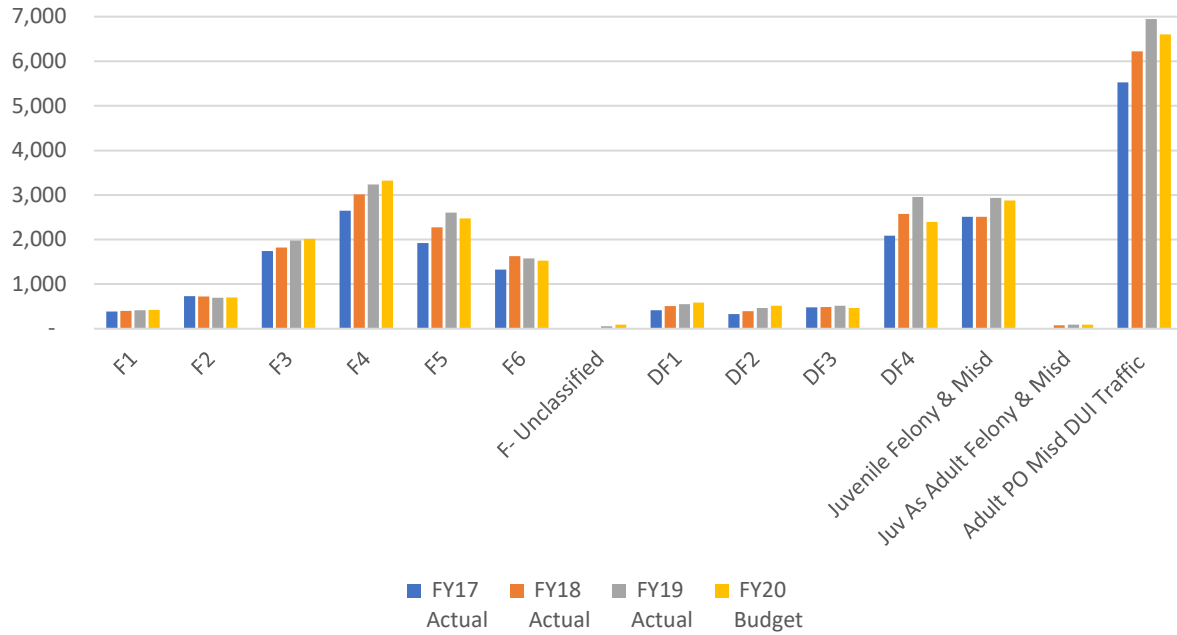


Special Proceedings Workload Indicators Percent of Total

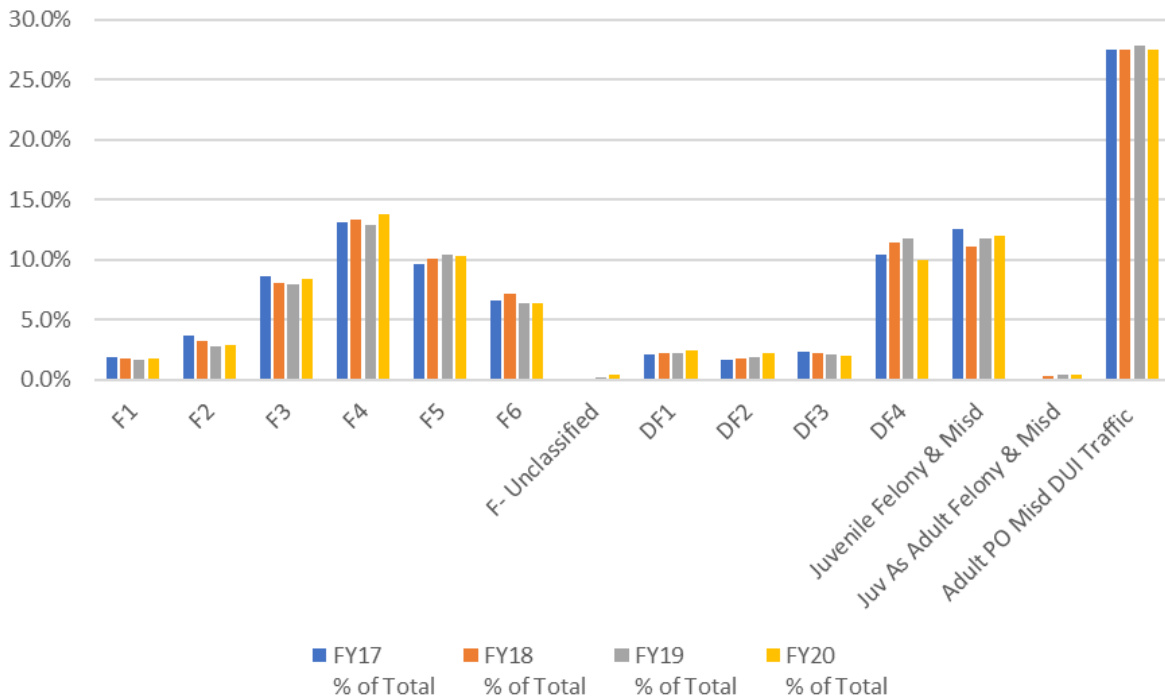


Total Cases	FY17 Actual	FY17 % of Total	FY18 Actual	FY18 % of Total	FY19 Actual	FY19 % of Total	FY20 Actual	FY20 % of Total
<i>F1</i>	387	1.9%	398	1.8%	413	1.7%	421	1.7%
<i>F2</i>	731	3.6%	721	3.2%	698	2.8%	700	2.9%
<i>F3</i>	1,741	8.7%	1,820	8.0%	1,977	7.9%	2,018	8.4%
<i>F4</i>	2,644	13.2%	3,013	13.3%	3,234	12.9%	3,324	13.8%
<i>F5</i>	1,925	9.6%	2,277	10.1%	2,605	10.4%	2,478	10.3%
<i>F6</i>	1,330	6.6%	1,631	7.2%	1,579	6.3%	1,524	6.3%
<i>F- Unclassified</i>		0.0%	1	0.0%	56	0.2%	90	0.4%
<i>DF1</i>	413	2.1%	507	2.2%	553	2.2%	586	2.4%
<i>DF2</i>	332	1.7%	396	1.7%	465	1.9%	519	2.2%
<i>DF3</i>	476	2.4%	489	2.2%	513	2.1%	465	1.9%
<i>DF4</i>	2,084	10.4%	2,574	11.4%	2,955	11.8%	2,393	9.9%
<i>Juvenile Felony & Misd</i>	2,511	12.5%	2,511	11.1%	2,936	11.7%	2,874	11.9%
<i>Juv As Adult Felony & Misd</i>		0.0%	80	0.4%	92	0.4%	89	0.4%
<i>Adult PO Misd DUI Traffic</i>	5,529	27.5%	6,220	27.5%	6,946	27.8%	6,604	27.4%
Grand Total	20,103	100%	22,638	100.0%	25,022	100.0%	24,085	100.0%

OADC Workload Indicators Total

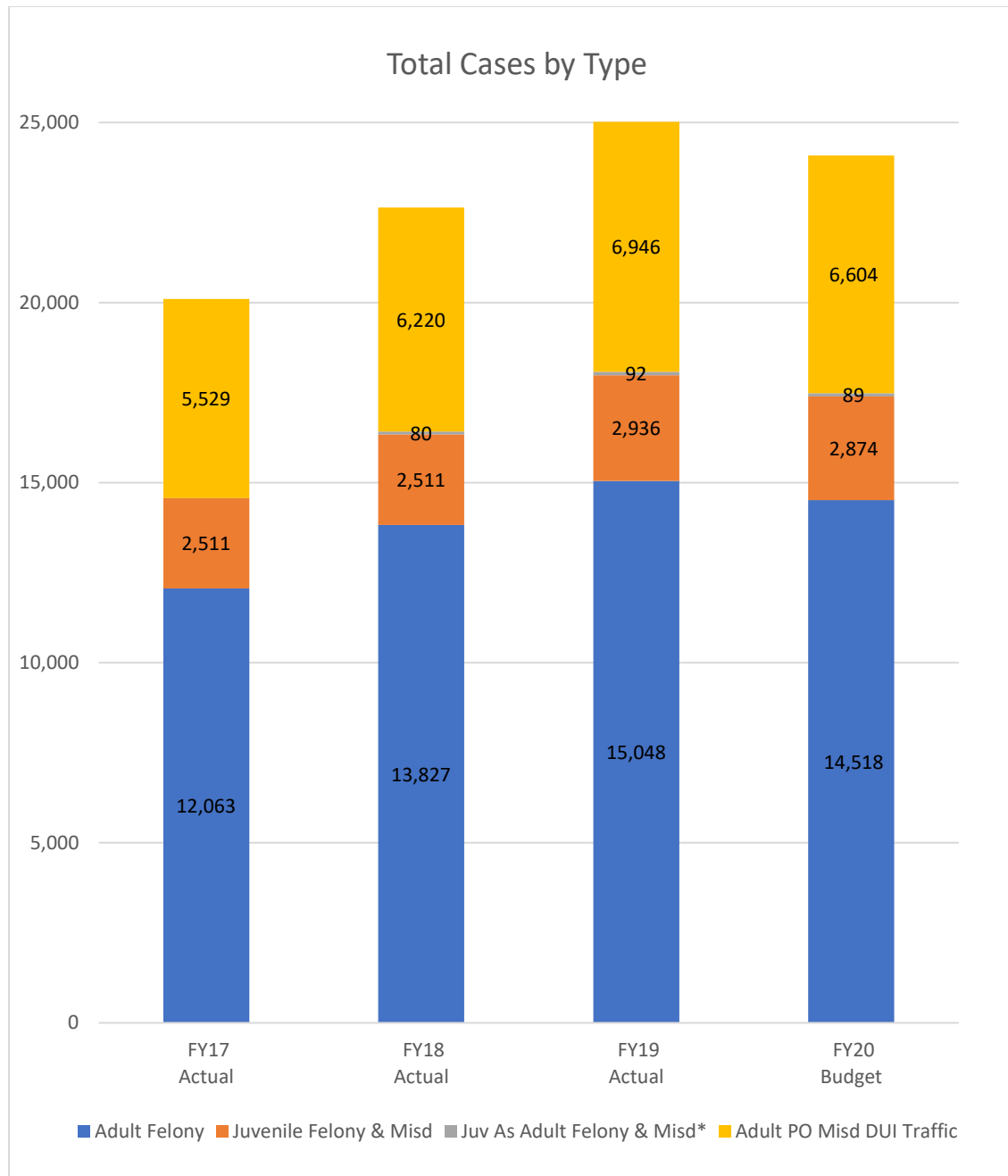


OADC Workload Indicators Percent of Total



Total Cases by Type	FY17 Actual	FY17 % of Total	FY18 Actual	FY18 % of Total	FY19 Actual	FY19 % of Total	FY20 Actual	FY20 % of Total
Adult Felony	12,063	60.0%	13,827	61.1%	15,048	60.1%	14,518	60.3%
Juvenile Felony & Misd	2,511	12.5%	2,511	11.1%	2,936	11.7%	2,874	11.9%
Juv As Adult Felony & Misd*			80	0.4%	92	0.4%	89	0.4%
Adult PO Misd DUI Traffic	5,529	27.5%	6,220	27.5%	6,946	27.8%	6,604	27.4%
Grand Total	20,103	100.0%	22,638	100.0%	25,022	100.0%	24,085	100.0%

*The OADC did not track Juvenile as Adult prior to FY18



* The OADC did not track Juvenile as Adult prior to FY18

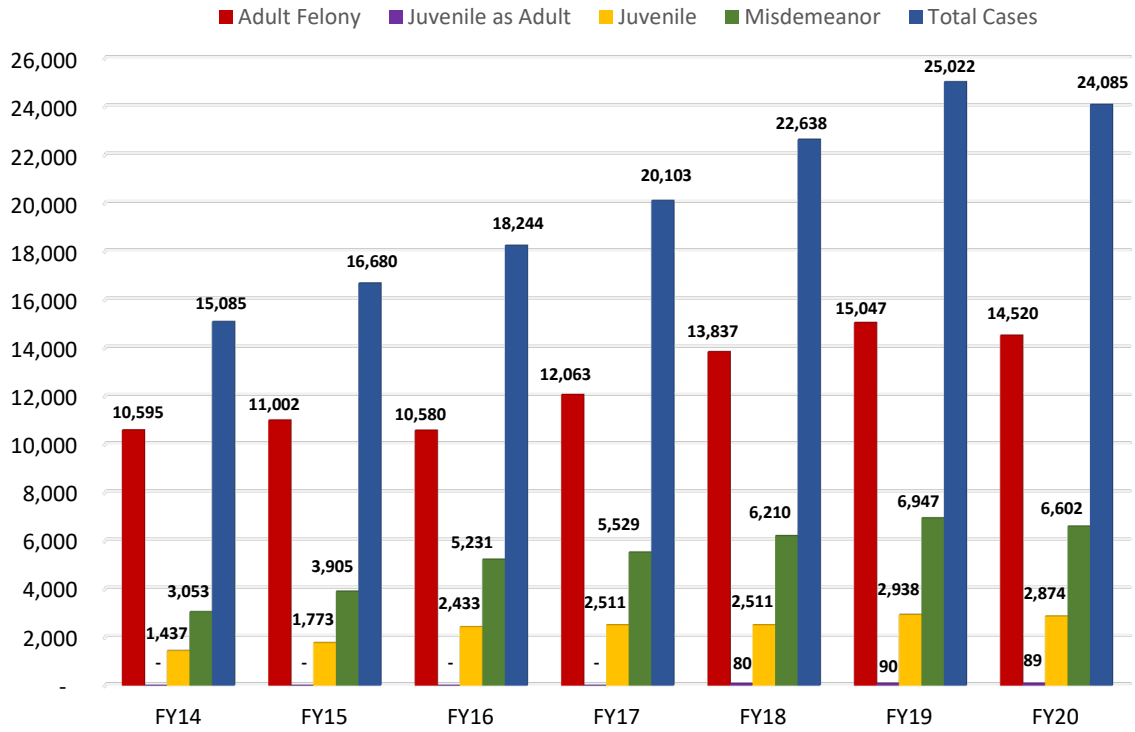
Total Cases by Category	FY17 Actual	FY17 % of Total	FY18 Actual	FY18 % of Total	FY19 Actual	FY19 % of Total	FY20 Actual	FY20 % of Total
Trial	16,565	82.4%	18,545	81.9%	20,515	82.0%	19,484	80.9%
Appeal	670	3.3%	726	3.2%	796	3.2%	827	3.4%
Post Conviction	605	3.0%	683	3.0%	683	2.7%	719	3.0%
*Other/Special Proceedings	2,263	11.3%	2,684	11.9%	3,028	12.1%	3,055	12.7%
Grand Total	20,103	100.0%	22,638	100.0%	25,022	100.0%	24,085	100.0%

* Other/Special Proceedings include: Community Corrections Violations, Deferred Judgement Revocations, Motions to Withdraw Plea's- 32(d), Petitions for Certiorari, Probation Revocations or Modifications, Reviews of Magistrate's Order, Rule 21 petitions, Special Proceedings, and YOS Revocations.



