

**Final**  
**STAFF SUMMARY OF MEETING**  
**COMMITTEE ON JOINT JUDICIARY**

Date: 12/17/2015

Time: **09:11 AM to 03:45 PM**

Place: RM 271

This Meeting was called to order by  
Representative Kagan

This Report was prepared by  
Bo Pogue

ATTENDANCE

Aguilar	X
Carver	X
Cooke	X
Court	X
Dore	*
Foote	E
Lawrence	X
Lee	*
Lundberg	*
Lundeen	X
Merrifield	*
Pettersen	E
Salazar	X
Van Winkle	X
Willett	E
Roberts	X
Kagan	X

X = Present, E = Excused, A = Absent, \* = Present after roll call

Bills Addressed:	Action Taken:
Department of Law SMART Act and JR 25 Hearing	Witness Testimony and/or Committee Discussion Only
Alternate Defense Counsel SMART Act and JR 25 Presentation	Witness Testimony and/or Committee Discussion Only
OCR SMART Act and JR 25 Presentation	Witness Testimony and/or Committee Discussion Only
Department of Public Safety SMART Act and JR 25 Presentation	Witness Testimony and/or Committee Discussion Only
CCJJ SMART Act and JR 25 Presentation	Witness Testimony and/or Committee Discussion Only

**09:14 AM -- Department of Law SMART Act and JR 25 Hearing**

The committee was called to order. A quorum was present. Ms. Cynthia Coffman, Attorney General, and Mr. David Blake, Chief Deputy, Department of Law (DOL), presented the department's performance plan, regulatory agenda, and budget pursuant to the SMART Government Act and Joint Legislative Rule 25. Committee members received a briefing packet for the department (Attachment A) and a department organizational chart (Attachment B). Attorney General Coffman introduced members of the DOL staff, and discussed the department's organization. She also explained certain departmental functions, and reviewed some "hot topics" currently before the DOL.

**09:25 AM**

Attorney General Coffman discussed the role of the Consumer Protection Section, and some issues facing the section. Attorney General Coffman responded to questions regarding the DOL's response to elder abuse. Mr. Blake provided input on this issue, and discussed the budget ramifications of addressing elder abuse. Attorney General Coffman discussed the Peace Officer Standards and Training (P.O.S.T.) Section within DOL, and discussed issues facing the section. Discussion ensued regarding the split in asset recovery between the state and federal government in Medicaid fraud cases. Mr. Scott Turner, Deputy Attorney General, Criminal Justice Section, provided input on this issue, and Mr. Blake followed up.

**09:43 AM**

Mr. Turner responded to additional questions regarding criminal activity associated with Medicaid. Attorney General Coffman returned to briefing the committee on the P.O.S.T. Section. Mr. Cory Amend, P.O.S.T. Director, responded to questions regarding the ability of P.O.S.T. to address certain peace officer misconduct through rulemaking. Attorney General Coffman explained the role of the DOL's Criminal Appeals Section, and discussed some issues facing the section.

**09:54 AM**

Attorney General Coffman explained the role of the DOL's Natural Resources and Environment Section, and discussed some issues facing the section. Attorney General Coffman responded to questions regarding the impact of forthcoming court decisions about hydraulic fracturing on local government home rule. Attorney General Coffman returned to briefing the committee on environmental issues facing the department. Attorney General Coffman explained the role of the DOL's State Services Section, and discussed some issues facing the section. Discussion ensued regarding certain consumer protection issues.

**10:08 AM**

Attorney General Coffman explained the role of the DOL's Civil Litigation and Employment Personnel Section, and discussed some issues facing the section. Attorney General Coffman then explained the role of the DOL's Revenue and Utilities Section, and discussed some issues facing the section. Attorney General Coffman explained the role of the DOL's Business and Licensing Section, and discussed some issues facing the section. Attorney General Coffman provided an update on the status of litigation surrounding the pollution of the Animas River due to a failure during the clean up of the Gold King Mine by the U.S. Environmental Protection Agency.

**10:21 AM**

Discussion ensued regarding the use of the death penalty in Colorado. Attorney General Coffman discussed the scope and derivation of power of the DOL, as well as its jurisdictional boundaries. Discussion ensued regarding how the DOL makes the decision to pursue a particular lawsuit.

**10:35 AM**

Mr. Jose Esquibel, Director for the DOL Office of Community Engagement, explained the function of this office. Mr. Esquibel responded to questions regarding the Safe2Tell program. Discussion ensued regarding a forthcoming study about violence in schools.

**10:48 AM -- Office of Alternate Defense Counsel SMART Act and JR 25 Presentation**

Ms. Lindy Frolich, Executive Director, Mr. Daniel Nunez, Budget Director and Controller, and Ms. Stacie Colling, Juvenile Defense Coordinator, Office of the Alternate Defense Counsel (ADC), made the office's annual presentation pursuant to the SMART Act and Joint Legislative Rule 25. Committee members received ADC's annual report to the Joint Judiciary Committee (Attachment C), and a packet of presentation slides (Attachment D), prepared by ADC Staff. Ms. Frolich explained the function of ADC, discussed its budget outlook, and provided an update on issues facing the office.

**10:59 AM**

Ms. Frolich responded to questions regarding ADC's caseload. Ms. Frolich discussed trends in this caseload, and responded to questions regarding the office's access to competent juvenile defense lawyers in all areas of the state. Ms. Colling responded to questions regarding the impact of House Bill 14-1032 on the rate of juvenile detentions. Ms. Frolich discussed the process by which the office evaluates its contract lawyers, and the use of social workers by ADC. Ms. Frolich distinguished between the social workers employed by ADC and those employed by the Office of the State Public Defender.

**11:11 AM**

Discussion ensued regarding the potential duplication of efforts in the area of social work. Ms. Frolich discussed some additional budget-related issues facing ADC, and responded to questions regarding prison outreach by the office. Ms. Frolich discussed some innovations undertaken by the office.

**11:22 AM**

Ms. Frolich responded to questions regarding the difference in services provided by ADC and the Office of the State Public Defender.

**11:23 AM -- Office of the Child's Representative and SMART Act and JR 25 Presentation**

Ms. Linda Weinerman, Executive Director, and Ms. Dorothy Macias, Staff Attorney, Office of the Child's Representative (OCR), made the office's annual presentation pursuant to the SMART Government Act and Joint Legislative Rule 25. Committee members received a packet of presentation slides, prepared by OCR Staff (Attachment E). Ms. Weinerman briefed the committee on the contents of Attachment E. Ms. Weinerman responded to questions regarding the threshold that triggers OCR's intervention in truancy cases.

**11:33 AM**

Discussion continued regarding OCR intervention in truancy cases. Ms. Weinerman returned to briefing the committee on the contents of Attachment E. Ms. Weinerman responded to questions regarding the ages of youths and young adults served by OCR.

**11:47 AM**

The committee recessed for lunch.

**01:16 PM -- Department of Public Safety Presentation Pursuant to the SMART Government Act and JR 25**

Representative Kagan, chair, called the committee back to order. Mr. Stan Hilkey, Executive Director of the Department of Public Safety (DPS), made the department's annual presentation pursuant to the SMART Act and Joint Legislative Rule 25. Committee members received a packet of presentation slides (Attachment F), prepared by DPS Staff. Mr. Hilkey introduced new division directors within DPS. He provided the committee with an overview of the department's budget requests, legislative agenda, and regulatory agenda.

**01:26 PM**

Mr. Hilkey responded to questions regarding the body-camera working group. Mr. Scott Hernandez, Chief, Colorado State Patrol (CSP) presented on CSP's efforts at reducing fatal highway accidents.

**01:36 PM**

Mr. Hilkey and Chief Hernandez responded to questions regarding the cause of the increase in fatal accidents, including driver impairment and distracted driving.

**01:44 PM** -- Mr. Michael Rankin, Director, Colorado Bureau of Investigation, introduced himself to the committee and provided information on the CBI's effort to reduce forensic turnaround times, including specific statistics regarding testing sexual assault kits. He informed the committee that a new forensic facility opened in Pueblo this year, and that a new lab in Denver is scheduled to open April 1, 2016. In response to a committee question, Mr. Rankin provided information regarding background checks for firearm transfers. Mr. Rankin presented the committee with an update on business identity theft pursuant to House Bill 14-1057.

**01:58 PM** -- Mr. Paul Cooke, Director, Division of Fire Prevention and Control (DFPC), gave the committee background information on the DFPC. He briefed the committee on the DFPC's goal to reduce the number of large wildfires that threaten lives or property. Mr. Cooke responded to questions regarding tax incentives for mitigation.

**02:11 PM**

Mr. Cooke continued to respond to questions regarding mitigation. He also described the Center for Excellence.

**02:19 PM** -- Mr. Kevin Klein, Director, Division of Homeland Security and Emergency Management, provided the committee with an overview of homeland security programs and information on the Colorado Information Analysis Center. He also provided an update on the digital trunked radio system and other public safety communication systems. He responded to a question regarding the equipment used by the division. Mr. Hilkey commented on communication between local law enforcement and DPS.

**02:33 PM** -- Ms. Jeanne Smith, Director, Division of Criminal Justice, provided information about the community corrections program and the evidence-based programs unit. She also provided information about the different units within the division.

**02:44 PM**

Ms. Smith responded to questions regarding the function of the Sex Offender Management Board (SOMB) and the role of parole officers in prisons.

Mr. Hilkey provided closing remarks.

**02:51 PM** -- Mr. Michael Dell, representing Colorado CURE, testified to the committee regarding the Parole Board's reporting requirements, the Division of Criminal Justice's statutory authority, and notification procedures used and treatment decisions made by the SOMB. Mr. Dell provided the committee with written information (Attachment G).

**02:57 PM** -- Ms. Carolyn Turner, representing Advocates for Change, provided testimony on the SOMB, including its methodology, therapy procedures, and polygraphs. Ms. Turner referenced the materials distributed during Mr. Dell's testimony (Attachment G). She also provided the committee with sources for finding additional information relating to the function of the SOMB. Ms. Turner responded to questions regarding evidence-based treatment procedures.

**03:07 PM -- Colorado Commission on Criminal and Juvenile Justice Presentation Pursuant to the SMART Act and JR 25**

Mr. Stan Hilkey, chair of the Colorado Commission on Criminal and Juvenile Justice (CCJJ), and Mr. Doug Wilson, vice-chair, made the commission's annual presentation pursuant to the SMART Act and Joint Legislative Rule 25. Committee members received a packet of presentation slides (Attachment H), prepared by the CCJJ. Mr. Hilkey provided information on the structure of the CCJJ and current CCJJ task forces.

**03:16 PM**

Mr. Wilson and Mr. Hilkey presented on CCJJ subcommittees, including subcommittee recommendations. Mr. Hilkey outlined some CCJJ accomplishments. Mr. Wilson and Mr. Hilkey responded to a question regarding the structured decision-making guide used by the Parole Board.

**03:26 PM**

The committee, Mr. Wilson, and Mr. Hilkey continued to discuss the Parole Board's decision-making.

**03:35 PM**

Mr. Hilkey and Mr. Wilson discussed bail reform. Mr. Hilkey continued the presentation with an explanation of recent CCJJ bills, including responding to questions from the committee, and legislative recommendations.

**03:45 PM**

The committee adjourned.



# COLORADO DEPARTMENT OF LAW

## Budget Overview

Department of Law

December 17, 2015

The Department of Law, (often referred to as the Colorado Attorney General's Office), which Attorney General Cynthia H. Coffmann oversees, represents and defends the legal interests of the people of the State of Colorado and its sovereignty.

FY 2015-16 Appropriation		FY 2016-17 Request	
Total Appropriation	\$77,511,848	Total Appropriation	\$78,084,368
General Fund		General Fund	
Appropriation	\$15,058,065	Appropriation	\$14,987,292
Total Full Time Equivalent	477.6	Total Full Time Equivalent	480.4
Employees (FTE):		Employees (FTE):	

### Leading Budget Change Requests for FY 2016-17:

The FY 2016-17 budget request highlights include the following:

**Decision Item #1: Safe2Tell Software:** The Department of Law (DOL) is requesting \$62,500 in General Fund spending authority, for FY 16, to replace the existing anonymous tip reporting software currently used by the Safe2Tell program. This request is in line with the contract that the DOL entered into with the new vendor, with an effective date of June 1, 2015. The estimated cost of a new tip reporting software system is \$72,500 in FY 16 of which \$10,000 is in the base appropriation. In out years, the additional need is \$60,000.

**Decision Item #2: Carr Judicial Center Lease Space:** The DOL is requesting \$91,879 for FY 16 and \$113,406 in FY 17 in Total Fund spending authority to accommodate additional lease space.

The DOL moved into additional finished space in July 2015. This business decision addressed two purposes: 1. This solution is more cost effective than assuming unfinished space due to the costs for improvements, and 2. This solution allows the DOL to maintain all staff in one building, thereby minimizing or eliminating any costs to support with shared services like IT support and other overhead needs.

Additionally, the DOL would like to expand the rented space on the 2<sup>nd</sup> floor by 1,307 square feet in the FY 17 Decision Item. The 1,307 would provide the space to build out a computer training room. Currently, the DOL must set up and tear down computers, when conducting various trainings. Acquiring this space, will allow the DOL to dedicate space for various training needs that would include, Microsoft Office, Pro Law billings, Kronos time keeping and other business software training needs.

**Decision Item #3: Senior AAG Special Prosecution:** The DOL is requesting 0.9 FTE and \$163,243 in FY 2016-17 annualized to \$163,295 and 1.0 FTE spending authority to support the efforts and workload needs of the Special

Prosecution Unit. This request is for an experienced Senior Assistant Attorney General with prosecutorial experience to assist this agency in its support of the 22 District Attorney's, the various metro area task forces, and federal partners with complex drug trafficking and gang prosecutions.

**Decision Item #4:** Consumer Protection Compliance Investigator: The DOL is requesting 1.0 FTE and \$ 92,891 in Custodial Fund spending authority for FY 16 - 17 to support and bolster the efforts and workload expansion for the Consumer Fraud Unit and the Antitrust Tobacco and Consumer Protection Unit. This request is for 1.0 Compliance Investigator I to support both Units. This request will allow the DOL to better protect Colorado consumers across a wide range of deceptive trade practices. Additionally these resources will enable the agency to manage the large volume of consumer complaints and inquiries received each year, better manage a growing number of lawsuits, more efficiently investigate and resolve complaints while providing timely restitution payments to victims.

**Decision Item #5:** Accounting Technician III FTE: The DOL is requesting \$73,127 and 1.0 FTE in reappropriated spending authority, for FY 17, and \$63,130 in out years to meet increasing accounting workload due to programmatic increases in Workers' Compensation, Peace Officer Standards and Training Board (POST) marijuana grant distributions, and the general expansion in programmatic responsibilities and DOL staffing to support.

**Budget Reduction #1:** POST Marijuana Budget Reduction: The DOL is requesting a reduction of \$418,000 of Marijuana Cash fund dollars within the Peace Officers Standards and Training Board Support (POST), related to marijuana training efforts.

SB 14-215 appropriated \$1,168,000 and 1.0 FTE to the DOL for POST marijuana training development and grant administration.

The POST marijuana goal is to construct training program(s) to meet the needs of Colorado law enforcement in understanding and applying laws as it relates to marijuana. POST Board and staff meet with key stake holders in the law enforcement community to devise a best practices plan for developing curriculum that is critical to the understanding and application of the state's marijuana laws.

During FY 15, the DOL utilized \$712,991 of the \$1,168,000 on personnel costs, associated operating and grant programs. Over the course of the year, POST staff assessed the budget needs going forward to best meet the goals of the program and law enforcement, and globally to ensure marijuana resources are available across the state enterprise for the best purposes. As such, the DOL is proposing marijuana resources moving forward at \$750,000 annually for POST efforts.

**Non Priority Decision Item:** 0.5 AAG Colorado River: The (DOL) is requesting \$64,314 0.5 FTE in cash spending authority, for FY 17, and out years to address increasing workload with Colorado River counsel, representation, and litigation efforts.

Currently, the Unit is comprised of 2 FTE Attorneys and 1 FTE Legal Assistant. As a result of the Colorado River Basin's extended drought and increasing competition for Colorado River water, the demands on the Unit to assist its client agencies in protecting the State's entitlements to and authorities over the Colorado River have increased significantly.

