

JUDICIAL BRANCH
FY 2017-18 JOINT BUDGET COMMITTEE HEARING AGENDA

Monday, December 12, 2016

1:30 pm – 5:00 pm

JUDICIAL DEPARTMENT (including the Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation)

1:30-1:40 INTRODUCTIONS AND OPENING COMMENTS

1:40-1:50 QUESTIONS RELATED TO FY 2017-18 BUDGET PRIORITIES

(JUD R1) Courthouse Capital and Infrastructure Maintenance

- 1 Describe the State's role related to courthouse security. Please include a description of the Courthouse Security Grant Program, with details about which counties are eligible for and which counties currently receive grants to cover the costs of security personnel.

(JUD R2) Language Access Caseload and Contractor Rate Increase

- 2 Describe that factors that are causing the increased need for language interpreter services.
- 3 Describe the data that was used to calculate the additional funding that is requested for FY 2017-18. Is this amount likely to be sufficient to meet the demand for language interpreter services?

1:50-2:20 COURTS

Case Filing Trends

- 4 The Committee understands that some cases that were previously filed in county courts are now filed in municipal courts. Describe the types and number of cases that have recently shifted to municipal courts, the reasons for the shift, the workload impact on county courts, and the cash fund revenue impact to the State.
- 5 Discuss recent trends in the number of foreclosure and tax lien case filings and how they relate to the significant increase in filings that occurred during the most recent economic downturn.

Problem-solving Courts

- 6 Describe how the Department evaluates the effectiveness of problem-solving courts, including the effectiveness of probation supervision for offenders who participate in problem-solving courts. How do these measures compare to the performance measures that are used to evaluate the effectiveness of other types of courts and other types of probation supervision?
- 7 How do problem-solving courts fit into the range of potential criminal justice diversion options for individuals with behavioral health issues? Is there a consistent philosophy within problem-solving courts about the use of deferred prosecution?
- 8 What are the Department's long-term goals with respect to problem-solving courts? To what extent should these courts replace traditional courts?
- 9 Has the legalization of marijuana affected the number or types of cases that are heard in problem-solving courts?

Impacts of Recent Legislation

- 10 *Background Information:* House Bill 13-1210 repealed a statute that required an indigent person charged with a misdemeanor or other minor offense to meet with the prosecuting attorney for plea negotiations before legal counsel is appointed. As a result, the number of cases requiring state-paid representation from the Office of the State Public Defender (OSPD) or the Office of the Alternate Defense Counsel (OADC) has increased significantly since January 2014.
 - a. Describe any impacts of H.B. 13-1210 that have been observed or can be quantified, other than caseload increases for the OSPD and OADC (e.g., Is this affecting the plea negotiation process? the likelihood of a conviction? the likelihood of a defendant remaining in custody? the rate of recidivism?).

- b. Describe the process that occurs when a defendant is eligible for state-paid representation but chooses to proceed without such representation. Do self-represented litigant coordinators (“SRLCs”) or other court staff play a role in assisting self-represented parties in criminal cases?
- 11 House Bill 14-1032 (Defense counsel for juvenile offenders) and H.B. 14-1023 (social workers for juveniles) changed the way that state-paid legal representation is provided in certain juvenile delinquency cases. Describe any impacts of these acts that have been observed or can be quantified (e.g., Are fewer juveniles being placed in detention?).

Expert Witnesses

- 12 Have the courts evaluated the use of expert witnesses in civil and criminal cases to determine whether they are being used in a cost-effective manner? Are there any policies in place that are designed to limit unnecessary or excessive use of expert witnesses?

2:20-2:25 **PROBATION**

- 13 Describe the factors that are used to assess an offender’s risk of re-offending in order to determine the appropriate level of probation supervision.
- 14 Do probation officers’ pre-sentence investigation reports include risk assessment data? If so, to what extent do judges use such data to determine a defendant’s sentence? Does such a practice raise federal constitutional issues?
- 15 Under what circumstances is an offender who is sentenced to probation supervised by a private probation provider (rather than state staff)? Why has the proportion of offenders supervised by private probation providers declined?

2:25-2:40 **OTHER QUESTIONS**

Independent Judicial Agencies

- 16 Describe the existing communication, coordination, and resource sharing that occurs between the agencies that comprise the Judicial Branch. What additional efficiencies can be gained while maintaining the ability of each agency to effectively carry out its mission?
- 17 How can the processes that are used to evaluate and approve salary adjustments for Judicial Branch employees be improved so that they are more consistent with the practices that are used by the State Personnel Director?

- 18 Provide input about how to improve statutory reporting requirements that are relevant to the Judicial Branch, including those currently imposed by the SMART Act, to ensure that they are appropriate for each judicial agency's scope of work and staffing levels. What changes would make the required reports more useful for both the judicial agency and the receiving entities?

Statewide Discovery Sharing System

- 19 Discuss the intent of the proposed modification to the Colorado Supreme Court Rules of Criminal Procedure concerning the cost and location of discovery [C.R.C.P. Rule 16 (V) (c)]. Is the proposed rule consistent with the stated objectives of S.B. 14-190?

ADDENDUM: OTHER QUESTIONS FOR WHICH SOLELY WRITTEN RESPONSES ARE REQUESTED

- 20 Provide a list of any legislation that the Department has: (a) not implemented, or (b) partially implemented. Explain why the Department has not implemented or has only partially implemented the legislation on this list. Please explain any problems the Department is having implementing any legislation and any suggestions you have to modify legislation.
- 21 If the Department receives federal funds of any type, please respond to the following:
- a. Please provide a detailed description of any federal sanctions or potential sanctions for state activities of which the Department is already aware. In addition, please provide a detailed description of any sanctions that MAY be issued against the Department by the federal government during FFY 2016-17.
 - b. Are expecting any changes in federal funding with the passage of the FFY 2016-17 federal budget? If yes, in which programs, and what is the match requirement for each of the programs?
- 22 Does the Department have any HIGH PRIORITY OUTSTANDING recommendations as identified in the "Annual Report of Audit Recommendations Not Fully Implemented" that was published by the State Auditor's Office and dated June 30, 2016 (link below)? What is the department doing to resolve the HIGH PRIORITY OUTSTANDING recommendations?

http://leg.colorado.gov/sites/default/files/documents/audits/1667s_annual_report_-_status_of_outstanding_recommendations_1.pdf

- 23 Is the department spending money on public awareness campaigns? What are these campaigns, what is the goal of the messaging, what is the cost of the campaign? Please distinguish between paid media and earned media. Do you have any indications or metrics regarding effectiveness? How is the department working with other state or federal departments to coordinate the campaigns?

- 24 Based on the Department's most recent available record, what is the FTE vacancy and turnover rate by department and by division? To what does the Department attribute this turnover/vacancy?
- 25 For FY 2015-16, do any line items in your Department have reversions? If so, which line items, which programs within each line item, and for what amounts (by fund source)? What are the reasons for each reversion? Do you anticipate any reversions in FY 2016-17? If yes, in which programs and line items do you anticipate these reversions occurring? How much and in which fund sources do you anticipate the reversion being?
- 26 [Background Information: For FY 2017-18, the Department of Law has submitted a request to change the calculation of legal services appropriations as well as the monthly billing system for legal services provided to state agencies. Specifically, the proposal would: 1) calculate the number of budgeted legal services hours for each agency as the average of actual usage in the prior three years; 2) include a two-year average of "additional litigation costs" such as court reporting, travel for depositions, expert witness costs, etc., in the appropriation for legal services (these costs are not currently included in the appropriation and are often absorbed from other personal services and operating expenses line items); and 3) convert from monthly billing based on the actual hours of service provided to monthly billing based on twelve equal installments to fully spend each client agency's appropriation.]

Please discuss your agency's position on the Department of Law's proposed changes to the legal services system, including the potential impacts of the changes on your agency budget. That is, does your department support the proposed changes? How would you expect the changes to positively or negatively impact your department? Please explain.

- 27 What is the expected impact of Amendment 70 (minimum wage increase) on Department programs? Please address impacts related to state personnel, contracts, and providers of services.
- 28 Please provide an update on the Department's status, concerns, and plans of action for increasing levels of cybersecurity, including existing programs and resources. How does the Department work with the Cybersecurity Center in the Office of Information Technology?
- 29 Is the SMART Act an effective performance management and improvement tool for your Department? What other tools are you using? Do your performance tools inform your budget requests? If so, in what way?
- 30 Please identify how many rules you have promulgated in the past two years. With respect to these rules, have you done any cost-benefit analysis pursuant to Section 24-4-103 (2.5), C.R.S., regulatory analysis pursuant to Section 24-4-103 (4.5), C.R.S., or any other similar analysis? Have you conducted a cost-benefit analysis of the Department's rules as a whole? If so, please provide an overview of each analysis.

- 31 What has the department done to decrease red tape and make the department more navigable/easy to access?
 - 32 What is the number one customer service complaint the department receives? What is the department doing to address it?
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COLORADO DISTRICT ATTORNEYS' COUNCIL (CDAC)

- 1 Describe the benefits of implementing the statewide discovery sharing system (“eDiscovery”), including any efficiencies or long-term cost savings.
 - 2 Provide an update on which district attorneys are members of the Colorado District Attorneys’ Council, and which district attorneys currently use or plan to use the ACTION case management system.
 - 3 Do the ACTION or eDiscovery systems interface with other state information systems? How does the eDiscovery system protect data in terms of privacy and cybersecurity concerns?
 - 4 The most recent eDiscovery Status Report identifies three primary implementation challenges: body cam video; bandwidth at the district attorney and public defender offices; and slow implementation by some law enforcement agencies.
 - a. Clarify which files are stored within the ACTION and eDiscovery systems, and which files are stored locally by law enforcement agencies, district attorney offices, and defense agencies.
 - b. Describe the current and long-term plans for dealing with extraordinarily large media files.
 - c. What policies or procedures are in place to eliminate files when they no longer need to be stored within ACTION or the eDiscovery system?
 - d. How do existing policies related to the retention of files affect bandwidth issues or the need for storage capacity? Would statutory changes help to address this issue?
 - e. Describe the reasons for slow implementation by some law enforcement agencies.
 - 5 Does the Steering Committee or the Colorado District Attorneys’ Council anticipate expanding eDiscovery in the future to expand the ability of law enforcement agencies to use the system for other purposes, such as data analytics or sharing more information electronically with district attorney offices or the courts (e.g., electronic traffic citations)?
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3:00-3:15 BREAK

INTRODUCTIONS AND OPENING COMMENTS

OSPD R1 Deferred Support Staff

- 1 Explain what caused the shortfall of support staff in relation to attorney staff. How have recent caseload increases and the resources provided through H.B. 13-1210 (Right to legal counsel in plea negotiations) affected this shortfall?
- 2 How does the OSPD allocate existing support staff among judicial districts?
- 3 Please discuss the OSPD's recent effort to collect data and compare the staff and resources available to district attorneys and the OSPD in each judicial district.

OSPD R2 Mandated Costs and Electronic Data Management Expenses

- 4 To what extent does the mandated costs portion of this request relate to expert witness expenses?

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Independent Judicial Agencies

- 7 Describe the existing communication, coordination, and resource sharing that occurs between the agencies that comprise the Judicial Branch. What additional efficiencies can be gained while maintaining the ability of each agency to effectively carry out its mission?
- 8 How can the processes that are used to evaluate and approve salary adjustments for Judicial Branch employees be improved so that they are more consistent with the practices that are used by the State Personnel Director?
- 9 Provide input about how to improve statutory reporting requirements that are relevant to the Judicial Branch, including those currently imposed by the SMART Act, to ensure that they are appropriate for each judicial agency's scope of work and staffing levels. What changes would make the required reports more useful for both the judicial agency and the receiving entities?

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- 10 Based on the agency's most recent available record, what is the FTE vacancy and turnover rate? To what does the agency attribute this turnover/vacancy?
- 11 For FY 2015-16, do any line items in your agency have reversions? If so, which line items, which programs within each line item, and for what amounts (by fund source)? What are the reasons for each reversion? Do you anticipate any reversions in FY 2016-17? If yes, in which programs and line items do you anticipate these reversions occurring? How much and in which fund sources do you anticipate the reversion being?
- 12 What is the expected impact of Amendment 70 (minimum wage increase) on agency programs? Please address impacts related to state personnel, contracts, and providers of services.
- 13 Is the SMART Act an effective performance management and improvement tool for your agency? What other tools are you using? Do your performance tools inform your budget requests? If so, in what way?

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INTRODUCTIONS AND OPENING COMMENTS

Questions unique to the OCR

- 1 The OCR is requesting \$803,000 General Fund to replace its billing and case management system (OCR R2). What efforts did the OCR make to work with other Judicial agencies to identify potential options?
- 2 Describe the three models that are currently used by the OCR to provide guardian ad litem services for children (i.e., independent contractors, the OCR office in El Paso county, and the multi-disciplinary law office pilot program). Please include information about when each model began and any available information related to the costs and effectiveness of each model.
- 3 Discuss recent increases in the number of truancy and juvenile delinquency cases in which the OCR pays for court appointed counsel. What are the factors driving these increases?
- 4 Describe the process(es) that are used and the factors that are considered by the court when determining the placement for youth who are awaiting adjudication for truancy or for juvenile delinquency. Is it common for these two types of youth to be placed in the same setting?

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(JUD R1) Courthouse Capital and Infrastructure Maintenance

- 1 Describe the State's role related to courthouse security. Please include a description of the Courthouse Security Grant Program, with details about which counties are eligible for and which counties currently receive grants to cover the costs of security personnel.

In Colorado, counties are required to provide adequate court facilities and courthouse security. See § 30-11-104; § 13-1-114, C.R.S. (2016). To reduce the burden on counties that might not have funding to provide adequate courthouse security, the General Assembly shifted some of the financial burden to the state through the creation of the Court Security Cash Fund Commission (Court Security Commission).

Creation, Mission and Make-up of Court Security Commission

In 2007, Senate Bill 07-118 created The Court Security Commission. The legislation placed the Court Security Commission in the Office of the State Court Administrator within the Colorado Judicial Department. In creating the Court Security Commission, the General Assembly determined that ensuring the safety of employees and users of state court facilities is a significant component of ensuring access to justice.

The Court Security Cash Fund program operates by offering grants for the security needs of local courthouses. The program uses flexible partnerships with county authorities to assess local needs and address security deficiencies. Since 2007, the grant program has instigated enhanced security measures in 56 of Colorado's 64 counties. These measures include technical support such as magnetometers, X-ray machines, duress alarms and surveillance systems. Additionally, the grant program allows county governments to hire more law enforcement personnel to enhance security in courthouses. The Court Security Cash Fund program is recognized as a national leader in court security.

The mission of the Court Security Commission is to:

- Provide supplemental funding for ongoing security staffing in the counties with the most limited financial resources; and
- Provide funding to counties for court security equipment costs, training of local security teams on issues of state court security, and emergency needs related to court security.

Local court security teams may apply for funds, and the Court Security Commission is required to give the highest priority to grant applications from counties that meet at least two of the following four criteria:

1. Counties in which the population is below the state median;
2. Counties in which the per capita income is below the state median;
3. Counties in which property tax revenues are below the state median; or
4. Counties in which the total population living below the federal poverty level is greater than the state median.

Funding under this program is only available to county commissions. Grant funds that are distributed to counties must be used to supplement existing county funding related to court security and cannot be used to supplant funds already allocated by the county for such purpose.

The Court Security Commission comprises seven members:

- The Governor appoints two representatives of an association that represents county commissioners who are recommended by the association;
- The Governor appoints two representatives of an association that represents county sheriffs who are recommended by the association;
- The Chief Justice of the Supreme Court (Chief Justice) appoints two members of the judicial branch; and
- The Chief Justice appoints one member of the general public.

Members serve three-year terms. The membership must include at least one member from a county in which the population is above the median population for the state and at least one member from a county in which the population is below the median population for the state.

Responsibilities of the Court Security Commission

The Court Security Commission reviews grant applications and makes recommendations to the Office of the State Court Administrator. The State Court Administrator makes the final decision on grant awards.

Proposals and Status

The primary function of the Court Security Commission is to monitor and recommend for approval annual, supplemental and emergency grant awards.

The Court Security Cash Fund is funded through gifts, grants and donations, as well as a \$5-surcharge on the following:

- Docket and jury fees in specified civil actions,
- Docket fees for criminal convictions,
- Filing fees for specified probate filings,
- Docket fees for specified special proceeding filings,
- Specified filings in water matters, and
- Docket fees for specified traffic infraction penalties.

For calendar year 2015, the Court Security Commission reviewed 68 grant requests and recommended funding all but 12. Most of these recommendations were for the full amount requested, and all were approved by the Office of the State Court Administrator. Grants awarded that year totaled \$2,167,203.

For calendar year 2016, the Court Security Commission reviewed 65 grant requests and recommended funding all but 11. Most of these recommendations were for the full amount requested, and all were approved by the Office of the State Court Administrator. Grants awarded that year totaled \$2,160,085.

GRANTS AVAILABLE FOR USE IN 2015

County	Requested Amount - Personnel	Reequsted Amount - Equipment	Requested Amount - Training	Total Requested Amount	Total Commission Approved Amount	Total SCAO Approved Amount
MORGAN	\$78,701.00	\$27,000.00	\$0.00	\$105,701.00	\$71,858.00	\$71,858.00
KIT CARSON	\$100,829.72	\$0.00	\$0.00	\$100,829.72	\$100,829.72	\$100,829.72
CONEJOS	\$44,000.00	\$12,547.78	\$0.00	\$56,547.78	\$44,000.00	\$44,000.00
TELLER	\$0.00	\$56,787.20	\$12,400.00	\$69,187.20	\$0.00	\$0.00
PARK	\$0.00	\$10,557.78	\$0.00	\$10,557.78	\$2,370.00	\$2,370.00
RIO GRANDE	\$92,862.54	\$2,370.00	\$0.00	\$95,232.54	\$91,620.00	\$91,620.00
LINCOLN	\$34,000.00	\$0.00	\$0.00	\$34,000.00	\$36,370.00	\$36,370.00
GRAND	\$0.00	\$26,250.00	\$570.00	\$26,820.00	\$2,370.00	\$2,370.00
DELTA	\$50,943.00	\$110,315.00	\$0.00	\$161,258.00	\$53,313.00	\$53,313.00
MONTEZUMA	\$107,465.07	\$125,000.00	\$0.00	\$232,465.07	\$0.00	\$0.00
HINSDALE	\$1,215.00	\$0.00	\$0.00	\$1,215.00	\$1,215.00	\$1,215.00
WELD	\$0.00	\$10,871.49	\$0.00	\$10,871.49	\$2,370.00	\$2,370.00
MOFFAT	\$123,923.00	\$7,020.00	\$0.00	\$130,943.00	\$126,293.00	\$126,293.00
BACA	\$55,375.50	\$20,000.00	\$1,200.00	\$76,575.50	\$57,745.50	\$57,745.50
GILPIN	\$95,762.41	\$0.00	\$0.00	\$95,762.41	\$95,762.41	\$95,762.41
PROWERS	\$86,753.60	\$12,390.00	\$0.00	\$99,143.60	\$89,123.60	\$89,123.60
MONTEZUMA	\$107,465.07	\$296,707.00	\$0.00	\$404,172.07	\$91,299.00	\$91,299.00
CROWLEY	\$42,445.00	\$2,370.00	\$0.00	\$44,815.00	\$44,815.00	\$44,815.00
KIOWA	\$63,860.00	\$2,370.00	\$3,600.00	\$69,830.00	\$66,230.00	\$66,230.00
BENT	\$56,647.00	\$3,470.00	\$0.00	\$60,117.00	\$59,017.00	\$59,017.00
BOULDER	\$0.00	\$57,108.58	\$0.00	\$57,108.58	\$2,370.00	\$2,370.00
CUSTER	\$62,521.00	\$10,000.00	\$190.00	\$72,711.00	\$62,521.00	\$62,521.00
PUEBLO	\$182,112.00	\$43,239.57	\$2,600.00	\$227,951.57	\$106,295.00	\$106,295.00
CHEYENNE	\$10,000.00	\$32,000.00	\$0.00	\$42,000.00	\$7,613.00	\$7,613.00
SEDGWICK	\$40,000.00	\$4,685.00	\$350.00	\$45,035.00	\$40,000.00	\$40,000.00
ALAMOSA	\$114,122.00	\$2,370.00	\$0.00	\$116,492.00	\$116,492.00	\$116,492.00
SAGUACHE	\$56,134.00	\$0.00	\$0.00	\$56,134.00	\$56,134.00	\$56,134.00
ARCHULETA	\$62,031.00	\$2,370.00	\$2,600.00	\$67,001.00	\$64,401.00	\$64,401.00
MINERAL	\$5,760.00	\$2,500.00	\$500.00	\$8,760.00	\$5,300.00	\$5,300.00
BROOMFIELD	\$0.00	\$29,600.00	\$0.00	\$29,600.00	\$0.00	\$0.00
LAKE	\$99,385.00	\$2,800.00	\$0.00	\$102,185.00	\$97,295.00	\$97,295.00
YUMA	\$80,164.00	\$11,062.50	\$3,000.00	\$94,226.50	\$77,700.00	\$77,700.00
PHILLIPS	\$32,819.54	\$0.00	\$0.00	\$32,819.54	\$32,819.54	\$32,819.54
HUERFANO	\$43,200.00	\$0.00	\$0.00	\$43,200.00	\$43,200.00	\$43,200.00
MONTROSE	\$0.00	\$48,315.00	\$0.00	\$48,315.00	\$4,740.00	\$4,740.00
LARIMER	\$0.00	\$23,250.00	\$0.00	\$23,250.00	\$0.00	\$0.00
EL PASO	\$0.00	\$6,400.00	\$0.00	\$6,400.00	\$0.00	\$0.00
WASHINGTON	\$9,840.00	\$4,952.96	\$0.00	\$14,792.96	\$12,210.00	\$12,210.00
FREMONT	\$0.00	\$6,835.00	\$0.00	\$6,835.00	\$2,370.00	\$2,370.00
GUNNISON	\$0.00	\$123,862.00	\$0.00	\$123,862.00	\$31,021.00	\$31,021.00
ELBERT	\$0.00	\$15,120.00	\$0.00	\$15,120.00	\$2,370.00	\$2,370.00
COSTILLA	\$39,036.14	\$1,500.00	\$0.00	\$40,536.14	\$38,221.00	\$38,221.00
ARAPAHOE	\$0.00	\$86,000.00	\$3,680.00	\$89,680.00	\$0.00	\$0.00
LAS ANIMAS	\$39,000.00	\$0.00	\$0.00	\$39,000.00	\$0.00	\$0.00
PROWERS	\$0.00	\$2,800.00	\$0.00	\$2,800.00	\$2,800.00	\$2,800.00
MESA	\$0.00	\$0.00	\$315,000.00	\$315,000.00	\$2,370.00	\$2,370.00
CHAFFEE	\$57,696.00	\$0.00	\$0.00	\$57,696.00	\$50,142.00	\$50,142.00
OURAY	\$54,758.00	\$10,370.00	\$0.00	\$65,128.00	\$54,995.00	\$54,995.00
OTERO	\$46,837.13	\$15,020.29	\$0.00	\$61,857.42	\$49,989.13	\$49,989.13