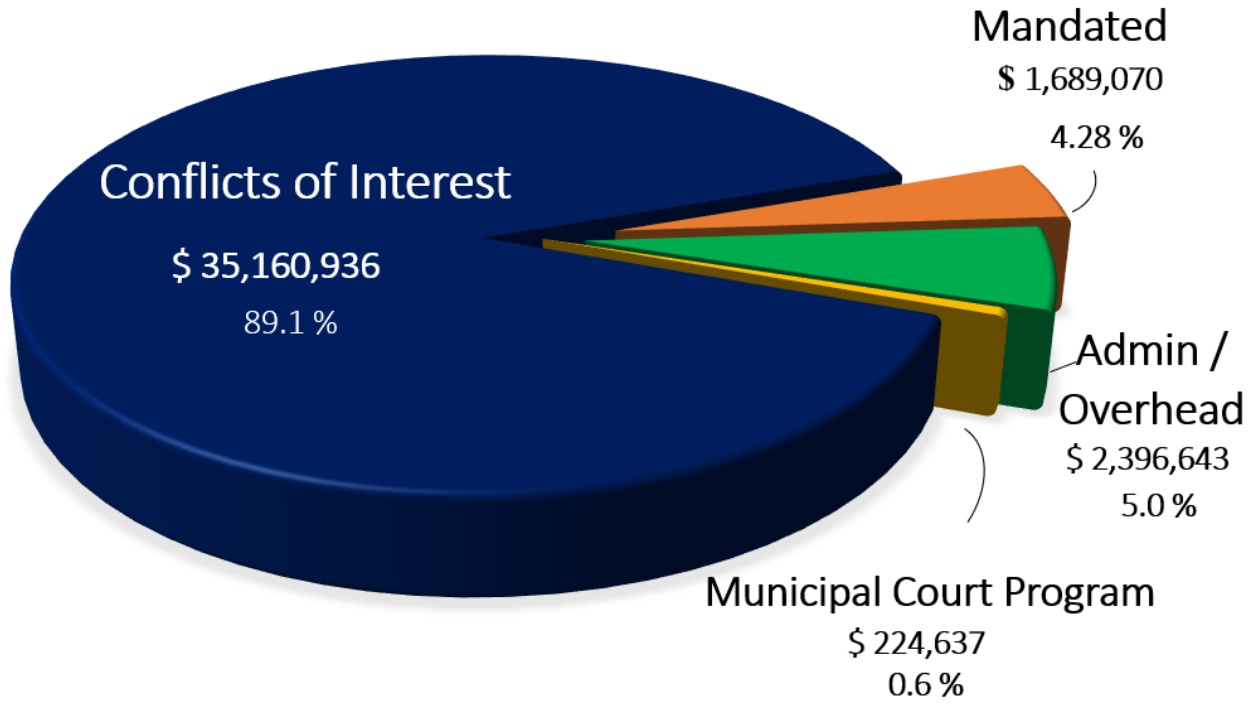
* Other/Special Proceedings include: Community Corrections Violations, Deferred Judgement Revocations, Motions to Withdraw Plea's- 32(d), Petitions for Certiorari, Probation Revocations or Modifications, Reviews of Magistrate's Order, Rule 21 petitions, Special Proceedings, and YOS Revocations.

Case Count : FY14 - FY20



Average Cost per Case by Type	FY10	FY11	FY12	FY13	FY14	FY15	FY16	FY17	FY18	FY19	FY20
Adult Felony	\$ 2,308	\$ 2,204	\$ 2,256	\$ 2,136	\$ 2,184	\$ 2,470	\$ 2,293	\$ 2,152	\$ 2,019	\$ 2,061	\$ 2,092
<i>change from prev FY</i>		-4.5%	2.4%	-5.3%	2.2%	13.1%	-7.2%	-6.1%	-6.2%	2.1%	1.5%
Juvenile	\$ 498	\$ 474	\$ 579	\$ 562	\$ 635	\$ 810	\$ 850	\$ 866	\$ 904	\$ 931	\$ 896
<i>change from prev FY</i>		-4.8%	22.2%	-2.9%	13.0%	27.6%	4.9%	1.9%	4.4%	3.0%	-3.7%
Misdemeanors	\$ 510	\$ 510	\$ 502	\$ 499	\$ 508	\$ 517	\$ 483	\$ 448	\$ 422	\$ 425	\$ 446
<i>change from prev FY</i>		0.0%	-1.6%	-0.6%	1.8%	1.8%	-6.6%	-7.2%	-5.9%	0.9%	5.0%
Overall Average Cost per Case	\$ 1,697	\$ 1,620	\$ 1,641	\$ 1,593	\$ 1,599	\$ 1,722	\$ 1,581	\$ 1,523	\$ 1,456	\$ 1,474	\$ 1,498
<i>change from prev FY</i>		-4.5%	1.3%	-2.9%	0.4%	7.7%	-8.2%	-3.7%	-4.4%	1.2%	1.6%

FY19-20
TOTAL EXPENDITURES FOR THE OADC



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Schedule 13
Funding Request for the 2021-22 Budget Cycle

Department: Office of the Alternate Defense Counsel

Request Title: Caseload Decrease

Priority Number: R-1

Dept. Approval Date: 10/31/2020

- | |
|--|
| <input checked="" type="checkbox"/> Decision Item FY 2021-22 |
| <input type="checkbox"/> Base Reduction Item FY 2021-22 |
| <input type="checkbox"/> Supplemental FY 2020-21 |
| <input type="checkbox"/> Budget Amendment FY 2020-21 |

Line Item Information		FY 2020-21		FY 2021-22		FY 2022-23
		1	2	3	4	5
	Fund	Appropriation FY 2020-21	Supplemental Request FY 2020-21	Base Request FY 2021-22	Funding Change Request FY 2021-22	Continuation Amount FY 2022-23
Total of All Line Items	Total	49,679,221	-	49,679,221	(4,520,835)	45,158,386
	FTE	-	-	-	-	-
	GF	49,679,221	-	49,679,221	(4,520,835)	45,158,386
Conflicts-of-Interest Contracts	Total	46,493,770	-	46,493,770	(4,230,957)	42,262,813
	FTE	-	-	-	-	-
	GF	46,493,770	-	46,493,770	(4,230,957)	42,262,813
Mandated Costs	Total	3,185,451	-	3,185,451	(289,878)	2,895,573
	FTE	-	-	-	-	-
	GF	3,185,451	-	3,185,451	(289,878)	2,895,573

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

Cash or Federal Fund Name and CORE Fund Number:

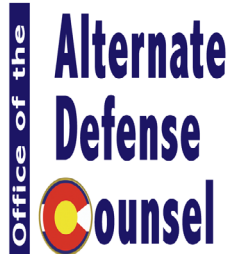
Reappropriated Funds Source, by Department and Line Item Name:

Approval by OIT? Yes: No: Not Required:

Schedule 13s from Affected Departments:

Other Information:

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FY 2021-22 Funding Request Decision Item R-1

Agency Priority: Decision Item R - 1				
Caseload Decrease				
Summary of Funding/ FTE Change for FY22	Total Funds	General Funds	Cash Funds	FTE
Caseload Decrease FY22 <i>Conflicts-of-interest Contracts</i>	(\$ 4,230,957)	(\$ 4,230,957)	\$ 00.0	0.00
Caseload Decrease FY22 <i>Mandated Costs</i>	(\$ 289,878)	(\$ 289,878)	\$ 00.0	0.00
Total Request	(\$ 4,520,835)	(\$ 4,520,835)	\$ 0.00	0.00

Request Summary:

The Office of the Alternate Defense Counsel (OADC) requests a \$4,230,957 GF **decrease** for its Conflicts-of interest Contracts Long Bill Line Item (LBLI) and a \$289,878 GF **decrease** for its Mandated Costs LBLI, totaling a \$4,520,835 GF **decrease** to adjust for the Agency’s projected caseload for FY22.

The Problem and Opportunity:

As evidenced by the chart below, the OADC has seen a drop in its original estimated caseload numbers for FY20 and FY21. Current FY21 billing data suggest that an adjustment should be made to these original estimates.

	FY16 Actual	FY17 Actual	FY18 Actuals	FY19 Actuals	FY20 Estimated	FY20 Actuals	FY21 Estimated	FY21 Revised Estimated	FY22 Estimated
Caseload	18,244	20,103	22,638	25,022	27,074	24,085	29,925	26,621	29,425
Caseload % change	9.38%	10.19%	12.61%	10.53%	8.20%	-3.74%	10.53%	10.53%	10.53%

Brief Background:

The OADC is mandated to provide indigent individuals (adults and juveniles) charged with crimes the best legal representation possible when the Office of the State Public Defender (OSPD) has an ethical conflict. Unlike the OSPD, who has full-time employees, the OADC pays for every 1/10th of an hour worked on every case by its independent contractors. The Agency has no ability to accurately predict or control its caseload and corresponding expenditures. Due to this inability to predict caseload increases (and decreases) the OADC may need to request additional funds during the supplemental and/or add-on process for FY22.

Proposed Solution:

Decrease the Agency's budget for FY21-22 by a total of \$4,520,835 to its Conflicts-of-interest Contracts and Mandated Costs LBLI to adjust for its revised caseload estimates.

Alternatives:

Allow the OADC to retain the LBLIs from FY21 and revert any unused funds to the State's General Fund pool at FY22 year-end.

Anticipated Outcomes:

The Agency has no control over the number of cases it is mandated to handle, the anticipated outcome is that the Agency will continue to pay its contractors for worked performed and may need to request additional supplemental and/or add-on funding to accommodate unanticipated caseload adjustments should the projection for FY22 be too low.

Assumptions for Calculations:

This calculation multiplies the estimated 10.53% adjustment from FY21 to FY22 and subtracts it from the current FY21 LBLIs of Conflicts-of-Interest and Mandated Costs.

	FY21 Estimated	Estimated % Change	FY22 Estimated
Caseload	26,621	10.53%	29,425
Expenditures*	\$ 40,855,869	10.53%	\$ 45,158,386

FY21 Conflicts-of-Interest Contracts LBLI	\$ 46,493,770
Estimated FY22 Conflicts-of-Interest Contracts Expenditures	\$ 42,262,813
FY22 DI#1 Conflicts-of-Interest LBLI Decrease	\$ (4,230,957)
Estimated FY21 Mandated Costs LBLI	\$ 3,185,451
Estimated FY22 Mandated Costs Expenditures	\$ 2,895,573
FY22 DI#1 Mandated Costs LBLI Decrease	\$ (289,878)
FY22 DI#1 Caseload Decrease	\$ (4,520,835)

* Expenditures amount equals Conflicts-of-Interest plus Mandated Costs.