*For more information about this Department and its programs, please call 720-508-6000 or visit, <http://www.coloradoattorneygeneral.gov/>*

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STATE OF COLORADO  
DEPARTMENT OF LAW

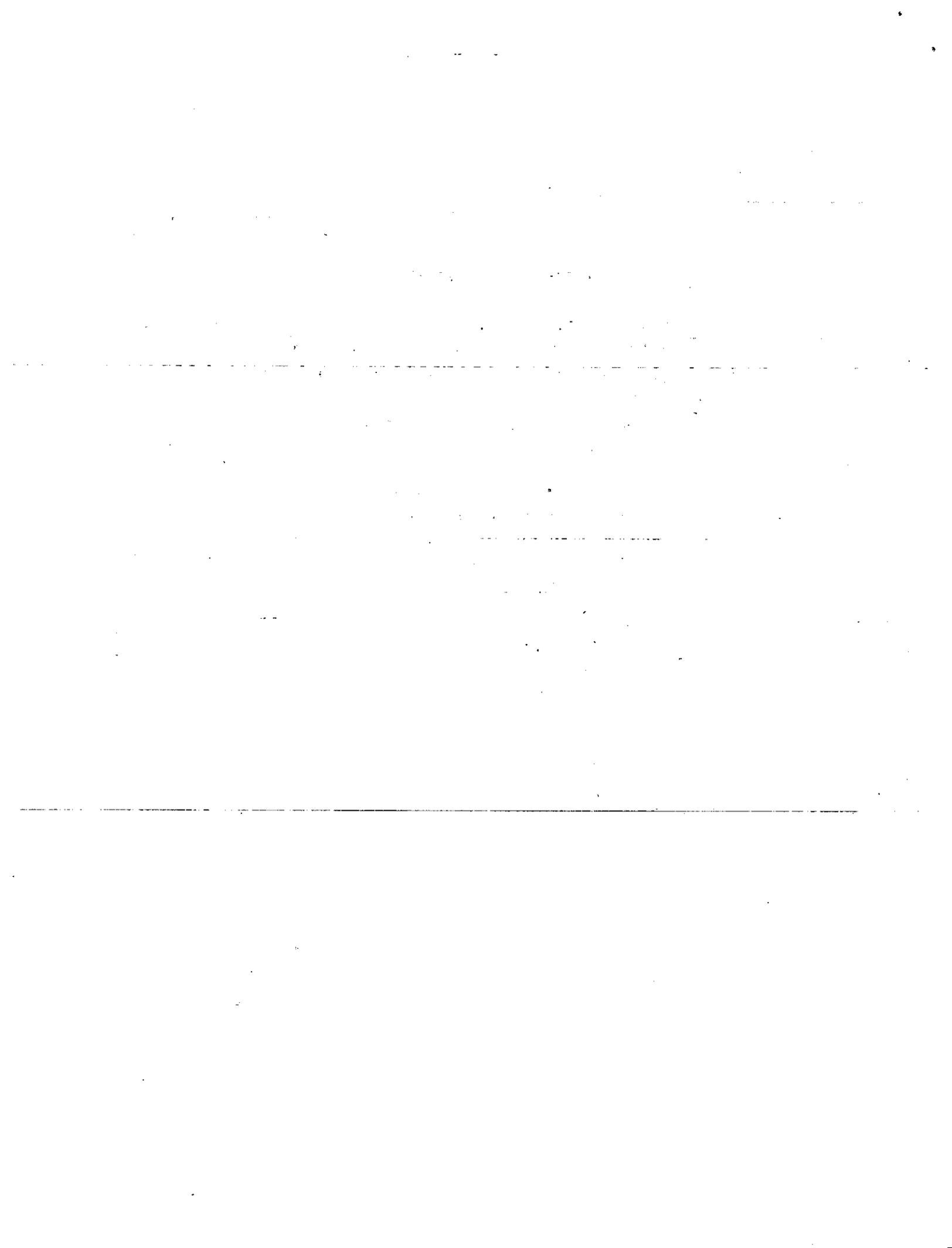
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Office of the Attorney General

LEGISLATIVE AGENDA 2016

1. Strengthen the Department's ability to enforce the Colorado Charitable Solicitations Act [C.R.S. § 6-16-101 et seq.] ("CCSA") by ensuring that entities and persons who commit fraud or misrepresentation in the course of soliciting charitable donations are held accountable. The bill does the following:
  - enhances penalties for intentional violations of the CCSA;
  - holds charities accountable when they know or reasonably should have known that a third party paid solicitor, acting on its behalf, is misrepresenting information to the public;
  - requires third party paid solicitors to post a \$25k bond upon registration with the Secretary of State;
  - prohibits third party paid solicitors from participating in the oversight and operations of a charity for whom it solicits and prohibits a charity's officers/directors from having a financial interest in a third party paid solicitor.
  - clarifies that it is charitable fraud to misrepresent or mislead with regard to an organization's membership or affiliation with law enforcement, firefighters or other similar entities.
  
2. Amend the Criminal Justice Records Act [C.R.S. § 24-72-304] to prohibit disclosure of the names of juvenile victims, regardless of the crime with some exceptions.
  
3. Authorize funds recovered on behalf of the state pursuant to the federal Oil Pollution Act ("OPA") for natural resources damages caused by oil & gas pollution to be deposited into the Natural Resource Damage Recovery Fund ("NRDRF") [established by C.R.S. § 25-16-104.7(1)]. The Natural Resources Damages Trustees<sup>1</sup> voted in favor of pursuing this legislation on November 4, 2015.

<sup>1</sup> In Colorado, the Attorney General, the Executive Director of the CDPHE and the Executive Director of the Department of Natural Resources ("DNR") or their delegates serve as the Natural Resource Damages Trustees ("Trustees").



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Office of the Attorney General

## DEPARTMENT OF LAW REGULATORY AGENDA FOR CALENDAR YEAR 2016

This document contains the Colorado Department of Law's regulatory agenda for calendar year 2016 submitted pursuant to C.R.S. §2-7-203(2)(a)(IV).

### List of New Rules or Revisions to Existing Rules Expected to Be Proposed in CY 2016

#### A. Colorado Debt- Management Services (DMSA)

##### 1. Proposed Rules

- a. New rules under the DMSA defining terms used therein.
- b. New rules under the DMSA concerning records required to be retained by persons subject to the Act.
- c. Repeal of outdated existing rules under the DMSA, specifically Rule 2, Adjustment of Dollar Amounts – Consumer Price Index, and Rule 3, Insurance Cancellation Notice, 4 CCR 902-2 (7-08).
- d. New rule regarding the amount of the surety bond so that the bond amount could be based on the amount of debt under the providers' enrollment agreements.

##### 2. Statutory Basis

The statutory basis for adoption of any proposed rules is C.R.S. §12-14.5-232(c).

##### 3. Purpose

The purpose of the any proposed rules is to provide clarification to persons subject to the DMSA of terms used therein so they may conform their conduct to the law. Established record retention requirements result in better compliance, consumer protection, and efficient enforcement. In addition, amendments

to  
the DMSA in 2011 repealed several statutory sections. Rules that  
implemented

those sections are no longer needed and should be repealed for  
simplicity and to avoid confusion.

4. Contemplated Schedule for Adoption

Rules will likely be adopted and/or repealed by December 1, 2016.

5. Listing of Persons and Parties Affected

Persons subject to the Act, including debt-management service  
companies and consumers that contract with such companies,  
will be affected by this anticipated rulemaking.

**B. Uniform Consumer Credit Code  
(UCCC)**

1. Proposed Rules

- a. Amending rule 10(7) under the UCCC to clarify what records  
are required concerning payment and account histories.
- b. New rule regarding fees for electronic payment.
- c. New rules under the UCCC further defining terms used therein.

2. Statutory Basis

The statutory basis for adoption of any proposed rules is C.R.S. §5-6-104(1)(e).

3. Purpose

The purpose of the proposed rules is to provide clarification to persons subject  
to the UCCC. Clarified record retention requirements result in better  
compliance, consumer protection, and efficient enforcement.

4. Contemplated Schedule for Adoption

Rules will likely be adopted and/or repealed by December 1, 2016.

5. Listing of Persons and Parties Affected

Persons subject to the Act, including supervised lenders and consumers that  
contract with such companies, will be affected by this anticipated  
rulemaking.

**C. Colorado Fair Debt Collection Practices Act (CFDCPA)**

1. Proposed Rules

- a. Amend rule 1.04 under the CFDCPA regarding the process for  
Letters of Admonition.
- b. Amend rule 2.03(1) to clarify what “expressly authorized” means.
- c. New rule regarding what is and is not allowed as far as a  
payment convenience fee.
- d. New rule regarding the requirements before a collection agency may  
utilize ACH or other electronic payment methods in the collection of  
a debt.
- e. New rule clarifying the administration of 12-14-108(1)(j).

2. Statutory Basis

The statutory basis for adoption of any proposed rules is C.R.S. §12-14-114.

3. Purpose

The purpose of the any proposed rules is to provide clarification to persons subject to the CFDCPA of terms used therein so they may conform their conduct to the law. Clarification in definitions and processes results in better compliance, consumer protection, and efficient enforcement.

4. Contemplated Schedule for Adoption

Rules will likely be adopted and/or repealed by December 1, 2016.

5. Listing of Persons and Parties Affected

Persons subject to the Act, including collection agencies and consumers that are collected upon by such companies, will be affected by this anticipated rulemaking.

**D Peace Officers Standards and Training (P.O.S.T.)**

Proposed Rules

**Rule 1:**

1. Amending Rule 1, Definitions-changing the effective date of Rule 1 to January 31, 2016.
2. Amending Rule 1, Definitions - to update the description of the term "conviction".
3. Amending Rule 1, Definitions,-to update the description of "operable firearms".
4. Amending Rule 1, Definitions-adding definition of "practical exercise".
5. Amending Rule 1, Definitions-adding definition of "test-out".
6. Amending Rule 1, Definitions- by changing number sequence (dd), (ee), (ff), (gg), (hh) (ii) (jj), (kk), (ll), (mm), (nn), (oo), (pp), (qq), (rr), (ss), (tt), (uu).

**Rule 4:**

- a. Amending Rule 4, Subject Matter Experts-changing the effective date of Rule 4 to January 31, 2016.
- b. Amending Rule 4, Subject Matter Experts (SME)-to add the word "Committees" to the title.
- c. Amending Rule 4 (a)(b) (d), Subject Matter Experts-to update and clarify who shall appoint committees of subject matter experts, the number of subject matter members in each committee.
- d. Amending Rule 4 (c)(f)(g)(h), Subject Matter Experts- by adding

language that

describes what constitutes a quorum, the qualifications of subject matter experts, member terms, member compensation and duties of the committee.

- e. Amending Rule 4, Subject Matter Experts-by adding number sequence (dd), (ee), (ff), (gg), (hh) (ii) (jj), (kk), (ll), (mm), (nn), (oo), (pp), (qq), (rr), (ss), (tt), (uu).

**Rule 5:**

- a. Amending Rule 5, Hearings- changing the effective date of Rule 5 to January 31, 2016.
- b. Amending Rule 5(b), Hearings-removing the following language “an original and twenty (20) copies”.
- c. Amending Rule 5(c), Hearings-removing the following language “an original and twenty (20) copies”.

**Rule 7:**

- a. Amending Rule 7, Variances-changing the effective date of Rule 7 to January 31, 2016.
- b. Amending Rule 7(a), Variances-removing “The Board has promulgated these rules to ensure orderly and fair treatment of all applicants. Therefore, variances are disfavored, however”.

**Rule 8:**

- a. Amending Rule 8, Appeal Process for Peace Officer Applicants Certification changing the effective date of Rule 8 to January 31, 2016.
- b. Amending Rule 8 (a), Appeal Process for Peace Officer Applicants Certification by adding to the end of paragraph a “until such time as the charges are dismissed”.

**Rule 9:**

- a. Amending Rule 9, Revocation Hearings for Criminal Conduct- changing the effective date of Rule 9 to January 31, 2016.
- b. Amending Rule 9(a), Revocation Hearings for Criminal Conduct- by adding the following language to the end of paragraph 9(a) “until such time as the charges are dismissed”.

**Rule 10:**

- a. Amending Rule 10, Basic Peace Officer Certification- changing the effective date of Rule 10 to January 31, 2016.
- b. Amending Rule 10(a) (VI), Basic Peace Officer Certification-by changing the numerical sequence by adding number (V) in front of paragraph 5 and changing paragraph V to VI and paragraph VI to VII and adding paragraph VIII.
- c. Amending Rule 10(a) (V), Basic Peace Officer Certification-by adding at the beginning of the paragraph "if applicable, submits a copy of his/her DD214 showing he/she".
- d. Amending Rule 10(a) (VI), Basic Peace Officer Certification-by adding "within two years of their academy graduation end date and".
- e. Adding Rule 10(a) (VIII), Basic Peace Officer Certification-"Possesses and submits a copy of his/her current Colorado driver's license or state-issued identification card".
- f. Amending Rule 10 (f), Basic Peace Officer Certification- by removing the entire paragraph "person desiring additional time to complete the basic certification requirements".

**Rule 11:**

- a. Amending Rule 11, Basic Peace Officer Certification- changing the effective date of Rule 11 to January 31, 2016.
- b. Amending Rule 11 (a), Basic Peace Officer Certification-by updating the paragraph to reflect the following: "The provisional applicant must be fully certified within the preceding three years and have served as a certified law enforcement officer in good standing in such other state or federal jurisdiction for more than one year".
- c. Amending Rule 11(V), Basic Peace Officer Certification-by deleting the first sentence "Pass the certification examination pursuant to Rule 15 or" and replacing it with "If leaving active out-of-state (the state in which the individual is certified) or federal peace officer employment, within six (6) months from the date of issuance of the provisional certification, pass the written certification exam.

**Rule 12:**

- a. Amending Rule 12, Reserve Certification- changing the effective date of Rule

12 to January 31, 2016.

- b. Amending Rule 12(a)(V), Reserve Certification-by adding at the beginning of the paragraph "if applicable, submits a copy of his/her DD214 showing he/she".
- c. Adding Rule 12(a)(VII), Reserve Certification-"Possesses and submits a copy of his/her current Colorado driver's license or state-issued identification card".
- d. Amending Rule 12(a), Reserve Certification-by changing the numerical sequence by adding number (V) in front of paragraph 5 and changing paragraph V to VI and paragraph VI to VII.

**Rule 13:**

- a. Amending Rule 13, Renewal of Basic Certification- changing the effective date of Rule 13 to January 31, 2016.
- b. Amending Rule 13(a), Renewal of Basic Certification- by removing "Is not serving and" and updating it to "Has not served as a peace officer or reserve peace officer within the previous three (3) years; and".
- c. Amending Rule 13, Renewal of Basic Certification-by adding paragraph (V) "If leaving active out-of-state (the state in which the individual is certified) or federal peace officer employment, within six (6) months from the date of issuance of the provisional certification, pass the written certification exam".
- d. Amending Rule 13, Renewal of Basic Certification-by adding paragraph (h) "Individuals renewing their certification must complete a psychological/physical examination pursuant to 24-31-303 (4) C.R.S. prior to becoming employed".

**Rule 14:**

- a. Amending Rule 14, Fingerprint-Based Criminal History Record Check- changing the effective date of Rule 14 to January 31, 2016.
- b. Amending Rule 14(d) (V), Fingerprint-Based Criminal History Record Check- c. Amending Rule 14(f) (IV), Fingerprint-Based Criminal History Record Check- by updating paragraph IV by adding "The enrollment roster will be completed on the POST template provided by POST to the academy director. Each enrollment roster spreadsheet shall contain the following information:"
- d. Amending Rule 14(f) (IV) (A), Fingerprint-Based Criminal History Record Check-by removing "Name of academy; and".
- e. Amending Rule 14(f) (IV) (B), Fingerprint-Based Criminal History Record Check-by removing "Start and end dates of the academy; and".

- f. Amending Rule 14(f) (IV) (C), Fingerprint-Based Criminal History Record Check-by sequential order to paragraph (A).
- g. Amending Rule 14(f) (IV) (D), Fingerprint-Based Criminal History Record Check-by changing sequential order to paragraph (B).
- h. Amending Rule 14(f) (IV) (E), Fingerprint-Based Criminal History Record Check-by changing sequential order to paragraph (C).
- i. Amending Rule 14(f) (IV) (D), Fingerprint-Based Criminal History Record Check-by adding paragraph (D) "Once entered into the POST database, the spreadsheet roster will be returned to the academy director. The spreadsheet with all completed information will be returned to POST staff within 30 days".
- j. Amending Rule 14(g) (I), Fingerprint-Based Criminal History Record Check-by changing POST Rule 7 to POST Rule 8, Variances".
- k. Amending Rule 14(g) (II), Fingerprint-Based Criminal History Record Check- by changing POST Rule 7 to POST Rule 8, Variances".
- l. Amending Rule 14(g), Fingerprint-Based Criminal History Record Check- by adding paragraph (IV) "Any Colorado juvenile adjudication shall not be deemed a conviction. Those applicants can sit for the POST certification exam".