DENVER	\$0.00	\$20,128.00	\$0.00	\$20,128.00	\$15,692.00	\$15,692.00
SAN JUAN	\$0.00	\$17,468.44	\$0.00	\$17,468.44	\$13,101.00	\$13,101.00
JACKSON	\$8,390.00	\$3,940.00	\$0.00	\$12,330.00	\$6,710.00	\$6,710.00
CLEAR CREEK	\$0.00	\$6,001.26	\$0.00	\$6,001.26	\$0.00	\$0.00
DOUGLAS	\$0.00	\$2,370.00	\$0.00	\$2,370.00	\$0.00	\$0.00
ALAMOSA	\$0.00	\$879.25	\$0.00	\$879.25	\$879.25	\$879.25
ARAPAHOE	\$0.00	\$15,283.48	\$0.00	\$15,283.48	\$15,283.48	\$15,283.48
OTERO	\$0.00	\$1,052.91	\$0.00	\$1,052.91	\$1,052.91	\$1,052.91
DENVER	\$0.00	\$18,350.00	\$0.00	\$18,350.00	\$18,350.00	\$18,350.00
BROOMFIELD	\$0.00	\$29,600.00	\$0.00	\$29,600.00	\$0.00	\$0.00
DENVER	\$25,000.00	\$0.00	\$0.00	\$25,000.00	\$25,000.00	\$25,000.00
ELBERT	\$0.00	\$5,000.00	\$0.00	\$5,000.00	\$5,000.00	\$5,000.00
BOULDER	\$0.00	\$12,468.19	\$0.00	\$12,468.19	\$9,975.00	\$9,975.00
LAS ANIMAS	\$2,057.52	\$1,325.00	\$0.00	\$3,382.52	\$3,382.52	\$3,382.52
OURAY	\$0.00	\$5,843.00	\$0.00	\$5,843.00	\$5,843.00	\$5,843.00
JEFFERSON	\$123,165.00	\$0.00	\$0.00	\$123,165.00	\$35,000.00	\$35,000.00
COSTILLA	\$41,528.33	\$3,000.00	\$1,000.00	\$45,528.33	\$0.00	\$0.00
SAGUACHE	\$11,964.00	\$0.00	\$0.00	\$11,964.00	\$11,964.00	\$11,964.00
ROUTT	\$50,058.00	\$0.00	\$0.00	\$50,058.00	\$0.00	\$0.00
TOTAL	\$2,439,826.57	\$1,410,896.68	\$346,690.00	\$4,197,413.25	\$2,167,203.06	\$2,167,203.06

GRANTS AVAILABLE FOR USE IN 2016

County	Requested Amount - Personnel	Requested Amount - Equipment	Requested Amount - Training	Total Requested Amount	Total Commission Approved Amount	Total SCAO Approved Amount
SAGUACHE	\$66,182.00	\$2,120.26	\$0.00	\$68,302.26	\$61,061.26	\$61,061.26
LA PLATA	\$0.00	\$67,540.00	\$0.00	\$67,540.00	\$6,754.00	\$6,754.00
KIT CARSON	\$105,424.00	\$0.00	\$0.00	\$105,424.00	\$105,424.00	\$105,424.00
MONTEZUMA	\$235,245.64	\$49,800.00	\$0.00	\$285,045.64	\$101,164.00	\$101,164.00
WASHINGTON	\$9,840.00	\$0.00	\$0.00	\$9,840.00	\$11,507.00	\$11,507.00
WASHINGTON	\$9,840.00	\$0.00	\$0.00	\$9,840.00	\$0.00	\$0.00
LAKE	\$150,320.78	\$9,673.00	\$0.00	\$159,993.78	\$103,837.00	\$103,837.00
PHILLIPS	\$36,921.28	\$0.00	\$0.00	\$36,921.28	\$34,461.00	\$34,461.00
PUEBLO	\$214,420.00	\$76,067.00	\$0.00	\$290,487.00	\$113,877.00	\$113,877.00
LINCOLN	\$35,000.00	\$7,660.79	\$0.00	\$42,660.79	\$36,667.00	\$36,667.00
MOFFAT	\$126,766.00	\$5,517.00	\$0.00	\$132,283.00	\$128,433.00	\$128,433.00
MESA	\$0.00	\$315,000.00	\$0.00	\$315,000.00	\$1,667.00	\$1,667.00
WELD	\$0.00	\$10,168.49	\$0.00	\$10,168.49	\$8,308.00	\$8,308.00
SEDGWICK	\$40,000.00	\$6,073.36	\$0.00	\$46,073.36	\$40,000.00	\$40,000.00
MORGAN	\$78,701.00	\$27,000.00	\$0.00	\$105,701.00	\$75,451.00	\$75,451.00
DELTA	\$52,133.00	\$35,863.43	\$0.00	\$87,996.43	\$0.00	\$0.00
CONEJOS	\$45,000.00	\$16,215.21	\$0.00	\$61,215.21	\$56,410.00	\$56,410.00
DELTA	\$52,133.00	\$35,863.43	\$0.00	\$87,996.43	\$53,800.00	\$53,800.00
ALAMOSA	\$102,589.00	\$3,185.02	\$0.00	\$105,774.02	\$0.00	\$0.00
LARIMER	\$0.00	\$27,450.00	\$0.00	\$27,450.00	\$4,530.00	\$4,530.00
CROWLEY	\$44,822.00	\$1,568.00	\$0.00	\$46,390.00	\$0.00	\$0.00
PROWERS	\$96,034.40	\$9,588.58	\$0.00	\$105,622.98	\$95,552.00	\$95,552.00
HINSDALE	\$1,512.00	\$0.00	\$0.00	\$1,512.00	\$1,512.00	\$1,512.00
OURAY	\$53,655.43	\$3,500.00	\$0.00	\$57,155.43	\$46,016.00	\$46,016.00
DENVER	\$0.00	\$38,750.00	\$0.00	\$38,750.00	\$15,925.00	\$15,925.00
BOULDER	\$0.00	\$48,646.47	\$0.00	\$48,646.47	\$5,468.00	\$5,468.00
MINERAL	\$5,400.00	\$1,715.13	\$400.00	\$7,515.13	\$7,115.13	\$7,115.13
BACA	\$53,925.50	\$36,399.06	\$1,200.00	\$91,524.56	\$56,892.50	\$56,892.50

OTERO	\$47,894.25	\$9,740.07	\$0.00	\$57,634.32	\$0.00	\$0.00
OTERO	\$47,894.25	\$9,740.07	\$0.00	\$57,634.32	\$0.00	\$0.00
HUERFANO	\$42,440.00	\$1,220.00	\$0.00	\$43,660.00	\$43,660.00	\$43,660.00
FREMONT	\$0.00	\$50,367.00	\$0.00	\$50,367.00	\$6,537.00	\$6,537.00
KIOWA	\$66,825.00	\$36,500.00	\$3,600.00	\$106,925.00	\$68,492.00	\$68,492.00
ARCHULETA	\$115,062.00	\$9,995.00	\$0.00	\$125,057.00	\$66,800.00	\$66,800.00
GRAND	\$0.00	\$31,640.08	\$0.00	\$31,640.08	\$7,667.00	\$7,667.00
GILPIN	\$95,762.44	\$46,264.00	\$0.00	\$142,026.44	\$95,762.44	\$95,762.44
CUSTER	\$65,412.00	\$14,000.00	\$0.00	\$79,412.00	\$69,412.00	\$69,412.00
ALAMOSA	\$102,589.00	\$3,195.02	\$0.00	\$105,784.02	\$105,784.02	\$105,784.02
PARK	\$7,500.00	\$0.00	\$0.00	\$7,500.00	\$7,500.00	\$7,500.00
LOGAN	\$0.00	\$2,127.84	\$0.00	\$2,127.84	\$2,127.84	\$2,127.84
RIO GRANDE	\$98,077.25	\$4,813.32	\$0.00	\$102,890.57	\$97,822.00	\$97,822.00
CHEYENNE	\$7,500.00	\$4,500.00	\$0.00	\$12,000.00	\$6,513.00	\$6,513.00
COSTILLA	\$41,528.33	\$3,000.00	\$1,000.00	\$45,528.33	\$40,132.00	\$40,132.00
ALAMOSA	\$102,589.00	\$3,195.02	\$0.00	\$105,784.02	\$0.00	\$0.00
GUNNISON	\$0.00	\$2,250.00	\$0.00	\$2,250.00	\$1,667.00	\$1,667.00
MONTROSE	\$0.00	\$45,952.44	\$0.00	\$45,952.44	\$10,934.00	\$10,934.00
GUNNISON	\$0.00	\$4,217.00	\$0.00	\$4,217.00	\$0.00	\$0.00
ELBERT	\$0.00	\$18,167.00	\$0.00	\$18,167.00	\$9,167.00	\$9,167.00
CLEAR CREEK	\$0.00	\$4,433.70	\$0.00	\$4,433.70	\$3,500.00	\$3,500.00
CHAFFEE	\$70,848.00	\$0.00	\$0.00	\$70,848.00	\$52,649.00	\$52,649.00
PARK	\$0.00	\$12,959.00	\$0.00	\$12,959.00	\$5,042.00	\$5,042.00
DOUGLAS	\$0.00	\$1,667.00	\$0.00	\$1,667.00	\$1,667.00	\$1,667.00
BENT	\$56,647.00	\$20,167.00	\$0.00	\$76,814.00	\$58,314.00	\$58,314.00
CROWLEY	\$44,822.00	\$3,235.00	\$0.00	\$48,057.00	\$47,802.00	\$47,802.00
YUMA	\$82,579.72	\$82,549.04	\$0.00	\$165,128.76	\$87,379.72	\$87,379.72
LAS ANIMAS	\$78,000.00	\$21,344.00	\$0.00	\$99,344.00	\$5,567.00	\$5,567.00
OTERO	\$47,894.25	\$11,407.07	\$0.00	\$59,301.32	\$0.00	\$0.00
TELLER	\$0.00	\$10,946.00	\$0.00	\$10,946.00	\$2,729.00	\$2,729.00
JACKSON	\$8,390.00	\$20,194.00	\$500.00	\$29,084.00	\$7,286.00	\$7,286.00
OTERO	\$47,894.25	\$11,407.07	\$0.00	\$59,301.32	\$50,660.25	\$50,660.25
ARAPAHOE	\$0.00	\$188,272.00	\$0.00	\$188,272.00	\$5,680.00	\$5,680.00
SUMMIT	\$7,200.00	\$10,877.00	\$0.00	\$18,077.00	\$5,000.00	\$5,000.00
LA PLATA	\$0.00	\$7,500.00	\$0.00	\$7,500.00	\$0.00	\$0.00
CROWLEY	\$15,000.00	\$0.00	\$0.00	\$15,000.00	\$15,000.00	\$15,000.00
ELBERT	\$24,000.00	\$0.00	\$0.00	\$24,000.00	\$0.00	\$0.00
TOTAL	\$2,940,213.77	\$1,543,205.97	\$6,700.00	\$4,490,119.74	\$2,160,085.16	\$2,160,085.16

(JUD R2) Language Access Caseload and Contractor Rate Increase

- 2 Describe the factors that are causing the increased need for language interpreter services.

The Judicial Department’s need for language access services has increased steadily in recent years. This increase has largely been driven by two factors: increase in interpreter caseload and new or additional court services requiring coverage.

Caseload requiring interpreters

The number of interpreter contacts (hearings, trials, customer service contacts in the Clerk’s Office, etc.) has grown by an average of 10 percent in each of the last two fiscal years. The number of Spanish interpreter events grew over 12 percent from FY 2014 to FY 2015, and then by 8.2 percent in FY 2016. The number of LOTS (Languages other than Spanish) interpreter events grew by 3.7 percent from FY 2014 to FY 2015, and then by 12.6 percent in FY 2016. Some of the leading

languages in which courts are experiencing an increased need are Burmese, Navajo, Amharic, Somali and Vietnamese.

Additional court services requiring interpreters

Interpreters are providing more services for court professionals in addition to the services that take place in the courtroom. In Self-Help Centers interpreter assistance for Sherlocks has increased by over 50 percent in the last three years. Interpreters are also provided for court-ordered mediations, problem-solving courts, home visits by court appointed counsel for dependency and neglect cases, and probate court visitors.

- 3 Describe the data that was used to calculate the additional funding that is requested for FY 2017-18. Is this amount likely to be sufficient to meet the demand for language interpreter services?

The request for additional funding for language interpreter services includes two components. The first component is a request of \$276,607 General Fund to increase the hourly rate paid to independent contract court interpreters by \$5. This request for a \$5 increase is based on a compensation study conducted by the Human Resources Division of the State Court Administrator's Office. The second component is a request of \$602,611 General Fund for increased caseload related to language access services. The requested funding related to caseload is based on the amount the Department had to transfer to this program at the end of FY 2015-16 to support the costs of the program. It is difficult to predict the need for interpretive services, but the Department is attempting to be conservative in the request for funding given the decline in state revenues. The Department will alert the JBC as soon as possible if it appears the requested funding will not be sufficient to meet the demand for language interpreter services.

1:50-2:20 COURTS

Case Filing Trends

- 4 The Committee understands that some cases that were previously filed in county courts are now filed in municipal courts. Describe the types and number of cases that have recently shifted to municipal courts, the reasons for the shift, the workload impact on county courts, and the cash fund revenue impact to the State.

A portion of the decline in traffic filings is likely due to the shift of filings to municipal courts that have adopted the Uniform Model Traffic Code. Municipalities that have adopted the Uniform Model Traffic Code may retain the processing of traffic violations locally as opposed to referring these matters to county courts. Because municipalities retain the revenue from Model Traffic Code cases, in times of lean revenues the option to retain these cases locally becomes increasingly appealing. However, quantifying the impact is difficult due to variations in the timing of adoption

by municipal courts across the state. Additionally, there is no centralized source for municipal filing data so we are unable to track and report municipal court filings across the state.

Possession of an illegal substance by a minor is another type of case municipal courts have the ability to retain locally. County courts have seen a steady decline in these cases since FY 2010. As stated above, tracking the number of cases that have migrated to municipal courts is challenging due to the lack of a centralized data reporting system for municipal court data.

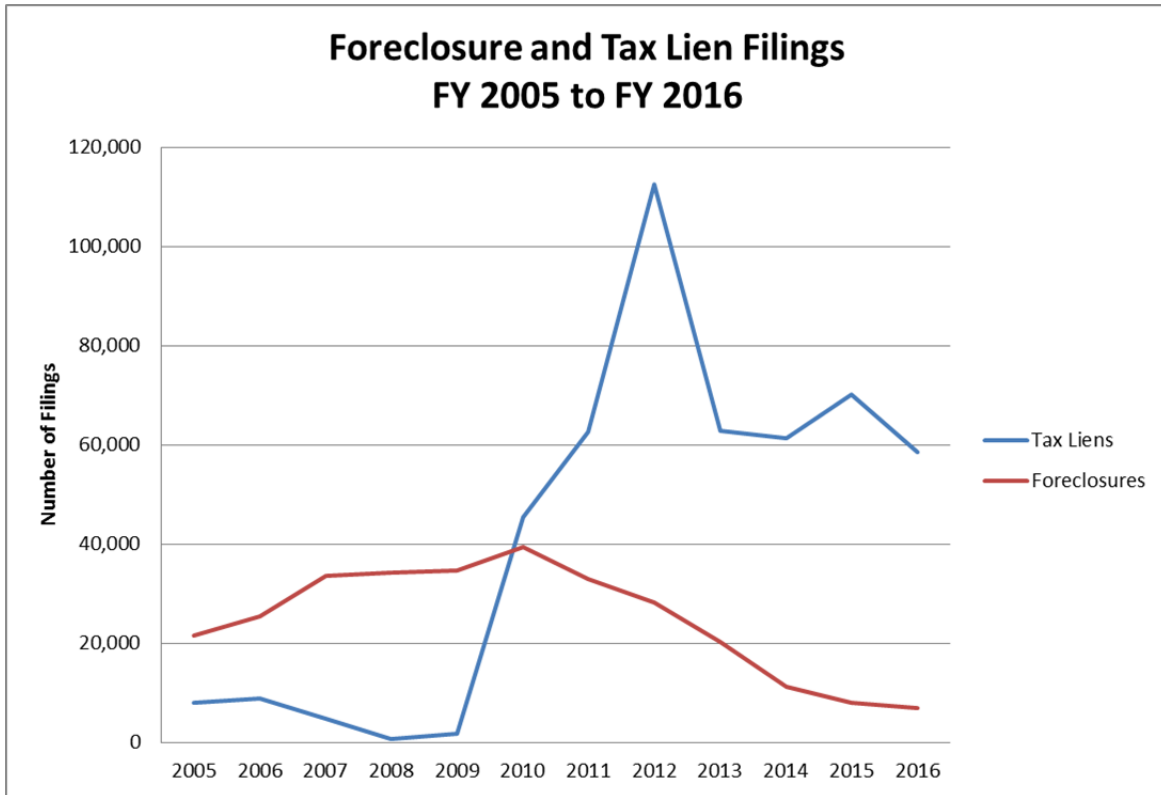
It is important to note that workload shifts to municipal courts may contribute to a decline in county court filings, but does not account for all of the decrease. Changes to laws and policies at the local, state and federal levels and changes to other criminal justice agencies can directly impact the volume of cases filed with the courts. For example, federal banking regulation changes related to debt collection practices have resulted in decreases to county court collection cases. These other factors should always be considered when examining changes in court filings.

- 5 Discuss recent trends in the number of foreclosure and tax lien case filings and how they relate to the significant increase in filings that occurred during the most recent economic downturn.

Foreclosure and tax lien cases are uniquely tied to the economic health of communities, and both have experienced increases since the most recent economic downturn. However, a procedural change relating to tax liens in particular has contributed to the dramatic increase in these cases since FY 2008. Between FY 2008 and FY 2012, tax lien filings increased dramatically, going from 800 filings in FY 2008 to 112,554 filings in FY 2012. Process improvements implemented at the Department of Revenue improved the capacity to process tax liens and allowed for a backlog of cases to be addressed relatively quickly. This procedural improvement, coupled with the economic conditions during this time period, account for the increase in tax lien filings. As the economy has begun to recover, foreclosure filings have steadily declined. Tax lien filings have also declined since peaking in FY 2012; however, these filings are still occurring at a rate of more than six times the FY 2005 filings.

It is important to note that these case types represent a relatively low workload demand on the courts, and this is accounted for in the weighted caseload models used to assess workload demands for trial courts. Therefore, while the courts have experience dramatic changes with regards to these filings, the overall impact to the need for judicial officers and court staff is minimal.

The chart below illustrates the changes in foreclosure and tax lien filings since FY 2005.



Problem-solving Courts

- 6 Describe how the Department evaluates the effectiveness of problem-solving courts, including the effectiveness of probation supervision for offenders who participate in problem-solving courts. How do these measures compare to the performance measures that are used to evaluate the effectiveness of other types of courts and other types of probation supervision?

The Judicial Department is committed to evaluating problem solving courts on an ongoing basis to help ensure these programs are operating effectively. Evaluations and programmatic feedback take place at both the statewide and local level. In 2012, Colorado commissioned a statewide evaluation of processes and outcomes for adult drug courts and DUI courts. Overall the evaluation concluded these problem solving courts are reaching their target population, graduating participants and reducing recidivism. Highlights from the evaluation include:

- A total of 33 courts participated in the evaluation: 24 adult drug and 9 DUI Courts;
- Program graduation rates are equivalent to, or better than, the national average;
- Participants are graduating within the intended time frame; and
- 24 months after entering program participants had significantly lower recidivism, including:
 - significantly fewer drug charges and DUI charges;

- significantly fewer person charges; and
- significantly fewer misdemeanor and felony charges.

Currently all criminal adult problem solving courts are undergoing an outcome and cost benefit evaluation conducted by a third-party research firm. The final report is anticipated in early 2018.

In addition to the statewide evaluations, Colorado has implemented a peer review process. This process is a structured program review, conducted by staff from other problem solving courts in the state, to evaluate the implementation of best practice standards within an individual problem solving court. The process culminates in a written report with recommendations. Implemented in 2015, eight programs have undergone a peer review. The State Court Administrator's Office coordinates the peer reviews and has the capacity to conduct approximately ten per year.

Finally, the Problem Solving Court Advisory Committee, charged by the Supreme Court, is developing program accreditation for problem solving courts. The goal of accreditation is to document if and how each program is implementing best practices and ensuring only those that meet specific standards are considered accredited problem solving courts. This process is still in the very early phases of development but is a priority as programs continue to grow. This process is also seen as essential to long-term efficacy and sustainability of Colorado's problem solving courts. Accreditation will be piloted in 2017.

Effectiveness of probation supervision is measured in the same manner whether someone is in a problem solving court or not. Each individual probation department evaluates their own recidivism rates compared to statewide rates on an annual basis. This is not broken out by regular probation cases and problem solving court cases.

On a periodic basis, the Division of Probation Services conducts probation standards reviews within each district. The review process involves pulling a random sampling of cases for review to ensure required practices are being implemented. Each district probation department also has their own case review policies which typically occur on a monthly basis.

- 7 How do problem-solving courts fit into the range of potential criminal justice diversion options for individuals with behavioral health issues? Is there a consistent philosophy within problem-solving courts about the use of deferred prosecution?

Almost all of Colorado criminal problem solving courts are a post-conviction model. With the exception of a limited number of cases, deferred prosecution is not used in problem solving courts. Typically, defendants who are most appropriate for a problem solving court have substantial criminal histories that would preclude them from a deferred prosecution.

On the continuum of criminal justice interventions, problem solving courts are best utilized after other less intensive interventions have failed. This usually means these programs serve as a community corrections or prison diversion program.

- 8 What are the Department’s long-term goals with respect to problem-solving courts? To what extent should these courts replace traditional courts?

Research consistently shows the problem solving court model is most effective with a clearly defined population of individuals at high risk of failing through traditional criminal justice interventions and with high need for behavioral health and substance abuse treatment. The intensity of these programs is unnecessary for many of those entering into the criminal justice system and in fact could cause lower risk and need individuals to have poorer outcomes. Most individuals are effectively managed through less resource-intensive interventions. Problem solving courts should be reserved for those most likely to recidivate and in need of intensive services. While we do not currently have the capacity to serve every person that would meet the problem solving court target population, it is not the intention that these courts replace all traditional courts as it would not be an effective use of resources.

Problem solving courts are developed and supported through local jurisdictional leadership. The goal of the Judicial Department is to provide each jurisdiction that chooses to start a problem solving court with training, resources and monitoring to include program evaluation. This is to ensure program fidelity and implementation of research-based practice standards. Each community varies in resources, ability to access services and environments within which they must operate. Jurisdictional and community leadership and support are critical to the success and sustainability of these programs; therefore, it is not a policy of the Department to require this type of program.

- 9 Has the legalization of marijuana affected the number or types of cases that are heard in problem-solving courts?

With the relatively new legalization of marijuana it is difficult to determine the impact on problem solving courts. Primary drug of choice is a self-reported data element collected for problem solving court participants and may serve as the best approximation to understanding the impact of legalization on problem solving courts at this time. The percentage of participants reporting their primary drug of choice as marijuana has stayed fairly consistent from 2009 until 2016. This may indicate that legalization, at this time, has not significantly impacted cases accepted into a problem solving court.

Impacts of Recent Legislation

10 *Background Information:* House Bill 13-1210 repealed a statute that required an indigent person charged with a misdemeanor or other minor offense to meet with the prosecuting attorney for plea negotiations before legal counsel is appointed. As a result, the number of cases requiring state-paid representation from the Office of the State Public Defender (OSPD) or the Office of the Alternate Defense Counsel (OADC) has increased significantly since January 2014.