Schedule 2
 Department Summary
 Judicial Branch
 Office of the Alternate Defense Counsel
 C.R.S. §21-2-101

	Actual FY2015-2016		Actual FY2016-2017		Actual FY2017-2018		Actual FY2018-2019		Actual FY2019-2020		Budget FY2020-2021		Requested FY2021-2022	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
Department Total														
Total	31,562,890	10.9	32,932,573	12.0	35,367,129	12.0	39,698,549	13.0	39,471,286	16.0	52,067,382	16.0	47,645,395	16.0
GF	31,522,890	10.9	32,892,573	12.0	35,313,329	12.0	39,643,726	13.0	39,420,883	16.0	51,987,382	16.0	47,565,395	16.0
CF	40,000		40,000		53,800		54,823		50,403		80,000		80,000	

SCHEDULE 3 - Program Detail

ITEM	Actual FY 2017-18		Actual FY 2018-19		Actual FY 2019-20		Budget FY 2020-21		Request FY 2021-22	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
Position Detail										
Director	162,971	1.0	167,794	1.0	172,827	1.0		1.0	173,248	1.0
Deputy	156,160	1.0	160,625	1.0	165,393	1.0		1.0	165,795	1.0
Coordinator of Legal Research & Tech Coordinator	130,966	1.0	137,036	1.0	141,147	1.0		1.0	141,490	1.0
Evaluator/Trainer Staff Attorney	118,712	1.0	116,327	1.0	123,600	1.0		1.0	123,600	1.0
Chief Financial Officer	92,983	1.0	95,735	1.0	122,581	1.0		1.0	125,000	1.0
Appellate Post Conviction Coordinator	76,925	1.0	80,145	1.0	82,549	1.0		1.0	82,750	1.0
Public Information Coordinator	52,103	1.0	48,942	1.0	67,342	1.0		1.0	68,316	1.0
Juvenile Law Coordinator	117,575	1.0	123,300	1.0	126,999	1.0		1.0	127,308	1.0
Sr. Office Manager	73,062	1.0	75,291	1.0	88,603	1.0		1.0	89,796	1.0
Billing Administrator	62,624	1.0	64,535	1.0	74,471	1.0		1.0	75,360	1.0
Financial Analyst	56,837	1.0	58,572	1.0	66,872	1.0		1.0	67,614	1.0
Social Worker Coordinator	86,490	1.0	89,049	1.0	95,008	1.0		1.0	95,530	1.0
Administrative Paralegal			43,896	1.0	51,909	1.0		1.0	52,126	1.0
Social Worker Outreach Coordinator					73,678	1.0		1.0	80,376	1.0
Continuation Salary Subtotal	1,187,408	12.0	1,261,248	13.0	1,452,979	14.0	1,661,623	14.0	1,468,310	14.0
Other Personal Services										
PERA on Continuation Subtotal (FY17)	8,794									
PERA on Continuation Subtotal (FY18)	107,428		9,783							
PERA on Continuation Subtotal (FY19)			114,934		11,590					
PERA on Continuation Subtotal (FY20)					134,799					
PERA on Continuation Subtotal (FY21)										
PERA on Continuation Subtotal (FY22)									178,581	
Medicare on Continuation Subtotal (FY17)	1,275									
Medicare on Continuation Subtotal (FY18)	15,571		1,418							
Medicare on Continuation Subtotal (FY19)			16,421		1,659					
Medicare on Continuation Subtotal (FY20)					19,028					
Medicare on Continuation Subtotal (FY21)										
Medicare on Continuation Subtotal (FY22)									23,756	
Leave Payout			6,061							
Other Personal Services	5,821		13,561		7,150					
Contractual Services	39,761		46,693		66,965					
Accrual Adjustments					13,647					
Personal Services Subtotal	1,366,059	12.0	1,470,120	13.0	1,707,818	14.0	1,661,623	14.0	1,670,647	14.0

SCHEDULE 3 - Program Detail

ITEM	Actual FY 2017-18		Actual FY 2018-19		Actual FY 2019-20		Budget FY 2020-21		Request FY 2021-22	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
Pots Expenditures										
Health/Life/Dental (FY17)	12,028									
Health/Life/Dental (FY18)	139,885		12,717							
Health/Life/Dental (FY19)			155,325		14,679					
Health/Life/Dental (FY20)					159,931					
Health/Life/Dental (FY21)							124,336			
Health/Life/Dental (FY22)									226,711	
Short Term Disability (FY17)	171									
Short Term Disability (FY18)	2,085		190							
Short Term Disability (FY19)			1,736		176					
Short Term Disability (FY20)					1,994					
Short Term Disability (FY21)							2,773			
Short Term Disability (FY22)									2,622	
AED (FY17)	4,332									
AED (FY18)	52,920		4,819							
AED (FY19)			56,618		5,710					
AED (FY20)					64,939					
AED (FY21)							88,118			
AED (FY22)									81,918	
SAED (FY17)	4,332									
SAED (FY18)	52,920		4,819							
SAED (FY19)			56,618		5,710					
SAED (FY20)					64,939					
SAED (FY21)							88,118			
SAED (FY22)									81,918	
Personal Services Total Detail	1,634,731	12.0	1,762,962	13.0	2,025,895	14.0	1,964,968	14.0	2,063,807	14.0
Personal Services Reconciliation Authorization										
Long Bill Request	1,635,196		1,374,459		1,600,296					
Supplemental - SB20-1249					4,530					
Health/Life/Dental			185,370		208,622					
Short Term Disability			2,195		2,773					
Salary Survey			40,141							

SCHEDULE 3 - Program Detail

ITEM	Actual FY 2017-18		Actual FY 2018-19		Actual FY 2019-20		Budget FY 2020-21		Request FY 2021-22	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
Merit Pay					47,462					
AED			64,513		88,118					
SAED			64,513		88,118					
Transfer In from Conflicts			31,632		8,021					
Transfer In from Municipal Court Program					11,010					
Transfer to Conflicts	(465)									
Transfer to Operating			139							
Transfer to Municipal Courts Program (POTS)					(33,054)					
Personal Services Authorization	1,634,731	12.0	1,762,962	13.0	2,025,895	14.0	1,964,968	14.0	2,063,807	14.0
General Fund	1,634,731		1,762,962		2,025,895		1,964,968		2,063,807	
Cash Funds										
Operating Expenses/Capital Outlay										
1920 Personal Svcs - Professional	320									
1935 Purchased Svcs - Legal Services			5,438							
1960 Personal Svcs - IT services	3,674				2,989					
2230 Equip Maintenance/Repair Svcs	35									
2231 IT Hardware Maintenance & Repair Services	21,435		27,111		41,437					
2253 Rental Of Equipment	2,534		2,635		2,869					
2255 Rental of Building/Space			45							
2511 In-State Common Carrier Fares	190									
2512 In-State Pers Travel Per Diem	1,678		1,771		693					
2513 In-State Pers Vehicle Reimbsmt	872		1,682		259					
2522 Is/Non-Empl - Pers Per Diem	958		1,803							
2523 Is/Non-Empl - Pers Veh Reimb	959		1,764		803					
2531 Os Common Carrier Fares					574					
2631 Comm Svcs From Outside Sources	9,715		10,257		11,456					
2680 Printing/Reproduction Services	995		1,470		1,430					
2820 Other Purchase Services	4,593		5,087		87,069					

SCHEDULE 3 - Program Detail

ITEM	Actual FY 2017-18		Actual FY 2018-19		Actual FY 2019-20		Budget FY 2020-21		Request FY 2021-22	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
3110 Other Supplies & Materials	2,953		2,972		931					
3118 Food And Food Serv Supplies	911		793		576					
3120 Books/Periodicals/Subscription	37,723		52,789		68,990					
3121 Office Supplies	2,757		1,757		1,726					
3123 Postage	927		2,496		1,865					
3128 Noncapitalized Equipment			2,067		1,487					
3140 Noncapitalized PC - (Individual Items Under \$5,000)	3,095		18,800		23,411					
4100 Other Operating Expenses	1,200		930		4,504					
4140 Dues And Memberships	4,751				16,199					
4170 Miscellaneous Fees and Fines			3,624							
4180 Official Functions					199					
4220 Registration Fees	130		1,940							
Operating Expenses Total Detail	102,405	0.0	147,231	0.0	269,467	0.0	120,887	0.0	120,887	0.0
Reconciliation										
Long Bill Appropriation	106,439		108,619		221,300					
Supplemental - SB20-1249					6,087					
Transfer to/from Conflicts	(4,034)		38,612		42,080					
Operating Costs Authorization	102,405	0.0	147,231	0.0	269,467	0.0	120,887	0.0	120,887	0.0
General Fund	102,405		147,231		269,467		120,887		120,887	
Cash Funds										
Capital Outlay Operating										
Capital Outlay	0		3,473		3,473		0		0	
Capital Outlay Detail	0		3,473		3,473		0		0	
Reconciliation										
Long Bill Appropriations	0		3,473		3,473					
Transfer to/from Conflicts			(748)							
Transfer to/ from Mandated			(1,702)							

SCHEDULE 3 - Program Detail

ITEM	Actual FY 2017-18		Actual FY 2018-19		Actual FY 2019-20		Budget FY 2020-21		Request FY 2021-22	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
Capital Outlay Authorized	0		1,022		3,473		0		0	
General Fund	0		1,022		3,473		0		0	
Cash Funds										
Training/Conference										
Training Conference	79,189		76,525		97,807		100,000			
Training/Conference Detail	79,189	0.0	76,525	0.0	97,807	0.0	100,000	0.0	100,000	0.0
Reconciliation										
Long Bill Appropriations	100,000		100,000		100,000					
SB19-223 (Competency Bill)					20,000					
Transfer to/ from Capital Outlay			1,702							
Transfer to/from Conflicts	5,389				7,405					
Unearned CF/Revenue	(26,200)		(25,177)		(29,597)					
Training/Conference Authorized	79,189	0.0	76,525	0.0	97,807	0.0	100,000	0.0	100,000	0.0
General Fund	25,389		21,702		47,405		20,000		20,000	
Cash Funds	53,800		54,823		50,403		80,000		80,000	
Conflict of Interest Contracts										
Conflict of Interest Contracts	31,495,953		35,945,012		35,160,936					
Conflict of Interest Total Detail	31,495,953	0.0	35,945,012	0.0	35,160,936	0.0	46,493,770	0.0	42,262,813	0.0
Reconciliation										
Long Bill Appropriations	27,864,221		37,391,362		42,654,216				46,493,770	
Supplemental - SB20-1360 (Add-On)					(2,083,265)					
Supplemental - HB 16-1243	3,406,731									
Transfer to/ from Personal Services	465		(31,630)		(8,021)					
Transfer to/ from Training	(5,389)				(7,405)					
Transfer to/ from Operating	4,034		(38,753)		(42,080)					
Transfer to/ from Capital Outlay			748							
Transfer to/ from Mandated	225,892									
Judicial Transfer Authority - To SCAO					(1,000,000)					
Supplemental - SB 19-207			3,613,527							
Add-On - SB 19-207			(1,993,325)							
Reversion			(2,996,917)		(4,352,510)					
DI # R-1 Caseload Decrease (FY22)									(4,230,957)	
Conflict of Interest Authorization	31,495,953	0.0	35,945,012	0.0	35,160,936	0.0	46,493,770	0.0	42,262,813	0.0
General Fund	31,495,953		35,945,012		35,160,936		46,493,770		42,262,813	
Cash Funds										

SCHEDULE 3 - Program Detail

ITEM	Actual FY 2017-18		Actual FY 2018-19		Actual FY 2019-20		Budget FY 2020-21		Request FY 2021-22	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<u>Mandated Costs</u>										
Mandated Costs	2,054,850		1,681,052		1,689,070					
Mandated Costs Total Detail	2,054,850	0.0	1,681,052	0.0	1,689,070	0.0	3,185,451	0.0	2,895,573	0.0
<u>Reconciliation</u>										
Long Bill Appropriations	2,032,273		2,561,813		2,922,390				3,185,451	
Supplemental - SB20-1360 (Add-On)					(142,732)					
Supplemental - HB 17-164	248,469									
Transfer to/from Conflict of Interest	(225,892)									
Supplemental - SB 19-207			247,575							
Add-On - SB 19-207			(205,083)							
Reversion			(923,253)		(1,090,588)					
DI # R-1 Caseload Decrease (FY22)									(289,878)	
Mandated Costs Authorization	2,054,850	0.0	1,681,052	0.0	1,689,070	0.0	3,185,451	0.0	2,895,573	0.0
General Fund	2,054,850		1,681,052		1,689,070		3,185,451		2,895,573	
Cash Funds										
Municipal Court Program Total Detail	0	0.0	84,744	0.0	224,637	2.0	202,306	0.0	202,306	2.0
<u>Reconciliation</u>										
SB18-203 Municipal Court Program			124,263		202,593					
Transfer to/from Personal Services					(11,010)					
Transfer from Personal Services (POTS)					33,054					
Reversion			(39,519)							
Municipal Court Program Authorization	0	0.0	84,744	0.0	224,637	2.0	202,306	2.0	202,306	2.0
General Fund	0		84,744		224,637		202,306		202,306	
Cash Funds										
<u>Long Bill Group/Division Total</u>										
Grand Total - with Pots	35,367,129	12.0	39,698,549	13.0	39,471,286	16.0	52,067,382	16.0	47,645,395	16.0
	35,367,129		39,698,549		39,471,286		52,067,382		47,645,395	
General Fund	35,313,329	12.0	39,643,726	13.0	39,420,883	16.0	51,987,382	16.0	47,565,395	16.0
Cash Funds	53,800	0.0	54,823	0.0	50,403	0.0	80,000	0.0	80,000	0.0

Schedule 5 - Line Item to Statute
 Judicial Branch
 Office of the Alternate Defense Counsel
 FY 2021-2022 Budget Request
 November 1, 2020

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

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.	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>

**Scheduel 7 - Summary of Supplemental Bills
Judicial Branch
Office of the Alternate Defense Counsel
FY20 Budget Request
November 1, 2020**

			Total	GF
Actual FY 2019-20 HB 20-1360 Add-On	Conflict Contracts Mandated Total FY2019-20	0.0	(2,083,265) (142,732) (2,225,997)	(2,083,265) (142,732) (2,225,997)
Actual FY 2019-20 HB 20-1249 Supplemental	Personal Services Operating Total FY2019-20	0.0	4,530 6,087 10,617	4,530 6,087 10,617
Actual FY 2018-19 SB 19-207 Supplemental	Conflict Contracts Mandated Total FY2018-19	0.0	(1,993,325) (205,083) (2,198,408)	(1,993,325) (205,083) (2,198,408)
Actual FY 2018-19 SB 19-115 Supplemental	Conflict Contracts Mandated Total FY2018-19	0.0	3,613,527 247,575 3,861,102	3,613,527 247,575 3,861,102
Actual FY 2017-18 HB 18-1163 Supplemental	Conflict Contracts Mandated Total FY2017-18	0.0	3,406,731 248,469 3,655,200	3,406,731 248,469 3,655,200
Actual FY 2016-17 SB 17-164 Supplemental	Personal Services Mandated Total FY2016-17	0.0	37,931 582,403 620,334	37,931 582,403 620,334
Actual FY 2015-16 HB 16-1243 Supplemental	Conflict Contracts Mandated Total FY2015-16	0.0	1,392,238 121,064 1,513,302	1,392,238 121,064 1,513,302
Actual FY 2014-15 HB 14-1032 Special Bill	Personal Services Operating Capital Outlay Total FY2013-14	1.0 1.0	65,548 4,865 4,703 75,116	65,548 4,865 4,703 75,117
Actual FY 2013-14 HB 14-1239 Supplemental	Personal Services Operating Conflict Contracts Mandated Total FY2013-14	0.0	94,000 23,730 2,821,158 220,303 3,159,191	94,000 23,730 2,821,158 220,303 3,159,191