**Rule 15:**

- a. Amending Rule 15, Certification Examination, Basic, Provisional, Renewal- changing the effective date of Rule 15 to January 31, 2016.
- b. Amending Rule 15 (a), Certification Examination, Basic, Provisional, Renewal- by correcting grammatical errors so that the sentence reads "To be eligible to take the certification examination, an applicant must have completed and submitted to POST as applicable, either:
- c. Amending Rule 15 (a), Certification Examination, Basic, Provisional, Renewal- by adding paragraph (V) "A copy of his/her current driver's license or state issued identification card; and"
- d. Amending Rule 15 (a), Certification Examination, Basic, Provisional, Renewal- by adding paragraph (VI) "If applicable, a copy of his/her DD-214 showing character of service".
- e. Amending Rule 15 (a) (VI), Certification Examination, Basic, Provisional, Renewal- by changing numerical numbering of (VI) to (VII).
- f. Amending Rule 15 (d), Certification Examination, Basic, Provisional, Renewal- by adding the following language to existing language "Any applicant failing perishable skill(s) in the academy has two years from their current academy end date to retake and successfully complete the failed skills(s) and

successfully complete the POST examination”.

g. Amending Rule 15 (d), Certification Examination, Basic, Provisional, Renewal- by removing the following language “the three attempts must be completed within two (2) years after completion of the academy”.

h. Amending Rule 15 (f), Certification Examination, Basic, Provisional, Renewal- by replacing “photo ID” with State issued driver’s license or identification card”.

i. Amending Rule 15 (g), Certification Examination, Basic, Provisional, Renewal- by removing “this rule will go into effect upon the implementation of the reformulated items for the POST certification exam”.

#### **Rule 16:**

a. Amending Rule 16, Skills Examinations for Provisional and Renewal Applicants- changing the effective date of Rule 16 to January 31, 2016. b. Amending Rule 16 (c), Skills Examinations for Provisional and Renewal Applicants- to read “Any applicant failing a skills examination may retake the examination, with the payment of an additional examination fee. Any person failing any skills examination three (3) times must successfully complete the skills training for that particular skill in a basic or reserve academy before he/she may be certified”.

#### **Rule 17:**

a. Amending Rule 17, Certification Records- by changing the effective date of Rule 17 to January 31, 2016.  
b. Amending Rule 17, Certification Records- by adding paragraph (C) “When any individual is appointed as a provisionally certified, reserve certified, or basic certified peace officer in the State of Colorado, to an agency pursuant to C.R.S. 16-2.5.102, A psychological/physical examination will be completed. An agency representative shall complete a psychological/physical affirmation (Form 6) through the POST portal and submit it through the portal prior to the appointment of the peace officer”.  
c. Amending Rule 17, Certification Records- by changing paragraph (e) to (d).

#### **Rule 18:**

a. Amending Rule 18, Certification Records- by changing the effective date of Rule 18 to January 31, 2016.  
b. Amending Rule 18, Certification Records- by adding paragraph (B) “The POST Board shall suspend a peace officer’s certification if the peace officer fails to comply

with the training requirements of House Bill 15-1287. The POST Board shall reinstate a peace officer's certification that was suspended pursuant to this paragraph (A) upon completion of the training requirements in subsection (1) of House Bill 15-1287".

c. Amending Rule 18, Certification Records- by changing paragraph (b) to (c).

**Rule 24:**

a. Amending Rule 24, Skills Training Safety and Skills Program Requirements for Basic and Reserve Academies- by changing the effective date of Rule 24 to January 31, 2016.

b. Amending Rule 24(b) (III), Skills Training Safety and Skills Program Requirements for Basic and Reserve Academies- by adding "immediately before use" at the end of paragraph III.

c. Amending Rule 24(b) (VIII), Skills Training Safety and Skills Program Requirements for Basic and Reserve Academies- by adding "Lab hours are defined as any hands-on skills training" to the end of the paragraph (VIII).

d. Amending Rule 24(d) (1), Skills Training Safety and Skills Program Requirements for Basic and Reserve Academies- by adding the word "academy" before the word program in the first paragraph.

**Rule 25:**

a. Amending Rule 25, Academy Instructor Training Programs- by changing the effective date of Rule 25 to January 31, 2016.

b. Amending Rule 25 (a), Academy Instructor Training Programs- by adding "Instructor Programs" to the sentence. It should read "Only the following four (4) Colorado POST academy instructor training programs (Instructor Programs) shall be recognized under this Rule:"

c. Amending Rule 25(b), Academy Instructor Training Programs- by removing "academy instructor training program" and replacing it with "Instructor Programs".

d. Amending Rule 25(c), Academy Instructor Training Programs - by removing "academy instructor training programs" and replacing it with "Instructor Programs".

e. Amending Rule 25(c) (1), Academy Instructor Training Programs - by removing "academy instructor training program" and replacing it with "Instructor Program".

f. Amending Rule 25(c) (1), Academy Instructor Training Programs -

by removing “program” and replacing it with “training class”.

g. Amending Rule 25(c) (1), Academy Instructor Training Programs -by adding the following language “If a continuing program does not complete at least one (1) approved training class in any consecutive five (5) year period, approval of the program shall expire. An expired program must be submitted to POST for approval as a new program and be approved prior to providing any instruction”.

h. Amending Rule 25(c) (1I), Academy Instructor Training Programs -by removing “of a continuing academy instructor program training program” in the first and last sentence of the paragraph.

i. Amending Rule 25(c) (1I) (B), Academy Instructor Training Programs -by replacing “other than during” with “outside of” normal weekday business hours, a schedule that accurately displays the dates and times when instruction will be conducted and adding “must be provided” to the end of the sentence.

j. Amending Rule 25(c) (1I) (f), Academy Instructor Training Programs -by changing the sequence from “(f)” to “(III)” and removing “of any new or continuing academy instructor training program”.

k. Amending Rule 25(c) (1I) (I), Academy Instructor Training Programs -by changing the sequence from “(I)” to “(A)”.

l. Amending Rule 25(c) (1I) (II), Academy Instructor Training Programs -by changing the sequence from “(II)” to “(B)”.

m. Amending Rule 25(c) (1I) (III), Academy Instructor Training Programs -by changing the sequence from “(III)” to “(C)”.

n. Amending Rule 25(d) (I), Academy Instructor Training Programs -by amending the paragraph to read “A new Instructor Program is a recognized program that has either never conducted approved training, or a previously approved program that has not conducted approved training within the previous five (5) years”.

o. Amending Rule 25(d) (II), Academy Instructor Training Programs- by amending the paragraph to read “The program director of a proposed new Instructor Program is advised to contact POST at least ninety (90) days prior to the anticipated start date to ascertain application procedures and deadlines for submitting the required documentation to POST for approval”.

p. Amending Rule 25(d) (II) (A), Academy Instructor Training Programs-by deleting the entire paragraph:

q. Amending Rule 25(d) (II) (B), Academy Instructor Training Programs-by deleting the entire paragraph.

- r. Amending Rule 25(d) (II) (C), Academy Instructor Training Programs-by deleting the entire paragraph.
- s. Amending Rule 25(d) (II) (D), Academy Instructor Training Programs-by deleting the entire paragraph.
- t. Amending Rule 25(d) (II) (E), Academy Instructor Training Programs-by deleting the entire paragraph.
- u. Amending Rule 25(d) (III), Academy Instructor Training Programs-by adding the following language "Required documentation for a new Instructor Program may include, but is not limited to, the program's lesson plan, instructor documents and site video".

changing the sequence from (III) to (IV) and the paragraph is amended to read "The program director must also ensure that the documents listed in paragraph (c) (11) of this Rule are received at POST at least thirty (30) days prior to the start of instruction".

- w. Amending Rule 25(d) (II) (A), Academy Instructor Training Programs-by deleting the entire paragraph.
- x. Amending Rule 25(e) Lesson Plans, Academy Instructor Training Programs- by adding the following:

(e) LESSON PLANS

(1) EACH LESSON PLAN OF A RECOGNIZED INSTRUCTOR PROGRAM MUST INCLUDE THE FOLLOWING INFORMATION, AS APPLICABLE:

(A) PROGRAM PROVIDER'S NAME OR AGENCY; AND

(B) PROGRAM TITLE AS SPECIFIED IN THE APPLICABLE POST INSTRUCTOR PROGRAM; AND

(C) MOST RECENT DATE THE LESSON PLAN WAS CREATED OR REVISED, AND NAME(S) OF THE PERSON(S) WHO CREATED OR REVISED IT; AND

(D) NUMBER OF ACTUAL HOURS THE PROGRAM WILL BE INSTRUCTED, AND THE NUMBER OF HOURS REQUIRED BY THE POST INSTRUCTOR PROGRAM; AND

(E) LEARNING GOALS, COURSE OBJECTIVES AND/OR PERFORMANCE OUTCOMES; AND

(F) INSTRUCTIONAL CONTENT OF THE COURSE THAT SUBSTANTIATES THE STATED GOALS, OBJECTIVES AND/OR PERFORMANCE OUTCOMES MEET THE POST REQUIREMENTS; AND

(G) TESTING AND/OR ASSESSMENT METHODS UTILIZED TO MEASURE THE OBJECTIVES AND/OR PERFORMANCE OUTCOMES; AND

POWERPOINT PRESENTATIONS THAT WILL BE USED DURING THE INSTRUCTION.

(II) THE PROGRAM DIRECTOR SHALL ENSURE THAT EACH LESSON PLAN IS UPDATED, AS NECESSARY, TO CONFIRM THE CONTENT COMPLIES WITH CURRENT POST PROGRAM REQUIREMENTS AND POST RULES.

(III) THE CURRENT LESSON PLAN MUST BE PRESENT AT THE SITE OF INSTRUCTION WHENEVER TRAINING FOR THE INSTRUCTOR PROGRAM IS BEING CONDUCTED.

(IV) IF A PROVIDER SEEKS TO UTILIZE A SUBSTANTIALLY DIFFERENT LESSON PLAN THAN THE ONE INITIALLY APPROVED, THE LESSON PLAN MUST BE RESUBMITTED TO POST FOR APPROVAL.

(V) THE PROGRAM DIRECTOR SHALL ENSURE THAT ALL INSTRUCTORS WHO TEACH ANY PORTION OF AN INSTRUCTOR PROGRAM FOR A PARTICULAR PROVIDER UTILIZE ONLY THE LESSON PLAN SPECIFIC TO THAT PROVIDER.

y. Amending Rule 25(f) Attendance, Academy Instructor Training Programs-by adding the following:

(f) ATTENDANCE

(I) FOR ALL HOURS OF AN APPROVED INSTRUCTOR PROGRAM FOR ARREST CONTROL, HANDGUN, OR LAW ENFORCEMENT DRIVING, 100% ATTENDANCE AND PARTICIPATION ARE REQUIRED.

(II) FOR INSTRUCTION METHODOLOGY PROGRAMS, ENROLLEES ARE EXPECTED TO ATTEND AND PARTICIPATE IN ALL REQUIRED HOURS OF THE APPROVED PROGRAM.

z. Amending Rule 25(g) Training Sites, Academy Instructor Training

Programs-by adding the following: (g)

TRAINING SITES

- (I) UPON THE EFFECTIVE DATE OF THIS RULE, ONLY POST APPROVED SITES SHALL BE UTILIZED TO CONDUCT ANY *PRACTICAL SKILLS TRAINING* OF THE INSTRUCTOR PROGRAMS FOR ARREST CONTROL, HANDGUN, OR LAW ENFORCEMENT DRIVING.
- (II) SITES FOR *LECTURE PORTIONS* OF THE SKILLS INSTRUCTOR PROGRAMS AS WELL AS SITES FOR INSTRUCTION METHODOLOGY PROGRAMS DO NOT REQUIRE POST APPROVAL. HOWEVER, SUCH SITES MUST BE SAFE AND APPROPRIATE FOR THE NATURE AND SCOPE OF LECTURE PROVIDED.
- (III) SITES THAT ARE CURRENTLY APPROVED FOR SKILLS TRAINING AT POST APPROVED BASIC, RESERVE OR REFRESHER ACADEMIES MAY BE UTILIZED FOR CONDUCTING THE SAME NATURE OF PRACTICAL SKILLS TRAINING FOR INSTRUCTOR PROGRAMS.
- (IV) THE PROGRAM DIRECTOR IS RESPONSIBLE FOR CONFIRMING WITH POST THAT ALL OF ITS SITES FOR PRACTICAL SKILLS TRAINING ARE CURRENTLY APPROVED.
- (V) IF AN APPROVED SITE IS NOT UTILIZED DURING ANY CONSECUTIVE THREE (3) YEAR PERIOD FOR THE TYPE OF TRAINING FOR WHICH THE SITE WAS APPROVED, SITE APPROVAL EXPIRES. BEFORE TRAINING CAN RESUME AT AN EXPIRED SITE, THE SITE MUST BE SUBMITTED FOR APPROVAL AND APPROVED BY POST IN CONSULTATION WITH THE APPROPRIATE SUBJECT MATTER EXPERT (SME) COMMITTEE.
- (VI) TO REQUEST APPROVAL OF A NEW OR EXPIRED SITE OF *PRACTICAL SKILLS TRAINING*, THE FOLLOWING ITEMS MUST BE SUBMITTED TO POST:
- (A) VIDEO IN A DIGITAL MEDIA FORMAT APPROVED BY POST THAT ACCURATELY DEPICTS THE SITE WHERE INSTRUCTION IS TO TAKE PLACE; AND
- (B) A DETAILED DESCRIPTION OF THE SITE MUST BE INCLUDED, EITHER AS VERBAL NARRATIVE ON THE VIDEO OR AS A WRITTEN SUPPLEMENT.

z. Amending Rule 25(h) Duty to Report, Academy Instructor Training Programs-  
by adding the following:

(h) DUTY TO REPORT

(I) THE PROGRAM DIRECTOR SHALL ENSURE THAT ALL INSTRUCTORS WHO TEACH ANY PORTION OF AN INSTRUCTOR PROGRAM ARE FAMILIAR WITH THIS SECTION (H), DUTY TO REPORT.

(II) IN ADDITION TO ANY NOTIFICATIONS THAT MAY BE REQUIRED ADMINISTRATIVELY OR UNDER FEDERAL, STATE OR LOCAL LAW, IT SHALL BE THE DUTY OF EVERY PROGRAM DIRECTOR OR HIS DESIGNEE TO REPORT THE FOLLOWING EVENTS TO POST AS SOON AS PRACTICABLE AFTER THE EVENT:

(A) ANY DEATH, GUNSHOT WOUND OR SERIOUS BODILY INJURY (SBI) THAT OCCURS TO ANY PERSON WHOSE DEATH, GUNSHOT WOUND OR SERIOUS BODILY INJURY WAS EITHER CAUSED BY, OR MAY HAVE BEEN CAUSED BY, ANY TRAINING OR ACTIVITY ASSOCIATED WITH THE PROGRAM; OR

(B) ANY BODILY INJURY THAT OCCURS TO ANY PERSON WHO IS NOT AFFILIATED WITH THE PROGRAM, I.E., AN INNOCENT BYSTANDER, WHOSE BODILY INJURY WAS EITHER CAUSED BY, OR MAY HAVE BEEN CAUSED BY, ANY TRAINING OR ACTIVITY ASSOCIATED WITH THE PROGRAM.

(III) TRAINING TO CEASE

(A) IN THE EVENT OF ANY DEATH OR GUNSHOT WOUND AS DESCRIBED IN PARAGRAPH (H)(I)(A) OF THIS SECTION, ALL TRAINING SHALL IMMEDIATELY CEASE AT THE TRAINING SITE WHERE THE DEATH OR GUNSHOT WOUND OCCURRED.

(B) TRAINING MAY RESUME ONLY AFTER THE BOARD OR ITS DESIGNATED REPRESENTATIVE(S) HAVE ENSURED THAT THE PROGRAM IS OPERATING IN COMPLIANCE WITH POST RULES.

(IV) SERIOUS BODILY INJURY MEANS THOSE INJURIES AS DEFINED IN §18-1-901(3)(P), C.R.S.

(V) BODILY INJURY MEANS THOSE INJURIES AS DEFINED IN §18-

1-901(3)(C), C.R.S.

a. Amending Rule 25(i) Instructors, Academy Instructor Training Programs-by changing the following:

~~(e)~~(i) Instructors.

(I) ~~Instructors~~ ~~For new academy instructor training programs~~ **Instructor Programs, all instructors** shall be approved BY POST in accordance with the minimum instructor qualifications identified in the applicable ~~academy instructor training program~~ **Instructor Program**.

(II) ~~For continuing academy instructor training programs~~ **Instructor Programs**, the program director shall ensure that all instructors who instruct any portion of the program meet the minimum instructor qualifications identified in the applicable ~~instructor training program~~ **Instructor Program**.

aa. Amending Rule 25(j) Certificates of Completion, Academy Instructor Training Programs-by changing the following:

~~(g)~~(j) Certificates of completion.

(I) The program director shall issue a certificate of completion to each individual who successfully completes all requirements of the approved ~~academy instructor training program~~ **Instructor Program**.