- a. Describe any impacts of H.B. 13-1210 that have been observed or can be quantified, other than caseload increases for the OSPD and OADC (e.g., Is this affecting the plea negotiation process? the likelihood of a conviction? the likelihood of a defendant remaining in custody? the rate of recidivism?).

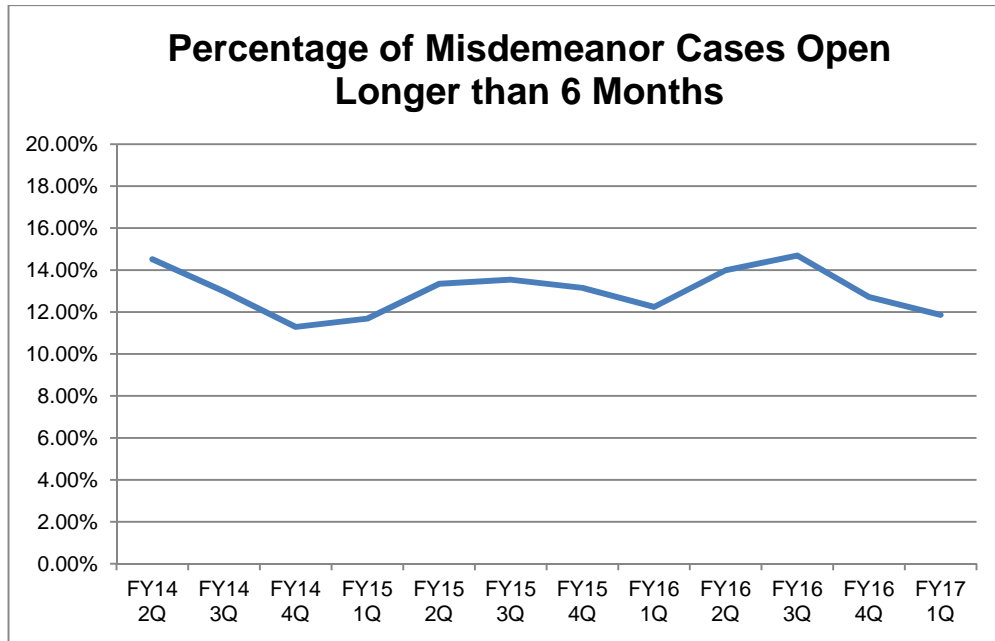
Impacts to the plea negotiation process, in-custody status, conviction and recidivism rates are not readily available in trial court data. However, the trial rate in misdemeanor cases is available and is one aspect of the court process potentially impacted by the changes to legal representation stemming from HB 13-1210. The trial court trial rate in misdemeanor cases has remained relatively stable over time. See the table below for more information on trial rates in misdemeanor cases between FY 2010 and FY 2016.

Misdemeanor Trial Rate FY 2010 - FY 2016							
	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014*	FY 2015	FY 2016
Court Trials	275	179	152	152	122	117	96
Jury Trials	821	857	791	793	722	839	811
All Trials	1,096	1,036	943	945	844	956	907
Misdemeanor Cases Filed	69,695	67,137	70,068	62,740	60,858	61,092	60,682
Trial Rate	1.57%	1.54%	1.35%	1.51%	1.39%	1.56%	1.49%

*House Bill 13-1210 went into effect

Source: Colorado Judicial Branch Annual Reports

Additionally, the chart below demonstrates the percentage of misdemeanor cases that have been open longer than six months, which has remained stable over time.



The State Court Administrator’s Office anticipates updating the County Judge Weighted Caseload Model in the coming year. This process will likely shed additional light information on the workload impact of these changes.

- b. Describe the process that occurs when a defendant is eligible for state-paid representation but chooses to proceed without such representation. Do self-represented litigant coordinators (“SRLCs”) or other court staff play a role in assisting self-represented parties in criminal cases?

The assistance self-represented litigant coordinators and court clerks may offer self-represented litigants is limited to non-criminal matters as defined in Chief Justice Directive 13-01. Therefore, individuals electing to proceed without representation navigate the court proceedings unassisted by court personnel.

- 11 House Bill 14-1032 (Defense counsel for juvenile offenders) and H.B. 14-1023 (social workers for juveniles) changed the way that state-paid legal representation is provided in certain juvenile delinquency cases. Describe any impacts of these acts that have been observed or can be quantified (e.g., Are fewer juveniles being placed in detention?).

Statewide detention rates have declined steadily over the past six years according to the most recent S.B. 91-094 Annual Report published by the Division of Youth Corrections. This trend pre-dates the effective dates of House Bill 14-1032 and House Bill 14-1023 and it is difficult to

disentangle the impact of these bills specifically as they align with a long-standing movement to reduce the use of detention and increase service provision for juveniles coming into contact with the criminal justice system. Anecdotal feedback from judicial officers indicate the changes have had a positive impact overall. Judges noted that the involvement of the public defender (or alternate defense counsel) has translated to judges receiving helpful background information (e.g. home situations, etc.) and has allowed for less extensive advisements from the judicial officer.

Expert Witnesses

- 12 Have the courts evaluated the use of expert witnesses in civil and criminal cases to determine whether they are being used in a cost-effective manner? Are there any policies in place that are designed to limit unnecessary or excessive use of expert witnesses?

While the courts have not participated in a formal evaluation relating to the use of expert witnesses, there are more than 200 rules and statutes that refer to the use of expert witnesses in criminal and civil cases. Cost-effective utilization of experts must be balanced with the requirement of due process in the courts. With this in mind, one of the ways the courts support efficacious use of expert witnesses is establishing rules and procedures relating to discovery and trial. Rule 16 of the Colorado Rules of Criminal Procedure and Rules 16 and 26 of the Colorado Rules of Civil Procedure prescribe the rules and responsibilities of parties in the discovery process relating to expert witnesses in criminal and civil cases. Compliance with the discovery process allows the court to exclude inappropriate or unqualified expert witnesses and also supports effective preparation leading up to trials to ensure the proceedings and testimony move forward in a timely manner. In some instances, parties to litigation can recover their “reasonable” expert witness costs from the opposing party. §13-16-122, §18-13-701, §19-4-117, C.R.S. (2016). This accountability encourages appropriate use of expert witness testimony and allows the courts to make a determination regarding the reasonableness of costs. There is also well-developed case law that applies to expert witness testimony at trial. These cases require expert testimony to be reliable and useful to the judge or jury. See People v. Shreck, 22 P.3d 68, 70 (Colo. 2001), as modified (May 14, 2001). Because the interests of due process must be balanced with efficiency, it is the decision of each judicial officer whether expert testimony will be useful and reliable in a case.

- 13 Describe the factors that are used to assess an offender's risk of re-offending in order to determine the appropriate level of probation supervision.

Probation officers use a suite of assessments to determine the supervision level and most appropriate interventions. For the adult population, the State Court Administrator's Office mandates the use of the Level of Supervision Inventory (LSI), a validated risk assessment tool. This assessment is completed on all adult probationers to determine the level of supervision that is commensurate with their assessed level of risk to re-offend. In addition, the Adult Substance Use Survey-Revised (ASUS-R) is used to determine the need for behavioral health intervention. For the adult special populations, there are specific tools used for further assessment beyond the LSI. Specifically, the following instruments are used for special populations: the sex offender population is assessed using the Vermont Assessment of Sex Offender Risk (VASOR) and the Sex Offender Treatment Intervention and Progress Scale (SOTIPS); the domestic violence population is screened with the Domestic Violence Screening Instrument (DVSI); the DUI/DWAI population is assessed using the Adult Substance Use and Driving Survey (ASUDS); and the Colorado Criminal Justice mental Health Screen-Adult (CCJMHS-A) is used to screen for mental health needs, at the discretion of the probation officer.

For juvenile probationers, probation officers use the Colorado Juvenile Risk Assessment on all juveniles to determine their risk to re-offend and the Substance Use Survey (SUS) to assess the need for behavioral intervention. Also, the Juvenile Sex Offender Assessment Protocol-II (JSOAP-II) is used to further assess all juvenile sex offenders, and the Massachusetts Youth Screening instrument (MAYSI) is used to screen for mental health needs, at the discretion of the probation officer.

The probation officers use the results of all assessments administered to determine the appropriate level of supervision. Officers are also trained to use their professional judgment, and it is expected that a small percentage of cases will require an override of the initial supervision level. Overrides occur when a probationer requires more (override up) or less (override down) supervision than the risk assessment concludes. Reasons for these overrides vary. For example, a sex offender may be assessed as low risk on the initial LSI, VASOR, and SOTIPS assessments; however, statute requires the probationer be supervised on Sex Offender Intensive Supervision Probation. In this case, the low risk probationer's case would receive an override up. In other cases, a probationer may receive less supervision because they are in a long term residential treatment center. Because the treatment center is providing 24-hour supervision and providing updates to probation, the probation officer would override the supervision level down, as there is less need for frequent probation supervision.

- 14 Do probation officers' pre-sentence investigation reports include risk assessment data? If so, to what extent do judges use such data to determine a defendant's sentence? Does such a practice raise federal constitutional issues?

Pursuant to section 16-11-102 (1.9) (a), C.R.S. (2016), the probation department is required to include assessment results in all presentence investigation reports (PSIR).

Because each judge has the discretion to determine the relevance and weight of any information provided by the probation department, the Judicial Department is unable to speculate regarding how, if at all, each judge utilizes that information.

The Judicial Department is unaware of any federal constitutional rights implicated by the use of the statutorily required risk assessment tools. However, if offenders or their attorneys have concerns regarding the assessments, they may request a ruling from the court regarding those concerns.

- 15 Under what circumstances is an offender who is sentenced to probation supervised by a private probation provider (rather than state staff)? Why has the proportion of offenders supervised by private probation providers declined?

Probation departments use assessment information and results to determine which adult probationers would be a good fit for private probation versus state probation. Chief Justice Directive 16-01, Establishment of Statewide Probation Priorities (PART II), states, "Supervision of probationers shall be governed by the principle of risk of re-offending." The level of supervision shall be established based upon the initial assessment and subsequent reassessments by the probation department. Probationers considered "high risk", irrespective of offense classification or court of sentence, shall receive priority services and be supervised in accordance with the Standards for Probation in Colorado. Given limited resources, lower (or low medium and low) risk offenders (either felony or misdemeanor) and certain alcohol/drug/driving related offenders may be supervised by use of contract probation services, as provided in sections 19-2-204 (4) and 18-1.3-202 (2), C.R.S. (2016). They may also be supervised by other alternative means such as volunteer programs, administrative "banked" caseload approaches or other technical approaches. It is ultimately the decision of the probation department in each judicial district whether to utilize private probation.

There are likely a number of reasons why the number of probationers sent to private probation have declined recently. Statewide, probation officer staffing levels have increased to 96 percent, making probation departments better situated to manage caseloads than in previous years. In addition, the use of other options to manage lower-risk probationers such as volunteer programs, administrative "banked" caseload approaches or other technical approaches may have also reduced the need for private probation supervision.

Independent Judicial Agencies

- 16 Describe the existing communication, coordination, and resource sharing that occurs between the agencies that comprise the Judicial Branch. What additional efficiencies can be gained while maintaining the ability of each agency to effectively carry out its mission?

Below are the current service relationships that exist between the Judicial Department and the various independent agencies.

SCAO Administrative Services Provided to Independent Agencies/Carr Tenants									
	Public	Alternate	Childs	Attorney	Independ	Judicial	Judicial	Respondent	Childs
	Defender	Defense	Represent	Regulation	Ethics	Perform	Discipline	Parent	Ombudsman
		Counsel						Counsel	
Financial Services									
Accounting					X	X	/		X
Accounts Payable					X	X			X
Budget Schedules				X	X	X	X		X
Decision Items				X	X	X	X		X
Rev/Expenditure monitoring					X	X			X
Internal Audit									
Fleet									
West Law/Lexis (handled through Law Library)						X	X		
Procurement		/	/	/	X	X	X	X	/
Year End Transfers	X	X	X	X	X	X	X	X	X
WC/Risk mgmt payments	X	X	X	X	X	X	X	X	X
Human Resources									
Payroll		X	X	X	X	X		X	X
Benefits		X	X	X	X	X		X	X
unemployment		X	X	X	X	X		X	X
Personnel Rules						X			
Recruitment					X	X			
Classification						X			
HR Investigations					/		/	/	/
Criminal History		X	X		X	X	X	/	X
Compensation Analysis/Setting					/	X	/	/	/
Training		A	A						
Conference Planning/Facilities	/	/	/	/	/	/	/	/	/
Information Technology									
Email					X	X			
Server Room	X	X	X	X	X	X	X	X	X
desk top support					X	X			
application development									
X SCAO provides									
/ SCAO provides partial services or occassional help									
A Agency provides partial service to SCAO/Others									

The Judicial Branch agencies have begun discussing collaboration regarding compensation issues.

- 17 How can the processes that are used to evaluate and approve salary adjustments for Judicial Branch employees be improved so that they are more consistent with the practices that are used by the State Personnel Director?

Currently, the Judicial Department has three different mechanisms to provide for salary increases for employees. Two of these mechanisms are wage survey, which provides an across the board salary adjustment to all employees, and Merit Pay/Pay for Performance, which provides salary increases based on performance.

The third mechanism is paygrade realignment, which is individual adjustment to the Judicial Department's 206 job classifications. Salary increases based on paygrade realignments are determined by using market data to calculate which job classifications vary from the market median. Each year, the Judicial Department conducts an internal market survey using third-party data, including executive branch salary ranges and external data sources, to determine if the benchmarked positions are out of alignment with the market.

Almost all of the Judicial Department's compensation practices are similar in nature to the practices of the Executive Branch. However, to align salary adjustments to be even more consistent with practices used by the State Personnel Director, two shifts in compensation practice would need to occur. First, a third-party vendor would need to review our classification structure and compensation ranges and recommend paygrade realignments. In FY 2017 planning, the JBC recognized the importance of providing the Judicial Department with funding to engage a third-party vendor to study Judicial Officer salaries. The studies conducted were valuable in providing a third-party neutral review of the Judicial Department's philosophy, practices and recommendations related to Judicial Officer pay.

The Judicial Department and the independent agencies within the Judicial Branch recognize the concerns raised by the JBC and are committed to studying ways to collaborate in reviewing their compensation and classification programs. All agencies are committed to reviewing the matter and have already begun meeting to help address the issues raised. During initial discussions, it became clear that this is a complex issue and more research and discussion is necessary before deciding on a path forward.

The Judicial Branch plans to comprehensively study opportunities to increase collaboration regarding compensation and can provide the JBC with recommendations by July 1, 2017. As part of the work in the study, the Judicial Department and independent agencies will determine what efficiencies will be gained with the collaboration of compensation and classification programs and what, if any, cost savings could be gain by collaboration. In the interim, the Judicial Department will continue to assist the independent agencies with compensation and classification information and will address concerns that may arise out of the upcoming legislative session.

In effort to streamline the compensation process and to mirror the Judicial Officer salary review process, the Judicial Department proposes to use an independent third-party review to evaluate compensation for classified employees beginning in FY18. The independent report will include salary increase recommendations based on the Judicial Department's current standards of paying to market median. Moving to this type of independent third party review process would closely mirror the program that the Executive Branch uses for compensation review. Contracting with a third party to perform this study will cost the Judicial Department an additional \$54,000.

- 18 Provide input about how to improve statutory reporting requirements that are relevant to the Judicial Branch, including those currently imposed by the SMART Act, to ensure that they are appropriate for each judicial agency's scope of work and staffing levels. What changes would make the required reports more useful for both the judicial agency and the receiving entities?

The SMART Act reporting requirements use many of the measures already employed by the Judicial Department in the regular management of the courts and probation. The Department selects the measures and goals that seem most useful to the public and policy makers.

The Judicial Department believes that an annual report would be adequate to promote the objectives of the SMART Act. However, if the current reporting frequency is valuable to the public and policy makers, the Judicial Department will be happy to continue.

Statewide Discovery Sharing System

- 19 Discuss the intent of the proposed modification to the Colorado Supreme Court Rules of Criminal Procedure concerning the cost and location of discovery [C.R.C.P. Rule 16 (V) (c)]. Is the proposed rule consistent with the stated objectives of S.B. 14-190?

The rule change before the Supreme Court implements the requirement that there would be no charges to defendants for any discovery under the new system and incorporates language from the Legislative Intent section of SB 14-190. Accordingly, the current proposed modification to Colorado Rule of Criminal Procedure 16(V)(c) reflected below is consistent with the stated objectives of S.B. 14-190.

Rule 16. Discovery and Procedure Before Trial

Part V. Time Schedules and Discovery Procedures

(c) Cost and Location of Discovery.

(1) The prosecution's costs of providing any discoverable material to the defense, electronically or otherwise, shall be paid from funds allocated by the general assembly. The prosecution shall not otherwise charge for discovery. For any materials provided to the prosecution as part of the defense discovery obligation, the cost shall be borne by the prosecution based on the actual cost

of duplication. Copies of any discovery provided to a defendant by court appointed counsel shall be paid for by the defendant.

(2) The place of discovery for materials not capable of being provided electronically shall be at the office of the party furnishing it, or at a mutually agreeable location.

The Supreme Court intends to adopt a rule concerning the cost and location of discovery effective the same date as the Colorado District Attorneys Council certifies to the Court that the system is operational statewide. Currently, the eDiscovery system has been implemented in the following districts: 4th, 5th, 8th, 10th, 11th, 12th 17th, 18th and 19th. At the present time, it is anticipated that implementation in the final district will be complete by June 30, 2017.

ADDENDUM: OTHER QUESTIONS FOR WHICH SOLELY WRITTEN RESPONSES ARE REQUESTED

- 20 Provide a list of any legislation that the Department has: (a) not implemented, or (b) partially implemented. Explain why the Department has not implemented or has only partially implemented the legislation on this list. Please explain any problems the Department is having implementing any legislation and any suggestions you have to modify legislation.

House Bill 02-1046, CONCERNING THE RELOCATION OF CERTAIN EXISTING CRIMINAL SENTENCING STATUTES TO A NEW ARTICLE IN TITLE 18, COLORADO REVISED STATUTES. House Bill 02-1046 requires defendants to pay interest on unpaid restitution at a rate of 12 percent per year. Interest is owed from the date of the restitution order. The Judicial Department automated calculation of interest on restitution starting December 2015 in most cases. Interest calculations on cases where defendants in the same criminal incident owe restitution jointly and severally to a victim will be automated by June 2018. The Judicial Department is coordinating this effort with other entities with which we share data and processes.

- 21 If the Department receives federal funds of any type, please respond to the following:
- a. Please provide a detailed description of any federal sanctions or potential sanctions for state activities of which the Department is already aware. In addition, please provide a detailed description of any sanctions that MAY be issued against the Department by the federal government during FFY 2016-17.

The Judicial Department is not aware of any sanctions that may be issued against the Department by the federal government.

- b. Are expecting any changes in federal funding with the passage of the FFY 2016-17 federal budget? If yes, in which programs, and what is the match requirement for each of the programs?

The Judicial Department is expecting an approximate \$330,000 reduction in federal formula funding for the Court Improvement Program related to support for children in foster care. The match requirement is approximately 33 percent of total program costs.

- 22 Does the Department have any HIGH PRIORITY OUTSTANDING recommendations as identified in the "Annual Report of Audit Recommendations Not Fully Implemented" that was published by the State Auditor's Office and dated June 30, 2016 (link below)? What is the department doing to resolve the HIGH PRIORITY OUTSTANDING recommendations?

http://leg.colorado.gov/sites/default/files/documents/audits/1667s_annual_report_-_status_of_outstanding_recommendations_1.pdf

The Judicial Department has no outstanding high priority recommendations.

- 23 Is the department spending money on public awareness campaigns? What are these campaigns, what is the goal of the messaging, what is the cost of the campaign? Please distinguish between paid media and earned media. Do you have any indications or metrics regarding effectiveness? How is the department working with other state or federal departments to coordinate the campaigns?

The Office of Judicial Performance Evaluation contracted with the Colorado Broadcasters Association to create a public education campaign to inform citizens about the Judicial Performance Commission's evaluation of judges and the availability of those evaluations on the www.ojpe.org website. This was intended to inform voters when judges are on the ballot for retention. The total cost for the announcements was \$50,000, which included television and radio as well as a social media campaign. The program was done through the Colorado Broadcasters Association's Non-Commercial Supporting Announcements program. This program is used by the Department of Law and other state agencies for disseminating a statewide message. The Office of Judicial Performance Evaluation saw an increase in engagement on their website as a result of the campaign.

- 24 Based on the Department’s most recent available record, what is the FTE vacancy and turnover rate by department and by division? To what does the Department attribute this turnover/vacancy?

District Turnover Rates FY 2016

General assumptions about the data:

1. Does not include contract employees or law clerks as they separate regularly due to end of contracts and can skew turnover rates.
2. Turnover rate is calculated by **Count of separated employees / Count of active employees *100**

FY 2016 Turnover	
Appellate Courts	5.90%
State Court Administrator's Office	9.70%
Probation	6.60%
Trial Courts	11.60%
Average Overall	9.50%

The Judicial Department’s two top separation reasons are lack of acceptable pay and retirement. The two categories make up nearly 53 percent of all separations that occur annually. Based on a strong performance culture, another 12 percent of employees are involuntarily separated from employment. The remaining employees leaving the Judicial Department do so for combination of factors that include acceptance of a position outside of the state system, relocation out of state or other personal reasons.

Department Vacancy Rates

Judicial Department Vacancy Rates as of March 31, 2016	
Program	Vacancy Rate
Overall Judicial Department	3.50%
Appellate Courts	0.35%
State Court Administrator's Office	8.46%
Trial Court	3.41%
Probation	2.92%

Vacancies can occur for several different reasons. For example, in some areas of the state it is difficult to find qualified applicants for certain positions, such as court reporters and specialized management positions, causing those positions to be vacant for some time. For some positions

with higher compensation and a small pool of qualified candidates, such as information technology positions and senior court management positions, the market pressure from competing agencies and employers can cause vacancies. This is more common in urban areas. Additionally, positions may be held vacant for a period of time for budgetary reasons.

- 25 For FY 2015-16, do any line items in your Department have reversions? If so, which line items, which programs within each line item, and for what amounts (by fund source)? What are the reasons for each reversion? Do you anticipate any reversions in FY 2016-17? If yes, in which programs and line items do you anticipate these reversions occurring? How much and in which fund sources do you anticipate the reversion being?