Schedule 10
 Summary of Change Requests (RI)
 Judicial Branch
 Office of the Alternate Defense Counsel
 FY 2021-2022 Budget Request

ID#	Priorit	Decision Items	FTE	Total	GF	CF
1	R -1	Caseload Decrease - Conflicts-of-Interests Contracts	0.0	(\$4,230,957)	(\$4,230,957)	\$0
1	R -1	Caseload Decrease - Mandated Costs	0.0	(\$289,878)	(\$289,878)	\$0
Total			0.0	(\$4,520,835)	(\$4,520,835)	\$0

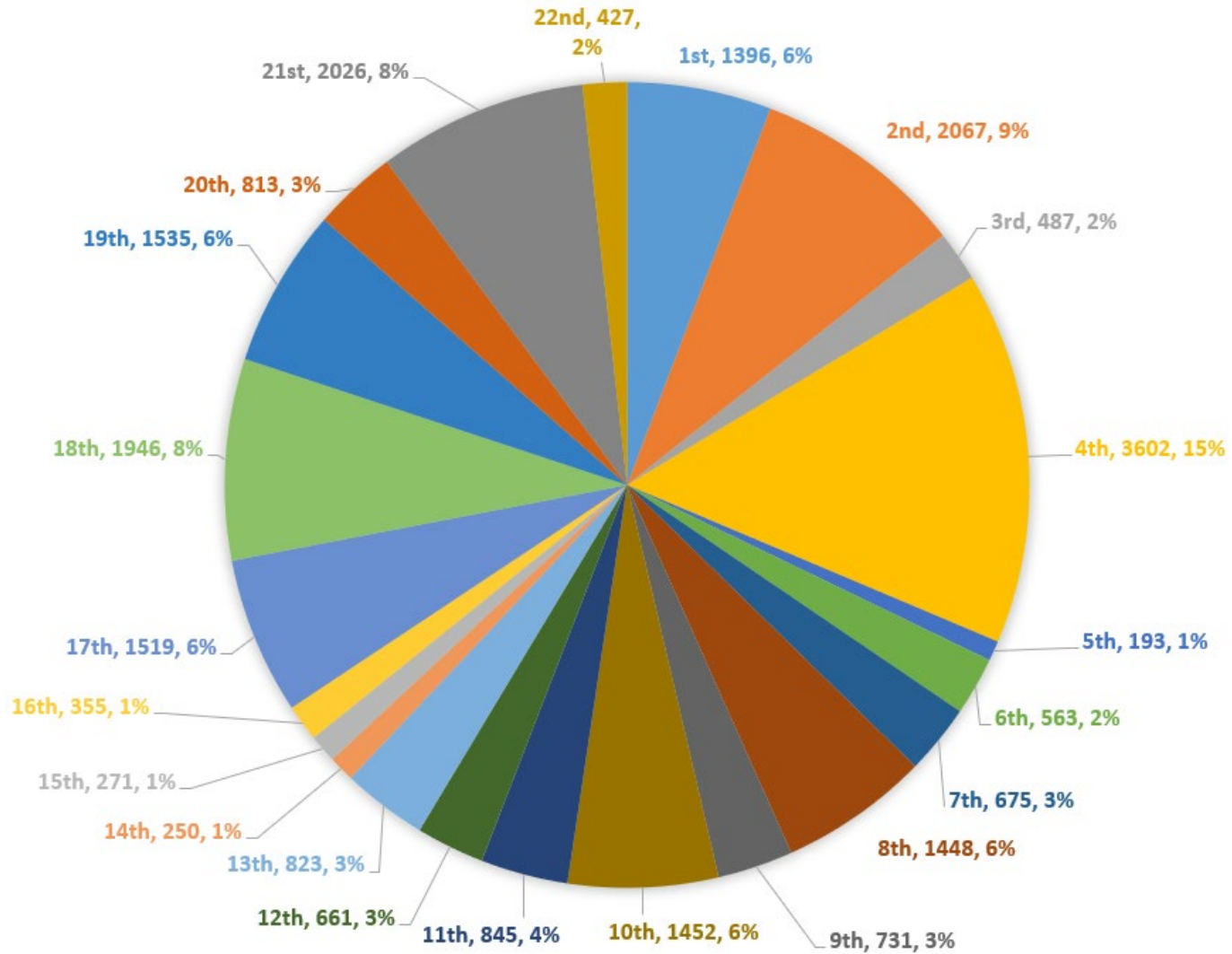
Salary Pots Request Template		
	TOTAL FUNDS/FTE FY 2021-22	GENERAL FUND
I. Continuation Salary Base	FUND SPLITS - From Position-by-Position Tab	
Sum of Filled FTE as of July 27, 2020	16.0	100.000%
Salary X 12	\$1,638,354	1,638,354
PERA (Standard, Trooper, and Judicial Rates) at FY 2021-22 PERA Rates	\$178,581	178,581
Medicare @ 1.45%	\$23,756	23,756
Subtotal Continuation Salary Base =	\$1,840,691	1,840,691
II. Salary Survey Adjustments		
System Maintenance Studies	-	-
Across the Board - Base Adjustment	\$0	-
Across the Board - Non-Base Adjustment	\$0	-
Movement to Minimum - Base Adjustment	\$0	-
Subtotal - Salary Survey Adjustments	\$0	\$0.00
PERA (Standard, Trooper, and Judicial Rates) at FY 2021-22 PERA Rates	\$0	-
Medicare @ 1.45%	\$0	-
Request Subtotal =	\$0	\$0.00
III. Increase for Minimum Wage (if applicable)		
Increase for Minimum Wage	-	\$0.00
Subtotal - Minimum Wage Adjustments	-	\$0.00
PERA (Standard, Trooper, and Judicial Rates) at FY 2021-22 PERA Rates	\$0	\$0.00
Medicare @ 1.45%	\$0	-
Request Subtotal =	\$0	\$0.00
IV. Merit Pay Adjustments		
Merit Pay - Base Adjustments	\$0	-
Merit Pay - Non-Base Adjustments	\$0	-
Subtotal - Merit Pay Adjustments	\$0	-
PERA (Standard, Trooper, and Judicial Rates) at FY 2021-22 PERA Rates	\$0	-
Medicare @ 1.45%	\$0	-
Request Subtotal =	\$0	-
V. Shift Differential		
FY 2019-20 ACTUAL EXPENDITURES for All Occupational Groups	\$0	-
Total Actual and Adjustments @ 100%	\$0	-
PERA (Standard, Trooper, and Judicial Rates) at Current PERA Rates	\$0	-
Medicare @ 1.45%	\$0	-
Request Subtotal =	\$0	-
VI. Revised Salary Basis for Remaining Request Subtotals		
Total Continuation Salary Base, Adjustments, Performance Pay & Shift	\$1,638,354	1,638,354
VII. Amortization Equalization Disbursement (AED)		
Revised Salary Basis * 5.00%	\$81,918	81,918
VIII. Supplemental AED (SAED)		
Revised Salary Basis * 5.00%	\$81,918	81,918
IX. Short-term Disability		
Revised Salary Basis * 0.16%	\$2,622	2,622
X. Health, Life, and Dental		
Funding Request	\$226,711	226,711

	FY 2020-21		
Common Policy Line Item	Appropriation	GF	CF
Salary Survey	\$0		
Merit Pay	\$0		
Shift	\$0		
AED	\$88,118	\$88,118	
SAED	\$88,118	\$88,118	
Short-term Disability	\$2,773	\$2,773	
Health, Life and Dental	\$124,336	\$124,336	
TOTAL	\$303,345	\$303,345	\$0
	FY 2021-22		
Common Policy Line Item	Total Request	GF	CF
Salary Survey	\$0	\$0	\$0
Merit Pay	\$0	\$0	\$0
Shift	\$0	\$0	\$0
AED	\$81,918	\$81,918	\$0
SAED	\$81,918	\$81,918	\$0
Short-term Disability	\$2,622	\$2,622	\$0
Health, Life and Dental	\$226,711	\$226,711	\$0
TOTAL	\$393,169	\$393,169	\$0
	FY 2021-22		
Common Policy Line Item	Incremental	GF	CF
Salary Survey	\$0	\$0	\$0
Merit Pay	\$0	\$0	\$0
Shift	\$0	\$0	\$0
AED	-\$6,200	-\$6,200	\$0
SAED	-\$6,200	-\$6,200	\$0
Short-term Disability	-\$151	-\$151	\$0
Health, Life and Dental	\$102,375	\$102,375	\$0
TOTAL	\$89,824	\$89,824	\$0

Appendix A
Colorado Judicial District Map and
Caseload Totals by District

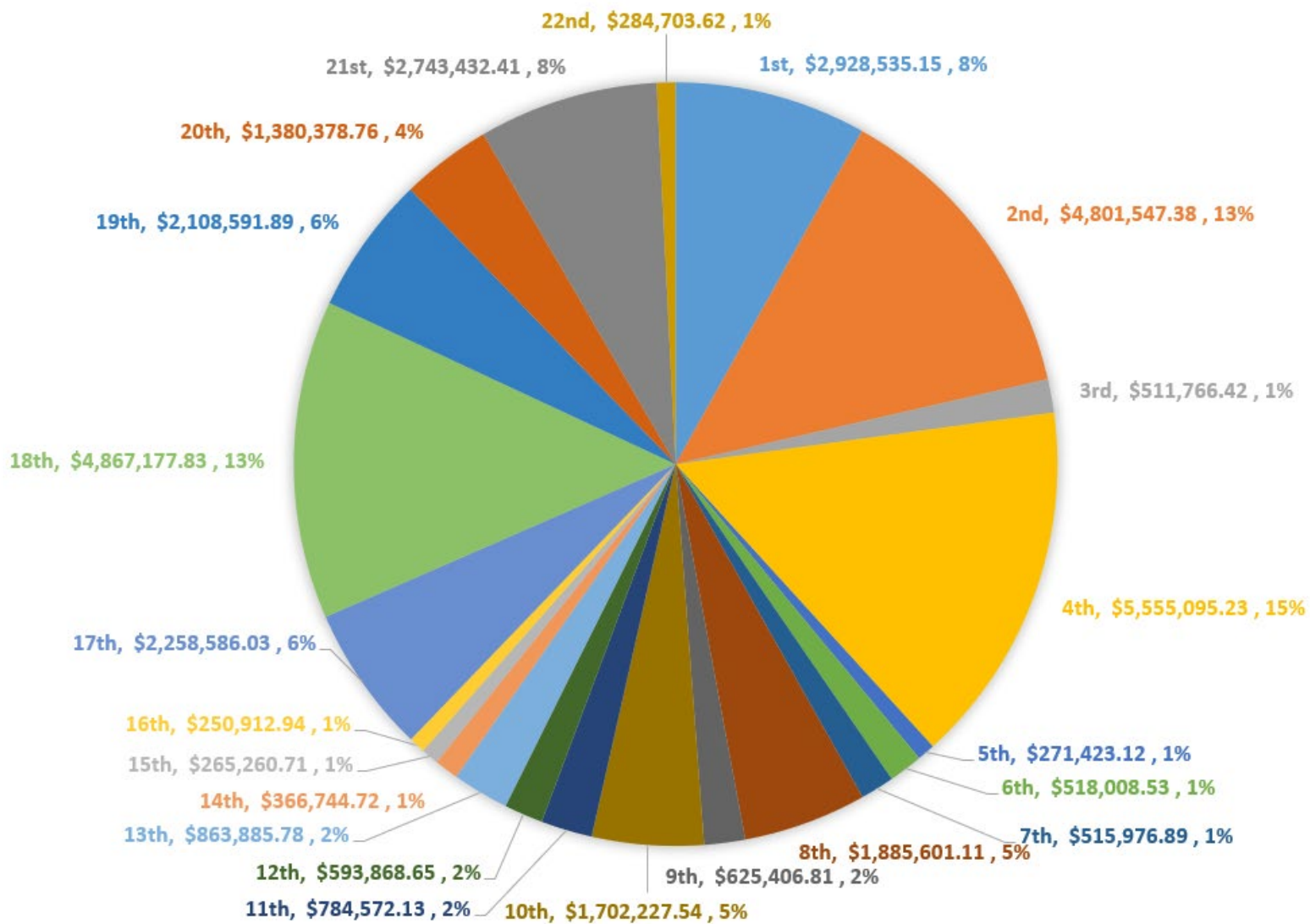
The following pie chart breaks down the OADC cases by Judicial District.