(II) Each certificate of completion shall contain at least the following information:

(A) The exact name of the ~~academy instructor training program~~ **Instructor Program** as it appears in Section (a) of this Rule: ; **and**

(1) ~~Instruction Methodology Program; or~~

(2) ~~Arrest Control Instructor Program; or~~

(3) ~~Handgun Instructor Program; or~~

(4) ~~Law Enforcement Driving Instructor Program; and~~

(B) The exact words "POST Approved"; and

(C) Name of the individual who completed the program; and

- (D) Program provider's name or agency; and
- (E) Dates of the program; and
- (F) Total number of hours of the completed program; and
- (G) Signature of the program director and/or agency or academic representative; and
- (H) ~~For a Arrest control academy instructor training programs~~ **Instructor Program**, the certificates of completion shall also contain the name of the arrest control discipline.
- (I) Amending Rule 25(k) POST Grant Funds, Academy Instructor Training Programs-by adding the following:

b. Amending Rule 25(k) POST Grant Funds, Academy Instructor Training Programs-by adding the following:

(k) POST GRANT FUNDS

(I) IN ORDER TO BE ELIGIBLE TO RECEIVE POST GRANT FUNDS FOR AN INSTRUCTOR PROGRAM, THE PROGRAM MUST COMPLY WITH THE CURRENT "*PEACE OFFICER STANDARDS AND TRAINING LAW ENFORCEMENT CONTINUING EDUCATION PROGRAM GUIDELINES FOR COLORADO POST AWARD RECIPIENTS*" (I.E., GRANT GUIDELINES).

(II) FOR PURPOSES OF THIS RULE, CURRENT GRANT GUIDELINES ARE CONSIDERED TO BE THOSE IN EFFECT ON THE START DATE OF THE PROGRAM.

**Rule 26:**

- a. Amending Rule 26, Academy and Training Program Inspections- by changing the effective date of Rule 26 to January 31, 2016.
- b. Amending Rule 26, Academy and Training Program Inspection-by changing the title to "Academy and Academy Instructor Training Program Inspections.
- c. Amending Rule 26, Academy and Training Program Inspections- by changing the following:
  - (a) Members of the Board, or its designated representative(s) may at any reasonable time inspect any approved academy or ACADEMY INSTRUCTOR

training program (*Instructor Program*), or any academy or training program *Instructor Program* believed to be operating contrary to these Rules.

(b) An academy or training program *Instructor Program* inspection may include, but is not limited to, a review of any records required to be maintained under these Rules, examination of the academy's facilities, training sites, and equipment, observation of classroom instruction and skills training, and interviews with trainees, staff and instructors.

(C) TRAINING THAT IS NOT REQUIRED BY POST BUT IS INCORPORATED WITHIN THE APPROVED ACADEMY OR INSTRUCTOR PROGRAM MAY BE INSPECTED TO THE EXTENT NECESSARY TO ENSURE IT IS LEGITIMATE (I.E., IN ACCORDANCE WITH ESTABLISHED OR ACCEPTED PATTERNS AND STANDARDS) AND SAFE (I.E., SECURE FROM DANGER, HARM OR INJURY).

(D) THE POST DIRECTOR SHALL BE INFORMED OF ALL INSPECTION RESULTS.

~~(e)~~(e) Should the POST Director determine, IN CONSULTATION WITH THE APPROPRIATE SUBJECT MATTER EXPERT COMMITTEE(S), AS APPLICABLE, that an academy or training program *Instructor Program* is not in compliance with POST Rules, OR IS PROVIDING TRAINING THAT IS NOT LEGITIMATE OR SAFE, shall notify the academy director or program director in writing of the specific deficiencies OR FINDINGS and order remedial action.

~~(d)~~(f) The academy director or program director may appeal the POST Director's order to the Board within thirty (30) days in accordance with Rule 5(c).

~~(e)~~(g) Failure to comply with the POST Director's order shall result in the immediate suspension of the academy or training program *Instructor Program*, pending review by the Board at its next regular meeting.

#### Rule 28:

- a. Amending Rule 28, In-Service Training Program- by changing the effective date of Rule 28 to January 31, 2016.
- b. Amending Rule 28(c) Approved Training for POST Credit-by changing the language to read as follows "All training that is POST approved is authorized for in-service credit. The authority and responsibility for ~~other forms of~~ training shall be with the chief executive of each law enforcement agency. The chief executive accepts responsibility and liability for the course

content and instructor qualification. Legislatively mandated training may ALSO be used for credit towards the training requirement.

c. Amending Rule 28(c) (II) Approved Training for POST Credit-by changing the language to read as follows

“(II) Computer or web-based courses that have been approved by ~~POST~~ or the chief executive officer may be used for in-service credit”.

**Rule 29:**

**Adding Rule 29 Hiring Standards**

**RULE 29 HIRING STANDARDS EFFECTIVE JANUARY**

**31, 2016**

**EACH AGENCY HIRING A BASIC CERTIFIED PEACE OFFICER, PROVISIONAL CERTIFIED PEACE OFFICER, OR RESERVE CERTIFIED PEACE OFFICER MUST FIRST ENSURE THAT THEY MEET THE MINIMUM STANDARDS OF EMPLOYMENT:**

**A. INDIVIDUALS MUST HOLD CURRENT BASIC, PROVISIONAL OR RESERVE CERTIFICATION IN THE STATE. HIRING AGENCY WILL CONFIRM CERTIFICATION WITH POST OR UTILIZE THIS WEBLINK TO VERIFY CURRENT POST CERTIFICATIONS.**

**B. AGENCY MUST COMPLETE A COMPREHENSIVE AGENCY BACKGROUND INVESTIGATION, WHICH MAY INCLUDE:**

**a. PERSONAL HISTORY STATEMENTS**

**B. CITIZENSHIP VERIFICATION**

**C. NEIGHBORHOOD CHECKS**

**D. CRIMINAL RECORD CHECKS - LOCAL, STATE, AND NATIONAL**

**E. DRIVING RECORD CHECK**

**F. EMPLOYMENT HISTORY CHECKS**

**G. RELATIVES/PERSONAL REFERENCES CHECKS**

**H. CREDIT RECORDS CHECK**

**I. POLYGRAPH**

**C. EMPLOYMENT IN THE STATE OF COLORADO AS A PROVISIONAL PEACE OFFICER, RESERVE PEACE OFFICER OR**

A BASIC PEACE OFFICER AS DEFINED IN SECTION 16-2.5-102, AND 16-2.5-110 C.R.S. REQUIRES SUBMISSION OF A PSYCHOLOGICAL/MEDICAL EXAMINATION AFFIRMATION (FORM 6) TO POST.

THOSE OFFICERS TRANSFERRING IN-STATE BETWEEN AGENCIES ARE REQUIRED TO COMPLETE A PSYCHOLOGICAL/MEDICAL EXAMINATION UNLESS REQUIRED BY THE HIRING AGENCY.

ANY OFFICER TRANSFERRING FROM AN AGENCY NOT SPECIFIED IN 16-2.5-102 THAT HAD NOT PREVIOUSLY COMPLETED A PSYCHOLOGICAL/MEDICAL EXAMINATION MUST COMPLETE A PSYCHOLOGICAL/MEDICAL EXAM PRIOR TO BEING HIRED BY A COLORADO LAW ENFORCEMENT AGENCY.

D. ANY PERSON RENEWING THEIR COLORADO BASIC CERTIFICATION MUST COMPLETE A PSYCHOLOGICAL/MEDICAL EXAMINATION UPON HIRE AFTER RENEWAL.

2. Statutory Basis

The statutory basis for adoption of the proposed rules are C.R.S. §24-31-303(1)(g), C.R.S. §24-31-305(1.7)(c) and C.R.S. 24-31-303 (l).

3. Purpose

The purpose of the amended rules is to provide clarification to persons subject to POST peace officer certification requirements and provide updated information regarding items utilized in these rules. The purpose of adding Rule 28 is to provide an annual in-service training program to employed certified peace officers which will, in turn, improve the health, safety and welfare of the citizens of Colorado.

4. Contemplated Schedule for Adoption

Rules will likely be adopted by January 31, 2016.

5. Listing of Persons and Parties Affected

Peace officers, including those applying for certification and those currently employed as certified peace officers, will be affected by this anticipated rulemaking.



**COLORADO DEPARTMENT OF LAW  
SMART Government Act Strategic Plan  
July 1, 2015**

Office of the Attorney General  
Ralph L. Carr Colorado Judicial Center  
1300 Broadway, 10<sup>th</sup> Floor  
Denver, Colorado 80203  
(720) 508-6000

**Mission:**

It is the mission of the Department of Law to provide professional, ethical, and independent legal services to the State of Colorado and its citizens, to promote respect for law and access to the justice system, to ensure the fair and open exercise of government, and to protect and advance the public interest.

**Vision:**

It is the vision of the Colorado Department of Law to be the premier law enforcement agency and public law office leading the state with the trust, confidence, and support of partners, consumers, and policy-makers, while committing to the highest professional and ethical standards.

**Focus:** The Colorado Department of Law is focused on:

- Upholding the United States and Colorado Constitutions.
- Providing the highest level of ethical legal service to the State of Colorado.
- Defending the laws and officers of the State of Colorado from legal challenge.
- Protecting and preserving the quality of Colorado's land, water and air.
- Advocating for policies that help law enforcement improve community safety.
- Protecting Coloradans from consumer scams and fraud.
- Ensuring that Colorado's elections remain free from criminal fraud.
- Promoting open, accountable governance.

**Statutory Authority:**

The statutory authority for the Department is found in section 24-31-101, et seq., C.R.S. Additional more specific statutory authority is found in titles 5, 6, 10, 11, 12, 25, 33, 34, 36, 37 and 39.

**Description:**

The Colorado Attorney General is one of four independently elected statewide offices in Colorado and was established by the State Constitution upon statehood in 1876. Attorney General Cynthia H. Coffinan is Colorado's 38th Attorney General.

The Attorney General and the Department of Law, collectively referred to as the Colorado Attorney General's Office, represents and defends the legal interests of the people of the State of Colorado and its sovereignty. The Attorney General exercises the responsibilities given to the office by the Colorado Constitution, statutes enacted by the Colorado General Assembly, and the common law.

The Attorney General has primary authority for enforcement of consumer protection and antitrust laws, prosecution of criminal appeals and some complex white-collar crimes, the Statewide Grand Jury, training and certification of peace officers, and most natural resource and environmental matters. Additionally, the Attorney General's Office works concurrently with Colorado's 22 district attorneys and other local, state and federal law enforcement authorities to carry out the criminal justice responsibilities and activities of the office. The Attorney General is also the chief legal counsel and advisor to the

executive branch of state government including the governor, all of the departments of State government, and to the many state agencies, boards, and commissions.

The Department is largely a cash-funded agency that receives funding from state agencies and various programs for the provision of legal services, the investigation and prosecution of fraud, and the protection of citizens of this State through a number of consumer protection efforts. The Department delivers its responsibilities within an approximately \$77 million appropriated budget, and utilizes roughly 480 employees to carry out these responsibilities.

The Department's services are delivered primarily through eight operational sections. These sections carry out their specific responsibilities in order to provide the highest quality legal representation for state clients, to all state government agencies, and each program and board within. Additionally, investigative and prosecutorial efforts help protect the interests of state citizens by minimizing fraud and ensuring public safety. These eight sections include:

- **Business and Licensing Section** – Provides legal advice and litigation services to several state agencies, including the Department of Regulatory Agencies and its divisions of Professions and Occupations, Banking, Civil Rights, Financial Services, Insurance, Real Estate, and Securities. The Section also represents the Department of Agriculture, the State Personnel Board, and the Independent Ethics Commission.
- **Civil Litigation and Employment Law Section** – Defends state employees and agencies in administrative, state, and federal courts. Cases may involve personal injury suits, property damage, constitutional violations or employment discrimination among others. The Section also prosecutes civil rights violations in administrative and state courts and provides employment law advice to all state agencies. The Section provides day-to-day advice to the Departments of Corrections, Public Safety, and Transportation.
- **Consumer Protection Section** – Protects Colorado consumers against fraud and provides a competitive business environment through enforcement of state and federal consumer protection, charitable solicitations, antitrust, consumer lending, fair debt collection practices, and numerous other consumer protection statutes. The Section also represents the state Office of Consumer Counsel, advocating before the Public Utilities Commission on behalf of residential, small business, and agricultural ratepayers.
- **Criminal Appeals Section** – Represents law enforcement interests when defendants challenge their felony convictions in the state and federal appellate courts.
- **Criminal Justice Section** – Assists local prosecutors and law enforcement agencies throughout the State on matters that occur in more than one local jurisdiction, including presenting cases to the Statewide Grand Jury and serving as special district attorneys in local counties upon request. Section members provide special assistance to district attorneys in complex violent crimes including homicides and cold cases. The Section also prosecutes multi-jurisdictional cases that include human trafficking, major drug trafficking organizations, white-collar and environmental crimes. The Section prosecutes crimes in which it has original jurisdiction, including securities, insurance, and election fraud. It also investigates and prosecutes fraud committed against the State by providers of Medicaid products and services, as well as abuse and neglect of patients in federally-funded long-term

care facilities. The Section also coordinates the prosecution of foreign fugitives and oversees the Peace Officer Standards and Training Board (POST).

- **Natural Resources Section** – Works with client agencies to protect and improve the quality of Colorado's natural environment and to ensure intelligent use and development of the state's natural resources. The Section provides legal counsel and representation to the Department of Natural Resources on the regulation of mining, oil and gas, parks and wildlife, state lands, and water rights and to the Department of Public Health and Environment on the regulation of air quality, water quality, radiation control, and hazardous and solid waste management. The Section also advocates on behalf of the State Natural Resource Trustees and the State Energy Office.
- **Revenue and Utilities Section** – Provides litigation and general counsel support to the Department of Revenue, the Trial Staff of the Public Utilities Commission within the Department of Regulatory Agencies, the Property Tax Administrator and Property Tax Division within the Department of Local Affairs, and statewide clients regarding bankruptcy matters.
- **State Services Section** – Provides representation to eight of sixteen executive branch state agencies, as well as Colorado's five statewide elected public officials: the Governor, Lt. Governor, Attorney General, Secretary of State, and Treasurer. The Section also represents the Judiciary and the Public Utilities Commission, as well as the Departments of Human Services, Health Care Policy and Financing, Personnel and Administration, and Public Health and Environment, many of the institutions of Higher Education and the Department of Education. The Section reviews hundreds of state contracts and defends the State against claims typically involving the inadequacy of funding of various programs.

The Department received funding to create a new Office of Community Engagement in fiscal year 2015-2016. This office will proactively reach out to those in need with the goal of preventing Coloradans from becoming victims of fraud, crime and abuse, and educate the public about how the Rule of Law impacts their daily lives. The Office of Community Engagement will coordinate the Department's numerous education and outreach programs, including management of the Safe2Tell™ program. Safe2Tell™ is an anonymous tipline that provides young people a way to report any threatening behaviors or activities endangering themselves or someone they know.

#### **Objectives:**

The Department of Law aims to achieve its vision and accomplish its mission through these objectives:

- Minimize state risk through the effective representation of client agencies and protect citizens by enforcing regulatory laws and prosecuting cases referred by client agencies;
- Facilitate consumer protection and maintain financial integrity through consumer protection and antitrust enforcement efforts;
- Ensure consumer protection through licensure and registration of regulated consumer lenders, debt collectors, debt-management services providers, and credit repair companies;
- Minimize state risk through the effective representation of state prosecution when defendants challenge their felony convictions before the state or federal appellate courts;

- Prosecute criminal offenses within its jurisdiction, including handling a wide variety of criminal matters across all areas of the state including white-collar crime offenses, human trafficking cases, homicides, complex drug conspiracies, and special prosecutions in which our assistance is requested by the Governor or an elected district attorney.

The Department tracks specific workload and performance measures and strategic efforts in attempting to meet performance measures. In coordination with the objectives listed above, the Department of Law has provided specific performance measures, strategies, and performance evaluations provided below.

The Department's annual budget request reports additional measures to help provide a complete analysis of the Department's efforts. Please refer to the Attorney General's webpage at <http://www.coloradoattorneygeneral.gov/> to review the annual budget document.

**FY 2016-17 Long Bill and Special Bills Appropriations Department of Law:**

Total Funds	FTE	General Fund	Cash Funds	Reappropriated Funds	Federal Funds
\$77,417,582	476.8	\$14,963,624	\$15,796,431	\$44,863,650	\$1,793,877

**Priorities:**

**Representation of Client Agencies.**

The Attorney General by statute is the legal counsel and advisor of each department, division, board, bureau, institution of higher education and agency of state government other than the legislative branch and University of Colorado. § 24-31-101, et seq., C.R.S. The Department represents the various clients efficiently and effectively. The key to this success is retaining quality employees by providing competitive attorney compensation and benefits package and a dynamic work environment.

*Objective: To provide quality legal counsel and representation and provide effort that is satisfactory or greater to client agencies.*

Performance Measure		Actual FY 13	Actual FY 14	Actual FY 15	Estimate FY 16	Request FY 17	FY 18
Provide quality legal counsel and representation to client agencies as measured by annual client survey as satisfied or very satisfied with counsel.	Target	95%	95%	95%	95%	95%	95%
	Actual	97.78%	95.36%	96.56%	NA	NA	NA

**Strategy:** The Attorney General's Office strives to hire and retain the best lawyers possible to represent client agencies by providing high level and interesting work. Additionally, the office is committed to the professional development of its attorneys through ongoing continuing legal education on a variety of subject and skills, including brief writing, oral advocacy, substantive and procedural matters, and ethics, as well as exercising good judgment in advising and representing client agencies.