FY2016 Summary of Reversions					
**does not include information only or grant lines					
Line Item	Amount				Reason
	Total	GF	CF	RF	
SUPREME COURT/COURT OF APPEALS					
Appellate Court Programs	(1,487)		(1,487)		CF revenue insufficient/unused spending authority
ADMINISTRATION AND TECHNOLOGY:					
General Courts Administration	(15,927)		(6,924)	(9,003)	CTF salary not fully spent
Information Technology Infrastructure	(1,978)		(1,978)		Program not fully spent
CENTRAL APPROPRIATIONS:					
Health/Life/Dental	(871,943)		(871,943)		unused spending authority
Short-Term Disability	(29,840)		(29,840)		unused spending authority
Salary Survey	(272,937)		(272,937)		unused spending authority
AED	(292,656)		(292,656)		unused spending authority
SAED	(568,028)		(568,028)		unused spending authority
Merit	(152,261)		(152,261)		unused spending authority
CENTRALLY ADMINISTERED PROGRAMS:					
Collections Program	(329)		(329)		Normal year-end balancing
Language Interpreters	(24,705)		(24,705)		CF revenue insufficient
Courthouse Security	(315,531)		(315,531)		Calendar year program - didn't use all spending authority
Courthouse Capital	(565,293)	(80,339)	(484,954)		Projects did not use all appropriated capital outlay
Senior Judge Program	(24)	(24)			Normal year-end balancing
Judicial Education and Training			(128,010)		Program not fully spent
Judicial Performance	(105,128)		(105,128)		Program not fully spent
Family Violence	(27,974)		(27,974)		Program grants not all spent by fiscal year end
Restorative Justice	(131,924)		(131,924)		Program not fully spent
DA Pretrial Diversion Programs	(77,002)		(77,002)		Program not fully spent
Child Support Enforcement	(1,122)		(1,122)		Program not fully spent

RALPH L CARR COLORADO JUDICIAL CENTER:					
Ralph L Carr	(7,984,610)		(7,984,610)	CF unused spending authority	
TRIAL COURTS:					
Trial Court Programs	(329,080)		(329,080)	Unearned cost recoveries	
Court Costs, Jury Costs & CAC	(88,627)	(250)	(88,377)	CF revenue insufficient	
PROBATION AND RELATED SERVICES:					
Probation Programs	(96,441)	(317)	(96,124)	Normal year-end balancing/CF revenue insufficient	
Offender Treatment and Svcs.	(3,625,106)	(90,726)	(1,806,771)	(1,727,609)	Underspent due to transfers to other agencies, underspending in program
SB91-94	(1,076,036)			(1,076,036)	DYC Program contract not fully spent
Reimburse Law Enforcement Agencies	(95,615)		(95,615)		Program not fully spent

The Judicial Department anticipates having some reversions in FY 2016-17. However, it is too early in the fiscal year to determine from which line items and programs these will occur or the amount of the reversions.

- 26 [Background Information: For FY 2017-18, the Department of Law has submitted a request to change the calculation of legal services appropriations as well as the monthly billing system for legal services provided to state agencies. Specifically, the proposal would: 1) calculate the number of budgeted legal services hours for each agency as the average of actual usage in the prior three years; 2) include a two-year average of “additional litigation costs” such as court reporting, travel for depositions, expert witness costs, etc., in the appropriation for legal services (these costs are not currently included in the appropriation and are often absorbed from other personal services and operating expenses line items); and 3) convert from monthly billing based on the actual hours of service provided to monthly billing based on twelve equal installments to fully spend each client agency’s appropriation.]

Please discuss your agency’s position on the Department of Law’s proposed changes to the legal services system, including the potential impacts of the changes on your agency budget. That is, does your department support the proposed changes? How would you expect the changes to positively or negatively impact your department? Please explain.

The Judicial Department is supportive of this change. Like most state defendants, the Department cannot predict the frequency with which Judicial Department employees will be sued or the frequency at which other legal services are needed. In addition, it is difficult for the Judicial Department to predict the complexity of the legal work needed from the Department of Law, and in the past this has required the Judicial Department to request supplemental funding.

With the shift in methodology, the Judicial Department believes it can avoid supplemental requests for services from the Department of Law. If the Department of Law is better able to plan their

staffing based a more steady allocation, it could result in fewer delays in court cases due to unavailability of staff.

Based on the information provided by the Department of Law, the appropriation to the Judicial Department would be higher in FY 2017-18 under the proposed methodology than it would be under the current methodology. The total FY 2017-18 appropriation under the proposed methodology would be \$208,870 versus \$198,514 under the current methodology.

- 27 What is the expected impact of Amendment 70 (minimum wage increase) on Department programs? Please address impacts related to state personnel, contracts, and providers of services.

The current breakout of minimum wage salary increases based on Amendment 70 is as follows:

\$9.30—2017
\$10.20—2018
\$11.10—2019
\$12.00—2020

In terms of direct salary costs for employees, there will be no impact on costs based solely on the need for wage increases to match the new minimum wage. All contract employees and classified or at-will employees of the Judicial Department currently have starting wages above \$12 per hour. However, the higher minimum wage may affect the market rate for lower wage Judicial Department employees, and the Judicial Department would need to increase those salaries to remain competitive.

Ancillary costs for programs could potentially increase based on the need for higher wages of independent contractors or service contracts that require labor. Minimum wage increases also have the potential to move the market wages higher for lower level contracted positions.

There is also the potential for increases in overall program costs given the increase in minimum wage. Many employers will pass the cost of increased labor on to the consumer, which in turn would result in additional costs for goods and services for the state as the consumer.

According to the Bureau of Labor Statistics, only 3 percent of Coloradans earn the minimum wage and 60 percent of the minimum-wage earners fall between the ages 16 and 24. Given that information, the impact to increases mentioned above should be minimal to costs of personnel and contracts. The Judicial Department has less than 1 percent of the employee population under the age of 24 and has few positions which are considered entry level in the overall job market.

- 28 Please provide an update on the Department's status, concerns, and plans of action for increasing levels of cybersecurity, including existing programs and resources. How does the Department work with the Cybersecurity Center in the Office of Information Technology?

The Judicial Department's information security team, which consists of 3.0 FTE at this time, continues to strengthen its information security posture by establishing appropriate policies and procedures, as well as establishing technical controls in an effort to reduce the overall risk to the Judicial Department. In FY 2017, the Department was granted 4.0 additional information security FTE whose focus will be on implementing security controls that provide compliance and alignment with the National Institute of Standards and Technology (NIST) 800-53 information security framework. The Department's alignment with this standard strengthens our partnership with the State Office of Information Security (OIS), a division of the Office of Information Technology (OIT), and also reduces the overall security risks for the state as a whole.

The Department's information security team continues to focus on information security awareness, updating and/or upgrading systems security controls, vulnerability management, network and perimeter security, cloud security, and application security. Additional goals and plans of action, as outlined in the Department's 2016 Cyber Security Policy, include continuous improvement of the Department's security alerting and response systems, identification of IT assets and security controls, physical security of IT assets at remote locations, systems configuration standards, and endpoint security.

Looking ahead to FY 2018 and beyond, the Department's information security team will continue to address concerns of adequate staffing and resource issues, noting that additional staff in FY 2019 will be required to ensure backups for essential security positions. The Judicial Department currently employs one Network Security Engineer and is in need of an additional Network Security Engineer to ensure appropriate network support and backup requirements are met. Relying on one Network Security Engineer to perform critical duties introduces a single point of failure to the security team and Department. Additionally, as the Department's information security team begins to implement various security controls according to NIST standards, the Department may seek additional spending authority in FY 2019 from the IT Cash Fund in order to properly fund the security controls necessary to mitigate identified risks.

The Department's Information Security team continues to collaborate with OIS in the review and implementation process of all Colorado information security policies. Judicial Department information security personnel also work closely with OIS and the Security Operations Center (SOC) to identify security risks and reduce or eliminate them as appropriate.

- 29 Is the SMART Act an effective performance management and improvement tool for your Department? What other tools are you using? Do your performance tools inform your budget requests? If so, in what way?

The Judicial Department employs many measures including case time standards, recidivism rates, warrant timeliness, access and fairness surveys, etc. These measures and goals help inform our

budget priorities annually. The SMART Act provides an effective framework to report performance management and improvement.

- 30 Please identify how many rules you have promulgated in the past two years. With respect to these rules, have you done any cost-benefit analysis pursuant to Section 24-4-103 (2.5), C.R.S., regulatory analysis pursuant to Section 24-4-103 (4.5), C.R.S., or any other similar analysis? Have you conducted a cost-benefit analysis of the Department's rules as a whole? If so, please provide an overview of each analysis.

The Supreme Court is the only rulemaking body within the Judicial Department, and it has promulgated 188 rules from calendar year 2014 through 2016. The Supreme Court adopts rules related to civil procedure, criminal procedure, appellate procedure and water court procedure, among others. The Department has not done a cost-benefit analysis of these rules pursuant to section 24-4-103, C.R.S. (2016), because that section of statute is not applicable to the Judicial Department. The Department has not done a cost-benefit analysis of the Department's rules as a whole.

- 31 What has the department done to decrease red tape and make the department more navigable/easy to access?

The court process can be difficult to navigate. The Judicial Department has implemented numerous approaches to assist court users. These include the introduction of Sherlocks, the implementation of electronic case filing and additional resources for pro se litigants.

- 32 What is the number one customer service complaint the department receives? What is the department doing to address it?

Historically, the most common customer service complaint is from parties without an attorney expressing concern about the difficulty navigating court processes. Beginning in FY 2013, through the implementation of the Sherlock program, the Department has made significant strides in addressing this concern. Sherlocks are court staff located in every judicial district that provide one-on-one procedural assistance to self-represented litigants in non-criminal court cases. Sherlocks field over 100,000 requests for procedural assistance annually.

The following responses were provided by Scott Turner, Chair of the Discovery Project Steering Committee and Deputy Attorney General

- 1 Describe the benefits of implementing the statewide discovery sharing system (“eDiscovery”), including any efficiencies or long-term cost savings.

The benefits of implementing eDiscovery is that for the first time in the United States, discovery will be transferred from law enforcement, to prosecutors, to defense attorneys in a single, uniform, electronic format. The eDiscovery system will initially result in significant budget deficits for every district attorney’s office in the state. Prior to the eDiscovery legislation, each DA’s office was allowed to collect the actual cost of providing discovery to the public defender, alternate defense counsel or any private attorney. These actual costs included personnel time as well as hard costs like portions of copying fees, paper and other overhead. As a result, the short term impact is proportionally severe to each and every DA in the state and is requiring the DA funding sources, the counties, to try to meet this financial loss to local budgets. Some counties have the money and some do not. Over time, the hope is that the efficiencies of the system will result in a reduction in personnel needed to accomplish the tasks as well as hard costs savings on items such as paper, copiers, and flash drives.

A significant impediment to realizing some of these efficiencies is already being recognized in the low band width and antiquated download capability of some DAs offices and many, if not most of the state funded offices of the Public Defender. The system is designed to work with current download capabilities and will result in significant information transfer delays if these state offices’ computers and download capabilities are not brought up to a more current download capability level quickly.

Another potential and unaccounted for impediment is the overwhelming advent and use of bodycams and how to both transfer and store all of the data associated with this technology. Bodycam usage was not contemplated by the Discovery Task Force at the time that eDiscovery and the CDAC contract with Xerox was put together. This information source is now not only available and prevalent but also absolutely demanded and a part of a very high percentage of all criminal cases. It is also a piece of mandatory discovery that law enforcement and DAs must turn over to the defense. The funding of eDiscovery did not provide to this massive addition to the electronic discovery requirement and may need to be accounted for with further legislation and funding in the very near future. The massive increase in videos on many cases has also greatly impacted the time it now takes for a prosecutor to review even a low level misdemeanor which will put significant pressure on local funding sources as every office will need more prosecutors to handle the increased workload issues.

If these hurdles can be overcome, the automated eDiscovery system will expedite the transfer of discovery, reducing delays inherent in a paper-based system. The delays will ensure that defense attorneys are provided discovery more quickly, which will reduce unnecessary delays attributed to not having complete discovery in a case. The reduction in delays will allow for the quicker disposition of cases which will save time and money for prosecutors, defense attorneys, defendants and the courts.

- 2 Provide an update on which district attorneys are members of the Colorado District Attorneys’ Council, and which district attorneys currently use or plan to use the ACTION case management system.

All district attorneys are members of CDAC except for Denver (District 1). They will be joining CDAC as soon as possible when the newly elected DA takes office.

All DA offices use ACTION except for the following:

- District 1: Jefferson & Gilpin counties
The D1 DA's office will be converting to ACTION in the spring of 2017.
- District 2: Denver county
- District 9: Garfield, Pitkin, & Rio Blanco counties
The D9 DA's office will be converting to ACTION in the spring of 2017.
- District 20: Boulder county
The D20 DA's office is currently considering converting to ACTION in 2017.

- 3 Do the ACTION or eDiscovery systems interface with other state information systems? How does the eDiscovery system protect data in terms of privacy and cybersecurity concerns?

ACTION:

The ACTION system interfaces with the CICJIS system, and CDAC is an active member of CICJIS. The CICJIS system connects the following five agency's computer systems allowing them to send transactions to one another:

- ACTION (the DA's)
- State Judicial
- CBI (Colorado Bureau of Investigation)
- DOC (Department of Corrections)
- DYC (Department of Youth Corrections)

eDiscovery:

The eDiscovery system interfaces with many Law Enforcement Agency's RMS (Records Management System). It also interfaces with ACTION. The interface to the RMS systems is via a program known as LEDS (Local eDiscovery System) which is installed on LEA owned hardware within their data center. The LEDS interfaces with the RMS via read only access to the RMS database, and also read only access to any document storage they may have. Any data obtained by the LEDS is sent to the Core eDiscovery System (CEDS) component via secure HTTPS using TLS 1.2. The LEDS component using one direction communication only, meaning the LEDS does not receive communications from the CEDS or any other system. The LEDS initiates communications with the CEDS. This makes the LEDS more secure. The CEDS is located in a CJIS compliant, State run data center. Communications from CEDS to ACTION is done via a site-to-site VPN. This ensures no other outside communication is permitted or achievable.

As for privacy, each LEA can only view their own data. The system does not allow them to view other agencies data. Once the data arrives at the ACTION program, only the District Attorney's office that is "sent" the case is able to view the data.

- 4 The most recent eDiscovery Status Report identifies three primary implementation challenges: body cam video; bandwidth at the district attorney and public defender offices; and slow implementation by some law enforcement agencies.

- a. Clarify which files are stored within the ACTION and eDiscovery systems, and which files are stored locally by law enforcement agencies, district attorney offices, and defense agencies.

The LEA's store all of the files that they create.

The DA's store all the files that are sent to them from the LEA, along with any files they create.

The Defense store all the files that are given to them based on discovery rules by the District Attorney.

ACTION does not physically store files. It stores meta data about these files, and provides the human interface to access these files. The actual files are stored at the DA's office.

eDiscovery from LEA to DA: (using the ePortal website)

Files that travel between LEA and DA are copies of the LEA files. These files are uploaded into the eDiscovery system, which holds them for a period of time allowing the District Attorney's office to download them via the ACTION system.

eDiscovery from DA to Defense: (using the eDiscovery website)

Files that travel between DA and Defense are copies of the DA files. These files are uploaded to the eDiscovery website (this is a different and separate website than the website the LEA uses to upload files). The files are downloaded from the site to the Defense storage. These files reside on the eDiscovery website for 30 days.

- b. Describe the current and long-term plans for dealing with extraordinarily large media files.

Current plans are to provide each DA's office two large portable hard drives (currently 2 terabytes in size). The DA's office will load large media files onto these hard drives which the Defense will pick up at the DA's office. Once the files have been copied to the Defense storage, the drives will be returned to the DA's office. We've budgeted to replace half of these drives each year. Some districts already on eDiscovery are struggling with how to handle the bodycam videos both in terms of storage and getting the files to the defense. Law Enforcement bodycam vendors provide links to these videos but there are some problems in tracking the access to the links and knowing for sure if the defense bar is getting the information as required and that DAs can confirm this when necessary to establish that discovery has been provided.

The current long term plan is to continue using these portable hard drives. In addition, some LEA's are utilizing body cam vendors that offer cloud based storage. In these cases the systems provide a hyperlink to the video, allowing the DA and Defense to view these videos, and download them if necessary. We have also begun discussions of the possibility of providing a state wide eDiscovery cloud that would operate in the same manner, storing video files and allowing the DA and Defense to stream these videos, along with the capability of downloading the portion of the video they would need for trial.

- c. What policies or procedures are in place to eliminate files when they no longer need to be stored within ACTION or the eDiscovery system?

We are currently working on these policies. None exist at this time as the enormous video storage need is a very recent implication. Current discussions include creating policies and procedures to delete files based on legal retention time frames. These would be used to programmatically remove files once the retention periods expire.

- d. How do existing policies related to the retention of files affect bandwidth issues or the need for storage capacity? Would statutory changes help to address this issue?

LEA, DA, and Defense have different retention policies. Once a file has been copied from one entity to another, bandwidth is no longer an issue. However, when a defendant changes their defense attorney, the discovery must be uploaded/downloaded again affecting bandwidth.

Storage is greatly affected by retention policies. Any statutory change that increases or decreases retention policies will affect storage either negatively or positively.

The concept of a single statewide storage location would help with large video files (stream instead of download) and also long term storage based on retention policies. Utilizing the longest retention policy of the three entities (LEA, DA, Defense) would accommodate all the entities. If such a system were in place, a hybrid system could be created in which the files would be stored in a central "cloud", accessed from the cloud, and downloaded when necessary (speed of working with the file, local copy for trial, etc.). Once the case was no longer being actively worked on, the local copy could be deleted while the central copy is kept. A statutory change to create such a system would help to address the long term storage issues and the large video file issues.

- e. Describe the reasons for slow implementation by some law enforcement agencies.

The reasons vary.

- Some LEA's had scheduled either upgrades to their existing RMS systems, or moves to another RMS system, at the same time as the eDiscovery system is being implemented in their district. The large effort to upgrade or change an RMS does not allow time for the LEA to work with the eDiscovery project. The eDiscovery implementation for these agencies have been postponed until the RMS is upgraded/changed.*
- Some LEA's contacts were incorrect due to personnel leaving, incorrect email addresses, etc. These take time to track down and correct. As each district has a limited amount of time to implement, this additional work is not accomplished in a timely manner.*
- Some LEA's had existing methods or systems in place to transmit discovery files to the DA's office, and were reluctant to change these for a system that did the same thing from their point of view. While the eDiscovery system gathers data along with files, provides a chain-of-custody, and automates some of the steps, the LEA's work load is the same as with their existing method or system. Also, some DA offices are/were pulling files directly from the LEA's RMS, in essence*

doing the work of the LEA. The eDiscovery system is based on the LEA sending the files, which helps the DA but puts more work back onto the LEA.

- *Some LEAs interpret the statute as directing the DA's to implement the system, but not requiring the LEAs to implement it. If a DA's office creates a policy stating only cases filed through the eDiscovery system will be accepted, this forces the LEA to come on board. This is less than ideal, but is at times necessary.*
- *Some LEAs are not taking advantage of the free training at the time of implementation and then seek assistance that may or not be available at the time, after implementation.*
- *Reluctance to change is also a factor in some LEA's being slow to implement.*

- 5 Does the Steering Committee or the Colorado District Attorneys' Council anticipate expanding eDiscovery in the future to expand the ability of law enforcement agencies to use the system for other purposes, such as data analytics or sharing more information electronically with district attorney offices or the courts (e.g., electronic traffic citations)?

CDAC has been involved in discussions of several ideas, but none have made it to any formal requirements stage. Some of these include:

- *Expand to become a data warehouse for law enforcement. This would be used for LEA data analytics and data sharing. After work was put into researching and planning, the LEA community, through the CISC, informed CDAC they were pursuing this through their own vendor.*
- *Data sharing with the courts: This is being discussed at a high level. The main ideas discussed involve what could be accomplished through an Electronic Citation system. Further research/discussions are needed to verify this would be achievable. Additional ideas involve moving other types of documents through the system to the courts, but these also require further research/discussions.*
- *Statewide discovery cloud: As mentioned earlier, a statewide "cloud" would help with the bandwidth issues, large video files, and long term storage. We are at high level internal discussions on this item.*



APPEARING ON BEHALF OF THE AGENCY:

DOUGLAS K. WILSON

COLORADO STATE PUBLIC DEFENDER

KAREN S. PORTER

Chief Financial Officer

Monday, December 12, 2016

JUDICIAL BRANCH
FY 2017-18 JOINT BUDGET COMMITTEE HEARING AGENDA

Monday, December 12, 2016
1:30 pm – 5:00 pm

3:15-3:45 OFFICE OF THE STATE PUBLIC DEFENDER (OSPD)

INTRODUCTIONS AND OPENING COMMENTS, AND DISCUSSION OF BUDGET PRIORITIES

QUESTIONS FOR THE OSPD

OSPD R1 Deferred Support Staff

1. Explain what caused the shortfall of support staff in relation to attorney staff. How have recent caseload increases and the resources provided through H.B. 13-1210 (Right to legal counsel in plea negotiations) affected this shortfall?

In FY2009-10 the agency's budget request included a request for additional attorney staff. This was the agency's highest priority due to the significant attorney deficit and the extremely high attrition rate which at that time was approximately 20% for attorneys. In recognition of the downturn in the state's economy we chose to defer requesting the commensurate support staff for authorized attorney positions. This deferment predates H.B. 13-1210 and has nothing to do with the bill.

2. How does the OSPD allocate existing support staff among judicial districts?

The OSPD has long allocated resources mainly based on workload, not caseload, factors. These workload factors were developed by an independent research agency and are regularly revised and updated. Workload analysis, as opposed to caseloads, is critical to the allocation of staff. OSPD has been conducting workload studies for over two decades. Similar workload analysis is done by the Judicial Department, including their probation division.

3. Please discuss the OSPD's recent effort to collect data and compare the staff and resources available to district attorneys and the OSPD in each judicial district.

In January 2016, using budget information from the 2015 DA Budgets and the 2015-2016 Budget for the OSPD, an informational report was prepared to assist in providing members of the General Assembly, other governmental offices and the general public information about the budgets of locally funded District Attorney Offices vs. the state-funded Office of the State Public Defender.

Some comments/additions to this report need to be provided at this time:

- This report was provided to the District Attorneys through Colorado District Attorneys Council (CDAC) at the time of its completion in January of 2016.
- This report was provided to interested members of the JBC and the JBC staff for assistance in the 2016/2017 budget.
- Since this report was prepared, some DA offices have increased their attorney staffing. No additional attorneys have been added to the OSPD.
- Numerous assertions about the “inequity” in the DA office funding in Colorado continue. While this report was never designed to resolve those concerns, it does contain information that inject real facts into that discussion, demonstrating that it is only a small number of rural DA offices that struggle with providing equal salaries to DA as compared with state-funded Public Defenders.

Finally, without a DA workload analysis, it is impossible to determine if one case for a prosecutor equals one case for a defense attorney. An unbiased analysis of required work functions would suggest that a defense lawyer has many more BASIC and ESSENTIAL functions to perform in most criminal cases than a prosecutor does. Most criminal cases (approximately 98%) are resolved by plea bargain. But the client interaction/management, legal discussion and advisement, investigation and research for each case would appear to require quantifiably more time from a defense lawyer than a prosecutor when a case is resolved through a plea bargain. However, this contention cannot be realistically evaluated without a workload analysis by prosecutors.

- Staffing Percentages. Based on the data, the OSPD is staffed at 56 percent when compared to DA staffing. This includes both attorneys and support staff (investigators, paralegals and administrative assistants).
 - OSPD attorneys are staffed at 72 percent when compared to the number of DA attorneys.
 - OSPD support staff are staffed at 40 percent when compared to DA support staff.
- Percentage of Cases Handled. Statewide, it is estimated the OSPD handles 71 percent of the total criminal cases filed – 83 percent of the felonies, 59 percent of the misdemeanors and 65 percent of the juveniles.
- Expenditures. Furthermore, the data showed that OSPD expenditures were roughly half of district attorney budgets. (74 million for OSPD to 143 million for DA’s)
- Attorney pay. This data also showed that the district attorney offices have only 26 percent of their attorneys paid at entry level while the OSPD has 67 percent paid at entry level. Our average attorney has been with the office for five years and is paid \$73,000.