OADC CASELOAD TOTALS BY DISTRICT FY20

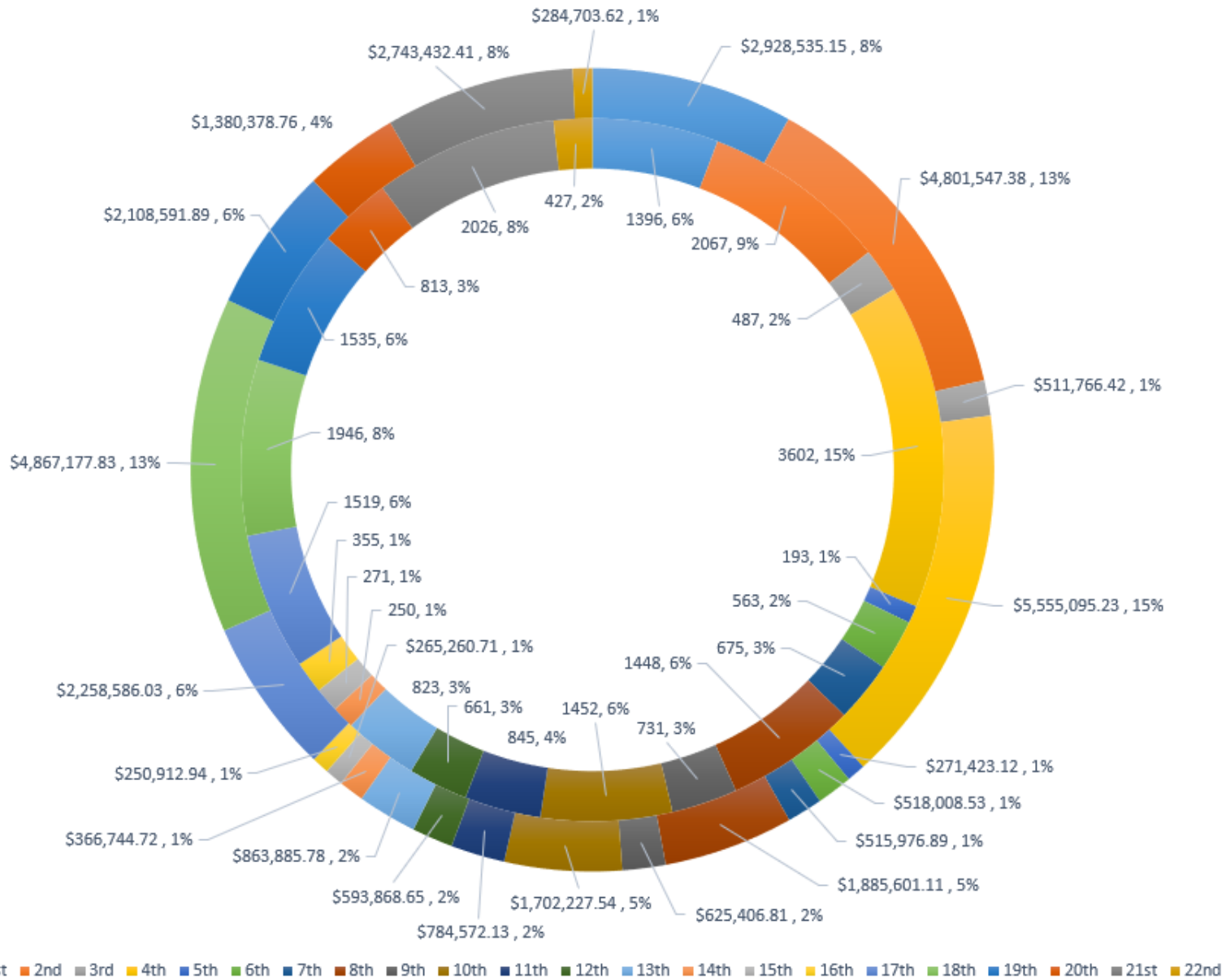


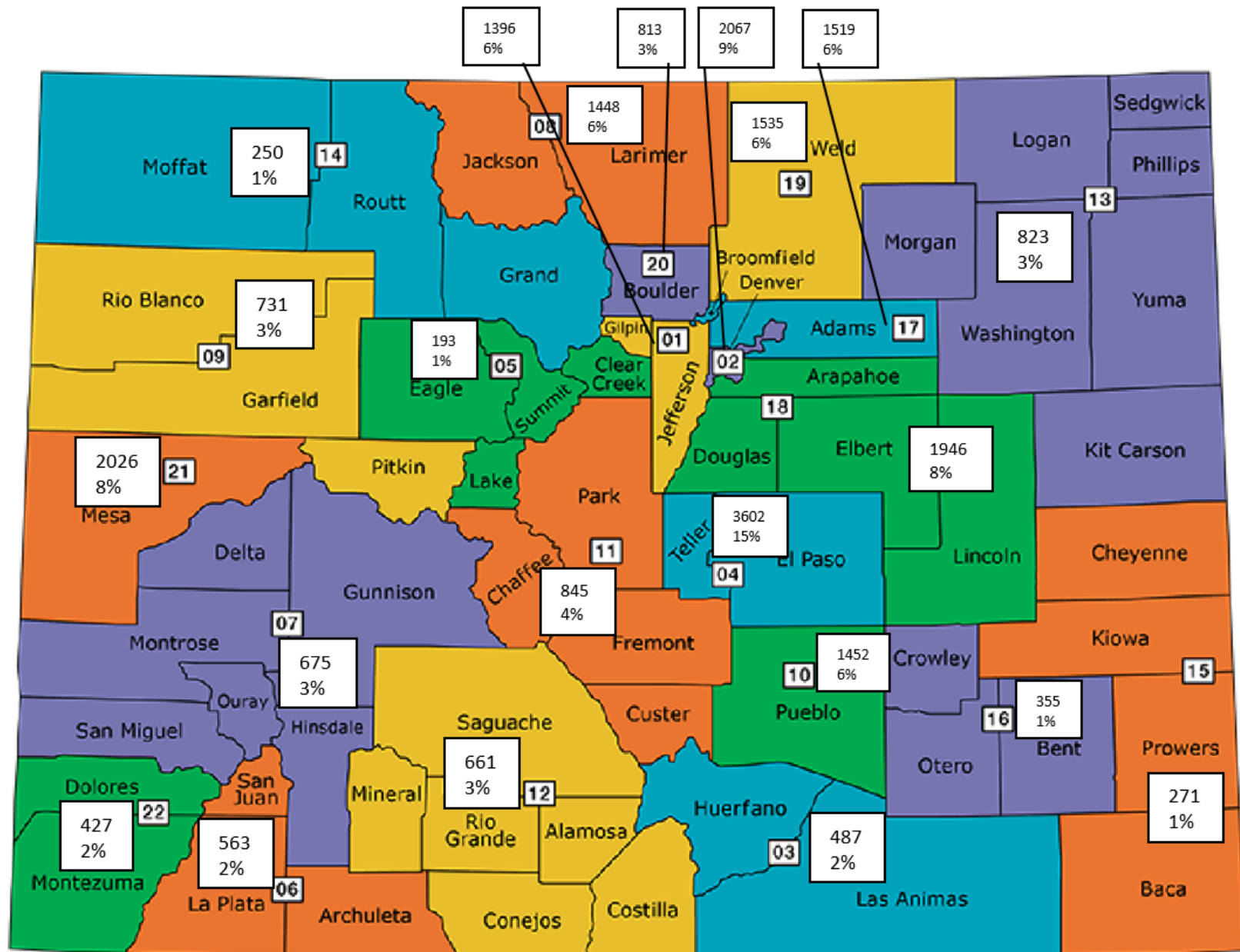
The following pie chart illustrates the Agency's Conflict-of-interest Contracts and Mandated Costs expenditures by Judicial District.

OADC EXPENSE BY DISTRICT



OADC Caseload and Expenditure by District FY20





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Appendix B
Prior Year Legislation,
Hot Topics, and
Cases That May Affect the OADC

PRIOR YEAR LEGISLATION

[SB20-100 Repeal of the Death Penalty](#)

This bill ended the availability of the death penalty as a sanction for first degree murder in Colorado. It only applies prospectively, to crimes charged after July 1, 2020.

Effective March 23, 2020

[SB20-217 Enhance Law Enforcement Integrity](#)

This sweeping law enforcement reform included many sections. It requires, starting July 1, 2023, all law enforcement agencies to issue body-worn cameras to their officers, and all recordings of an incident must be released to the public within 21 days of an incident or after counsel is appointed. It also requires an officer to wear and activate a body-worn camera when responding to a call for service or during any interaction with the public initiated by the officer, when enforcing the law or investigating possible violations of the law. There are exceptions to this rule. There are a number of other sections of the statute that have no impact on our budget but will improve police accountability.

Effective June 19, 2020

HOT TOPICS

JUVENILE LIFE WITHOUT PAROLE (JLWOP)

OADC attorneys have continued to litigate cases affected by the United States Supreme Court decision in [Miller v. Alabama, 132 S.Ct. 2455 \(2012\)](#), which held that it is unconstitutional to sentence a juvenile charged as an adult to a mandatory sentence of life without the possibility of parole. In Colorado, there were 50 individuals who received mandatory sentences of life without the possibility of parole for offenses committed when they were juveniles. OADC contractors have been appointed to every case in which the OSPD has declared a conflict. Because *Miller* requires the court to hold an individual sentencing hearing to assess an individual juvenile's circumstances and determine whether a life sentence is appropriate, the OADC has continued to actively work with the Colorado Juvenile Defender Center (CJDC) to ensure that the OADC contractors are adequately trained to handle these resentencing hearings effectively and efficiently.

In January 2016, the United States Supreme Court, in [Montgomery v. Louisiana, 136 S. Ct. 718, 193 L. Ed. 2d 599 \(2016\), as revised \(Jan. 27, 2016\)](#), held that *Miller* is retroactive, overruling the Colorado Supreme Court's 2015 decision in [People v. Tate, 352 P.3d 959, 2015 CO 42, reh'g denied \(July 13, 2015\), reh'g denied \(Aug. 3, 2015\)](#). Further, in June 2016, the Colorado Governor signed [SB16-181](#) into law, providing that the individuals mentioned above will be resentenced to either 40 years to life, less earned time, or to a finite number of years between 30-50 (for those convicted of felony murder). Colorado's Supreme Court found that this legislation was in fact constitutional. [In re. People v. Brooks, 426 P.3d 353, 2018 CO 77 \(September 17, 2018\)](#). As a result, several of these cases are now moving forward with a new sentencing hearing where the former child will be sentenced to a term between 30 and 50 years.

EXPANDING NO JLWOP TO OVER 18

In [Commonwealth v. Bredhold, 17SC436 \(Kentucky Supreme Court\)](#), the Court vacated a trial court decision applying the [Roper v. Simmons, 125 S.Ct. 1183 \(2005\)](#) (prohibiting the death penalty for juveniles under the age of 18) rationale to individuals between the ages of 18 and 21, excluding the death penalty from consideration in their cases. This case is now pending a Petition for Writ of Certiorari before the United States Supreme Court.

Colorado courts are also being asked to consider extending the *Bredhold* rationale to exclude those same age individuals from life without the possibility of parole sentences.

IMPROVING OUTCOMES FOR YOUTH (IOYOUTH) TASK FORCE

In 2018, Governor Hickenlooper launched the Improving Outcomes for Youth Task Force to explore and recommend juvenile justice reform. In 2019, the Juvenile Justice Reform Bill ([SB 19-](#)

[108](#)) was enacted, making substantial changes to diversion funding and eligibility, detention eligibility, and probation.

The bill also established an ongoing Juvenile Justice Reform Committee, and designated its membership, including a seat for the OADC. The Committee is tasked with adopting a validated risk and needs assessment tool to be used by juvenile courts, DYS, juvenile probation, and parole; selecting a mental health screening tool for juvenile offenders; selecting a validated risk screening tool to be used by district attorneys in determining a juvenile's eligibility for diversion; selecting a vendor to assist in the implementation of, and training on, the tools; and developing plans for measuring the effectiveness of the tools.

RULE CHANGE DUE TO THE PANDEMIC

[C.R.Crim.P. 24 Amendment](#) - As a result of the COVID-19 pandemic, the Colorado Supreme Court modified the rule covering the Right to a Speedy Trial. They added subsection (c)(4), which allows a judge to declare a mistrial at any time. This will result in extensive litigation surrounding speedy trial issues, the conflict between the statute, [C.R.S. §18-1-405](#), and [Crim. P. 24\(c\)\(4\)](#), and ambiguity found within the rule.

DISCOVERY

In FY2013-14, the legislature passed [SB14-190: Statewide Discovery System](#) which created a new discovery process for the state. As of this budget, only one Judicial District (2nd) has not yet begun using the eDiscovery system. The CDAC is working with this district to be part of the Statewide Discovery System, and plans on having them upon the eDiscovery system within 2021. We soon expect to view the proposed CDAC eDiscovery updates to the defense portion of the system. There is an ongoing discussion about making the discovery downloadable in batches so counsel or their staff can download many files on many cases more efficiently, hopefully to reduce the time and expense to download discovery. This modification should begin taking shape after the beginning of 2021, depending on pandemic limitations to the CDAC resources.

EXPERT DATABASE

In April 2018, OADC launched an expert database, so all contractors could locate contact information on any expert OADC has worked with, view the expert's CV, and their fields of expertise. The expert database also has a feature allowing contractors to review the performance of the expert, so that a contractor can later view what others who have used this expert have to say about their methods of communication, preparation, budgeting and their overall effectiveness.

Our expert went above and beyond. He put on a virtual presentation for the DAs to help us negotiate a better deal for our client and spoke very well. We also had another expert assist us and participated in the presentation for the DA on that case.

SOCIAL WORKERS

It is well-established nationwide that social workers are an important part of criminal and juvenile defense teams. This is reflected in evidence-based practices, social science research, and [HB14-1023: Social Workers for Juveniles](#). In September 2016, OADC hired a Social Worker Coordinator to ensure the success of the Agency's Social Worker Pilot Project that began in FY14. This program has now been fully implemented, and the demand for social workers on defense teams continues to grow.