**Evaluation of Prior Year Performance:** The Department witnessed a slight increase in overall satisfaction compared to FY 14. The Department will continue to hire and do its best to retain quality attorneys through the valuable work attorneys are exposed to and within available resources be "an employer of choice" for the legal field.

**Criminal Enforcement and Prosecution**

The Attorney General's trial prosecution efforts (in addition to the litigation that is conducted by our dedicated Financial Fraud and Medicaid Fraud Units) are focused in multiple areas: 1) Complex Crimes, 2) Environmental Crimes, 3) Gang Prosecution, 4) Prosecution Assistance, 5) Auto Theft and 6) the Violent Crime Assistance Team (VCAT).

Pursuant to section 2-7-204(3)(c), C.R.S., the Attorney General's Office must supply performance goals as part of this report. For purposes of complying with this requirement, the Criminal Justice Section has supplied projections of different restitution figures. The projections supplied are only estimates based on previous results as well as anticipated trends. These numbers are not intended to, and will not, subvert the ethical duties regarding the charging and disposition of criminal cases by any prosecutor in the Attorney General's Office.

**Complex and/or multi-jurisdictional securities fraud investigations and prosecutions**

*Objective: To conduct a statewide program for investigating and prosecuting violations of applicable state laws pertaining to securities fraud which local jurisdictions may not have the resources to handle.*

Performance Measure		FY 13 Actual	FY 14 Actual	FY 15 Actual	FY 16 Estimate	FY 17 Request	FY 18
Restitution Ordered	Estimate	\$5,000,000	\$5,000,000	\$5,000,000	\$5,000,000	\$5,000,000	\$5,000,000
	Actual	\$4,283,094	\$7,113,232	\$3,020,538	NA	NA	NA

**Strategy:** The Attorney General has concurrent and original jurisdiction to prosecute criminal violations relating to securities fraud. The Securities Fraud Team within the Financial Fraud Unit handles these cases and is recognized statewide for its expertise. As a result the Unit handles many high profile cases. The Team is comprised of two attorneys, two investigators, a paralegal and a program assistant. The Securities Fraud Team is funded through an industry assessment on brokers and dealers doing business within the State of Colorado. The Team frequently uses the Statewide Grand Jury for these sophisticated and complex cases.

The Security Fraud Team receives case referrals from numerous sources. The team collaborates closely with the Colorado Division of Securities. The Division of Securities refers approximately 50% of the Unit's cases to the Attorney General's Office. Private attorneys, law enforcement, and private citizens also refer cases to the Unit. The Financial Fraud Unit exercises its original jurisdiction to independently

investigate these referrals, initiate criminal charges when appropriate and prosecute securities fraud statewide. Fraud referrals often require substantial investigation, and most investigations take months or years. However, some of the fraud referrals, once investigated, do not result in criminal charges. This is due to various reasons, including lack of provable criminal intent, inconsistencies or uncooperative victims and witnesses, or statute of limitations problems when cases are brought to our attention years after the criminal behavior.

**Evaluation of Prior Year Performance:** The Unit's numbers were fairly similar for the past two years. However, while the case numbers are low, the sentences and restitution figures reflect the complexity and size of the cases prosecuted. A total of 18 new cases were opened for the fiscal year 2014-2015. There were a total of 19 cases prosecuted, which includes cases initiated in past years but still not concluded. One case went to trial, however, another case was prepared for trial but the defendant committed suicide on the day the trial was set to begin. Restitution ordered by the court increased significantly over the past year as indicated by the chart above.

**Complex and/or multi-jurisdictional insurance fraud investigations and prosecutions**

*Objective: To conduct a statewide program for investigating and prosecuting violations of applicable state laws pertaining to fraud relating to insurance which local jurisdictions may not have the resources to handle.*

Performance Measure		FY 13 Actual	FY 14 Actual	FY 15 Actual	FY 16 Estimate	FY 17 Request	FY 18
Restitution Collected	Estimate	\$450,000	\$450,000	\$250,000	\$300,000	\$300,000	\$300,000
Per Court Order	Actual	\$3,162,077	\$275,912	\$576,017	NA	NA	NA

**Strategy:** As a result of legislation passed in 1997, the Attorney General has concurrent jurisdiction to prosecute criminal violations of applicable state laws regarding insurance fraud. The Insurance Fraud Team within the Financial Fraud Unit handles these cases and has been nationally recognized for their efforts. The Insurance Fraud Team is funded exclusively through an industry assessment on insurance companies doing business in the State.

The Unit receives referrals from numerous sources. Fraud referrals often require substantial investigation, and some investigations take months or in rare cases even years. Typical cases involved staged or caused automobile accidents, theft of insurance premiums, fraudulent claims, contractor fraud and overbilling for services. However, some referrals do not result in criminal charges once they are fully investigated. This is a common part of the criminal investigation process and can be due to a variety of factors including a lack of provable criminal intent, jurisdictional issues, ambiguous documentation or inconsistencies or vagueness in the applicable rules. The Team will occasionally partner with outside law enforcement agencies to prosecute cases when appropriate. The Team works closely with the National Insurance Crime Bureau (NICB), the Colorado Division of Insurance, the Federal Bureau of Investigation and local law enforcement agencies. The Unit endeavors to be expeditious and responsive when reviewing referrals, opening investigations, and bringing cases through the court system.

**Evaluation of Prior Year Performance:** The Insurance Fraud Unit's numbers have significantly increased over the past two years. A total of 198 new investigations were opened for the fiscal year 2014-

2015. A total of 53 criminal prosecutions resulted from those investigations. Out of those 53 cases, 4 of those went to trial.

**Medicaid fraud investigations and prosecutions**

*Objective: To defend the financial integrity of the State's Medicaid program and the safety of patients in Medicaid-funded facilities.*

Performance Measure		FY 13 Actual	FY 14 Actual	FY 15 Actual	FY 16 Estimate	FY 17 Request	FY 18
Fines, Costs, Restitution Recovered	Estimate	\$3,500,000	\$3,500,000	\$3,500,000	\$4,000,000	\$4,000,000	\$4,000,000
	Actual	\$16,250,429	\$9,441,306	\$5,298,867	NA	NA	NA

*Strategy:* The Medicaid Fraud Control Unit ("MFCU") of the Attorney General's Office receives 75% of its funding from the federal government with the rest coming from the State of Colorado. In addition to pursuing criminal cases involving Medicaid fraud and instances of abuse and neglect in Medicaid funded residence care facilities, the MFCU is authorized to pursue civil cases pursuant to the Colorado Medicaid False Claims Act, which became law in 2010, as well as act as the State's legal representative in civil cases involving the act. The MFCU also acts as the State's legal representative in *qui tam* (whistleblower) Medicaid cases which involve Medicaid programs in several states.

The Unit receives referrals from numerous sources. Fraud referrals often require substantial investigation, and some investigations take months or years. Many of the fraud referrals, once investigated, do not result in criminal charges. This is due to various reasons, including lack of provable criminal intent, and inconsistencies or vagueness of applicable rules. The Unit endeavors to be as quick and responsive as possible in receiving referrals, opening investigations, and bringing cases through the court system. When cases are not appropriate for criminal investigation, the Unit reviews them promptly for consideration of civil recoveries or refers them to other agencies and/or delivers information or assistance to the referring entity or person to assure that their concerns may be addressed.

*Evaluation of Prior Year Performance:* In the past reporting year, the MCFU has opened 136 new investigations with active investigations, including both civil and criminal. This totals 260 criminal charges that were filed in 8 cases. The MFCU prosecuted and obtained convictions in 14 criminal cases. However, while the case numbers are low, the restitution figures reflect the complexity and size of the cases prosecuted. For example, one of the cases involved a two week jury trial in which the defendant was convicted of 136 felony charges.

**Consumer Protection.**

*Objective: Given the fact that the AG's Consumer Protection Section is small but has very broad jurisdiction (Consumer Protection Act, Antitrust Act, Charitable Solicitation Act, and approximately a dozen other statutes) the Section does a very good job of selecting appropriate cases for investigation and enforcement, as well as providing consumer outreach to vulnerable groups, most notable the elderly.*

Department of Law  
 SMART Act/Strategic Plan  
 July 1, 2015

Performance Measure		Actual FY 14	Actual FY 15	Estimate FY 16	Request FY 17	FY 18
Resolve 75% of consumer protection investigations within one year through settlement, litigation, or closure	Target	75%	75%	60%	75%	75%
	Actual	NA	NA	NA	NA	NA

**Strategy:** Because there are so many variables in conducting a consumer protection investigation, including delays in obtaining documents or witness testimony, it is impossible to attain a 100% success rate in resolving investigations within one year. We set a FY 16 goal at 60% because we currently have a number of open investigations already approaching one year since opening. Our goal is to reach a 75% resolution rate the following fiscal year.

**Evaluation of Prior Year Performance:** This is a new measure. As such, the Department does not have actual data to report on for past years.

Performance Measure		Actual FY 14	Actual FY 15	Estimate FY 16	Request FY 17	FY 18
Resolve 75% of loan modification/foreclosure complaints within one year	Target	75%	75%	75%	75%	75%
	Actual	NA	NA	NA	NA	NA

**Strategy:** Resolution of these complaints involve interviewing the consumer, getting access to loan files, communicating with the relevant bank or servicer, and trying to assist the homeowner either to avoid foreclosure or to obtain a favorable loan modification.

**Evaluation of Prior Year Performance:** This is a new performance measure so there is no historical data.

Performance Measure		Actual FY 14	Actual FY 15	Estimate FY 16	Request FY 17	FY 18
Take initial action on 80% of actionable no-call complaints within 30 days after receiving a third complaint against a telemarketer within a month	Target	80%	80%	80%	80%	75%
	Actual	NA	NA	NA	NA	NA

**Strategy:** An "actionable no-call complaint" is one where the consumer provides enough information, including a real, offending, telemarketing phone number, to enable this office to conduct an investigation. Pursuant to the No-Call List Act, this office has jurisdiction to investigate a company only when it receives a minimum of three complaints within a one-month period.

**Evaluation of Prior Year Performance:** This is a new performance measure so there is no historical data.

**Consumer Credit**

**Objective:** *Ensure efficient operations to benefit providers and consumers and to ensure compliance with debt management laws.*

Performance Measure		FY-14 Actual	FY-15 Actual	FY-16 Estimate	FY-17 Request	FY-18
Investigate and resolve 80% of complaints within 60 days or less	Target	90%/80%	90%/80%	90%/80%	90%/80%	90%/80%
UCCC	Actual	NA	97%	90%	90%	90%
Debt Management	Actual	NA	90%	90%	90%	90%
Debt Collection	Actual	NA	82%	80%	80%	80%

**Strategy:** To ensure efficient operations the Unit processes licenses and/or registrations by verification and review for timeliness, completeness, and compliance with statutory requirements. The Unit conducts operations so that a final issuance and approval to do business in Colorado is expeditious but thorough.

To ensure compliance and protect consumers from potentially illegal and/or harmful activities, the Unit investigates consumer complaints, information from competitors, proactively detected information on the internet, and in certain programmatic cases, conducts onsite and mail-in examinations. Additionally, upon cause, the Unit conducts examinations. These efforts may result in cease and desist advisories, administrative discipline, or other enforcement actions.

**Evaluation of Prior Year Performance:** This is a new measure. In all cases the Section met the original targets. The Department will monitor this measure over the next year to determine if targets or business processes should be modified.

**Key Workload Indicators:** *Annual applications for license and registration renewal or new licensees.*

**Appellate.**

**Objective:** *Produce quality briefs appropriately tailored to the seriousness of the offense/appellate challenge while maintaining or improving success rate. As a performance measure, the most quantifiable indicator may be "Cases Resolved," which reflects the number of briefs filed plus the cases decided by the Court of Appeals via its expedited docket (which issues opinions in simple cases without the need for an AG response) or otherwise resolved.*

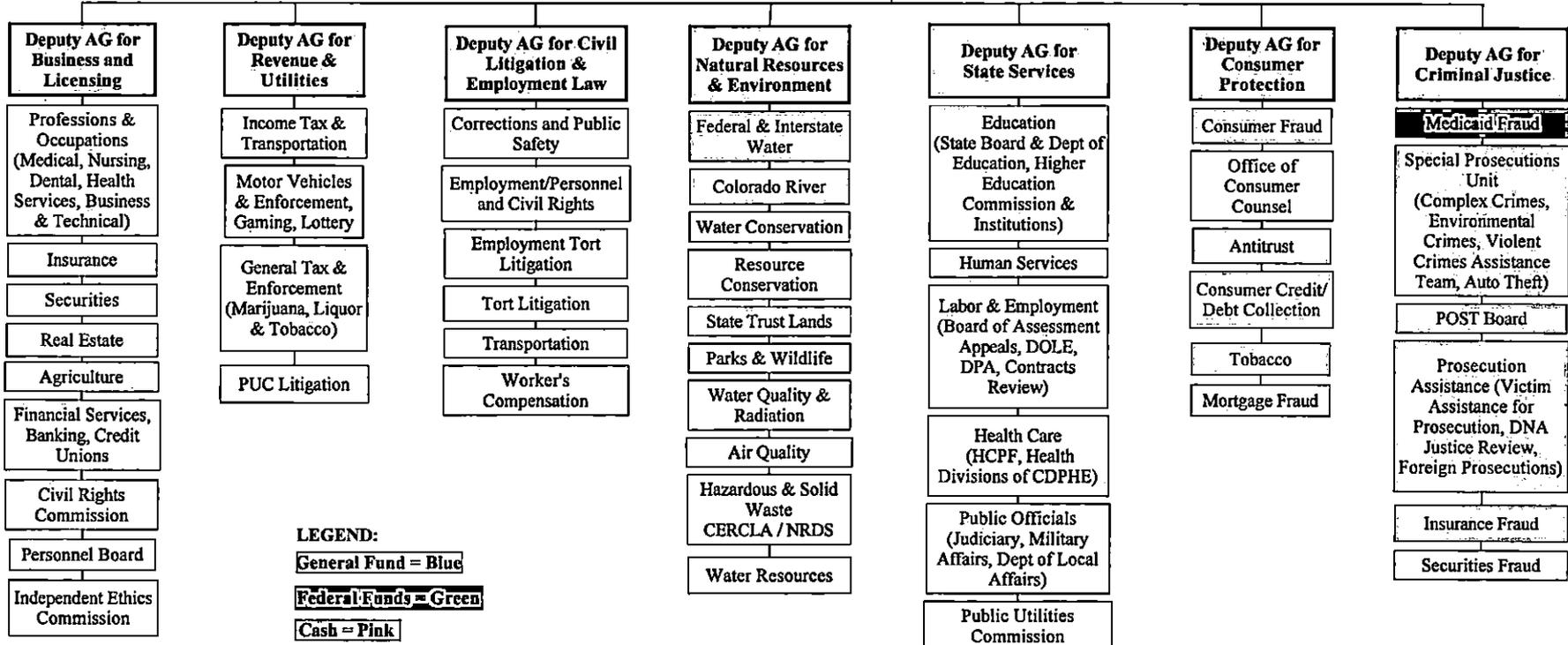
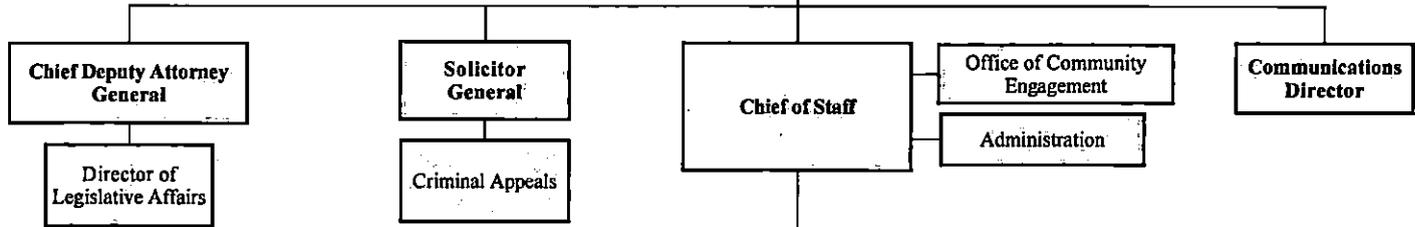
Performance Measure		Actual FY-13	Actual FY-14	Actual FY 15	FY-16 Estimate	FY-17 Request	FY-18
Percentage of cases with a successful outcome on appeal	Target	90%	90%	90%	90%	90%	90%
	Actual	91.0%	91.3%	89.6%	90%	90%	90%

**Strategy:** The strategy of the Appellate Section is to do whatever it can to resolve cases in a timely fashion while providing quality representation of the State's interests. Toward that end, it is critical that the Section reduce the backlog to a manageable level.