OSPD R2 Mandated Costs and Electronic Data Management Expenses

4. To what extent does the mandated costs portion of this request relate to expert witness expenses?

In FY2015-16 the agency spent \$1,010,174 on expert witnesses which represents 19 percent of its total mandated expenses. Internal controls are in place to efficiently manage and control these costs. All requests to hire an expert are approved centrally by the agency’s Chief Deputy after consultation on the case and a maximum amount is determined.

The table below identifies all the types of mandated expenses paid and the change experienced over the past 10 years. Although the amount of increase appears significant in many areas, it’s important to note that the cost per case has not shown the same increase with the exception of discovery. Discovery costs are paid to the local

prosecutor offices and are a cost over which we have no control. For all areas other than discovery the increases can be attributed primarily to caseload growth.

- Over the past 10 years the cost per case for discovery went from \$5.93 to \$13.70, an increase of over 130%.
- Over the same 10 years, discovery costs have soared from \$650K to over 2 million - last year \$2.1 million of our mandated costs were paid directly to the district attorneys for discovery.

OSPD Mandated Costs				
Description	FY 05-06	% of		% of
		Total	FY 15-16	
Experts	562,110	26%	\$1,010,174	19%
Transcripts	\$838,560	38%	\$1,659,337	31%
Discovery	653,556	30%	\$2,299,822	43%
Travel (Witness, Expert)	62,130	3%	\$195,280	4%
Interpreters	62,131	3%	\$164,975	3%
Misc.	434	0%	\$31,003	1%
Total	2,178,921	100%	\$5,360,590	100%
Active cases	110,194		167,814	
Average cost per case	\$20		\$32	
<u>Cost per case:</u>				
Experts	\$5.10		\$6.02	
Transcripts	\$7.61		\$9.89	
Discovery	\$5.93		\$13.70	
Travel	\$0.56		\$1.16	
Interpreters	\$0.56		\$0.98	

Impacts of Recent Legislation

5. *Background Information:* House Bill 13-1210 repealed a statute that required an indigent person charged with a misdemeanor or other minor offense to meet with the prosecuting attorney for plea negotiations before legal counsel is appointed. As a result, the number of cases requiring state-paid representation from the Office of the State Public Defender (OSPD) or the Office of the Alternate Defense Counsel (OADC) has increased significantly since January 2014.
 - a. Describe any impacts of H.B. 13-1210 that have been observed or can be quantified, other than caseload increases for the OSPD and OADC (e.g., Is this affecting the plea negotiation process? the likelihood of a conviction? the likelihood of a defendant remaining in custody? the rate of recidivism?).

Other than the increase in its caseload, the office does not track specific stats relating to the items above. We were able to look at some of the trends in our misdemeanor case dispositions for FY 2012-13 prior to implementation of H.B. 13-1210 as compared to FY2015-16 that suggest outcomes with respect to cases being settled prior to going to trial. For example the number of cases dismissed increased from 7,484 to 11,547, an increase of 4,063 cases.

- b. Describe the process that occurs when a defendant is eligible for state-paid representation but chooses to proceed without such representation. Do self-represented litigant coordinators (“SRLCs”) or other court staff play a role in assisting self-represented parties in criminal cases?

SRLC’s are not available for criminal cases and if a client declines OSPD’s representation, then OSPD does not enter on that case or withdraws immediately unless ordered to do otherwise by the court.

6. House Bill 14-1032 (Defense counsel for juvenile offenders) and H.B. 14-1023 (social workers for juveniles) changed the way that state-paid legal representation is provided in certain juvenile delinquency cases. Describe any impacts of these acts that have been observed or can be quantified (e.g., Are fewer juveniles being placed in detention?).

The OSPD appeared at 3,973 detention hearings in FY2015-16 and saw an increase of over 17 percent in its new juvenile case filings over the past two years. During the same time, the Judicial Department reports a one percent decrease in the number of new juvenile cases filed. The Division of Youth Corrections, in its Evaluation of the Senate Bill 91-094 Program, shows steadily declining overall juvenile commitment and detention rates from FY10 through FY15.

QUESTIONS FOR INDEPENDENT JUDICIAL AGENCIES

7. Describe the existing communication, coordination, and resource sharing that occurs between the agencies that comprise the Judicial Branch. What additional efficiencies can be gained while maintaining the ability of each agency to effectively carry out its mission?

In 1970 the OSPD was established as an independent, autonomous agency within the judicial branch to ensure that all indigent juvenile, misdemeanor and felony clients were guaranteed their right to effective, independent and competent counsel. This right to counsel was first guaranteed to indigent state criminal defendants in 1963 in the United States Supreme Court case of Gideon v. Wainwright, 372 U.S. 335 (1963) and has been reinforced over the years by that Court. (See for example Shelton v. Alabama and Rothgery v. Gillespie County).

Furthermore, the OSPD’s enabling legislation mandates compliance with the American Bar Association guidelines, including complete independence from the judiciary and political pressures. The OSPD enabling statute further required that it comply with ABA standards related to the Defense Function, thereby explicitly requiring the OSPD to maintain its independence from the Court. This separation and autonomy is a critical component of our compliance with our governing laws and rules, just as the separation of the three branches of our governmental influence is critical to our democratic government. If any accounting, human resources or other functions are somehow shared with the Courts, it gives the Courts a managerial and process oversight capacity over the self-determining decision making of the independent judicial agencies.

The OSPD is staffed with approximately 785 FTE, which comprises approximately 93% of the staff in independent agencies outside the Judicial Department.

However, while recognizing this requirement for independence, the OSPD regularly collaborates with other agencies including the independent agencies within the Judicial Branch and those outside the branch, through frequent work groups and regular interactive communications about various topics.

8. How can the processes that are used to evaluate and approve salary adjustments for Judicial Branch employees be improved so that they are more consistent with the practices that are used by the State Personnel Director?

The State Personnel Director follows policies to:

- Establish technically and professionally sound survey methodologies to assess prevailing total compensation practices, levels, and costs;*
- Use a systematic approach to objectively determine classes of positions and the uniform alignment of classes of occupational groups for all jobs in the state personnel system;*
- Conduct timely, ongoing, and technically sound evaluation and analyses of jobs in order to group similar duties and responsibilities into clearly distinguished classes and occupational groups that relate to the compensation structure through the assignment of appropriate pay grades.*

The OSPD has policies and procedures consistent with the State Personnel Director. Annually, and in conjunction with the AG's office, we participate in an analysis using the Fox Lawson agency, a nationally recognized, independent, compensation research and consulting firm, to specifically study pay practices in public entities throughout Colorado for our group of attorneys that handle cases at the trial court and appellate levels. For all other staff, the office performs an annual market analysis which includes salary data of comparable positions obtained through various public entities including the Mountain States Employers Council (MSEC), the Department of Law, the Department of Personnel and Administration and the Judicial Department.

The agency has developed and continues to evaluate job duties and responsibilities for all positions and has established specific classes within various occupational groups creating a sound compensation structure and plan.

The parties involved have met and all agree this could potentially be a major undertaking. As such, sufficient time needs to be spent exploring and discussing all of the options.

9. Provide input about how to improve statutory reporting requirements that are relevant to the Judicial Branch, including those currently imposed by the SMART Act, to ensure that they are appropriate for each judicial agency's scope of work and staffing levels. What changes would make the required reports more useful for both the judicial agency and the receiving entities?

We regularly use performance measures. However, compiling the report in the required format at the dates required throughout the year is a draw on resources. Recognizing this document may be helpful we propose condensing the three required reports into one document to be completed at the end of the calendar year.

QUESTIONS FOR WHICH SOLELY WRITTEN RESPONSES ARE REQUESTED

10. Based on the agency's most recent available record, what is the FTE vacancy and turnover rate? To what does the agency attribute this turnover/vacancy?

The OSPD's attrition rates for FY16 were 12 percent for attorneys, 6 percent for investigators, 18 percent for administrative assistants and 11 percent overall. The office currently has 4.5 FTE positions open which represents a 0.6 percent vacancy rate for its 783 GF FTE.

11. For FY 2015-16, do any line items in your agency have reversions? If so, which line items, which programs within each line item, and for what amounts (by fund source)? What are the reasons for each reversion? Do you anticipate any reversions in FY 2016-17? If yes, in which programs and line items do you anticipate these reversions occurring? How much and in which fund sources do you anticipate the reversion being?

- Personal Services. Our reversion was \$ 955,393 in General Funds (GF). Most of our staff are attorneys and our estimation of the number of attorneys needed are made a year out. Our estimated need for attorneys has been too low over the past few years due to unexpected legislation and an annual hiring process as we hire primarily those attorneys straight out of law school after bar passage. As a result, we have made internal changes to our attorney hiring practices such as going to a year-round hiring model, greatly increasing our targeted number of attorney hires and expanding our pool of resources to include those eligible through the Uniform Bar Exam (UBE).
- Health Life Dental. \$ 172,823 GF, as this is directly tied to Personal Services costs see the explanation in "Personal Services," above.
- Short Term Disability. \$15,557 GF, as this is directly tied to Personal Services costs see the explanation in "Personal Services," above.
- AED. \$39,915 GF, as this is directly tied to Personal Services costs see the explanation in "Personal Services," above.
- SAED. \$42,871 GF, as this is directly tied to Personal Services costs see the explanation in "Personal Services," above.
- Operating. Reversion was \$196,893 (\$177,048 GF and \$19,845 Cash Funds). A large portion is attributed to the shortage of staff thus requiring less operating supplies and related expenses.
- Vehicle Lease. This line is a centrally appropriated line. As such, calculations of actual need are not determined through the OSPD. Reversion was \$5,610.
- Leased Space / Utilities. We have been negotiating many leases over the past few years due to expiring lease terms as well as the need to expand locations to accommodate the additional staff received from recent legislation. The agency, with the assistance of the state's real estate brokers, has been able to negotiate favorable terms with up front rent concessions. In addition, the process for renewals and expansion is taking longer than anticipated. A few locations have had to extend their lease for a 1 year term while negotiations can be finalized. All of this combined has resulted in less expenditures in the leased space line this past year, may linger to some extent in the current year, yet is not expected to continue in future years. As we continue negotiating some of our leases now, with the real estate market in Colorado

doing so well, we do not feel it is sensible to assume that similar deals will be negotiated in the future. Reversion was \$610,674 GF.

- *Automation. Reversion was \$17,813 GF.*
- *Attorney Registration. Reversion was \$ 6,907 GF.*
- *Contract Services. Reversion was \$ 38,850 GF.*
- *Grants. These funds give us the cash fund spending authority which we can use to administer grants. Our grant awards were not sufficient to spend the full amount of spending authority appropriated. Reversion was \$ 60,871 CF.*

12. What is the expected impact of Amendment 70 (minimum wage increase) on agency programs? Please address impacts related to state personnel, contracts, and providers of services.

Amendment 70 does not impact our agency.

13. Is the SMART Act an effective performance management and improvement tool for your agency? What other tools are you using? Do your performance tools inform your budget requests? If so, in what way?

We have looked at the process of assembling the SMART ACT reports as an opportunity to further refine our performance measures, goals, mission and vision to ensure we are continuing to use our resources responsibly and effectively. Although typical performance measures and goals usually center on obtaining specific levels of production, outcomes, or customer service, our strategies are more in line with evaluating the effectiveness of providing adequate resources in order to fulfill the agency's mission.

JUDICIAL BRANCH

FY 2017-18 JOINT BUDGET COMMITTEE HEARING AGENDA

Monday, December 12, 2016

1:30 pm – 5:00 pm

3:45-4:00 OFFICE OF THE ALTERNATE DEFENSE COUNSEL (OADC)

INTRODUCTIONS AND OPENING COMMENTS

Impacts of Recent Legislation

- 1 *Background Information:* House Bill 13-1210 repealed a statute that required an indigent person charged with a misdemeanor or other minor offense to meet with the prosecuting attorney for plea negotiations before legal counsel is appointed. As a result, the number of cases requiring state-paid representation from the Office of the State Public Defender (OSPD) or the Office of the Alternate Defense Counsel (OADC) has increased significantly since January 2014.
 - a. Describe any impacts of H.B. 13-1210 that have been observed or can be quantified, other than caseload increases for the OSPD and OADC (e.g., Is this affecting the plea negotiation process? the likelihood of a conviction? the likelihood of a defendant remaining in custody? the rate of recidivism?).

The OADC does not have the data to answer these questions. The Colorado District Attorneys' Council (CDAC) may be in a better position to address this question as they may be able to compare outcomes of cases prior to the implementation of H.B. 13-1210 with the outcomes of cases since the implementation of H.B. 13-1210.

- b. Describe the process that occurs when a defendant is eligible for state-paid representation but chooses to proceed without such representation. Do self-represented litigant coordinators ("SRLCs") or other court staff play a role in assisting self-represented parties in criminal cases?

Every defendant is constitutionally entitled to represent themselves, following advisement by the court, and a knowing, intelligent and voluntary waiver of counsel. When this occurs, a defendant may be entitled to advisory counsel (also referred to as stand-by counsel), which is paid for by the court.

According to Chief Justice Directive 13-01, self-represented litigant coordinators ("SHRLCs") are only authorized in non-criminal matters.

- 2 House Bill 14-1032 (Defense counsel for juvenile offenders) and H.B. 14-1023 (social workers for juveniles) changed the way that state-paid legal representation is provided in certain juvenile delinquency cases. Describe any impacts of these acts that have been observed or can be quantified (e.g., Are fewer juveniles being placed in detention?).

The OADC's caseload has increased since the implementation of HB 14-1032. HB 14-1032 impacted the representation of juveniles at detention hearings by requiring that a lawyer be appointed for every juvenile in detention. As with any other type of appointment, the OADC is appointed for juveniles in detention only when the OSPD has a conflict. Additionally, HB 14-1032 transferred the payment for representation of juveniles in cases where the juvenile did not qualify for court-appointed representation, but still wished to be represented by counsel (parental refusal cases) or the court found that it was in the juvenile's best interest to have counsel. Previously these cases were paid for by the SCAO, but now these juveniles are represented by the public defender's office in the first instance, and then OADC is appointed on those cases where the OSPD has a conflict. HB 14-1023 only provided social workers to the OSPD so there was no impact on the OADC.

The OADC does not have the data to answer the question about whether there are fewer juveniles being placed in detention. We believe that perhaps the Department of Human Services Division of Youth Corrections could address this question. The SCAO may be able to answer a question about whether more juveniles are represented by counsel since the enactment of this legislation.

Independent Judicial Agencies

- 3 Describe the existing communication, coordination, and resource sharing that occurs between the agencies that comprise the Judicial Branch. What additional efficiencies can be gained while maintaining the ability of each agency to effectively carry out its mission?

The following is a list of services shared among OADC, OCR, and ORPC:

Shared Resources & *Potential Efficiencies between OADC, OCR, and ORPC	OADC	OCR	ORPC
Joint Trainings - Facilities and Curriculum	X	X	X
Training Technology (shared equipment)	X	X	X
Training Presenters	X	X	X
Confer regarding contractor billing and evaluations	X	X	X
Vendor Auditing	X	X	X

Contractor Evaluations Information	X	X	X
Court observations	X	X	X
Stakeholder feedback	X	X	X
Jurisdiction visits	X	X	X
Form Templates	X	X	X
Online resources	X	X	X
Job Descriptions	X	X	X
Procedure Manuals Template	X	X	X
Personnel Manuals Template	X	X	X
Database Developer/Billing System	X		X
Data Sharing	X	X	X
*Compensation plan coordination	X	X	X
*Purchasing Power (Westlaw)	X	X	X

** Potential Efficiencies*

The OADC shares numerous resources with the Judicial Branch as listed by category below:

- a. Information Technology - Shared infrastructure in server and telecommunications rooms within the Ralph Carr Building.
- b. Accounting and Budget - The OSPD, OADC, OCR, and ORPC - Shared POTS templates and other budget schedules to improve standardization of forms. Agencies also share CORE Accounting reports at the Department level for monthly and annual year end close.
- c. Payroll and Benefits and Workers Compensation - The Judicial Department processes staff payroll, benefits, and workers' compensation.
- d. Purchasing - When possible the OADC utilizes price agreements established by the Judicial Department.
- e. Administrative Support - Shared training rooms throughout the shared Ralph Carr building. Shared front desk and building maintenance services.
- f. Training - Joint trainings with OSPD, OCR and ORPC.

Attached as Appendix A is a chart outlining services that are shared amongst the Judicial Branch.

- 4 How can the processes that are used to evaluate and approve salary adjustments for Judicial Branch employees be improved so that they are more consistent with the practices that are used by the State Personnel Director?

The following agencies met to discuss this issue on December 2, 2016: SCAO, OSPD, OADC, OCR, ORPC, IEC, CCJD, CCJP, CPO, and OARC. At this meeting there were discussions about the independent agencies participating in salary surveys with either the SCAO and/or the OSPD and Department of Law. At the conclusion of this meeting it was determined that this issue needed to be studied further, with a proposal to the JBC no later than July 1, 2016.

The following agencies also met on December 5, 2016, (OADC, OCR, and ORPC) to compare individual compensation plans. We have agreed that we should work together to create consistency among our three agencies since there is significant similarity in what we do. Our plan is to delve into position details, and work on developing more consistent practices.

- 5 Provide input about how to improve statutory reporting requirements that are relevant to the Judicial Branch, including those currently imposed by the SMART Act, to ensure that they are appropriate for each judicial agency's scope of work and staffing levels. What changes would make the required reports more useful for both the judicial agency and the receiving entities?

We believe that the SMART Act reporting requirements for our purposes could be simplified by consolidating the 3 annual SMART Act submissions (Performance Management System, Performance Plan and Performance Report) into one report that is due on or about the same date as the annual Budget Request. The Performance Measures required by the SMART Act are valuable, but for a small agency like the OADC the content in each of the above submissions tends to get duplicative and staff time is spent reworking the same data into a different format, which is time consuming and feels redundant.

ADDENDUM: OTHER QUESTIONS FOR WHICH SOLELY WRITTEN RESPONSES ARE REQUESTED

- 6 Based on the agency's most recent available record, what is the FTE vacancy and turnover rate? To what does the agency attribute this turnover/vacancy?

The OADC has no FTE vacancies. In September of 2016, the OADC Training Director resigned for an opportunity outside the state system that offered a significantly higher salary. The Training Director position was filled in October 2016. At a current FTE count of 12, the turnover rate for OADC in FY17 would be 8%.

- 7 For FY 2015-16, do any line items in your agency have reversions? If so, which line items, which programs within each line item, and for what amounts (by fund source)? What are the reasons for each reversion? Do you anticipate any reversions in FY 2016-17? If yes, in which programs and line items do you anticipate these reversions occurring? How much and in which fund sources do you anticipate the reversion being?

For FY2015-16 the OADC had a reversion of \$19,192 for its Conflict of Interest line and a reversion of \$786 from its Mandated line, which is a combined total of \$19,978. Based on the Agency's FY16 accrual estimate these additional amounts were not needed to process year end accrual payments. The OADC does not anticipate a reversion in FY17.

- 8 What is the expected impact of Amendment 70 (minimum wage increase) on agency programs? Please address impacts related to state personnel, contracts, and providers of services.

The OADC anticipates no fiscal impact due to the implementation of Amendment 70.

- 9 Is the SMART Act an effective performance management and improvement tool for your agency? What other tools are you using? Do your performance tools inform your budget requests? If so, in what way?

Even prior to the enactment of the SMART Act, the OADC relied heavily on performance measures as a management and improvement tool for our agency.

- a. The OADC utilizes several internal tools to monitor and improve performance. The OADC's newly designed billing system (CAAPS) allows us to run reports for audit and analysis, including caseload monitoring and projections, and contractor/case type billing trends. The OADC's newly designed Access Database allows the agency to track contractor information, manage the contractor evaluation process, and communicate more seamlessly with all contractors.
- b. The Agency's Performance Measures, combined with the information gleaned from both CAAPS and ACCESS, all play a key role in OADC's annual budget process. These resources allow for historical data analysis which is used to forecast future budget requests.

Appendix A

OSPD OADC OCR ORPC Attorney Reg Independ Ethics Judicial Perform Judicial Discipline Childs Ombudsman

Financial Services - shared amounts the Judicial Branch

Accounting						X	X	/	X
Accounts Payable						X	X		X
Budget Schedules					X	X	X	X	X
Budget POTS Templates	X	X	X	X					
Decision Items					X	X	X	X	X
Rev/Expenditure monitoring						X	X		X
Internal Audit									X
Fleet									
West Law/Lexis (handled through Law Library)					X		X	X	X
Procurement		/	/	/	/	X	X	X	X
Year End Transfers	X	X	X	X	X	X	X	X	X
WC/Risk mgmt. payments	X	X	X	X	X	X	X	X	X

Human Resources - shared amounts the Judicial Branch

Payroll		X	X	X	X	X	X		X
Benefits		X	X	X	X	X	X		X
Hiring Documentation		X	X	X					X
Unemployment		X	X	X	X	X	X		X
Personnel Rules							X		
Recruitment						X	X		
Classification							X		
HR Investigations				/		/		/	/

Criminal History		X	X	X		X	X	X	/
Compensation						/	X	/	/
Training		A	A						
Conference Planning/Facilities	/	/	/	/	/	/	/	/	

Information Technology - shared amounts the Judicial Branch

Email						X	X		
Server Room	X	X	X	X	X	X	X	X	
desk top support						X	X		

- X SCAO provides
- / SCAO provides partial services or occasional help
- A Agency provides partial service to SCAO/Others

0. JUDICIAL BRANCH
FY 2017-18 JOINT BUDGET COMMITTEE HEARING AGENDA

Monday, December 12, 2016
1:30 pm – 5:00 pm

4:00-4:20 **OFFICE OF THE CHILD'S REPRESENTATIVE (OCR)**

INTRODUCTIONS AND OPENING COMMENTS

Questions unique to the OCR

- 1 The OCR is requesting \$803,000 General Fund to replace its billing and case management system (OCR R2). What efforts did the OCR make to work with other Judicial agencies to identify potential options?**

The OCR has made extensive efforts throughout its CARES II assessment and replacement process to engage with Judicial and Executive agencies. Specifically:

- In FY 2014-15, State Judicial Branch representatives provided feedback on OCR's RFI and RFP. State Judicial's Chief Information Officer (CIO) also assisted OCR in meeting with a potential vendor identified through the OCR's RFI process, and a procurement specialist from State Judicial served on the OCR's RFP evaluation committee.
- After the RFP did not lead to a viable contract, the OCR reconvened with State Judicial's CIO. The OCR also met with OIT in April 2016. State Judicial provided the name of a potential developer, and OIT recommended that the OCR work with the Statewide Internet Portal Authority (SIPA) to contract with a developer to evaluate options to create a new case management/billing system. The OCR entered into an Eligible Government Entity Agreement with SIPA to utilize its list of developers and reached out to developers identified through SIPA and State Judicial. The OCR ultimately entered into a contract with a SIPA-identified developer to create the product requirements document (PRD) that has informed OCR's FY 2017-18 Budget Request.
- The OCR has met with both OADC and ORPC to learn about their respective billing systems, and several OCR staff viewed a demo of the OADC system in 2015.