The OADC created a new position of OADC Social Worker Outreach Coordinator as part of the FY19 Budget. The OADC Social Worker Outreach Coordinator is focused on identifying forensic social work and forensic clinical advocate contractors across the state. In response to the positive results Forensic Social Workers and Forensic Clinical Advocates have had on defense teams and the increase of requests from more rural jurisdictions, the OADC has prioritized locating contractors outside of the Denver metro area in order to impact more clients. This outreach will include working with MSW (Master of Social Work) programs across the state to identify internship and contractor candidates, educating the various criminal justice stakeholders (judges, district attorneys, GALs, probation, etc.) about the work these contractors provide, and advertising to local social work practitioners in jurisdictions outside of the Denver metro area. The OADC Social Worker Outreach Coordinator is also responsible, in part, for providing clinical supervision and identifying training opportunities for many of the MSW student interns and contractors. Since the addition of the Social Worker Outreach Coordinator, the OADC has added social worker contractors in Eagle, Summit, Grand Junction, Durango, Douglas, Montrose, Colorado Springs, Pueblo, Denver, and Fort Collins.

I just wanted to take a quick moment to let you all know about some great work [our social worker] did on her first case. She was working on [our client's] case. [The client] was potentially looking at spending a long time in DOC, we were told that any sentence under 12 years would be a good resolution.

They had sentencing on Tuesday. [The client] received a 6 year sentence to DOC thanks to the mitigation [the social worker] did, the Judge even mentioned it during sentencing. The client will be parole eligible in about 2.5 years, and we think even eligible for a halfway house in potentially 6 months. [This saved the state hundreds of thousands of dollars over the original projected sentence]

IMMIGRATION

In [Padilla v. Kentucky, 130 S.Ct. 1473 \(2010\)](#), the United States Supreme Court mandated 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 ensure compliance with *Padilla*.

PROSECUTION TRENDS TOWARD LARGE MULTI-DEFENDANT CASES

OADC continues to see many grand jury, wiretap and electronic surveillance-based cases, as well as cases that charge individuals with offenses under the [Colorado Organized Crime Control Act \(COCCA\)](#) and other multi co-defendant cases. These cases are particularly expensive to OADC because:

1. They almost always involve between 10 and 30 defendants, and the OSPD can only represent one, requiring OADC contractors to represent all the remaining indigent defendants; In one instance, there are 19 defendants charged as a group of co-defendants, charged with everything from 1st degree murder down to a drug felony. The OSPD represents one defendant, and the other 18 defendants are represented by OADC lawyers.
2. The discovery in these cases is often voluminous, sometimes including tens of thousands of pages and a significant number of audio and video CDs and DVDs. For example, in the above case, there are over 2.5 terabytes of discovery on two external drives, containing roughly 2,900 videos, and 37,000 audio files. There has also been provided over 42,000 pages of discovery through the CDAC eDiscovery site, along with 6,332 videos, 26,509 audio files, over 50,000 images and 335 spreadsheets. Much of this discovery is in Spanish

Lawyers representing defendants who are even minimally involved are ethically required to review *all* discovery in the case to determine their clients' individual involvement.

COST SAVING MEASURES

Over the past several years, OADC has instituted several cost saving measures. The first category of measures is designed to more efficiently control the mandated costs of the Agency. These include:

- shared discovery resources in multi-codefendant cases; and
- on site scanning of Department of Corrections records, district court files and files located at OSPD offices throughout the state.

The second category of cost saving measures is designed to reduce attorney hours per case while increasing the quality of representation and includes:

- an in-house case management system for appellate and post-conviction cases, that includes a one-person interface with all judicial district clerks, court reporters, and appellate court staff members as well as assistance to OADC contract lawyers;
- an in-house post-conviction case management system to include triage and per-case fee contracting. First, the OADC obtains a copy of the court file and a preliminary memo outlining the procedural posture of the case is created. The memo and file are then forwarded to one of our contract attorneys who has been a criminal defense appellate attorney for over 20 years. This contract attorney reviews the court file, performs any necessary research, and provides preliminary excerpts of law, as well as recommendations for post-conviction counsel on how best to proceed with the case.
- If there is no doubt in the experienced contract attorney’s mind that proceeding with a post-conviction case will detrimentally affect a client,¹ she will set up a meeting with the client (usually at a correctional facility), explain the consequences of proceeding with his or her post-conviction case and advise him or her to withdraw the Crim. P. 35(c) (post-conviction) petition. If the defendant agrees with that plan, the contract attorney will then draft an affidavit for the client to sign as well as a motion to withdraw the petition and file both in the district court. At that point, the post-conviction case will be closed;
- occasionally filing pleadings with the Court of Appeals directly in cases where the original direct appeal was not preserved, and having the appellate court reinstate the appellate rights without forcing the parties to waste time going back to the trial court to have a *pro forma* hearing where the trial court then reinstates the appeal;
- a Legal Research and Technology Coordinator responsible for the centralization and dissemination of reliable, up-to-date legal information to all OADC contractors;

OADC eLibrary

As an appellate attorney, the OADC eLibrary is a valuable resource that I consult on a regular basis. Before I begin to “reinvent the wheel” on a particular topic, I look in the eLibrary. I am frequently able to use materials I find there in my own briefs, saving me countless hours of legal research, and countless hours that I would otherwise bill for. I would spend far more

¹ An example of this is when a client has pleaded guilty to charges in exchange for the dismissal of habitual criminal charges, and if the client were to withdraw his or her plea and proceed to trial, he or she would be subject to mandatory habitual criminal sentencing. Another example is if a client has pleaded guilty to an offense in which he avoided a mandatory indeterminate sentence under the Sex Offender Lifetime Supervision Act.

time on the preparation of briefs without the library, and I am grateful for the resource..

Coordinator of Legal Resources and Technology (COLRAT)

Jonathan is the best resource ever and i use him all the time - I brainstorm with him and he is so generous with his time. he doesn't always know the answer but we figure it out together, he will help me find an answer - I am so grateful for him – he makes me a better lawyer.

OADC Roundtable

Roundtables help me provide better representation in less time. Regularly exchanging case strategies with other practitioners allows me to cut to the heart of current issues and more quickly identify future ones. This eliminates a substantial amount of preliminary research and prevents me from duplicating issue development that my colleagues have already performed. And because I do not bill for roundtable time, these benefits cost nothing save the time and experience of OADC staff, who are critical to their success.

PANDEMIC UPDATES

I sure hope you are doing well in this terrible time. It just is really overwhelming. I really, really appreciate the ADC emails to stay in the loop re: what is going on.

I also wanted to drop you guys a line about the town halls and Erin's daily updates. Leaving the PD office a few years ago was hard, I thought I was going to be alone on the Western Slope with few resources or people to reach out to when I needed help or had trial/case emergencies. But honestly, I feel [so] supported now with ADC... [E]veryone is always willing to help or knows someone who can help. And there's a legal researcher or case assistant at the ready to help save me time and energy when I'm maxed out.

- a robust training and evaluation program for all OADC contractors;
- the use of interns, case assistants, legal researchers, and others who are paid at lower rates to assist with cases;
- In FY19, we began offering contractors access to a new web-based transcribing service. This service not only transcribes the uploaded taped material but synchronizes that

transcript to the original video. Another huge benefit is that the contractor receives the transcript within 6-8 hours of uploading the video. We are also evaluating a new online service that can transcribe in a different manner than the above system.

The third category involves fostering expertise in individual contractors who can then assist other contractors in specialized areas including:

- immigration;
- DNA;
- firearms;
- technology;
- education;
- mental health defenses;
- child abuse;
- sexual abuse;
- DMV; and
- cell tower technology;

Not only is it more efficient to use this approach, it is better for clients. No matter where a case is and which attorney is assigned, our clients can all benefit from the collective expertise of all OADC contractors.

The fourth category relates to a new resource. In 2017, the National Legal Aid & Defender Association (NLADA) partnered with the Corporation for National and Community Service (CNCS) to create an innovative pilot program that trains AmeriCorps VISTA members in best practices in community-oriented defense and places them in public defense agencies in order to put these principles into practice and establish systems for ongoing sustainability. This AmeriCorps VISTA project allows NLADA, for the first time ever, to provide boots on the ground to in-need public defense offices in order to help offices modernize their approach to evidence-based practices, data management, and community partnerships. Over the course of their 12-month term of service, AmeriCorps VISTA members perform activities such as building community partnerships within their host communities and developing data systems and analysis methods to drive evidence-based practices by their host organizations.

The OADC has arranged for two VISTA volunteers. They will help identify resources in the rural areas of Colorado. The resources will include direct help for the clients – such as mental health services, addiction counseling, etc. They will also identify and develop relationships with people who can assist the attorneys with their cases. For example, there is a junior college in Trinidad with a criminal justice program and a human services program. We hope to recruit students who can complete tasks such as helping the clients review discovery in the local jail, so we do not have

to pay attorneys their hourly rate to accomplish the same task. This will save money for the agency and improve the quality of our representation.

CASES THAT MAY AFFECT THE OADC

ILLEGAL SENTENCES

[Allman v. People, 451 P.3d 826 \(2019\)](#). The Colorado Supreme Court held that in a single multi-count case, the Court is not statutorily authorized to sentence a defendant to both imprisonment and probation. This has resulted in a very large number of cases returning to the trial courts for various kinds of proceedings to readdress sentences, with a significant number of those cases requiring OADC counsel.

SUPPLEMENTAL HEARINGS

[People v. Morehead, 442 P.3d 413 \(2019\)](#) and [People v. Haack, 442 P.3d 105 \(2019\)](#). In both of these cases, the Court remanded for an additional evidentiary hearing so the prosecution could raise an issue they failed to raise at the initial suppression hearing. This change in appellate review could well result in additional expense due to additional litigation during the appellate process at both the trial and appellate level.

PROPORTIONALITY REVIEW

[Wells-Yates v. People, 454 P.3d 191 \(Colo. 2019\)](#)
[Melton v. People, 451 P.3d 415 \(2019\)](#), and
[People v. McRae, 451 P.3d 835 \(2019\)](#)

The Colorado Supreme Court, in this trilogy of cases, admitted a host of errors in their earlier jurisprudence that will require relitigating many earlier decisions about the proportionality of a sentence based on the erroneous analysis. This has resulted in a significant increase in remands for hearings from the appellate courts on these issues, with a significant number of those cases requiring OADC counsel.

DEFENDANT'S RIGHT TO COUNSEL

[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. In this homicide case, the OSPD was dismissed as counsel due to an ethical conflict of interest even though the client requested an opportunity to waive any conflict and continue with the OSPD.

[Ronquillo v. People, 404 P.3d 264 \(Colo. 2017\)](#). The Supreme Court ruled that a defendant does not have to establish good-cause to fire private counsel. The right to counsel of choice includes both the right to hire and fire a private attorney. This is true even when the defendant will then

seek court appointed counsel. As long as the defendant qualifies for court-appointed counsel, and there is time to change counsel, clients can now jettison their private attorneys more easily.

[McCoy v. Louisiana, 138 S.Ct. 1500 \(2018\)](#). The United States Supreme Court found that the 6th Amendment is violated when counsel concedes guilt to 2nd degree murder without their client's consent. The majority found that the 6th Amendment guarantees a defendant the right to choose the objective of his defense and to insist that his counsel refrain from admitting guilt, even when counsel's experienced-based view is that confessing guilt offers the defendant the best chance to avoid the death penalty.

[People v. Bergerud, 223 P.3d 686 \(Colo. 2010\)](#). The Colorado Supreme Court found that Counsel cannot concede the defendant's guilt to a crime over his express objection, thereby waiving his privilege against compulsory self-incrimination. Defense counsel cannot, through their trial actions, reduce their client's constitutional right to testify to a nullity.

[Garza v. Idaho, 139 S.Ct.738 \(2019\)](#). The United States Supreme Court found that it is ineffective assistance of counsel to not file a notice of appeal, even where the client agreed to waive his appellate rights, simply because the client directed the attorney to file the notice of appeal. This could generate more appeals being filed by OADC lawyers where prior to this case no appeal was being filed.

PROHIBITION AGAINST A MANDATORY SENTENCE OF TO LIFE IN PRISON WITHOUT THE POSSIBILITY OF PAROLE FOR JUVENILES (JLWOP)

United States Supreme Court:

[Graham v. Florida, 130 S.Ct. 2011 \(2010\)](#). The Eighth Amendment prohibits imposition of a life without parole (LWOP) sentence on juvenile offenders who did not commit a homicide. When juvenile non-homicide offenders are sentenced to lengthy prison terms, states must provide those offenders with a meaningful opportunity for release.

[Miller v. Alabama, 132 S.Ct. 2455 \(2012\)](#). 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.

[Montgomery v. Louisiana, 136 S. Ct. 718, \(2016\), as revised \(Jan. 27, 2016\)](#), held that *Miller* is retroactive.

Colorado Supreme Court:

[In re. People v. Brooks, 426 P.3d 353 \(2018\).](#) The Colorado Supreme Court found that the legislation enacted after the above list of cases, creating a 30-50-year sentence range for certain convictions that previously required a much longer sentence was constitutional.

See Juvenile Life Without Parole (JLWOP) under Hot Topics for information regarding the status of Colorado JLWOP cases.