1. The Section received funding for six new attorney FTE for FY 2014, two permanent, and four short-term (three positions end in FY 2018 and one in FY 2017). With the additional resources garnered by the Public Defender's Office, the Section is assessing resource needs in out years.
2. Cases are channeled within the Section as efficiently as possible so that the best people for the job are working on particular cases. Many Section attorneys have developed special expertise, and to the extent possible, supervisors channel cases dealing with particular subject areas to those with expertise (few cases, however, ever consist of single issues). Resource materials (a brief bank, outlines, etc.) are compiled and updated to provide starting points and shortcuts for research, and senior staff provide mentoring and oversight so that junior staff get on the right track quickly and efficiently.
3. At the end of FY 2012, the Section worked with the Court of Appeals on a procedure for an "experimental docket" in which Section attorneys screened cases and filed abbreviated pleadings short of thorough briefs. This was designed to expedite the small percentage of cases that could be dealt with easily and effectively without full briefing, thereby increasing Section and court efficiency and expediting case processing. In FY 2013, 91 cases were resolved via the experimental docket; an additional 87 cases were so resolved in FY 2014. However, many of the judges on the Court of Appeals did not like this practice, as they felt it put them in the role of advocates rather than neutral adjudicators. In addition, it necessitated much more work by the Court's staff attorneys, which also did not work well for the Court. As a result, the Chief Judge discontinued the experimental docket at the end of the 2013 calendar year. The cases that would have been diverted to the experimental docket are now included in the general caseload.

**Evaluation of Prior Year Performance:** Over the past two years, the Section has met its goal of preserving at least 90% of the convictions challenged on appeal.

**Colorado  
Attorney General  
Cynthia H. Coffman**



**LEGEND:**  
 General Fund = Blue  
 Federal Funds = Green  
 Cash = Pink  
 Reappropriated = Yellow

Updated: 12/15



**Office of the**  
**Alternate  
Defense  
Counsel**

**ANNUAL REPORT TO THE JOINT JUDICIARY  
COMMITTEE PURSUANT TO HB14-1032**

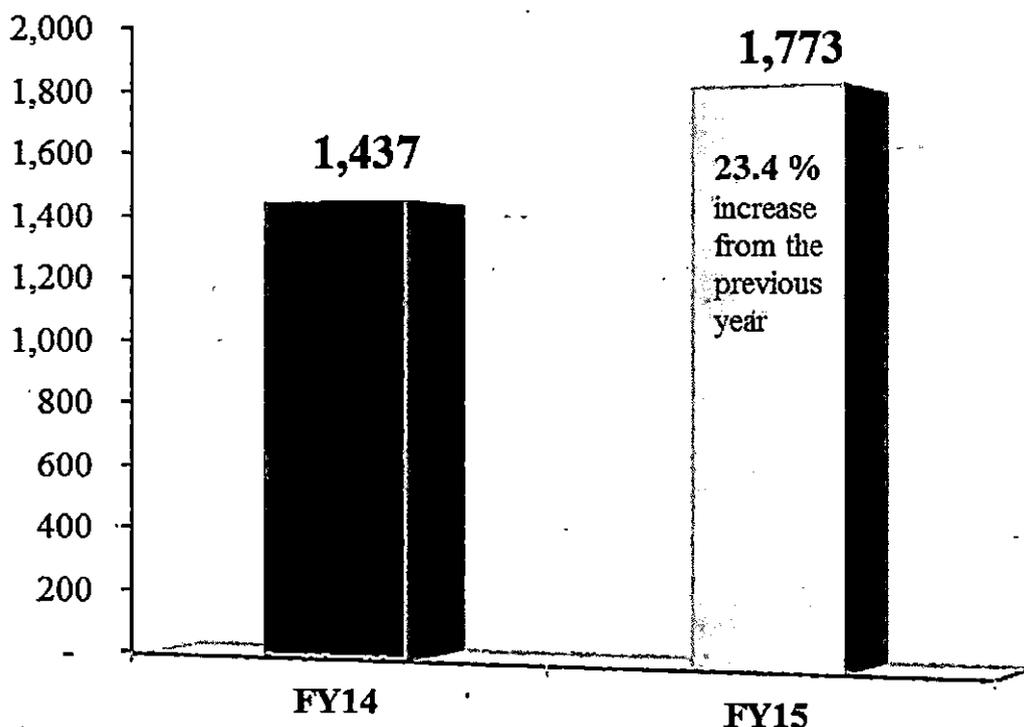
**December 17, 2015**

**Lindy Frolich, Director**

(3) PURSUANT TO SECTION 2-7-203, C.R.S., THE OFFICE OF ALTERNATE DEFENSE COUNSEL SHALL REPORT ANNUALLY TO THE JUDICIARY COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND SENATE, OR TO ANY SUCCESSOR COMMITTEES, INFORMATION CONCERNING:

- (a) THE NUMBER OF JUVENILE DELINQUENCY CASES FOR WHICH COUNSEL FROM THE OFFICE IS APPOINTED;

## Juvenile Cases FY14 - FY15



- (b) THE NUMBER OF JUVENILE CASES THAT INVOLVE A CONFLICT OF INTEREST;

Every case involves a conflict of interest as the only way an alternate defense counsel contract attorney may be appointed to represent a juvenile is if the public defender's office has declared a conflict in representing that juvenile.

- (c) THE PROCESS OF SELECTING, TRAINING, AND SUPPORTING ATTORNEYS WHO REPRESENT CHILDREN IN JUVENILE DELINQUENCY COURT;

Selection: Attorneys interested in defending juveniles for ADC (whether already an ADC contractor or not) must apply specifically to do so. He or she must interview with the Juvenile Defense Coordinator about his or her interest in juvenile practice, experience, knowledge of

relevant case law, statutes, policies, and standards, and knowledge and understanding of social science research related to adolescent behavior and development. Interested attorneys must also demonstrate an understanding of and ability to provide holistic defense to juveniles through teams which may include a social worker, investigator, paralegal or professional with specific expertise. He or she must also understand and commit to following what have been shown to be best practices in juvenile defense. For example, he or she must understand strategies for effective communication in order to build confidence and trust, the importance of engagement with the juvenile's family and community if desired by the juvenile, and the need for frequent and regular visits with the juvenile.

Only seasoned, excellent juvenile defenders with the specific skill-set needed for defending juveniles in adult court are assigned to those cases. Those interested in developing such expertise are encouraged to assist in those cases.

**Training:** ADC co-sponsors an annual two-day juvenile specific seminar with the Colorado Juvenile Defender Center. We analyze training needs based on inquiries directed to the Juvenile Defense Coordinator and Director of Legal Resources and Technology, both on an ad hoc basis and at regular contract renewal interviews; issues raised by other juvenile justice stakeholders (e.g. courts, other attorneys, clients, probation); changes in law and policy; and observation of attorneys in practice and through writing.

The Juvenile Defense Coordinator has, in the last year, visited almost every jurisdiction in the state to meet the juvenile defenders, listen to their concerns, and communicate ADC's expectations of our juvenile defenders. In addition, the Coordinator has attended several meetings of juvenile justice stakeholders and "bench/bar" meetings throughout the state.

The Juvenile Defense Coordinator sits on Colorado's Juvenile Justice & Delinquency Prevention Advisory Council, as well as several sub-committees and various other task forces and focus groups related to the juvenile justice system. This gives the Coordinator constant contact with juvenile justice professionals across the system, in order to better understand the strengths and weaknesses of the current system and how it can be improved. In this way, the Coordinator acts as a conduit between the policy level juvenile justice actors and the attorneys on the front lines of juvenile defense, striving for strong communication between the two groups and mutual understanding.

**Support:** ADC supports its juvenile defenders by having a full-time Juvenile Defense Coordinator available to them at all times for questions, concerns, and references to both legal and support resources. ADC makes available to its contractors social workers, paralegals, investigators, attorneys with specific specialties, experts, and student interns. ADC provides its contractors with Westlaw, as well as a motions and brief bank of juvenile-specific legal memos, briefs, motions, and other documents to aid in researching specific issues. It also provides a constantly growing social sciences bank of articles, research studies, and other documents to aid in understanding and presentation of those issues to the court. For the attorney who does not have time to dig into this research alone, ADC will provide the assistance of the social science expert who maintains the social science research bank.

To further support our juvenile attorneys, ADC now records information from contractor renewal interviews into various fields that allows it to aggregate data and see trends in things like requests for specific trainings, difficulties obtaining discovery, etc. The ADC is further

undergoing two separate research studies on the effectiveness of its detention hearing representation as well as the effectiveness of its social worker program.

**(d) THE AVERAGE LENGTH OF TIME ATTORNEYS ARE ASSIGNED TO JUVENILE COURT;**

Rather than treating juvenile defense as a stop along the road to a successful criminal defense practice, ADC treats it as a specialty that is distinct from adult defense. Therefore, there is no set time period that one would stay in juvenile court. ADC expects that any attorney who commits to juvenile defense work will stay in juvenile defense work long term.

In addition, ADC never contracts with a juvenile defender right out of law school. We are proud to report that 90.1% of our current juvenile defenders have been practicing law for at least 6 years, and 67% have been practicing for over 10 years.

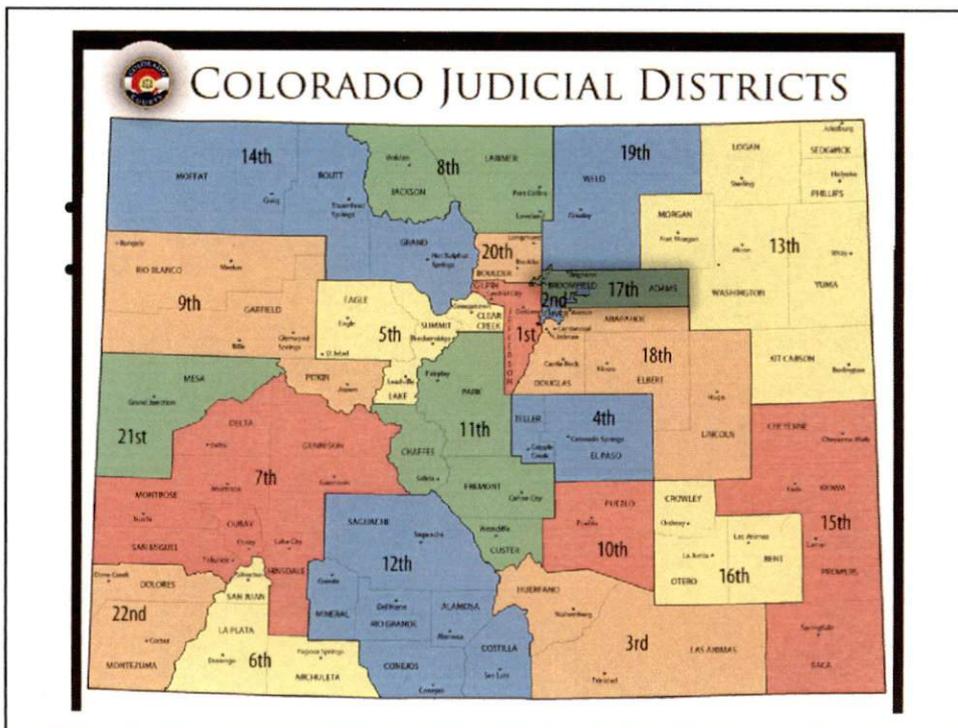
**(e) THE OUTCOME OF EFFORTS TO REDUCE JUVENILE COURT ROTATIONS AND INCREASE OPPORTUNITIES FOR PROMOTIONAL ADVANCEMENT IN SALARIES FOR ATTORNEYS IN JUVENILE COURT**

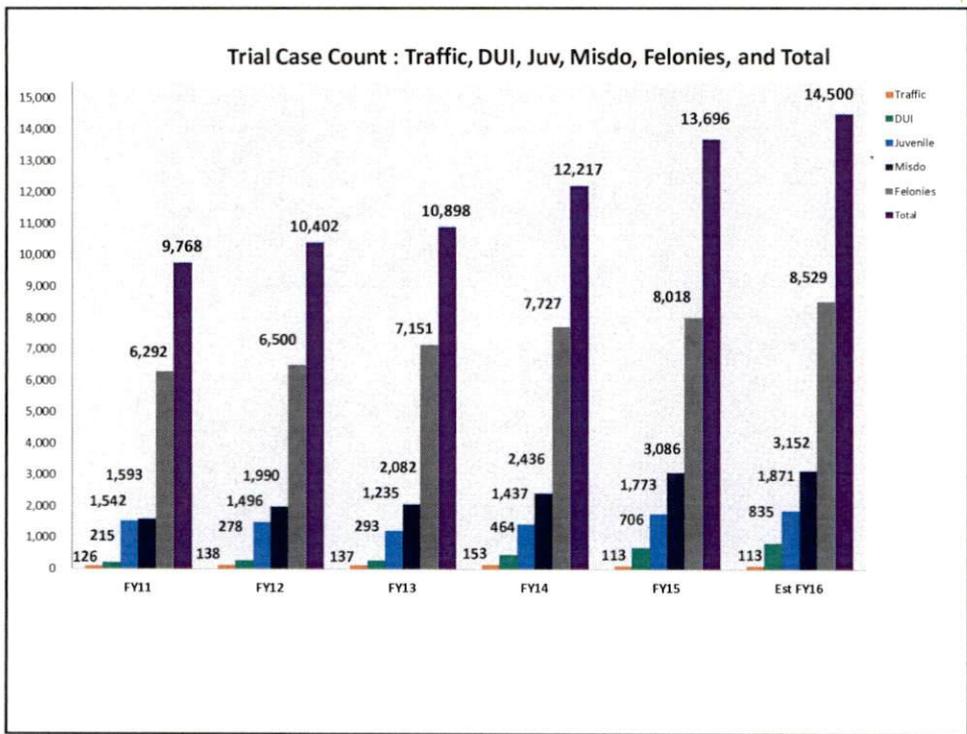
Because ADC is an independent contractor-based organization with a set attorney hourly fee schedule, we do not have the opportunity to "promote" or increase salaries of our attorneys.

As noted above, we also do not use rotations. We contract with attorneys that we expect will remain in the assigned jurisdiction.

**Office of the Alternate  
Defense  
Counsel**

JOINT JUDICIARY PRESENTATION  
DECEMBER 17, 2015



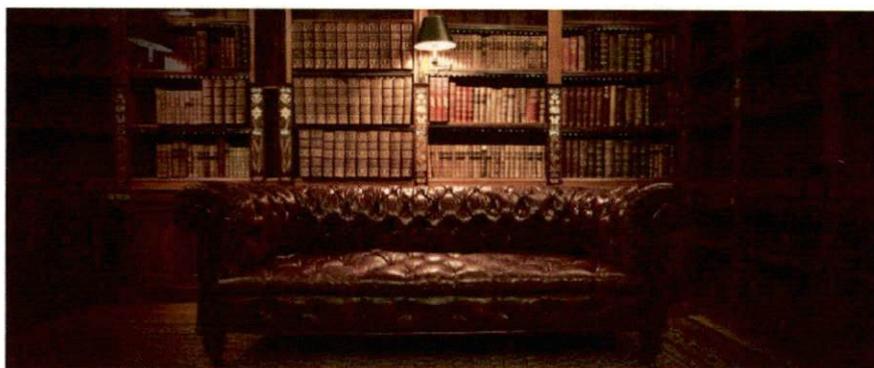


### Total Case Increase and Percentage – FY12 to FY15

	FY12 Actual	FY13 Actual	FY14 Actual	FY15 Actual
Caseload	12,585	13,290	15,085	16,680
% Increase	5.95%	5.60%	13.51%	10.57%

Attorney Hours Per Case		FY10 Actual	FY11 Actual	FY12 Actual	FY13 Actual	FY14 Actual	FY15 Actual	FY16 Budget	FY17 Request
Contain the total number of Attorney hours per case. Includes all case type hours.	Target Attorney hours	19.64	19.64	19.64	19.64	19.64	19.64	19.64	19.64
	Actual	20.81	19.22	18.91	17.94	17.91	16.57		

- 4.24 hours per case decrease
- 20.37%



WELCOME TO THE OFFICE THE OF ALTERNATE DEFENSE  
COUNSEL ELECTRONIC RESEARCH LIBRARY

To **BROWSE** limited sections of our **LEGAL LIBRARY** by subject matter [CLICK HERE](#)

To **BROWSE** limited sections of our **SOCIAL SCIENCE LIBRARY** by subject matter [CLICK HERE](#)

To **BROWSE** limited sections of our **JUVENILE LIBRARY** by subject matter [CLICK HERE](#)

To **SEARCH** the text of our entire library [CLICK HERE](#)

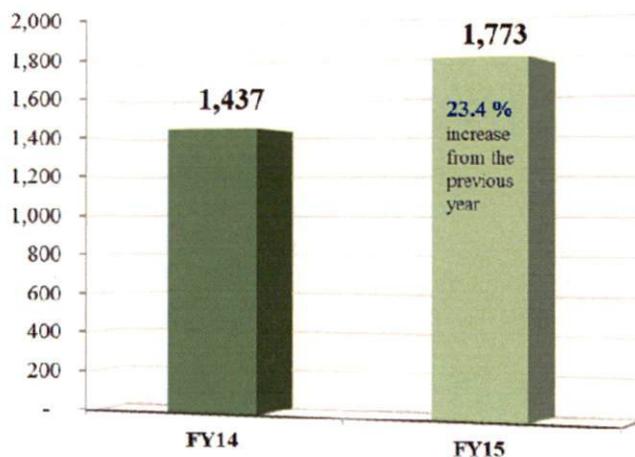
If you wish to contact the content manager for this site please [CLICK HERE](#) or call Jonathan Rosen at 303-515-6922.