Notably, the web-based billing system OCR used prior to its current case management and billing system was developed by the developer of the OADC/ORPC billing system. OCR's 2007 Performance Audit recommended that OCR expand its audit process to collect additional information on attorney performance and evaluate options for streamlining its review process, specifically recommending OCR's electronic billing system as a potential source of information. Given the limitations of its former system, the OCR was able to begin to use an electronic billing system to monitor GAL performance when, supported by funding from a private foundation, it obtained its current electronic case management and billing system. The OCR did attempt to enter into a contract with the developer of the OADC/ORPC system for the improved system it now seeks, as this developer had submitted a proposal in response to the OCR's April 2015 RFP. The OCR had to forego this option, as it was unable to negotiate a contract with an acceptable warranty, sufficient guarantees of reporting capabilities, and reasonable terms relating to system ownership, indemnification, and liability insurance. Additionally, the developer ultimately concluded that the OCR's "task order" would create "undue time and cost requirements."

This history and OCR's unique charge explain why the OCR cannot simply emulate or share the systems currently used by other agencies. Following are some of the factors driving OCR's need for a system with more robust and nuanced reporting features:

- ***The unique vulnerabilities of the children whose interests are represented by OCR attorneys impose heightened oversight responsibilities on the OCR.*** These responsibilities are set forth in the OCR's enabling legislation and CJD 04-06, and the OCR has established processes consistent with these responsibilities that are reflected in its ongoing operations and its performance management plan. Because OCR's charge relates to a vulnerable and often voiceless population frequently unable to raise concerns with the court, the OCR, or other stakeholders, advanced reporting capability is essential to the OCR's ability to proactively monitor compliance with practice standards and to promptly address concerns.
- ***OCR oversees appointments on numerous case types.*** The case types on which OCR attorneys are appointed, dependency and neglect, delinquency, truancy, domestic, paternity, and probate, among others, involve unique hearing types with unique potential outcomes. CJD 04-06 specifies distinct practice standards for each of these case types, requiring distinct reporting and monitoring functions. Some of the appointment types, such as paternity, guardianship, and domestic, may involve partial indigency findings, requiring the OCR to set billing allocations at a specified percentage of the total billing.
- ***On many of OCR's case types, an attorney is often appointed to represent the interests of multiple children on the same case.*** Many of OCR's performance metrics and oversight reports must be tied to individual children rather than the case number alone.
- ***OCR and case-carrying attorneys have come to rely on the case management features in CARES.*** Practicing attorneys use this system to track not only their time on cases but also key aspects of their work, their own compliance with practice standards, and important indicators of child well-being, such as placement history and total number of days in out of home placement. It supports efficiencies created by the use of social workers by allowing attorneys to quickly access notes relating to activities performed by all staff within their office. As to OCR's oversight, the ability to identify offices or activities as "not billable" allows the OCR to continue to monitor the performance of offices with multidisciplinary law office contracts and the El Paso County GAL Office.
- ***The invoicing feature sought by the OCR is an enhancement to any of the existing systems.*** This feature will improve OCR's ability to proactively identify and promptly address practice and billing issues.

State Judicial's CIO has been very helpful in assisting OCR to translate its unique needs into programming requirements and in identifying and evaluating potential solutions.

- 2 **Describe the three models that are currently used by the OCR to provide guardian ad litem services for children (i.e., independent contractors, the OCR office in El Paso county, and the multi-disciplinary law office pilot program). Please include information about when each model began and any available information related to the costs and effectiveness of each model.**

The following chart describes the three models OCR uses to provide GAL services throughout Colorado.

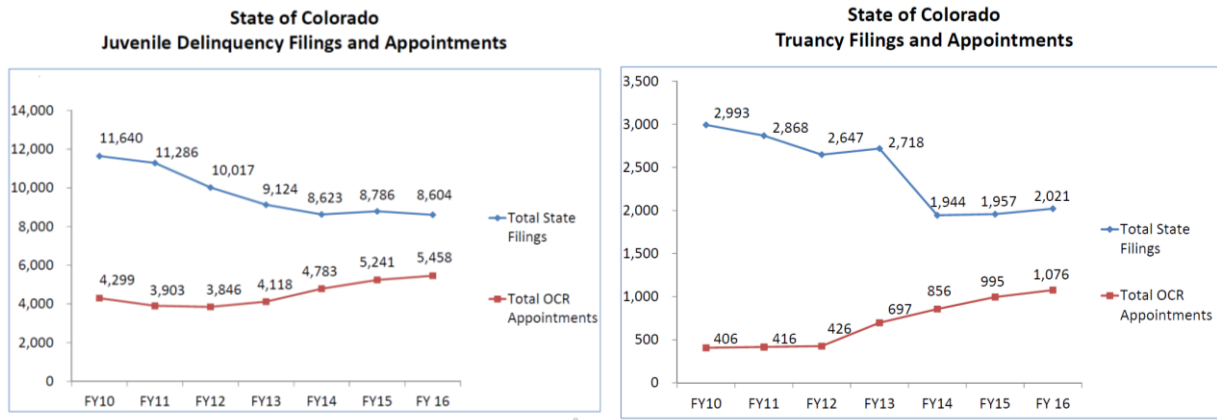
	Independent Contractor	El Paso County GAL Office	MDLO Pilot Program
Districts in which Model is Employed	Throughout Colorado	Fourth Judicial District (El Paso County)	2nd Judicial District (Denver County); 18 th Judicial District (Arapahoe County)
OCR Relationship to Model	Contractual	Employer-Employee (FTEs)	Contractual
When Model Commenced	In existence at time of OCR’s enabling legislation in 2000	In existence at time of OCR’s enabling legislation in 2000; created in response to SB 99-12, Footnote 135	January 2011
Current Compensation Structure	Hourly	Salaries	Monthly installments
Applicable Practice Standards	CJD 04-06	CJD 04-06 and Heightened Statement of Work*	CJD 04-06 and Contract Including Heightened Statement of Work*
OCR’s Monitoring of Costs and Efficiencies	Excess fee request process, contract renewal and verification process, and periodic reports/audits	Ongoing review of personal services line item, quarterly reports	Quarterly reports
OCR’s Oversight and Evaluation Process	<ul style="list-style-type: none"> • Periodic CARES reports • Complaint Investigation • Annual Verifications (training, disciplinary history, CJD compliance) • 3-Year Contract Renewal Process 	<ul style="list-style-type: none"> • Periodic CARES reports • Complaint Investigation • Annual certification of CJD compliance • Quarterly review of staffing documents, quarterly meetings • Annual employee performance review process by managing attorney; OCR oversight of process • MDLO Evaluation Process (Completed in FY 2013 and Scheduled for Completion in FY 2017) 	<ul style="list-style-type: none"> • Periodic CARES reports • Complaint Investigation • Annual certification of CJD compliance • Quarterly review of staffing documents, quarterly meetings • MDLO Evaluation Process (Completed in FY 2013 and Scheduled for Completion in FY 2017)
Available Information Regarding Costs	FY 2015-16 Cost/Appt • D&N: \$1,842 • JD: \$575 FY 2014-15 Cost/Appt • D&N: \$1,890 • JD: \$622	FY 2015-16 Cost/Appt • D&N: \$1,860 • JD: \$695 FY 2014-15 Cost/Appt • D&N: \$1,761 • JD: \$711	FY 2015-16 Cost/Appt • D&N: \$2,427** • JD: \$480 FY 2014-15 Cost/Appt • D&N: \$2,531** • JD: \$387
Comparative Information Regarding Effectiveness	Control/Comparison Group	<ul style="list-style-type: none"> • FY 2012-13 evaluation results indicated more time spent on cases but did not yield conclusive findings on outcomes and effectiveness. OCR extended pilot to continue evaluation. • FY 2016-17 evaluation components include youth surveys & focus groups; judicial surveys & focus groups; attorney surveys; social worker surveys; review of office documents; CARES reports – Activity in Timeframe, 30-Day Visit, Youth in Court; stakeholder survey analysis; court observation analysis; court file review; FAMJIS analysis. 	

**As an example of the heightened work requirements, while CJD 04-06 requires in-placement contact with children within 30 days of appointment and any change of placement and attorneys to maintain contact with children on an ongoing basis, the Statement of Work additionally requires quarterly in-person contact with children.*

*** A greater number of hours on case-related work and an investment in the offices’ supervision structure contribute to this heightened cost per appointment.*

3 Discuss recent increases in the number of truancy and juvenile delinquency cases in which the OCR pays for court appointed counsel. What are the factors driving these increases?

As illustrated by the following charts, the recent increases in truancy and juvenile delinquency appointments appear to be part of an ongoing trend over the last three to four fiscal years.



Appointments on these case types do not mirror filing trends because of the manner in which OCR measures appointments (any appointment on which OCR has paid during the fiscal year, rather than new appointments) and because of their discretionary nature. The discretionary nature of these appointments explains the increases in caseload.

Section 19-1-111(2)(a), C.R.S. provides that the court may appoint a GAL in a delinquency case when a parent does not appear, the court finds a conflict of interest exists between the child and the parent, or the court makes specific findings that the appointment is necessary to serve the best interests of the child. Section 19-1-111(2)(b), C.R.S. allows a court to appoint a GAL for a child in a truancy proceeding when the court finds “the appointment is necessary due to exceptional and extraordinary circumstances.” If the child is already represented by counsel in the truancy matter, the court must additionally find that it is in the best interest and welfare of the child to appoint both counsel and a GAL. §19-1-105(2), C.R.S.

While the OCR does not have a way to quantify factors contributing to its increased delinquency and truancy caseload, from conversations with judicial officers, attorneys, and other stakeholders who work on these case types, the OCR believes the increased caseload can be attributed to two factors. First, the OCR has been informed by various judicial officers and attorneys that courts continue to experience an increased prevalence of D&N-like issues presenting in delinquency and truancy cases. Concerns about child protective issues, such as parent substance abuse and mental health issues, as well as parent-child conflict appear to be prompting the appointment of a GAL in these case types even if such concerns have not led to the filing of a D&N proceeding. Notably, this trend is consistent with the type of work GALs describe they must now perform in truancy and delinquency appointments. Second, an increasing awareness of the importance of adequately addressing needs presented in these case types as a means of promoting long-term success and minimizing the potential for future juvenile or adult charges explains the increased use of

GALs. Given the GAL's role as an independent advocate focused on the best interests of the child and GALs' extensive knowledge of available services and programs, judicial officers have relied more than ever on GALs to ensure the decisions they make are in both the short-term and long-term best interests of the children who appear before them.

As delinquency appointments have continued to comprise a growing proportion of the OCR's caseload, the OCR in FY 2015-16 recommended that the Chief Justice promulgate practice standards governing GALs appointed in delinquency matters. These standards, effective January 1, 2016 and set forth in CJD 04-06(V)(E) were vetted with juvenile court judges and GALs and serve to advance consistency in GAL representation in this case type.

4 Describe the process(es) that are used and the factors that are considered by the court when determining the placement for youth who are awaiting adjudication for truancy or for juvenile delinquency. Is it common for these two types of youth to be placed in the same setting?

In a delinquency proceeding, a juvenile may be taken into temporary custody by a law enforcement officer or a probation officer. §§ 19-2-502, 503, C.R.S. Juveniles taken into temporary custody are entitled to a detention hearing within 48 working hours to determine whether further detention is warranted and to define the conditions of release, if appropriate. §§ 19-2-508(2), (3), C.R.S. A court may only order ongoing detention of the juvenile if it finds that the juvenile is a danger to himself/herself or the community. § 19-2-508(3)(a)(III), C.R.S. Certain allegations will lead to a rebuttable presumption that the juvenile is a danger to himself/herself or the community. *Id.* If a court orders further detention of a juvenile, it must make specific findings as to whether placement of the juvenile out of his or her home would be in the juvenile's and community's best interests, whether reasonable efforts have been made to prevent or eliminate the need for removal of the juvenile from the home or whether an exception to this requirement has been met, and whether procedural safeguards to preserve parental rights have been applied. § 19-2-508(3)(a)(VII), C.R.S.

The Children's Code sets forth alternatives for juveniles who must be removed from their homes but for whom detention is not warranted. Section 19-2-508 provides that a juvenile who must be taken from his or her home but who does not require physical restriction shall be given temporary care in a shelter facility designated by the court or the county department of social services and shall not be placed in detention. At the detention hearing, a court may also issue temporary orders for legal custody as provided in § 19-1-115, C.R.S., which authorizes the court to order a variety of legal custody arrangements, including custody to the county department of human services, and requires specific findings supporting such custody orders. § 19-2-508(6), C.R.S.

Colorado's compulsory school attendance laws make clear that schools must employ best practices and research-based strategies to minimize the need for court action and that the initiation of truancy proceedings must be a last resort approach to address a child's truancy issues occur only after the implementation of a statutorily-prescribed plan to address the child's school attendance. *See* § 22-33-108(5), C.R.S. Detention in a juvenile detention facility through a truancy proceeding may occur only after the court has found the child in contempt of court for violating a validly issued court order compelling the child to attend school. § 22-33-108(7), C.R.S. Compulsory school attendance law sets a five-day limit for detention. § 22-33-107(7)(c), C.R.S.

Youth ordered to detention in truancy and in delinquency proceedings are placed in the same detention facilities.

Impacts of Recent Legislation

- 5 House Bill 14-1032 (Defense counsel for juvenile offenders) and H.B. 14-1023 (social workers for juveniles) changed the way that state-paid legal representation is provided in certain juvenile delinquency cases. Describe any impacts of these acts that have been observed or can be quantified (e.g., Are fewer juveniles being placed in detention?).**

The OCR has not observed any impacts of this legislation that can be quantified. Pursuant to the newly promulgated practice standards, GALs in delinquency cases must assess the appointment and availability of defense counsel consistent with the juvenile’s constitutional and statutory rights. CJD 04-06(V)(E)(3)(b).

Independent Judicial Agencies

- 6 Describe the existing communication, coordination, and resource sharing that occurs between the agencies that comprise the Judicial Branch. What additional efficiencies can be gained while maintaining the ability of each agency to effectively carry out its mission?**

The following is a list of services shared among OADC, OCR, ORPC:

Shared Resources & *Potential Efficiencies between OADC, OCR, and ORPC	OADC	OCR	ORPC
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Contractor Evaluations Information	X	X	X
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Online resources	X	X	X
Job Descriptions	X	X	X
Procedure Manuals Template	X	X	X
Personnel Manuals Template	X	X	X
Database Developer/Billing System	X		X
Data Sharing	X	X	X
*Compensation plan coordination	X	X	X
*Purchasing Power (Westlaw)	X	X	X

** Potential Efficiencies*

The OCR shares numerous resources with the Judicial Department which are listed by category below:

- a. Information Technology – Shared infrastructure in server and telecommunications rooms within the Ralph Carr Building.
- b. Accounting and Budget – The OSPD, OADC, OCR, and ORPC - Shared POTS templates and other budget schedules to improve standardization of forms. Agencies also share CORE Accounting reports at the Department level for monthly and annual year end close.
- c. Payroll and Benefits and Workers Compensation – The Judicial Department processes staff payroll, benefits, and worker's compensation.
- d. Purchasing – When possible the OCR utilizes price agreements established by the Judicial Department.
- e. Administrative Support – Shared training rooms throughout the shared Ralph Carr building. Shared front desk and building maintenance services.
- f. Training – Joint trainings with OCR and ORPC. Collaboration on trainings with SCAO.

Attached as Appendix A is a chart outlining services that are shared amongst the Judicial Department.

7 How can the processes that are used to evaluate and approve salary adjustments for Judicial Branch employees be improved so that they are more consistent with the practices that are used by the State Personnel Director?

The following agencies met to discuss this issue on December 2, 2016: SCAO, OSPD, OADC, OCR, ORPC, IEC, CCJD, CCJP, CPO, and OARC. At this meeting there were discussions about the independent agencies participating in salary surveys with either the SCAO and/or the OSPD and AG. At the conclusion of this meeting it was determined that this issue needed to be studied further, with a proposal to the JBC no later than July 1, 2016.

OADC, OCR, and ORPC also met on December 5, 2016 to compare individual compensation plans. We have agreed that we should work together to create consistency among our three agencies since there is significant similarity in what we do. Our plan is to delve into position details and work on developing more consistent practices.

8 Provide input about how to improve statutory reporting requirements that are relevant to the Judicial Branch, including those currently imposed by the SMART Act, to ensure that they are appropriate for each judicial agency's scope of work and staffing levels. What changes would make the required reports more useful for both the judicial agency and the receiving entities?

The OCR is subject to the following statutory reporting requirements: § 2-7-201, C.R.S. (SMART Act) and § 13-91-105(h),(i), C.R.S. (OCR's enabling legislation). The OCR has embraced these statutory reporting requirements and has fully integrated them into its ongoing performance and strategic planning processes. The statutes in their current form provide sufficient flexibility to allow efficient coordination of the OCR's reporting requirements.

ADDENDUM: OTHER QUESTIONS FOR WHICH SOLELY WRITTEN RESPONSES ARE REQUESTED**9 Based on the agency's most recent available record, what is the FTE vacancy and turnover rate? To what does the agency attribute this turnover/vacancy?**

The OCR's vacancy rate for Fiscal Year 2015-16 was 1.1%. A total of five positions turned over during the fiscal year, resulting in a 16.1% turnover rate. This turnover rate is not unusual and is due to: one employee accepting a position with another state agency; one employee accepting a full-time position in the private sector upon graduation from college; two GAL attorneys beginning private practices; and the death of an employee.

10 For FY 2015-16, do any line items in your agency have reversions? If so, which line items, which programs within each line item, and for what amounts (by fund source)? What are the reasons for each reversion? Do you anticipate any reversions in FY 2016-17? If yes, in which programs and line items do you anticipate these reversions occurring? How much and in which fund sources do you anticipate the reversion being?

The OCR reverted funds to the General Fund from the following appropriations:

- Personal Services: \$17,530
- Court-appointed Counsel (after adjusting for transfers among appropriations): \$247,215
- Mandated Costs: \$19,036

The reversion from Personal Services is due primarily to vacancy savings and the salary differential between employees who have resigned/retired and incoming employees. The reversion from Court-appointed Counsel is due to lower than anticipated payments to contract attorneys. The Mandated Costs reversion is due to lower than anticipated costs for discovery, expert witnesses, interpreters, etc. The OCR does not anticipate reverting any funds in FY 2016-17. In fact, it is likely that a supplemental appropriation for FY 2016-17 will be necessary due to increasing court-appointed counsel expenditures.

11 What is the expected impact of Amendment 70 (minimum wage increase) on agency programs? Please address impacts related to state personnel, contracts, and providers of services.

The increase in the minimum wage will have no effect on the OCR through Fiscal Year 2018-19, and a minimal effect beyond June 30, 2019. Beginning in Fiscal Year 2019-20 and thereafter, the OCR will be required to increase the hourly rate for one employee (impact of less than \$1,500 per year).

12 Is the SMART Act an effective performance management and improvement tool for your agency? What other tools are you using? Do your performance tools inform your budget requests? If so, in what way?

Yes. The SMART Act is an effective performance management and improvement tool for the OCR. All OCR staff are aware of how their responsibilities contribute to the OCR's fulfillment of its mission, and the OCR continuously works on optimizing its operations and programming in light of the goals, strategies, and measures set forth in the tool. Additionally, the OCR periodically analyzes and refines the goals, strategies and measures set forth in its performance management system to continue to advance its mission. The SMART Act also informs the decision items prioritized by OCR in each year's budget

request. The OCR ensures that each decision item can be tied back to the goals it has articulated in its PP, and its ongoing efforts to ensure effective management of its program also leads to budget requests, such as its current request for a new case management and billing system.

While the OCR does not employ another performance management tool per se in its ongoing operations, it uses a number of different resources to ensure efficient and effective agency functioning. These include, but are not limited to shared calendaring; a centrally organized public drive; databases and spreadsheets centralizing project priorities, information about attorneys, and OCR's committee work. This year, the OCR engaged in a strategic planning retreat which led to a reorganization of the OCR into a Programs Team and an Operations Team, providing a structure for more efficient collaboration and communication between staff.

Appendix A

Legend:

- X** SCAO provides
- / SCAO provides partial services or occasional help
- A** Agency provides partial service to SCAO/Others

Financial Services - shared amongst the Judicial Branch

	OSPD	OADC	OCR	ORPC	Atty. Reg.	Indep. Ethics	Judicial Perf.	Judicial Discipline	Childs Ombuds.
Accounting						X	X	/	X
Accounts Payable						X	X		X
Budget Schedules					X	X	X	X	X
Budget POTS Templates	X	X	X	X					
Decision Items					X	X	X	X	X
Rev/Expenditure monitoring						X	X		X
Internal Audit									X
Fleet									
West Law/Lexis (handled through Law Library)					X		X	X	X
Procurement		/	/	/	/	X	X	X	X
Year End Transfers	X	X	X	X	X	X	X	X	X
WC/Risk mgmt. payments	X	X	X	X	X	X	X	X	X

Human Resources - shared amongst the Judicial Branch

	OSPD	OADC	OCR	ORPC	Atty. Reg.	Indep. Ethics	Judicial Perf.	Judicial Discipline	Childs Ombuds.
Payroll		X	X	X	X	X	X		X
		X	X	X	X	X	X		X
Hiring Documentation		X	X	X					X
Unemployment		X	X	X	X	X	X		X
Personnel Rules							X		
Recruitment						X	X		
Classification							X		
HR Investigations				/		/		/	/
Criminal History		X	X	X		X	X	X	/
Compensation						/	X	/	/
Training		A	A						
Conference Planning/Facilities	/	/	/	/	/	/	/	/	

Information Technology - shared amongst the Judicial Branch

	OSPD	OADC	OCR	ORPC	Atty. Reg.	Indep. Ethics	Judicial Perf.	Judicial Discipline	Childs Ombuds.
Email						X	X		
Server Room	X	X	X	X	X	X	X	X	
desk top support						X	X		



Office of the Child's Representative

FY 17-18 Joint Budget Committee Hearing

December 12, 2016

What makes OCR unique?

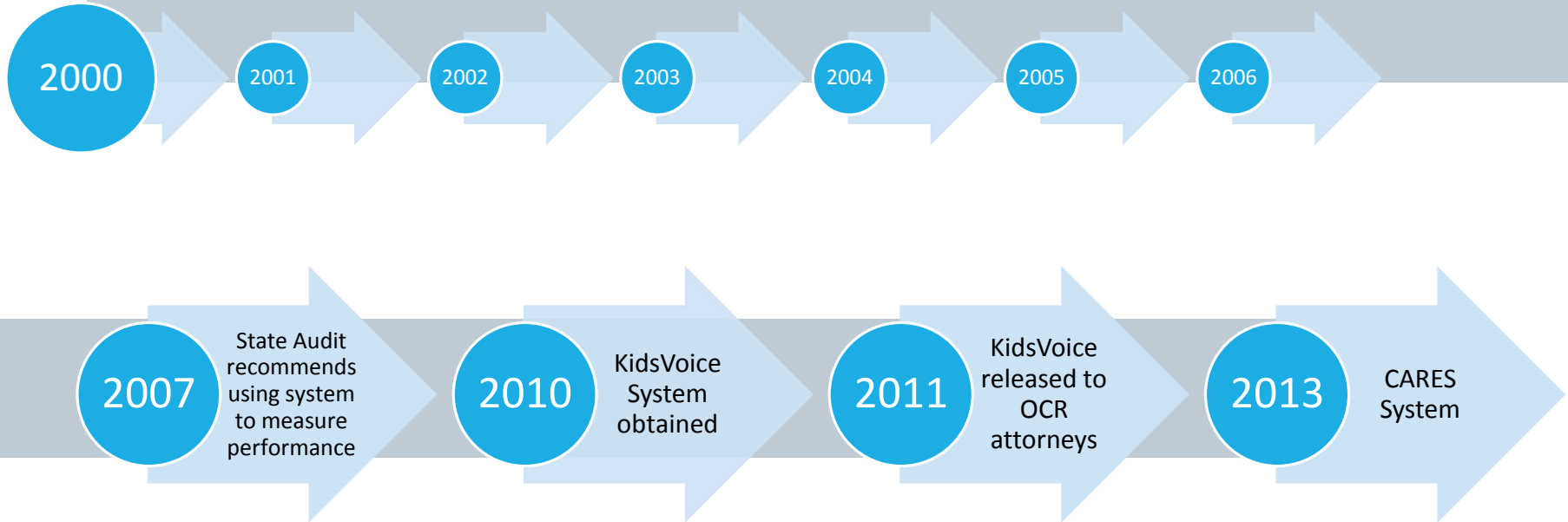
- ▶ Represent only children
- ▶ Eight distinct case types
 - 1) Child Abuse & Neglect *
 - 2) Delinquency
 - 3) Truancy
 - 4) Domestic Relations *
 - 5) Paternity *
 - 6) Probate *
 - 7) Mental Health
 - 8) Relinquishment *
- ▶ Cases involve multiple children *

What makes OCR unique?