INEFFECTIVE ASSISTANCE OF COUNSEL (IAC)

[People v. West and Cano v. People, 341 P.3d 520 \(2015\).](#) Both cases involve the Office of the State Public Defender (OSPD)'s representation of the defendants and the prosecution witnesses against them in cases involving successive and concurrent representation. In both circumstances (successive & concurrent representation), there is a potential conflict of interest. Such potential conflicts require an additional showing before reversal is required. When the conflict is based on successive or concurrent representation, to show an actual conflict warranting reversal, appellant must show that the conflict "adversely affected" counsel's performance (i.e., that counsel did or did not do something as a result). This ruling increases the burden on the defendant in IAC cases in which the prior counsel is alleged to have a *per se* conflict of interest.

[People v. Garner, 381 P.3d 320 \(Colo. App. 2015\)](#) In this post-conviction case, the Court of Appeals addressed many issues. Although there was an expert who testified about incidents of ineffective assistance of counsel (IAC), the court affirmed the denial of the motion alleging IAC on grounds that included the lack of evidence by the expert as to each claim, thus essentially requiring a legal expert to succeed on a claim of IAC.

[People v. Melnick, 440 P.3d 1228 \(Colo. App. 2019\).](#) The Court of Appeals recognized that parole revocation decisions can be challenged under Crim. P. Rule 35(c). OADC attorneys cannot be appointed to parole revocation proceedings. OADC attorneys are however appointed for 35(c) petitions. This opinion has already resulted in OADC attorneys being appointed to review parole revocation decisions.

Funding for Experts:

[Hinton v. Alabama, 134 S.Ct. 1081 \(2014\)\(per curiam\)](#) (on cert. review, reversing Alabama state court's denial of post-conviction relief to state death row prisoner). Counsel rendered ineffective assistance of counsel in failing to seek additional funding for a ballistics expert when the trial court imposed a routine maximum expert fee funding cap. The state appellate court erred in determining that the defendant could not have been prejudiced by trial counsel's failure to request additional funds to replace an inadequate expert in firearms and toolmark evidence in this capital murder prosecution.

Immigration Consequences:

[People v. Morones-Quinonez, 363 P.3d 807 \(Colo. App. 2015\)](#) (reversing order of Denver District Court rejecting Rule 35(c) IAC claim without a hearing). Hearing required on what advice was given regarding immigration consequences.

[Kazadi v People, 291 P.3d 16 \(Colo. 2012\)](#) Mr. Kazadi pleaded guilty in exchange for a deferred judgment and sentence on the felony count and received a final sentence on a related misdemeanor offense. After he was taken into custody by ICE to face removal proceedings, he filed a post-conviction 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) for the felony. This case was remanded for further proceedings, -a simultaneous Crim. P. 35(c) on the misdemeanor and a Crim. P. 32(d) on the felony.

[Lee v. U.S., 137 S.Ct. 1958 \(2017\)](#) Where an IAC claim is based on counsel's affirmative mis-advice on the immigration consequences of a plea, a defendant can satisfy Strickland's second prong of prejudice even where there was overwhelming evidence of guilt and a high likelihood of conviction if the defendant had rejected the plea bargain and went to trial. This means defendants will be entitled to more 35(c) hearings and may prevail on some and then require re-trial. See also [People v. Sifuentes, 410 P.3d 730 \(Colo. App. 2017\)](#) (Same conclusion).

Plea Bargain Stage of Case:

[Missouri v. Frye, 132 S.Ct. 1399 \(2012\)](#) and [Lafler v. Cooper, 132 S.Ct. 1376 \(2012\)](#). 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.

EXPERTS:

[McWilliams v. Dunn, 137 S. Ct. 1790 \(2017\)](#) Prior to McWilliams' death penalty sentencing hearing, a state psychologist appointed by the trial judge determined that McWilliams had "organic brain damage" and other problems stemming from earlier head injuries. The report was delivered to the inmate's lawyers two days before the sentencing hearing, followed by voluminous mental health records and a prison file showing that McWilliams was taking psychotropic drugs. The judge refused the defendant's request for a continuance, refused to provide him with a defense expert, and then sentenced him to death. The Court ruled that the defense mental health assistance "fell far short" of what is required by [Ake v. Oklahoma, 470 U.S. 68 \(1985\)](#). The Court stopped short of saying the constitution requires a special defense expert,

however, Breyer noted that most states, including Alabama, now routinely provide an expert specifically for the defense team. In dissent, Justice Alito said that nothing in the *Ake* decision requires that a defendant be provided “an expert who functions solely as a dedicated member of the defense team.”

[*Venlonzo v. People*, 388 P.3d 868 \(Colo. 2017\)](#) The Supreme Court announced a new test for determining whether a witness’s testimony is expert testimony. This new test will result in courts finding more testimony is expert testimony. Expert testimony requires special disclosures by the prosecution and challenges from the defense. Thus, there will be increased pretrial litigation.

COMPLICITY:

[*People v. Childress*, 363 P.3d 155 \(Colo. 2015\)](#) held that there can be complicitor liability for the strict liability offense of vehicular assault (DUI).

SEARCH OF CELL PHONES:

[*Carpenter v. United States*, 138 S.Ct. 2206 \(2018\)](#). The United States Supreme Court found that the government needs a warrant to collect information about customers’ locations from cell phone companies.

[*People v. Herrera*, 357 P.3d 1227 \(Colo. 2015\)](#) The Supreme Court held that the police acted outside the search warrant in viewing text messages on a phone, when the warrant only authorized a search for “ownership records” on the phone.

COCCA JURY INSTRUCTIONS:

In [*McDonald v. People*, 20SC354](#) (Court of Appeals Case No. 17CA1096), the Colorado Supreme Court accepted certiorari to determine two issues which could have a significant budgetary impact:

Whether the court of appeals erred in declining to interpret the Colorado Organized Control Act (COCCA) phrase “group of individuals, associated in fact” consistently with the United States Supreme Court’s definition of the identical phrase in the Racketeer Influenced and Corrupt Organizations Act (RICO).

Whether sufficient evidence existed to sustain a COCCA conviction where no evidence demonstrated the presence of a COCCA enterprise.

Depending on the outcome of this case, OADC could see significantly fewer COCCA cases, resulting in a significant savings as these are very expensive cases, or an increase in COCCA cases with a concomitant increase in expense due to the greater number of COCCA cases.

Appendix C

Agency Objectives and Performance Measures

I. Performance Measures & Goals

Performance Measure A: Ensure Adequate Contractor Rates

For the FY20–21 Budget Request the OADC submitted a Decision Item requesting a 5% increase in contractor hourly rates. The Joint Budget Committee originally approved the request but later withdrew their decision due to statewide budgetary cuts due to the COVID-19 pandemic.

		FY09-14 Actual	FY15-18 Actual	FY19 Actual	FY20 Actual	FY21 Request	FY22 Anticipated	FY23 Anticipated
OADC average hourly Attorney Rates	Target	\$75	\$75	\$80	\$80	\$85	undetermined	undetermined
	Actual	\$65	\$75	\$80	\$80			

Performance Measure B: Contain Case Costs

The OADC analyzes its cost per case monthly and strives to find innovative and effective strategies to contain those costs.

		FY17 Actual	FY18 Actual	FY19 Actual	FY20 Budget	FY21 Request	FY22 Anticipated	FY23 Anticipated
Average Cost per Case	Target	\$1,581	\$1,523	\$1,523	\$1,456	\$1,456	\$1,474	\$1,474
	Actual	\$1,523	\$1,456	\$1,474				
Keep ancillary costs per case to a minimum.	Target	\$120	\$107	\$107	\$91	\$91	\$67	\$67
	Actual	\$107	\$91	\$67				

Performance Measure C: Provide High-Quality Annual Trainings

The Agency has developed three basic components to its training program.

1. Assess and determine the types of training needed for the OADC contractors.
2. Develop, organize, and present trainings for the OADC lawyers, investigators, paralegals, and social workers.
3. Facilitate access to training for contractors throughout the state by providing in-person, virtual, Home Study, and webcasted trainings.

FY18 Actual	FY19 Actual	FY20 Actual	FY21 Request	FY22 Anticipated	FY23 Anticipated

Total Trainings	16	31	51	31	51	51
Total Hours	332	244	267	244	267	267
Total Attendees	1,384	1,351	2,650	1,351	2,650	2,650

Performance Measure D: Provide Cost-Effective Research Tools and Assistance

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 its eLibrary.
2. Providing legal research, motion drafting, and other assistance to contractors, using lawyers and non-lawyers.
3. Providing weekly emailed case law summaries of new criminal legal opinions issued by the Colorado Court of Appeals, the Colorado Supreme Court, the 10th Circuit of the United States Court of Appeals, and the United States Supreme Court.
4. Providing a weekly podcast discussing recent cases of interest, practice pointers and contractor wellness issues.
5. Analyzing and introducing best practice applications to OADC contractors.
6. Creating comprehensive manuals on complex but frequently used subject matter such as COCCA (Colorado Organized Crime Control Act), self-defense, character evidence, restitution claims, CRE 404(b) evidence, researching legislative history, sex offenders, out-of-state subpoenas, habitual criminal sentencing, proportionality review materials and post-conviction and ineffective assistance of counsel claims. Co-authoring the 4th edition of the Juvenile Defense Manual, which was released in April 2020.
7. Providing access to online subscription research services including Westlaw (legal research) and EBSCO (Psychology and Behavioral Sciences Collection and the Sociology Index).

		FY18 Actual	FY19 Actual	FY20 Actual	FY21 Anticipated	FY22 Anticipated	FY23 Anticipated
On-Line Research Tools and Resources to the OADC Contractors*	Target docs	6,000	7,000	7,500	7,541	7,854	7,854
	Actual docs	7,297	7,541	7,854			
	Target hits	1,200	1,700	2,000	4,952	5,928	5,928
	Actual hits	3,108	4,952	5,928			

* Including Juvenile, and Mental Health specific materials

Performance Measure E: Monitor and Evaluate Contractors

The OADC has a process to ensure that all OADC lawyers, investigators, and social workers are under a current contract. This process includes interviewing and evaluating potential and renewing current contract attorneys, investigators, and social workers. To accomplish this the Agency:

1. Has created a database to track all attorney, investigator, and social worker contractors, including contract renewal dates.
2. Requests renewal applications from contractors, interviews and evaluates contractors, and renews contracts if appropriate.
3. Solicits feedback from judicial districts about the OADC lawyers.
4. Verifies attorney status with the Office of Attorney Regulation.
5. Monitors and evaluates courtroom practices through in-court observations.
6. Reviews written submissions from contractors and provides feedback as needed.
7. Mandates testing for investigators before initial contract issuance.
8. Conducts audits and time-efficiency studies of selected OADC contractors.
9. Runs reports on OADC contractors using the Court Appointed Attorney Payment System (CAAPS).
10. Requires at least 5 hours of juvenile or defense specific CLE training per year.

		FY18 Actual	FY19 Actual	FY20 Actual	FY21 Request	FY22 Anticipated	FY23 Anticipated
Evaluate Potential and Renewing Attorney Applicants	Target	100%	100%	100%	100%	100%	100%
	Actual	100%	100%	100%			
Evaluate Potential and Renewing Investigator Applicants	Target	100%	100%	100%	100%	100%	100%
	Actual	100%	100%	100%			
Court Room Observations	Target	75	75	75	75	75	75
	Actual	77	96	39*			
Mock Oral Arguments	Target	12	12	12	12	12	12
	Actual	5	9	6			
	Target	16	16	16	16	16	16

Oral Arguments	Actual	11	10	6			
Review Pleadings	Target	100	150	150	150	150	150
	Actual	150	180	158			

* The OADC usually does a significant number of observations between March 1st and June 30th, but due to COVID-19, these hearings and observations did not occur this year.

Performance Measure F: Strengthen OADC’s Social Worker Program

To facilitate the use of social workers in juvenile and criminal defense the Agency provides contractors with the following:

1. Contract Social Workers
2. Access to EBSCO Research Database
3. Social Worker related trainings.
4. Incorporate Social Work into OADC’s main website.

OADC will add and develop a landing page within the main website for use by social workers and attorneys to learn about the program and how to incorporate social workers on individual cases

		FY18 Actual	FY19 Actual	FY20 Actual	FY21 Request	FY22 Anticipated	FY23 Anticipated
Number of Cases with Social Workers	Target	200 cases	300 cases	350 cases	496 cases	624 cases	624 cases
	Actual	320 cases	496 cases	624* cases			
Number of Social Worker Contractors	Target	15 contractors	21 contractors	24 contractors	32 contractors	44 contractors	44 contractors
	Actual	22 contractors	32 contractors	44 contractors			
Number of Social Worker Interns	Target	3 interns	4 interns	5 interns	5 interns	6 interns	6 interns
	Actual	3 interns	3 interns	5 interns			

*Cases paid on as of June 30, 2020

Performance Measure G: Strengthen the OADC’s Juvenile Division

In FY17, the OADC created a specialized Juvenile Division of attorneys with the skills, knowledge, and experience necessary to competently represent juvenile clients in delinquency and adult court. The OADC continues to apply lessons learned through this process to improve the quality and efficiency of OADC juvenile defense. The OADC provides juvenile specific training, both on its own and through collaboration with other agencies and organizations. The agency’s annual spring conference was held this year, despite COVID-related challenges, using a remote platform. The OADC also assists contract attorneys in incorporating other professionals into their defense teams. This includes specialists in education advocacy, appeals, mental health and competency, and the defense of sex offense cases, as well as non-attorney professionals such as social workers, forensic clinical advocates, mitigation specialists, investigators, paralegals, and legal researchers. The Juvenile Defense Coordinator regularly observes Juvenile Division contractors and conducts initial contract interviews as well as contract renewal interviews. In addition, the Coordinator represents the interests of OADC juvenile defense teams and clients by participating in various policy initiatives and stakeholder meetings.