- <http://www.coloroadc.org/site2/index.php/motions-bank>

## Juvenile report pursuant to HB14-1032

- (a) 1744 cases.
- (b) All of these cases involve a conflict of interest with the public defender's office
- (c) The process of selecting, training and supporting attorneys who present children in juvenile delinquency court;
- (d) Average length of time in juvenile court
- (e) Reducing juvenile court rotations

### Juvenile Cases FY14 - FY15



## Monitoring and Evaluating Contractors

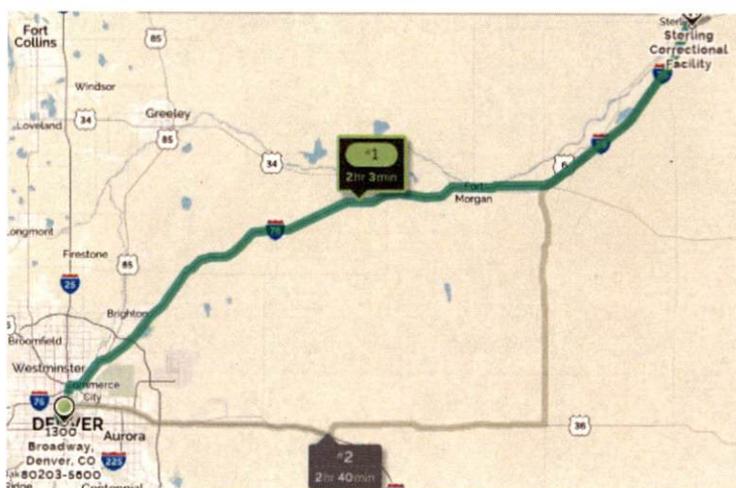
Contractor Last Name	Contractor First Name	Evaluator	Date of Eval	Type of Eval	Portion of Case Observed
			01.13.15	Oral Argument	
			01.16.15	Trial	Witness Exams
			01.16.15	Trial	Witness Exams
			01.28.15	Trial	Closing Argument
			02.01.15	Courtroom	Sentencing
			02.01.15	Courtroom	Advisements
			02.03.15	Oral Argument	
			02.10.15	Oral Argument	
			02.11.15	Writing	
			02.11.15	Writing	
			02.27.15	Writing	PWC
			03.03.15	Interview	Case Review
			03.03.15	Oral Argument	
			03.10.15	Writing	
			03.10.15	Oral Argument	
			04.07.15	Oral Argument	
			04.08.15	Courtroom	Witness Exams
			04.08.15	Courtroom	Witness Exams
			04.15.15	Courtroom	Trial
			04.23.15	Trial	Witness Exams
			04.23.15	Trial	Legal Argument

## Evidence Based Practices (EBP) and the use of Social Workers

- I want to thank you for approving the social worker on our case in Otero County. We had a great outcome on a hard sentencing and the testimony of the social worker was a big factor. Issiah was 18 when he participated with a 26 year old in a shooting near a person and then into an occupied house. He pled to Felony Menacing and the judge made no secret that he thought the case was undercharged. Our sentence was capped at 2 years prison or 2 years comm corr, if he was accepted. But it would have been disastrous for Issiah to go anywhere as he is the very attentive single father (half time) to his 2 year old and 5 month old girls. Plus, although he pled, he made incendiary statements in the PSI, refusing to admit culpability, which really upset the judge

- The judge sentenced him yesterday to 3 years probation, with 90 days jail. The social worker met several times with my client and his family. She was able to testify about how the failure to admit in young adults is not a sign of lack of remorse and testify about the damage to his children if he were removed.
- There is a big difference between me making a legal argument about what research shows and a social worker who has actually worked with the family testifying to what she actually observed.

## Communications Coordinator

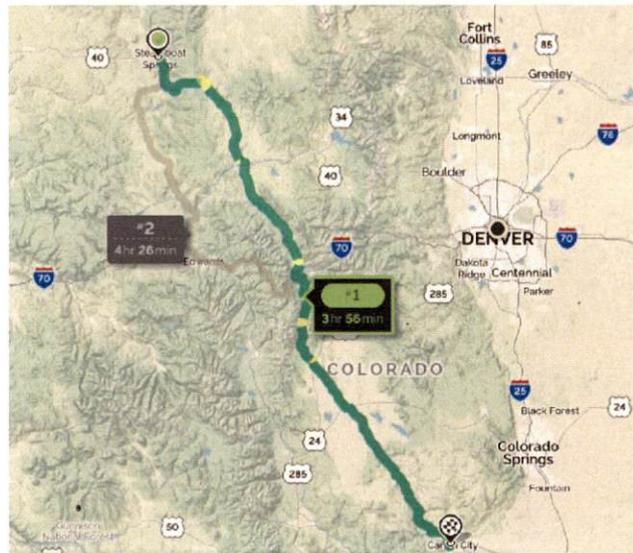


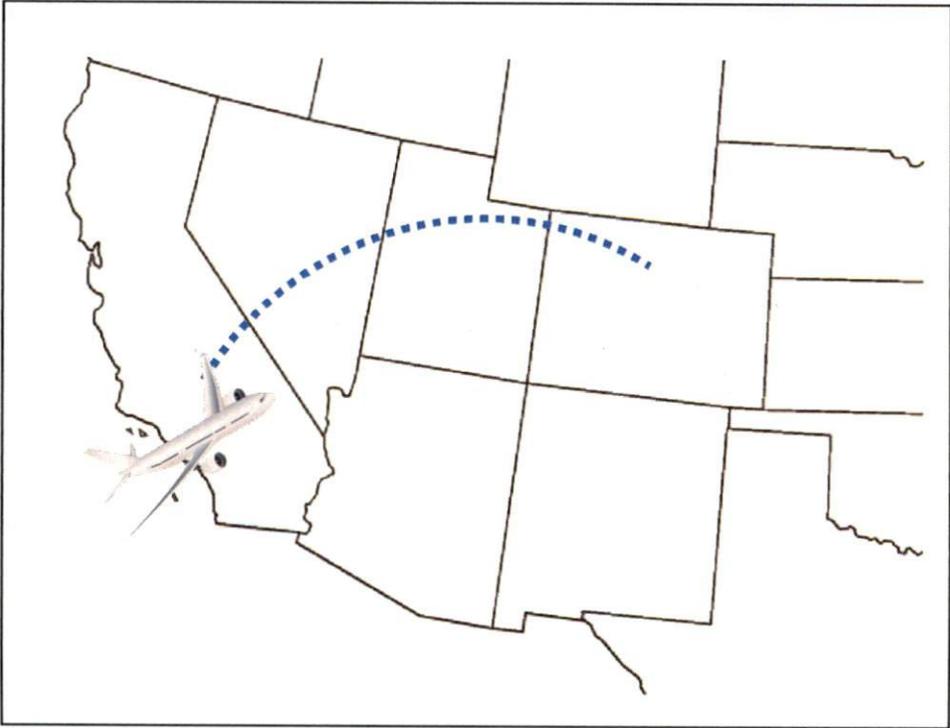
### Attorney Client Visit Cost to OADC – Denver to Sterling

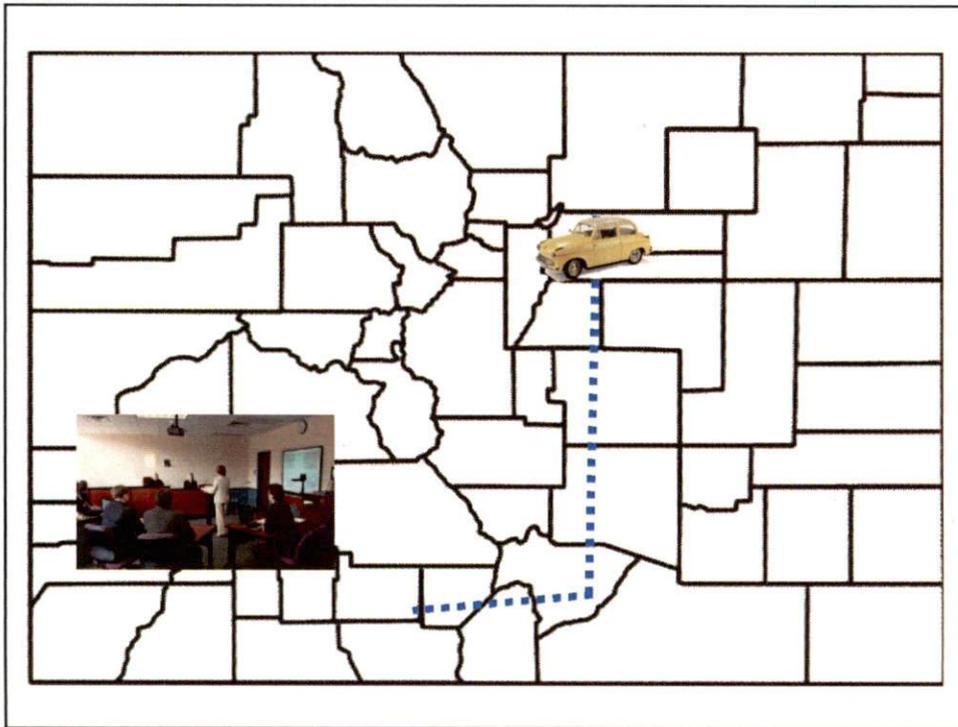
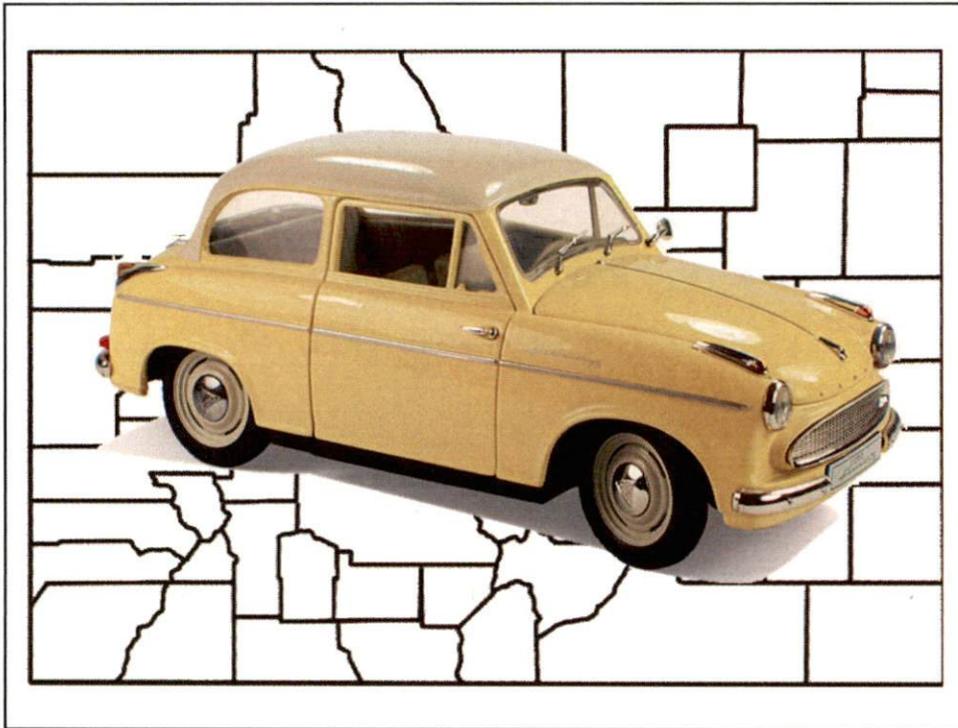
Starting Point	Destination	Miles Traveled	Millage Rate	Millage Billed	Duration (hrs.)	Hourly Rate	Hours Billed	Total Billed per client visit
Denver, CO	Sterling, CO	127	\$ 0.52	\$ 66.04	2.0	\$ 70	\$ 140	\$ 206
Sterling, CO	Denver, CO	127	\$ 0.52	\$ 66.04	2.0	\$ 70	\$ 140	\$ 206
				\$ 132		\$ 280	\$ 412	

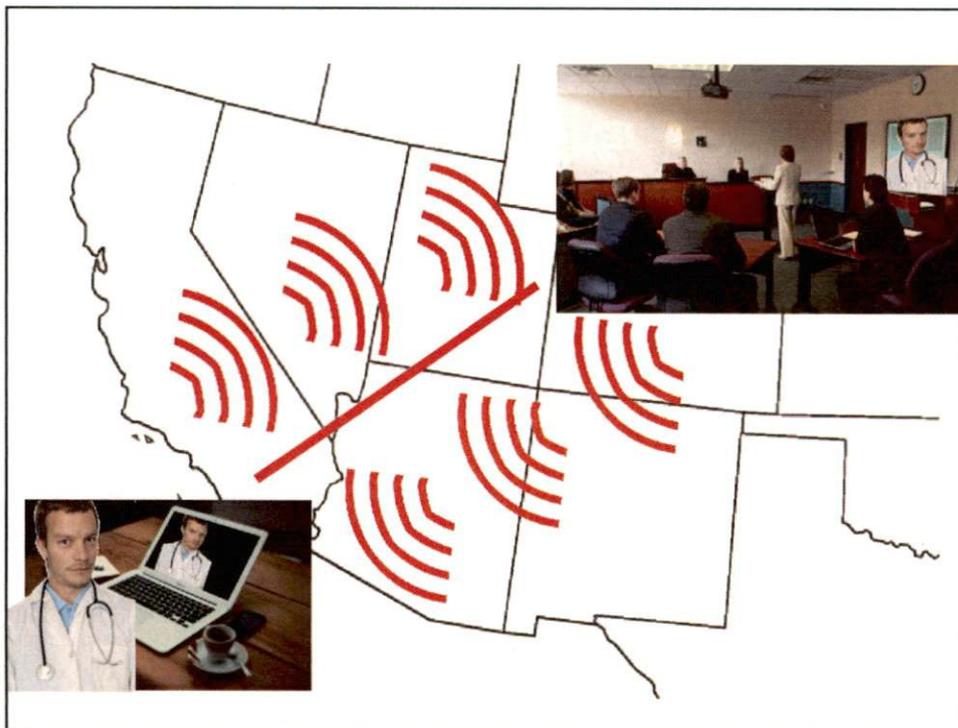
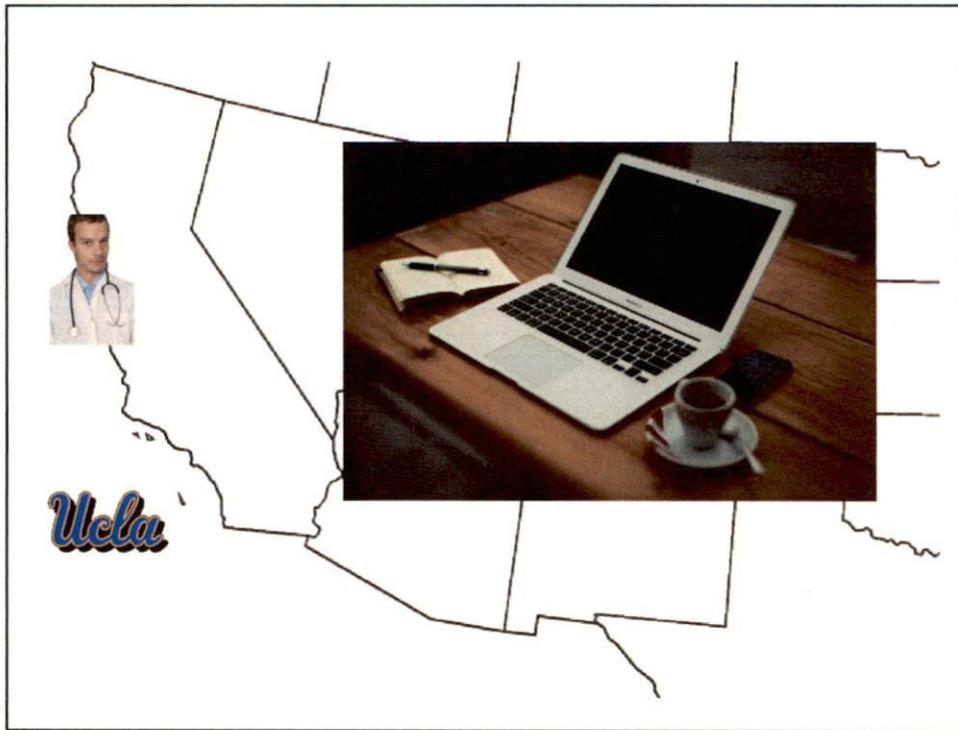
	<b>FY15 Actual</b>	
Appeal Cases	806	
35b/35c & Post Conviction	562	
<b>Total Cases</b>	<b>1,368</b>	

*x 100 trips*  
**\$ 41,208**









### Witness Testimony in Alamosa

Starting Point	Destination	Miles Traveled	Millage Rate	Millage Billed	Duration (hrs.)	Hourly Rate	Hours Billed	Total cost per expert
Denver, CO	Alamosa, CO	233	\$ 0.52	\$ 121.16	4.0	\$ 150	\$ 600	\$ 721
Alamosa, CO	Denver, CO	233	\$ 0.52	\$ 121.16	4.0	\$ 150	\$ 600	\$ 721
			\$ 242				\$ 1,200	\$ 1,442

ADC'S top 10 innovations in the past 10 years that have increased effectiveness while decreasing costs:

- 1. Appellate and post-conviction case management
- 2. Systematic training and evaluation
- 3. Technology (both in and out of court)
- 4. Access data base
- 5. Document and Discovery management
- 6. Weekly law updates
- 7. Brief and motions bank
- 8. Social Science Library
- 9. Case support (Research, paralegal, investigators, lawyers who specialize in DNA, Cell towers, mental health, etc.)
- 10. Social Workers

## Colorado Office of the Child's Representative



SMART Government Act  
Presentation to Joint Senate and House Judiciary Committee  
December 17, 2015

1

## OCR Mission

The mission of the Office of the Child's Representative (OCR) is to provide competent and effective legal representation to Colorado's children involved in the court system because they have been abused and neglected, charged with delinquent acts and without a parent available to protect their best interests during the proceedings, or impacted by high conflict parenting time disputes. As a state agency, the OCR is accountable to the State of Colorado to achieve this mission in the most cost-efficient manner without compromising the integrity of services or the safety and well-being of children. The OCR is committed to ensuring that children whose interests are represented by its contract attorneys, Colorado's most vulnerable and marginalized population in the courts, receive the best legal services available to protect and promote their safety and well-being and to have their voice heard throughout all aspects of a case.