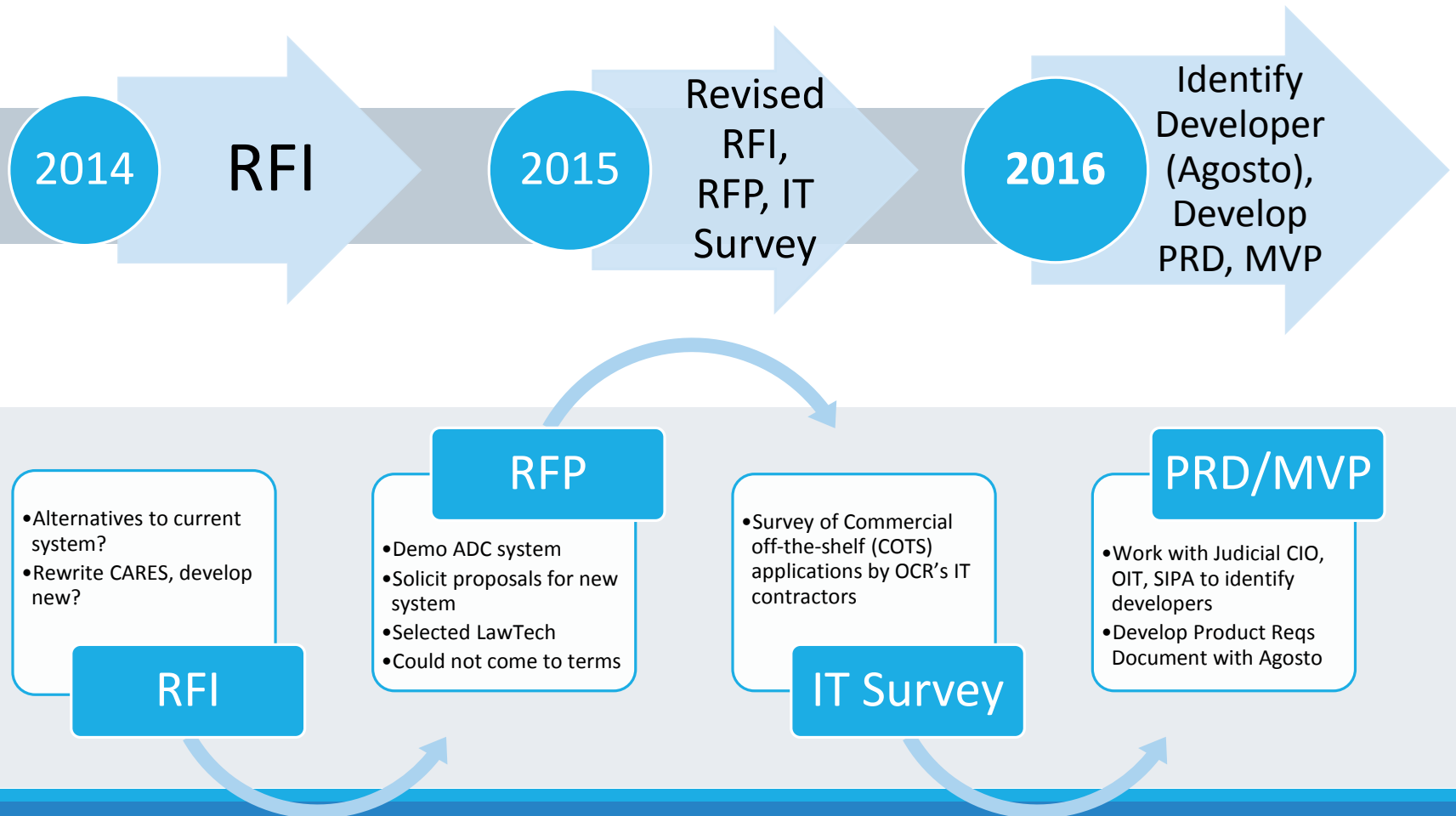
- Well-developed practice standards
- Different models of representation
 - Independent Contractors
 - FTE Office in El Paso
 - Multidisciplinary Law Offices

Timeline

Billing-Only System Modeled on ADC



Timeline



Models of Representation

	Independent Contractor	El Paso GAL	MDLO
Year Commenced	Prior to 2000	1999	Jan. 2011
Compensation	Hourly (\$75/hr)	Salaried	Monthly Pymts
Districts	All	4 th JD	2 nd and 18 th JDs
Types of Cases	All	Child Welfare, Delinquency	Child Welfare, Delinquency
Cost per Case FY16 D&N	\$1,842	\$1,860	\$2,427
Cost per Case FY16 JD	\$575	\$695	\$480
% of total D&N caseload (7,814)	72.4%	9.8%	17.8%
% of total JD caseload (5,458)	75.6%	9.3%	15.1%

MDLO Evaluation Components

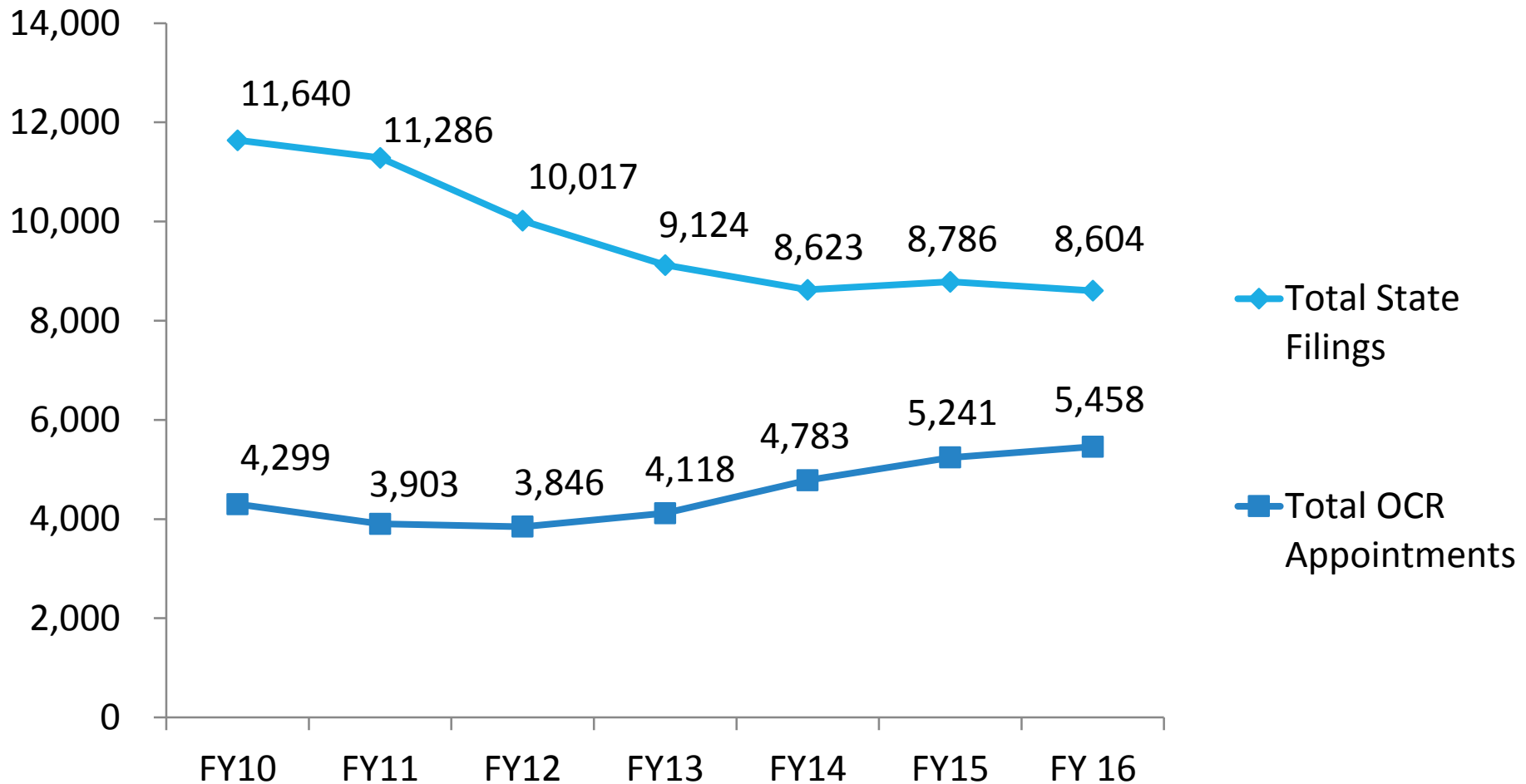
- CARES Reports
 - Activity within First 45 Days
 - 30-day Visit Report
 - Youth in Court Report
- Court Observations
- Stakeholder Surveys
- Judicial Focus Groups
- Youth Focus Groups
- Attorney and Social Worker Surveys
- FAMJIS Analysis
- Court File Review

Delinquency GAL Appointments

	% of Total Cases	% Expenditures	Hours Per Case/Year
FY 11-12	30%	13%	7.7
FY 12-13	30%	14%	8.2
FY13-14	33%	15%	8.2
FY14-15	36%	16%	7.8
FY15-16	35%	16%	7.4

State of Colorado

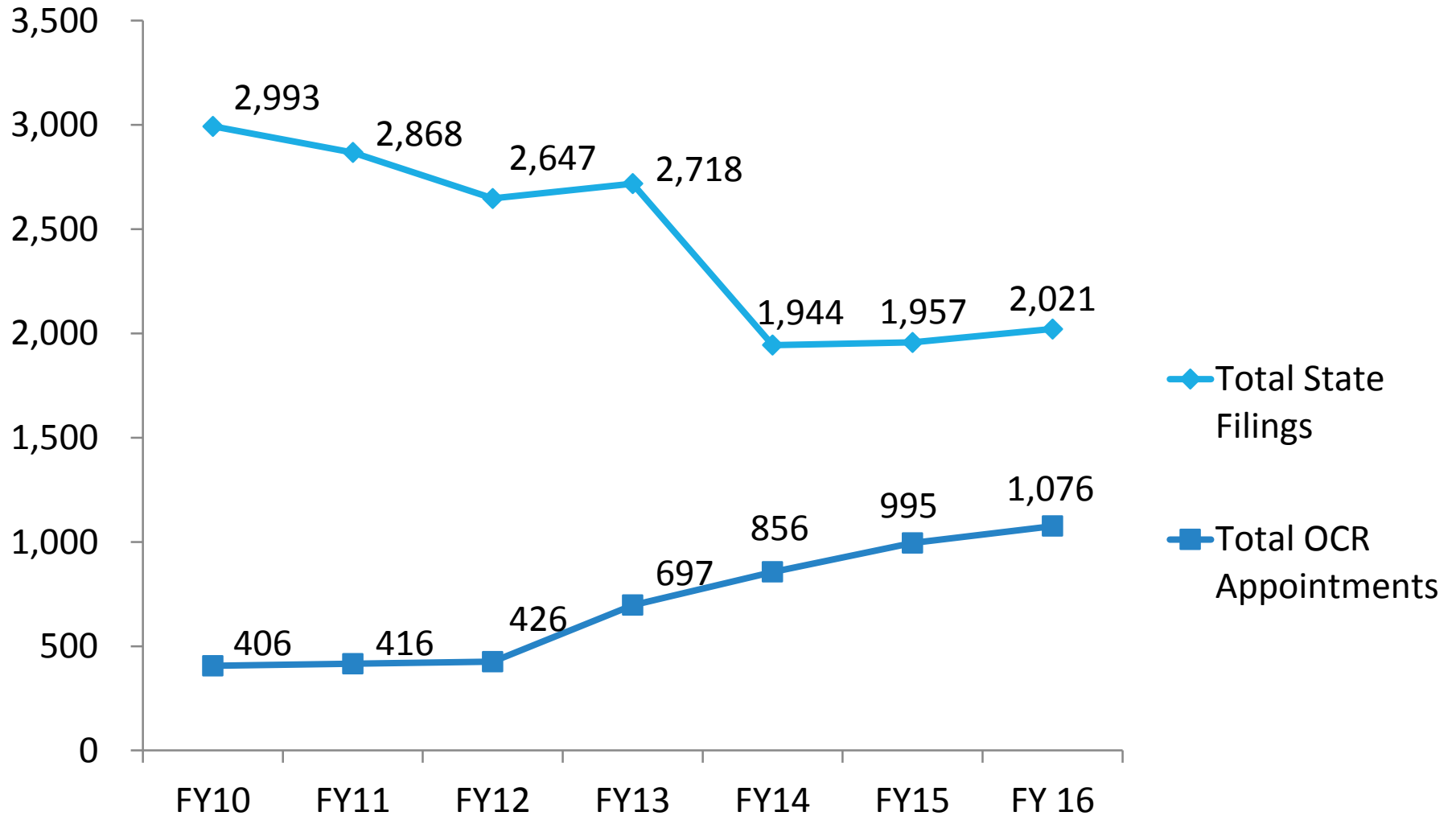
Juvenile Delinquency Filings and Appointments



Truancy GAL Appointments

	% of Total Cases	% Expenditures	Hours Per Case/Year
FY 11-12	3%	1%	4.8
FY 12-13	5%	1%	4.9
FY13-14	6%	2%	5.3
FY14-15	7%	2%	4.3
FY15-16	7%	2%	3.7

State of Colorado Truancy Filings and Appointments



Factors Impacting Delinquency and Truancy GAL Appointments

- Increased prevalence of child protection issues such as mental health, substance abuse, domestic violence, homelessness
- Increased awareness of importance of addressing issues in the home to promote child's long term success and minimize future court involvement

Abuse and Neglect Cases

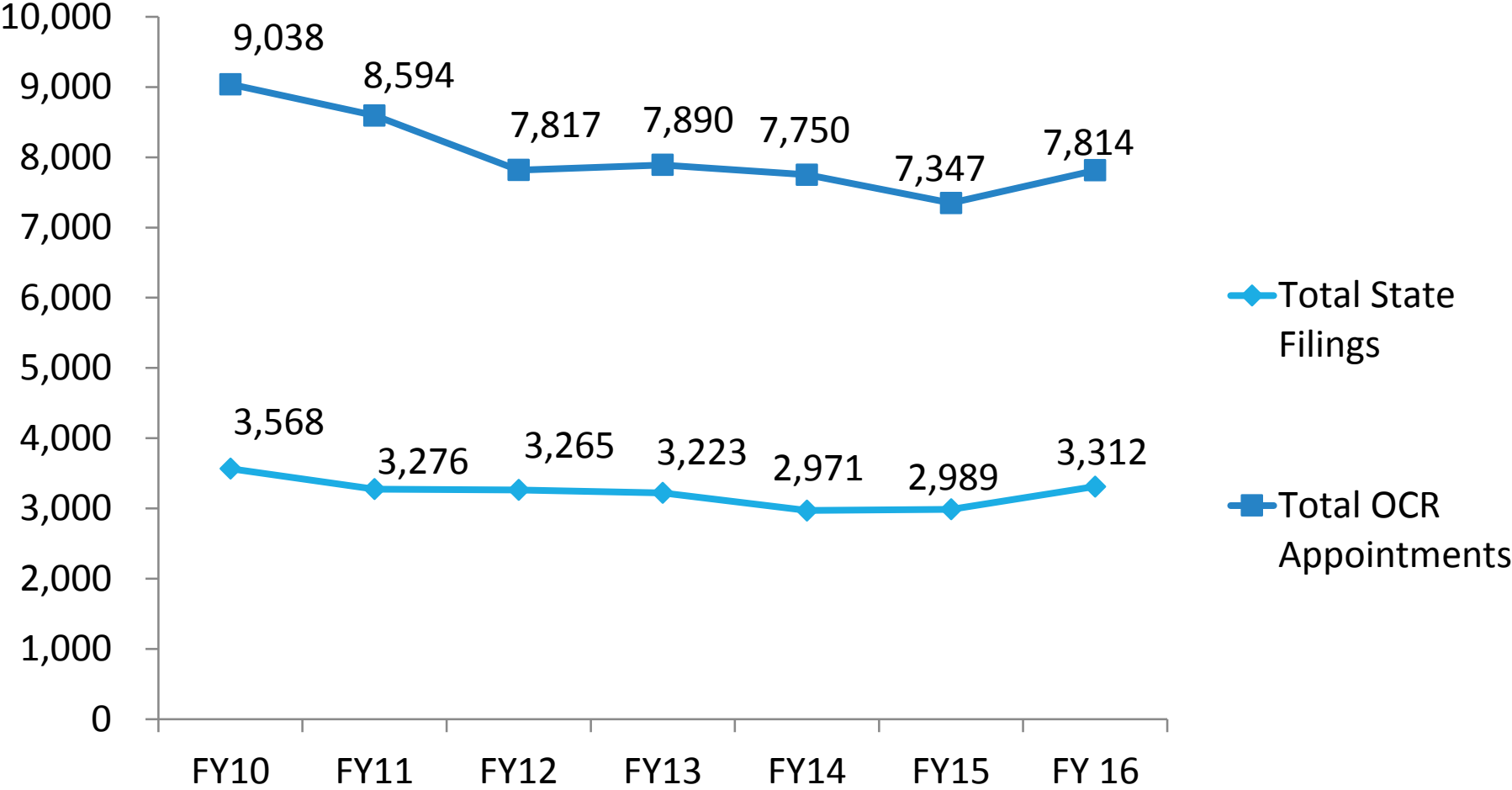
- Mandatory appointment
- Multiple children on a case
- Multiple respondents
- Cases continue until safe, appropriate permanent home is legally effected for each child

Abuse & Neglect Appointments

	% of Total Cases	% Expenditures	Hours Per Case/Year
FY 11-12	60%	81%	24
FY 12-13	57%	80%	25
FY13-14	53%	80%	27.8
FY14-15	50%	78%	26.8
FY15-16	51%	78%	25.1

State of Colorado

Dependency & Neglect Filings and Appointments



4:20-4:35 OFFICE OF THE RESPONDENT PARENTS' COUNSEL (ORPC)

INTRODUCTIONS AND OPENING COMMENTS

Independent Judicial Agencies

- 1 Describe the existing communication, coordination, and resource sharing that occurs between the agencies that comprise the Judicial Branch. What additional efficiencies can be gained while maintaining the ability of each agency to effectively carry out its mission?

The following is a list of services shared among OADC, OCR, ORPC:

Shared Resources & *Potential Efficiencies between OADC, OCR, and ORPC	OADC	OCR	ORPC
Joint Trainings - Facilities and Curriculum	X	X	X
Training Technology (shared equipment)	X	X	X
Training Presenters	X	X	X
Confer regarding contractor billing and evaluations	X	X	X
Vendor Auditing	X	X	X
Contractor Evaluations Information	X	X	X
Court observations	X	X	X
Stakeholder feedback	X	X	X
Jurisdiction visits	X	X	X
Form Templates	X	X	X
Online resources	X	X	X
Job Descriptions	X	X	X
Procedure Manuals Template	X	X	X
Personnel Manuals Template	X	X	X
Database Developer/Billing System	X		X
Data Sharing	X	X	X
* Compensation plan coordination	X	X	X
*Purchasing Power (Westlaw)	X	X	X

** Potential Efficiencies*

The ORPC shares numerous resources with the Judicial branch which are listed by category below:

- a. Information Technology – Shared infrastructure in server and telecommunications rooms within the Ralph Carr Building.
- b. Accounting and Budget – The OSPD, OADC, OCR, and ORPC - Shared POTS templates and other budget schedules to improve standardization of forms.
- c. Payroll and Benefits and Workers Compensation – The Judicial Department processes staff payroll, benefits, and worker’s compensation.
- d. Purchasing – When possible the ORPC utilizes price agreements established by the Judicial Department.
- e. Administrative Support – Shared training rooms throughout the shared Ralph Carr building. Shared front desk and building maintenance services.
- f. Training – Joint trainings with OSPD, OCR and OADC.

Attached as Appendix A is a chart outlining services that are shared amongst the Judicial Branch.

- 2 How can the processes that are used to evaluate and approve salary adjustments for Judicial Branch employees be improved so that they are more consistent with the practices that are used by the State Personnel Director?

The following agencies met to discuss this issue on December 2, 2016: SCAO, OSPD, OADC, OCR, ORPC, IEC, CCJD, CCJP, CPO, and OARC. At this meeting there were discussions about the independent agencies participating in salary surveys with either the SCAO and/or the OSPD and AG. At the conclusion of this meeting it was determined that this issue needed to be studied further, with a proposal to the JBC no later than July 1, 2017.

The following agencies also met on December 5, 2016, (ADC, OCR, and ORPC) to compare our individual compensation plans. We have agreed that we should work together to create consistency among our three agencies since there is significant similarity in what we do. Our plan is to delve into position details, and work on developing more consistent practices.

- 3 Provide input about how to improve statutory reporting requirements that are relevant to the Judicial Branch, including those currently imposed by the SMART Act, to ensure that they are appropriate for each judicial agency’s scope of work and staffing levels. What changes would make the required reports more useful for both the judicial agency and the receiving entities?

The ORPC is not currently subject to the SMART Act. Rather, the ORPC is required to annually review and evaluate its performance and submit by January 1 each year a report to members of the General Assembly and the State Court Administrator’s Office per Section 13-92-104(1)(e), C.R.S.

The ORPC will be submitting this report for the first time this month. Due to the size of our agency, the reporting requirements of the SMART Act would be burdensome and might lead to the need for additional staff. We plan to incorporate the requirements of the SMART Act into our annual report.

If our agency does become subject to the SMART Act through legislation this year, the ORPC would request that there be only one required report per year due to the amount of work and our staffing levels.

ADDENDUM: OTHER QUESTIONS FOR WHICH SOLELY WRITTEN RESPONSES ARE REQUESTED

- 1 Based on the agency’s most recent available record, what is the FTE vacancy and turnover rate? To what does the agency attribute this turnover/vacancy?

As of November 30, 2016, two of the ten positions in the Office of Respondent Parents’ Counsel are unfilled. The ORPC has posted both of these positions and expects to fill them by January 1, 2017. The ORPC was established on January 1, 2016 and assumed responsibility for respondent parent counsel appointments on July 1, 2016 and delayed filling some positions until more information about staffing needs was available.

- 2 For FY 2015-16, do any line items in your agency have reversions? If so, which line items, which programs within each line item, and for what amounts (by fund source)? What are the reasons for each reversion? Do you anticipate any reversions in FY 2016-17? If yes, in which programs and line items do you anticipate these reversions occurring? How much and in which fund sources do you anticipate the reversion being?