		FY18 Actual	FY19 Actual	FY20 Actual	FY21 Request	FY22 Anticipated	FY23 Anticipated
Screen 100% of attorneys doing juvenile work and up for contract renewal, to ensure competency in juvenile representation.	Target	25	25	25	26	100%	100%
	Actual	7*	26	18			
Incorporate a social worker into juvenile defense teams where appropriate.	Target	50 cases	50 cases	60 cases	112 cases	114 cases	114 cases
	Actual	61 cases	112 cases	114 cases			
Provide specialized education law assistance to juvenile defense teams where appropriate.	Target	20	20	25	40	42	42
	Actual	31	40	42			

*The OADC conducts contract renewal screenings at the end of each calendar year. In 2016, the OADC created a Juvenile Division, and screened all attorneys who applied to represent juveniles in the summer of that year. Therefore, no juvenile attorneys were screened at the end of that calendar year. In addition, because most contractors were given two- or three-year contracts beginning on January 1, 2017, there were fewer renewal screenings at the end of 2017 than 2018. Now that the Juvenile Division has gone through its first three-year renewal cycle the goal moving forward is to evaluate 100% of the attorney contractors up for renewal each year.

Performance Measure H: Implement and manage the Municipal Court Program

To ensure that indigent defendants in Colorado’s municipal courts receive representation free from political and judicial influence and that such representation is effective, high quality, ethical, conflict-free and constitutionally sound, the OADC acquired a new position that is implementing its Municipal Court Program. The Program is evaluating the selection process of court-appointed counsel in municipalities and the independence and competence of those attorneys. Evaluations began January 1, 2020. Evaluation reports will be provided to each Municipal Court in the program. To accomplish this, the Agency will:

1. Evaluate the selection of court-appointed counsel by a municipality.
2. Evaluate municipal court-appointed counsel to determine whether services are being provided free from political and judicial influence and meet minimum constitutional standards.

		FY18 Actual	FY19 Actual	FY20 Actual	FY21 Request	FY22 Anticipated	FY23 Anticipated
Municipalities Requesting OADC Attorney Evaluations	Target	na	50	50	50	56	56
	Actual	na	37	56			
Evaluation of Municipalities requesting services	Target	na	na	100	16***	21	26
	Actual	na	na	56			
Evaluation of Court- Appointed Attorneys	Target	na	na	112	75	75	75
	Actual	na	na	81*			
Municipalities visited that requested OADC services	Target	na	100%	100%	100%	100%	100%
	Actual	na	97%	13% **			

**The remaining attorneys are OADC contractors that do not require an evaluation and where not up for renewal in FY20.*

***This number is low due to COVID-19 closures of municipal courts.*

****The number of municipalities requesting services decreased from 56 to 53. The 3 courts not renewing their participation have not used court-appointed counsel in several years*

II. Strategies

Increase Compensation Rates

As mentioned in the Performance Measures and Goals section of this plan, the OADC submitted a Decision Item regarding an increase to its contractor hourly rates by 5% for the FY20-21 budget request. The Joint Budget Committee originally approved the request but later withdrew their decision due to statewide budgetary cuts due to the COVID-19 pandemic. The OADC will continue to measure and compare statewide and national legal fees with its contractor rates and request additional funding when possible.

Provide Ongoing Trainings

The Performance Measures and Goals section provides a list of the OADC's commitment to trainings in the upcoming 3 fiscal years. The types of trainings provided are based on an assessment of the needs of the OADC contractors. Despite COVID-19, the OADC successfully exceeded its training goals by moving to an on-line platform for its trainings since mid-March.

Conducting Periodic Evaluations

Section V (Recent Performance Evaluations) outlines several tools that the Agency uses to evaluate its programs. The Agency's billing system overhaul, which went into effect on July 23, 2015, continues to enhance the Agency's ability to monitor and evaluate its contractors.

Improved and Cost-Effective Research Tools

As described in the Performance Measures and Goals, the OADC will continue to provide resources and technology to its contractors. A highly utilized resource that the Agency has developed is a centralized, online legal research and information platform called the eLibrary that continues to expand and assist many of the Agency's contractors. This asset is imperative to the Agency because it reduces average case costs by streamlining research time for contractors while simultaneously improving the effectiveness of representation. This eLibrary has expanded to include a separate juvenile and social sciences section and will eventually include a separate mental health section. In 2020, the OADC added enhanced Boolean search commands, culled outdated materials, and added updated and new materials.

Paperless and Administrative Efficiencies

The Agency's revamped web-based billing system (CAAPS) went live on July 23, 2015. Each individual contractor bill is reviewed online for reasonableness and accuracy. This overhaul continues to enhance the Agency's monitoring capabilities, benefiting not only internal auditing procedures but also the annual fiscal note process and individual contractors' payment monitoring options. The Agency has also acquired a data analytics software called Tableau to further assist with reporting and forecasting efficiencies.

Ancillary Services to Reduce Attorney Hours

To increase the quality and efficiency of OADC contract attorneys, the Agency has implemented and continues to seek out measures that reduce billable attorney hours and associated ancillary costs. These measures include:

1. Continuing the in-house appellate case management system that streamlines 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. Attorney access to electronic court records pursuant to HB 08-1264.
4. Expanding and promoting the eLibrary.
5. Providing legal research, motion drafting, and other case related assistance.
6. Evaluating contractor efficiency and auditing billing.
7. Closely monitoring requests for expert assistance.
8. Identifying and promoting technologies that increase contractor efficiency.

Fraud, Waste, & Abuse Prevention

The OADC diligently monitors all financial transactions. In addition to the annual audit performed by the Office of the State Auditor, the Agency reviews all payments, ensuring appropriate documentation and support, utilizing segregation of duties, second level approvals, and executive review of over-the-maximum requests. Quarterly vendor totals are also audited for anomalies. The Agency verifies monthly payroll through the state financial and payment processing system.

III. Performance Evaluation

Contractor Survey and Evaluations

This year the Agency conducted surveys regarding the Municipal Court Program Counsel List, Trial Advocacy Trainings, and FSW/FCA impact on cases.

The OADC Staff Evaluations

The Agency conducted its employee self-evaluations in April 2020. This annual evaluation includes such topics as; Job Knowledge, Work Quality, Attendance/Punctuality, Initiative, Communication/Listening Skills, and Dependability. Each staff member completed a self-evaluation, and met with their supervisor to discuss the results, concerns, and overall performance of each employee.

Evaluation of Prior Year Performance

Performance Measure A: Ensure Adequate Contractor Rates:

In FY20 the OADC did not request a rate increase for its contractors.

Performance Measure B: Contain Case Costs:

The Agency continues to contain its average cost per case and keep ancillary costs per case to a minimum. (See chart on page 5 of 15)

Performance Measure C: Provide High-Quality Annual Trainings:

As can be seen by the chart below, the agency provided 51 trainings, consisting of 267 hours, and reaching 2,650 attendees, an increase from the projected 903.

	FY20 Projected	FY20 Actual
Total Trainings	16	51
Total Hours	158	267
Total Attendees	903	2,650

Performance Measure D: Provide Cost-Effective Research Tools and Assistance:

As the chart below demonstrates, the Agency continues to exceed its goals in this area.

	FY20 Projected	FY20 Actual
Total Number of Documents	7,500	7,854
Users per month	2,000	5,928

Performance Measure E: Monitor and Evaluate Contractors:

The Agency met its goal of evaluating 100% of renewing attorneys and investigators and exceeded its goal of pleadings reviewed by 8 as seen below.

	FY20 Projected	FY20 Actual
Evaluate Renewing Attorney Applicants	100%	100%
Evaluate Renewing Investigator Applicants	100%	100%
Courtroom Observations	75	39*
Mock Oral Arguments	12	6
Oral Arguments	16	6
Review Pleadings	150	158

*The OADC usually does a significant number of observations between March 1st and June 30th, but due to COVID-19, these hearings and observations did not occur this year..

Performance Measure F: Strengthen OADC's Social Worker Program:

The Agency's Social Worker program has continued to expand. Since the hiring of a full-time Social Worker Coordinator in September 2016, the Agency expanded the number of Social Worker contractors, and therefore the number of cases with social workers. The JBC approved the OADC's request for a Social Worker Outreach Coordinator for FY19-20, and that position was filled on July 1, 2019. This program continues to expand as seen in the chart below.

	FY20 Projected	FY20 Actual
Number of Cases with Social Workers	350	624
Number of Social Worker Contractors	24	44
Number of Social Worker Interns	5	5

Performance Measure G: Strengthen the OADC’s Juvenile Division:

The OADC successfully implemented a Juvenile Division in FY17 and anticipates that the efficacy of this program will continue to increase as it moves forward.

	FY20 Projected	FY20 Actual
Screen 100% of attorneys doing juvenile work and up for contract renewal, to ensure competency in juvenile representation.	25	18
Incorporate a social worker into juvenile defense teams where appropriate.	60	115
Provide specialized education law assistance to juvenile defense teams where appropriate.	25	42

Performance Measure H: Implement and manage the Municipal Court Program:

Pursuant to SB 18-203, enacted in FY18, the OADC hired a Municipal Court Coordinator to run the Municipal Court Program, a program that evaluates the independence and competence of court-appointed counsel in municipal courts across the state. In FY19, the Coordinator connected with the 56 municipalities that requested OADC services and observed court proceedings in over 30 of those municipalities. Over the course of 2020, the Coordinator has been conducting evaluations these municipal courts and will provide reports to each of them by the end of 2020. COVID-19 has impacted the ability to conduct court observations, however, with the implementation of virtual court hearings and municipal courts starting to open back up over the summer, the Coordinator is slowly resuming these observations. 53 Municipal Courts have requested services for 2021. Requests for 2022 evaluation services are due September 1, 2020.

	FY20 Projected	FY20 Actual
Municipalities Requesting OADC Attorney Evaluations	50	56
Municipalities visited that requested OADC services	100%	13%*

*The number of municipalities requesting services decreased from 56 to 53. The 3 courts not renewing their participation have not used court-appointed counsel in several years

Appendix D
Long-Range Financial Plan

**Colorado Office of the Alternate Defense Counsel
Long-Range Financial Plan**

Appropriation Unit	FY 2021-22 Budget Request			FY 2022-23 Budget Projection		
	General Fund	Cash Fund	Total	General Fund	Cash Fund	Total
Personal Services	\$1,670,647		\$1,670,647	\$1,670,647		\$1,670,647
Health, Life and Dental	\$226,711		\$226,711	\$226,711		\$226,711
Short-term Disability	\$2,622		\$2,622	\$2,622		\$2,622
Amortization Equalization Disbursement (AED)	\$81,918		\$81,918	\$81,918		\$81,918
Supplemental Amortization Equalization Disbursement (SAED)	\$81,918		\$81,918	\$81,918		\$81,918
Salary Survey	\$0		\$0	\$0		\$0
Merit Pay	\$0		\$0	\$0		\$0
Operating Expenses	\$120,887		\$120,887	\$126,931		\$126,931
Capital Outlay	\$0		\$0	\$0		\$0
Training	\$20,000	\$80,000	\$100,000	\$20,000	\$80,000	\$100,000
Conflict-of-interest Contracts	\$ 42,262,813		\$42,262,813	\$ 46,713,495		\$46,713,495
Mandated Costs	\$ 2,895,573		\$2,895,573	\$ 3,200,505		\$3,200,505
Municipal Court Program	\$202,306		\$202,306	\$202,306		\$202,306
Total	\$47,565,395	\$80,000	\$47,645,395	\$52,327,053	\$80,000	\$52,407,053

Appropriation Unit	FY 2023-24 Budget Projection			FY 2024-25 Budget Projection		
	General Fund	Cash Fund	Total	General Fund	Cash Fund	Total
Personal Services	\$1,670,647		\$1,670,647	\$1,670,647		\$1,670,647
Health, Life and Dental	\$226,711		\$226,711	\$226,711		\$226,711
Short-term Disability	\$2,622		\$2,622	\$2,622		\$2,622
Amortization Equalization Disbursement (AED)	\$81,918		\$81,918	\$81,918		\$81,918
Supplemental Amortization Equalization Disbursement (SAED)	\$81,918		\$81,918	\$81,918		\$81,918
Salary Survey	\$0		\$0	\$0		\$0
Merit Pay	\$0		\$0	\$0		\$0
Operating Expenses	\$133,278		\$133,278	\$139,942		\$139,942
Capital Outlay	\$0		\$0	\$0		\$0
Training	\$100,000	\$80,000	\$180,000	\$100,000	\$80,000	\$180,000
Conflict-of-interest Contracts	\$ 51,632,877.18		\$51,632,877	\$ 57,070,317.73		\$57,070,318
Mandated Costs	\$ 3,537,549.23		\$3,537,549	\$ 3,910,087.32		\$3,910,087
Municipal Court Program	\$202,306		\$202,306	\$202,306		\$202,306
Total	\$57,669,826	\$80,000	\$57,749,826	\$63,486,468	\$80,000	\$63,566,468

(See additional information on the following page)

**Colorado Office of the Alternate Defense Counsel
Long-Range Financial Plan**

Assumptions

Personal Services and related costs (PERA, Medicare, HLD, AED, SAED,

> Disability)

> We are unable to predict any salary survey or merit increases. However, OADC aligns its requested increases with OSPB and JBC recommendations during the annual budget process

> Operating

> Operating expenditures are projected to increase 5% per year starting FY23

> Conflict-of-interest Contracts & Mandated Costs (General Fund)

> Projections reflect a 10.53% expenditure increase of Conflicts and Mandated Costs for each FY moving forward.

> Municipal Court Programs

> Amount is aligned with SB18-203 Appropriations.