The FY 2015-16 reversions and the reasons for each line item reversion are shown in the table below. The budget for the ORPC was established before the ORPC was in existence; as a result, some of the line item estimates were too large. In other cases, delays in construction made it necessary for the ORPC to delay the purchase of needed items.

Office of Respondent Parents' Counsel FY 2015-16 Reversions by Long Bill Line				
Appropriation Name	General Fund	Cash Fund	Total	Reason for Reversion
Personal Services & Benefits	14,607	-	14,607	Professional Services spending was less than estimated.
Operating Expenses	2,440	-	2,440	The office buildout was not completed by June 30 so the ORPC was unable to store needed items. Purchases were therefore delayed.
Legal Services	47,045	-	47,045	Legal Services were not used at the rate anticipated.
Capital Outlay	9,614	-	9,614	The office buildout was not completed by June 30 so the ORPC was unable to store needed items. Purchases were therefore delayed.
Case Management System	240	-	240	De minimis underspending.
Training	218	7,500	7,718	Training fees were not collected in FY2015-16.
TOTAL	74,163	7,500	81,663	

- 3 What is the expected impact of Amendment 70 (minimum wage increase) on agency programs? Please address impacts related to state personnel, contracts, and providers of services.

The ORPC does not expect any impact on agency programs as a result of Amendment 70.

Appendix A

OSPD OADC OCR ORPC Attorney Reg Independ Ethics Judicial Perform Judicial Discipline Childs Ombudsman

Financial Services - shared among the Judicial Branch

Accounting						X	X	/	X
Accounts Payable						X	X		X
Budget Schedules					X	X	X	X	X
Budget POTS Templates	X	X	X	X					
Decision Items					X	X	X	X	X
Rev/Expenditure monitoring						X	X		X
Internal Audit									X
Fleet									
West Law/Lexis (handled through Law Library)					X		X	X	X
Procurement		/	/	/	/	X	X	X	X
Year End Transfers	X	X	X	X	X	X	X	X	X
WC/Risk mgmt. payments	X	X	X	X	X	X	X	X	X

Human Resources - shared among the Judicial Branch

Payroll		X	X	X	X	X	X		X
Benefits		X	X	X	X	X	X		X
Hiring Documentation		X	X	X					X
Unemployment		X	X	X	X	X	X		X
Personnel Rules							X		
Recruitment						X	X		
Classification							X		
HR Investigations				/		/		/	/

Criminal History		X	X	X		X	X	X	/
Compensation						/	X	/	/
Training		A	A						
Conference Planning/Facilities	/	/	/	/	/	/	/	/	

Information Technology - shared among the Judicial Branch

Email						X	X		
Server Room	X	X	X	X	X	X	X	X	
desk top support						X	X		

X SCAO provides

/ SCAO provides partial services or occasional help

A Agency provides partial service to SCAO/Others



OFFICE OF RESPONDENT PARENTS' COUNSEL

Protecting the Fundamental Right to Parent



PRESENTATION TO THE JOINT BUDGET COMMITTEE

December 12, 2016

COLORADOORPC.ORG





"Every child deserves to have their parent represented by the best attorney in town."

-Marty Guggenheim



OFFICE OF RESPONDENT PARENTS' COUNSEL

Protecting the Fundamental Right to Parent

Mission

The ORPC's mission is to protect the fundamental right to parent by providing effective legal advocates for indigent parents in child welfare proceedings.

This right is better protected when a parent has a dedicated advocate, knowledgeable about child welfare laws and willing to hold the state to their burden. Our duties are to provide training and resources, develop practice standards, and advocate for systemic and legislative changes in Colorado.



Legislative Mandates



Provide high-quality legal representation for parents.



Recommend practice standards.

Fair Rates

Establish fair and realistic state rates.



Work with judicial districts to establish pilot programs.

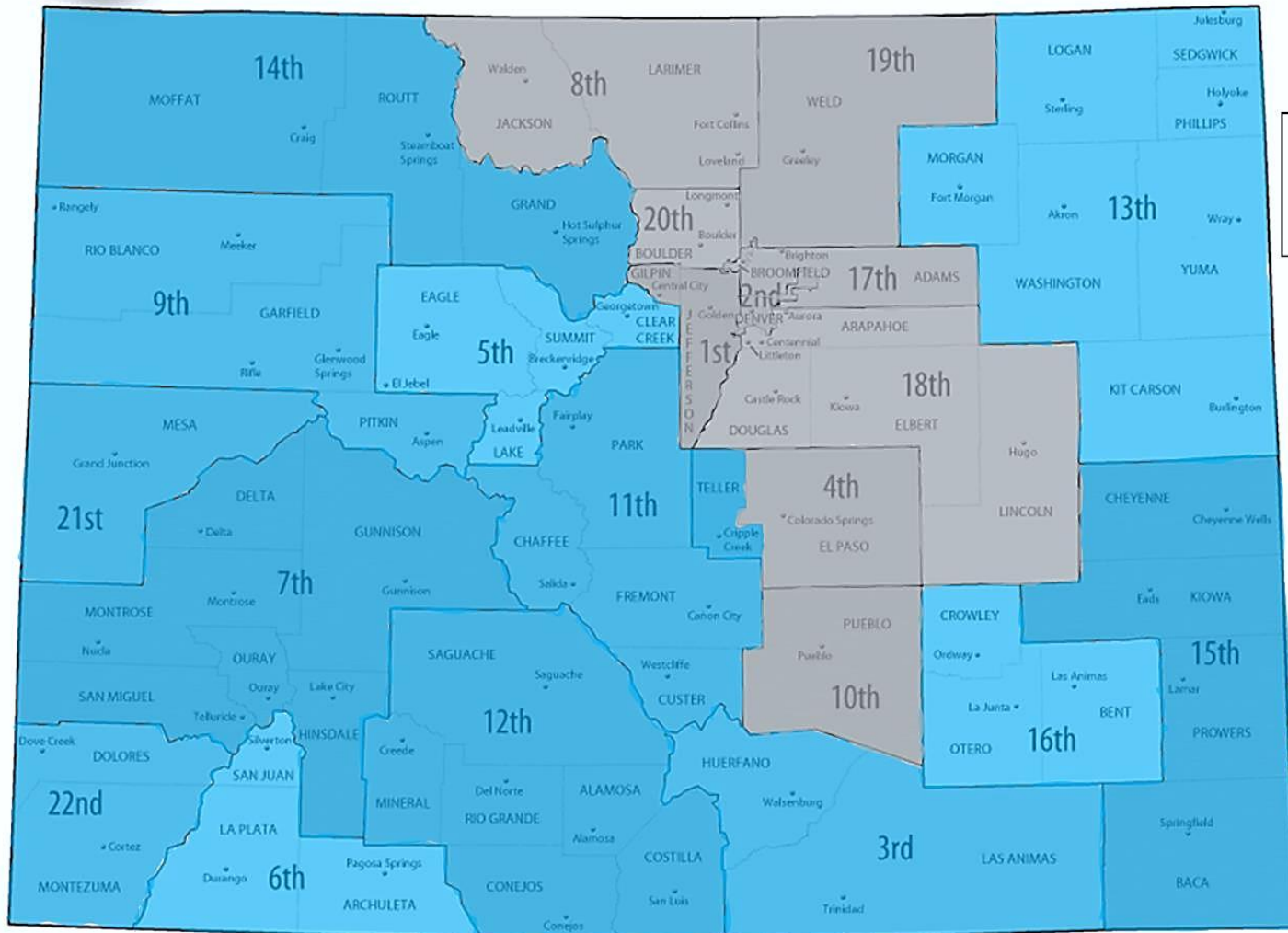
A Lawyer for Each Parent



ORPC Hourly or Flat Fee Districts



COLORADO JUDICIAL DISTRICTS

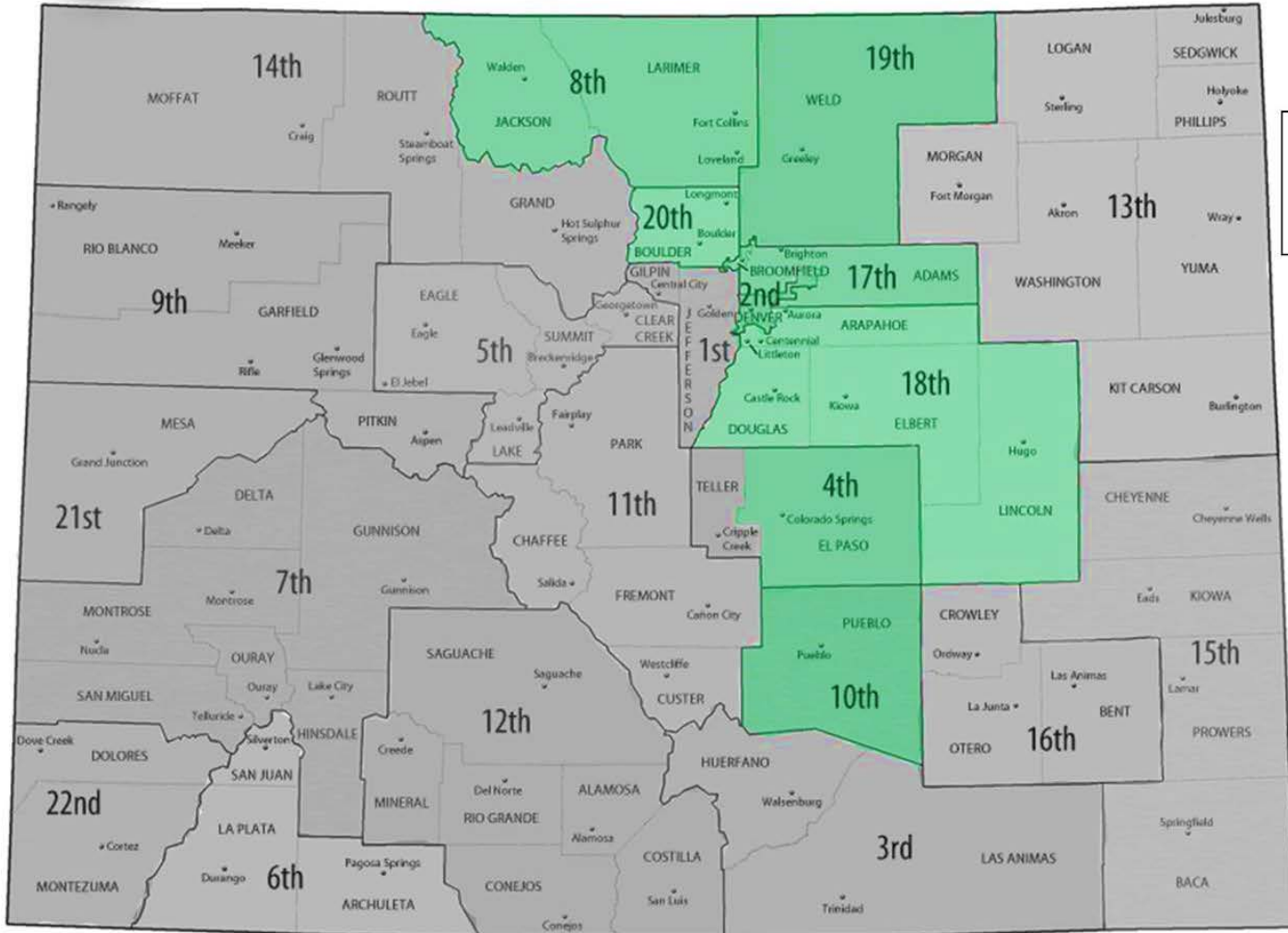


	Hourly
	Flat Fee

ORPC Hourly or Flat Fee Districts



COLORADO JUDICIAL DISTRICTS



Hourly
Flat Fee

**ORPC cannot fulfill its
legislative mandates with the
current mixed payment system.**

Accountability



Two Payment Structures

Hourly

- \$75/hour
- Invoices detail time spent on case
- Equitable – attorneys paid for work done
- Provides accountability
- Track outcomes

Flat-Fee

- \$1,125 first payment
- \$1,262 termination payment
- No detail on how time is spent on case
- Disincentive to work—attorneys paid the same regardless of work done



Improving Outcomes for Families by moving Hourly State-Wide



- Better representation and better outcomes for Colorado families
- Provide accountability measures for billing on cases
- Monitor and improve case outcomes
- Create parity with attorneys from other agencies
- Provide data collection mechanisms
- Provide equal representation to indigent parents

Long-Term Budget Considerations



- **Expert fees and mandated costs**
- **Appellate case costs**
- **Social Worker Pilot Program**

Question 1 – Efficiencies

Shared Resources & *Potential Efficiencies between OADC, OCR, and ORPC		OADC	OCR	ORPC
	Joint Trainings - Facilities and Curriculum	X	X	X
	Training Technology (shared equipment)	X	X	X
	Training Presenters	X	X	X
	Confer regarding contractor billing and evaluations	X	X	X
	Vendor Auditing	X	X	X
	Contractor Evaluations Information	X	X	X
	Court observations	X	X	X
	Stakeholder feedback	X	X	X
	Jurisdiction visits	X	X	X
	Form Templates	X	X	X
	Online resources	X	X	X
	Job Descriptions	X	X	X
	Procedure Manuals Template	X	X	X
	Personnel Manuals Template	X	X	X
	Database Developer/Billing System	X		X
	Data Sharing	X	X	X
	* Compensation plan coordination	X	X	X
	*Purchasing Power (Westlaw)	X	X	X
	* Potential Efficiencies			

Question 2 – Salary Adjustments



Question 3 – Statutory Reporting Requirements



- ORPC is required to submit annual performance review each January 1
- Plan to incorporate requirements of SMART Act in annual report
- Reporting requirements of SMART Act would be burdensome to ORPC



INTRODUCTIONS AND OPENING COMMENTS

Independent Judicial Agencies

- 1 Describe the existing communication, coordination, and resource sharing that occurs between the agencies that comprise the Judicial Branch. What additional efficiencies can be gained while maintaining the ability of each agency to effectively carry out its mission?

Pursuant to C.R.S. 19-3.3-102(1)(a.5)(I-V) the Colorado Child Protection Ombudsman (CPO) entered into a Memorandum of Understanding (MOU) with the Colorado State Judicial Department upon becoming an independent state agency. As such the CPO follows all judicial fiscal rules including:

- Accounting and Administrative Fiscal Rules
- Purchasing Fiscal Rules
- Travel Fiscal Rules

Additionally, the CPO benefits from resource sharing in the following ways:

- Accounting Services
- Budget Development
- Human Resources: administration of payroll, benefits, human resource guidance
- Building operations: security, mail, office/property maintenance, internet

The Colorado State Judicial Department receives funding each year from the Joint Budget Committee to assist the CPO with the above services. This MOU has created numerous economies of scale. As a result, the CPO does not require additional funding for positions related to ongoing accounting and human resource needs.

There are no other additional efficiencies that could be gained at this time.

- 2 How can the processes that are used to evaluate and approve salary adjustments for Judicial Branch employees be improved so that they are more consistent with the practices that are used by the State Personnel Director?

By way of background, in 2015 through SB 15-204, the CPO became an independent state agency housed in the Colorado Judicial Department. Prior to this time, the CPO operated as a *program* in the Colorado Department of Human Services (CDHS). As such the CDHS set and requested the operating

budget (including salaries) for the CPO. The language of SB 15-204, as well as a legal opinion by the Colorado Attorney General's Office, interpreted the new law to create a new independent state agency as opposed to the transfer of the original program. As such the CPO was required to open the hiring process for the Ombudsman position as well as re-evaluate existing personnel and their salaries. SB 15-204 also required the General Assembly to set the Child Protection Ombudsman's salary.

Given this background, the CPO consulted with the Colorado State Judicial Human Resources Department for the evaluation and classification of positions within the CPO. The CPO provided state judicial with copies of job descriptions for all positions within the CPO and requested that state judicial evaluate and place those positions within similarly situated classifications already established within the state judicial department. The human resources department evaluated the job descriptions and offered recommendations for job classifications and salary ranges. The CPO adopted these recommendations.

For the Ombudsman position, the CPO gathered salary and classification information from the State Court Administrator's Office in both 2015 and 2016, the executive level management series as well as reviewed the salary survey completed by the International Ombudsman Association (2010). This information was then forwarded to the CPO Advisory Board to evaluate and develop a salary range recommendation for the General Assembly to set the salary of the Ombudsman per C.R.S. 19-3.3-102(3)(a)(I).

The CPO found that the utilization of both the judicial human resource system as well as identifying outside salary surveys was helpful in setting appropriate salaries.

In regards to aligning the judicial branch compensation process with the executive branch personnel system, the CPO recommends securing an outside consultant to conduct an independent survey of compensation and classification systems particularly for independent judicial agencies. This process would allow for a greater understanding of whether the two systems share common features, the benefits and drawbacks of each system and whether existing systems can adequately address the possibly unique needs of the independent agencies.

- 3 Provide input about how to improve statutory reporting requirements that are relevant to the Judicial Branch, including those currently imposed by the SMART Act, to ensure that they are

appropriate for each judicial agency's scope of work and staffing levels. What changes would make the required reports more useful for both the judicial agency and the receiving entities?

As a new state agency, the CPO found utilization of the SMART Act to be extremely beneficial by providing guidance in the creation and implementation of an agency strategic plan. The reporting process is useful as it requires agencies to think critically about their operations as well as measuring outcomes to evaluate performance. This process has allowed the CPO to evaluate programming and staffing levels for the office. The CPO is also required to produce a year end annual report. However, this document requires that the CPO report on different information than that contained in the SMART Act.

The only way such reporting could be of even greater assistance would be if reporting parties could receive feedback on the information being provided to the Office of State Planning and Budgeting and the General Assembly. Feedback would allow the agencies to assess the usefulness of the information being provided as well as allow the agency to improve on the quality or quantity of information needed.

ADDENDUM: OTHER QUESTIONS FOR WHICH SOLELY WRITTEN RESPONSES ARE REQUESTED

- 4 Is the agency spending money on public awareness campaigns? What are these campaigns, what is the goal of the messaging, what is the cost of the campaign? Please distinguish between paid media and earned media. Do you have any indications or metrics regarding effectiveness? How is the agency working with other state or federal departments to coordinate the campaigns?

The CPO does not currently have, nor does it anticipate, any public awareness campaigns. The CPO utilizes internal resources and staff to carry out the outreach efforts outlined in our strategic plan.

- 5 Based on the agency's most recent available record, what is the FTE vacancy and turnover rate? To what does the agency attribute this turnover/vacancy?

Currently, the CPO has four full-time employees (4 FTE) and one part-time employee. In the first year of operation, the CPO has not experienced any staff turnover and currently has no vacancies.

- 6 For FY 2015-16, do any line items in your agency have reversions? If so, which line items, which programs within each line item, and for what amounts (by fund source)? What are the reasons for each reversion? Do you anticipate any reversions in FY 2016-17? If yes, in which programs and line

items do you anticipate these reversions occurring? How much and in which fund sources do you anticipate the reversion being?

The CPO budget is presently divided into three line items: Personal Services, Operating and Legal Expenses. The CPO did not have reversions in any of these line items for FY 2015-16, nor does it project any reversions for FY 2016-17.

- 7 What is the expected impact of Amendment 70 (minimum wage increase) on agency programs? Please address impacts related to state personnel, contracts, and providers of services.

Presently, all CPO employees have salaried positions; therefore, the CPO's personnel costs will not be impacted by the passage of Amendment 70. The only areas where a possible increase in costs could be expected are for locally provided IT services and office supplies. However, we have confirmed with our IT vendor that there will be no increase in computer services for FY17-18. If the costs of office supplies are increased, it would have a minimal impact to the state budget given the small size of our agency.

- 8 Is the SMART Act an effective performance management and improvement tool for your agency? What other tools are you using? Do your performance tools inform your budget requests? If so, in what way?

As a new state agency, the CPO found utilization of the SMART Act to be extremely beneficial by providing guidance in the creation and implementation of an agency strategic plan. The reporting process allows the CPO to create strategic policy initiatives as well as evaluate staffing levels and needs for the office.

The CPO has developed an internal database which measures our performance and outcomes. Specifically, our database records the number of calls the office receives, the type of complaints, the dispositions in cases as well as the amount of time spent on each task within a case. This database has allowed the CPO to measure its performance and corresponding staffing needs.

The CPO also utilizes a project management software system to prioritize goals outlined in our strategic plan and the SMART Act. These tools, along with the utilization of the Performance Plan created through the SMART Act, informed the budget request made by the CPO for FY 1207-18. Upon completion of the SMART Act, the CPO realized the need for increased staffing levels if we are to reach all the goals we have outlined for the CPO over the next three years. At present, the CPO has utilized the SMART Act to map priorities for the office to what is achievable under our current staffing allocation.

INTRODUCTIONS AND OPENING COMMENTS

Independent Judicial Agencies

- 1 Describe the existing communication, coordination, and resource sharing that occurs between the agencies that comprise the Judicial Branch. What additional efficiencies can be gained while maintaining the ability of each agency to effectively carry out its mission?

The constitutional mandate of the Independent Ethics Commission (IEC) requires that much of the IEC's work is maintained confidentially. As such, the level of coordination and resource sharing occurring with other agencies in the Judicial Branch is limited. Most of the IEC's coordination and resource sharing occurs on an administrative basis through the Office of the State Court Administrator (SCAO).

The administrative coordination and resource sharing between IEC and SCAO allows IEC to use services that would otherwise be too costly for a small agency. For example, SCAO provides financial services to IEC, such as accounting, accounts payable, expenditure monitoring, and workers compensation management. SCAO also provides human resource services such as payroll, benefits management, and recruitment. Lastly, SCAO provides information technology services such as network access, email, and desktop support.

IEC believes that the relationship with SCAO is nearly optimal and that there are not other significant efficiencies to be gained at this time.

- 2 How can the processes that are used to evaluate and approve salary adjustments for Judicial Branch employees be improved so that they are more consistent with the practices that are used by the State Personnel Director?

The IEC has only one employee. Subsequent to moving the IEC from the Department of Personnel and Administration in the Executive Branch into the Judicial Branch, the evaluation and approval of salary range adjustments for that one employee has been accomplished with the assistance of and through the SCAO, using SCAO's standard practices in place at the time (see answer 1, above). The IEC finds this practice acceptable; it takes no position on whether the Judicial Branch's practices should be improved nor whether they should be made consistent with the practices of the State Personnel Director.

ADDENDUM: OTHER QUESTIONS FOR WHICH SOLELY WRITTEN RESPONSES ARE REQUESTED

- 3 For FY 2015-16, do any line items in your agency have reversions? If so, which line items, which programs within each line item, and for what amounts (by fund source)? What are the reasons for each reversion? Do you anticipate any reversions in FY 2016-17? If yes, in which programs and line items do you anticipate these reversions occurring? How much and in which fund sources do you anticipate the reversion being?

The IEC's fund source is limited to the General Fund. For FY 2015-16, there was a reversion of \$58 in program costs. In addition, \$22,330 of underspent program appropriations were transferred elsewhere in the Judicial Department pursuant to statutory transfer authority. In that same year \$35,293 of underspent legal appropriations were also transferred elsewhere in the Judicial Department. The underspending in program appropriations is due largely to the two-month vacancy in the Executive Director position. The underspending in legal appropriations is largely due to the two-thirds reduction in the IEC's appellate litigation load. While it is difficult to forecast with certainty at this time, the IEC does not currently anticipate significant reversions for FY 2016-17.