2

## Who OCR Serves

- ✓ Children in Colorado courts who have been
  - Abused and neglected (78% of OCR's CAC appropriation)
  - Charged with delinquent acts and without a parent or guardian able to protect the child's best interests during the proceedings
  - Truancy
  - Impacted by high-conflict domestic relations disputes
  - Probate
  - Other: D&N appeals, probate, mental health & criminal
- ✓ Nearly 17,000 children in FY 2014-15

3

## OCR Provides Legal Services Through Three Models Of Representation

**Independent contractors:** The OCR contracts with over 230 independent contractors throughout Colorado. These contract entities are small businesses and include sole practitioners and law firms.

**OCR's El Paso County GAL Office:** This multidisciplinary staff model office is in its fifteenth year of operation and has 20.4 FTE. The model employs 12 attorneys, five case coordinators, one paralegal, and an administrative support staff. Each of these employees is a FTE.

**OCR's Multidisciplinary Law Office (MDLO) Pilot Program:** Through an RFP process, the OCR contracted with three law offices to provide multidisciplinary GAL services in Denver and Arapahoe Counties beginning January 1, 2011. The OCR continues to evaluate the effectiveness of the MDLO program and anticipates completing its latest evaluation in spring 2016.

4

## What an OCR attorney does

### Legal advocate who

- ✓ Ensures legal standards are applied to each case
- ✓ Conducts an independent investigation
- ✓ Protects child's rights
- ✓ Advocates on behalf of the child's best interests
- ✓ Ensures placement and services serve the individual child's best interests

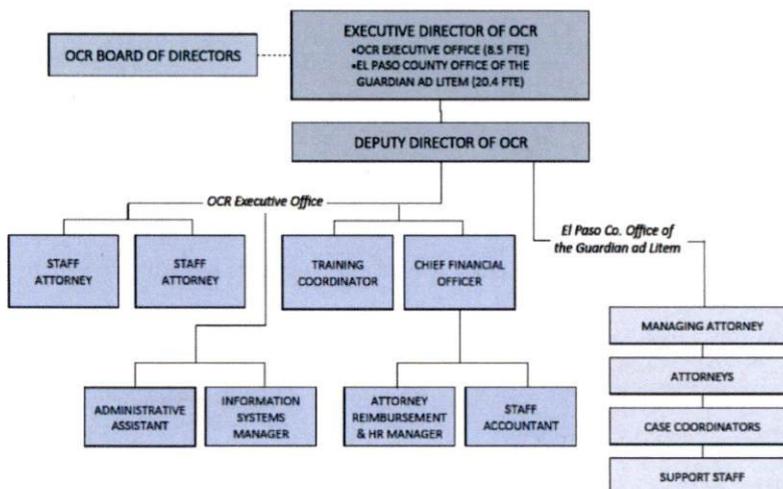
### Examples

- *Confirm search for relatives*
- *Sibling placement and contact*
- *Court's jurisdiction continues to age 21*
- *Legally secure appropriate permanent placement*

5

### Colorado Office of the Child's Representative (OCR) Organizational Chart

October 31, 2015



6

## OCR PERFORMANCE PLAN 2014 - 2017

<p><b>VISION</b></p> <p>Each Colorado child in need of an OCR attorney will receive comprehensive legal advocacy from an attorney who has expertise in juvenile law and will diligently and effectively represent the child's legal interests in a cost-effective manner.</p>	<p><b>OCR FY 15-16 PRIORITIES</b></p> <ol style="list-style-type: none"> <li>1. The OCR will contract with qualified and skilled attorneys to provide effective legal advocacy to children involved in the court system.</li> <li>2. The OCR will provide attorney services in a cost-effective manner.</li> </ol>	<p><b>Key Activities and Operations</b></p> <ul style="list-style-type: none"> <li>➤ Establish attorney qualifications and practice standards</li> <li>➤ Evaluate and provide oversight of attorney practice</li> <li>➤ Contract with attorneys according to district needs</li> <li>➤ Establish fair compensation rates</li> <li>➤ Consider attorney's requests for fees in excess of OCR's set case maximums and litigation support expenses</li> <li>➤ Provide statewide training of and support for attorneys</li> <li>➤ Investigate alternative models of providing legal representation</li> <li>➤ Engage with community stakeholders to ensure appropriate attorney involvement</li> <li>➤ Maximize use and effectiveness of OCR's electronic case management/billing system</li> <li>➤ Maintain billing policies and procedures which promote competent, efficient, and appropriate legal representation</li> <li>➤ Process, manage, and evaluate attorney billings</li> <li>➤ Manage appropriations and assess program needs</li> </ul>
<p><b>Goal 1:</b> The OCR will provide effective attorney services to children through skilled and qualified attorneys.</p>	<ol style="list-style-type: none"> <li>A. Provide and maintain lists of qualified attorneys sufficient to meet needs in judicial districts</li> <li>B. Contract with attorneys based on data illustrating compliance with CJD and OCR practice standards</li> <li>C. Establish fair and reasonable compensation for OCR attorneys</li> <li>D. Investigate alternative models of providing legal representation</li> <li>E. Develop strategies to recruit attorneys</li> </ol>	<p><b>OUTCOMES</b></p> <ul style="list-style-type: none"> <li>✓ OCR policy, support, oversight, and training promotes effective legal services and advocacy</li> <li>✓ Costs are reasonable and justified</li> <li>✓ OCR provides sufficient qualified attorneys to meet children's needs in each judicial district</li> <li>✓ Individual attorney data supports contracting decisions</li> <li>✓ OCR's compensation rate is fair and realistic</li> <li>✓ OCR systems and support promote optimum use of tax dollars</li> </ul>
<p><b>Goal 2:</b> The OCR will establish efficiencies in attorney practice and billing.</p>	<ol style="list-style-type: none"> <li>A. Maximize use and effectiveness of OCR's on-line case management/billing system</li> <li>B. Provide litigation support and facilitate practice innovations</li> <li>C. Process, manage, and evaluate attorney billings</li> </ol>	
<p><b>Goal 3:</b> The OCR will ensure attorneys remain current in state and federal law and regulations, social science research, and evidence-based services.</p>	<ol style="list-style-type: none"> <li>A. Provide statewide training to attorneys</li> <li>B. Require attorneys to meet minimum training requirements</li> <li>C. Disseminate updates on developments in law and social science and maintain current and relevant resources for attorney's use</li> </ol>	

7

## Performance Management System



8

## What OCR Does

- ✓ Improves representation for Colorado's most vulnerable children by
  - Establishing minimum practice standards
  - Training attorneys, court personnel, and other stakeholders
  - Providing litigation support
  - Providing accessible high-quality statewide training
  
- ✓ Oversees attorneys who provide children with legal representation as guardians *ad litem* (GALs), Child Legal Representatives (CLRs), and Child and Family Investigators (CFIs)
  - Provides judicial districts with lists of attorneys eligible for appointment
  - Evaluates attorneys
  - Monitors attorney compliance with practice standards
  - Complaint investigations

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## What OCR Does

Manage appropriations to ensure that tax dollars are used for only allowable expenditures

- Establishes case fee maximums
- Evaluates excess fees and extraordinary litigation expense requests
- Conducts monthly analysis by case type, judicial district, and, as indicated, attorney
- Creates and analyzes quarterly reports by case type, judicial district, and, as indicated, attorney

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## FY 2016-17 Budget Requests

### Caseload/workload decrease

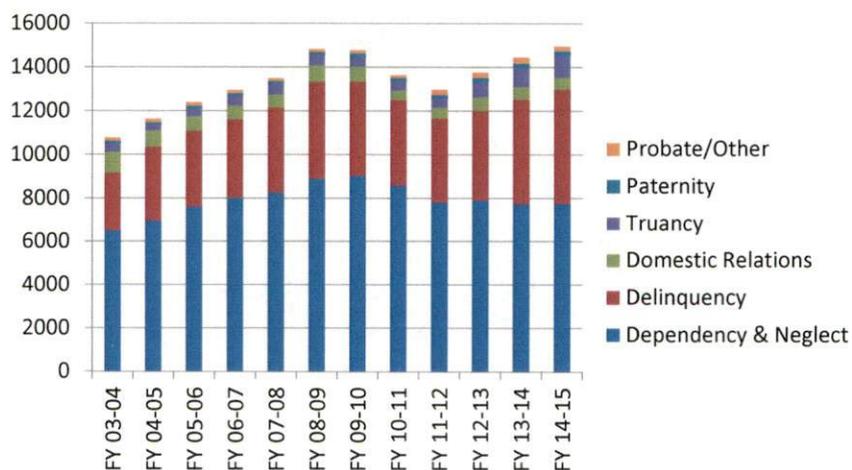
- 95% of OCR's budget is spent on attorney services
- Projected workload decrease in D&N appointments and an increase in JD and truancy caseload resulting in a decrease to the CAC line

### FTE Position Reclassification and Increase

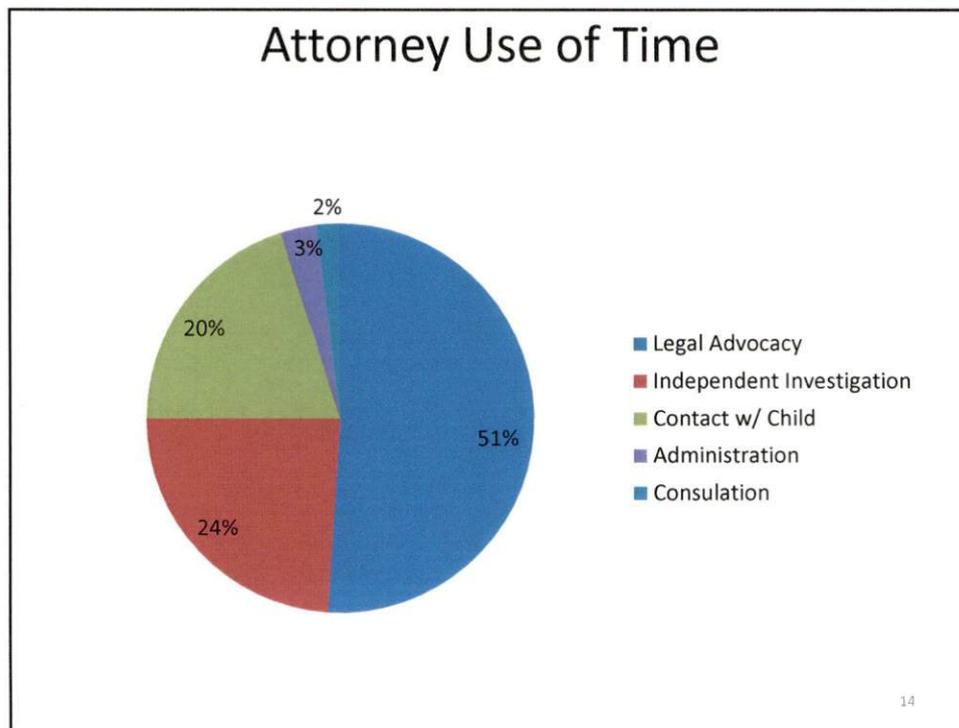
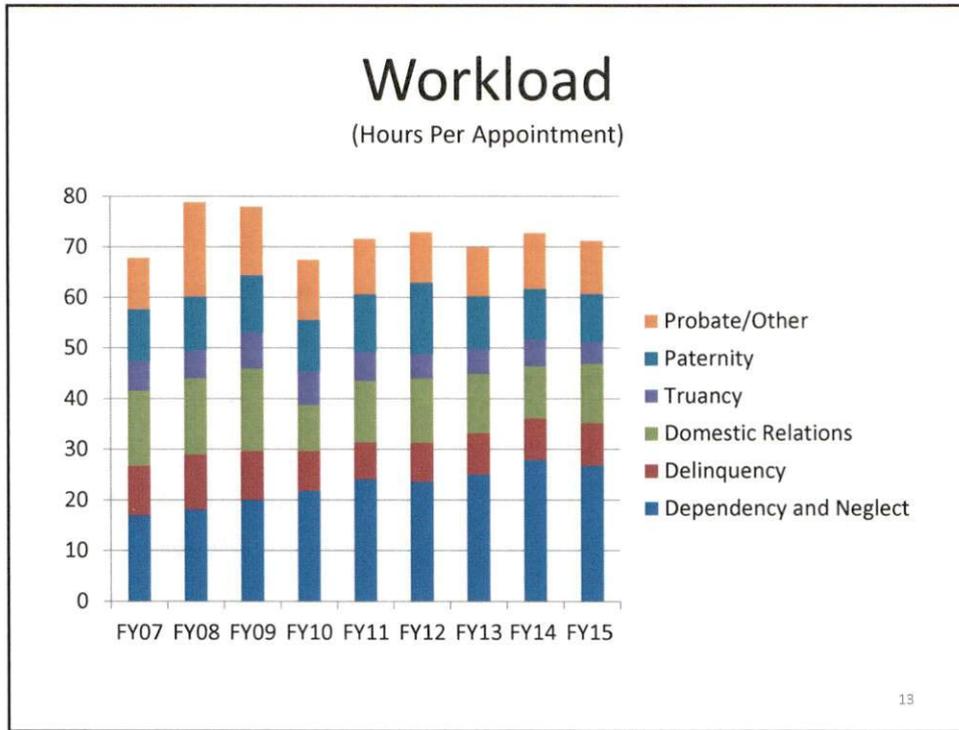
- Denver Executive Office retitled its Program Administrator position to Information Systems Manager and requests reclassification of the position to reflect a salary range consistent with the position's responsibilities
- Information Systems Manager position FTE allocation increase from 0.6 to 0.8 FTE

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## Appointments Paid FY 03-04 through FY 14-15



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## Annual Statewide Appraisal

### Training

OCR requires its attorneys to attend 10 CLE hours of OCR sponsored training each year

FY 13-14: OCR provided 57 CLE hours; 91 hours available on-line.

FY 14-15: OCR provided 103 training hours; 164 hours available on-line.

### Stakeholder Engagement

Meetings

Surveys

### Certification

Compliance w/ CJD  
Malpractice Insurance  
Disciplinary History

### C.A.R.E.S. Reports

Child Count  
30-Day Report  
Children appearing at Hearings  
Summary of Activity

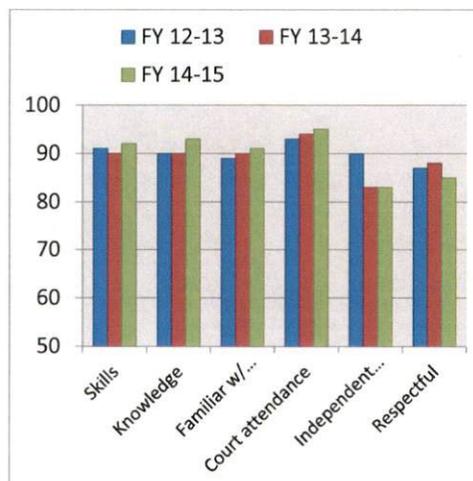
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## Annual Stakeholder Survey

FY 12-13 OCR received 727 electronic survey responses concerning 191 GALs

FY 13-14 OCR received 1083 electronic survey responses concerning 228 GALs

FY 14-15 OCR received 1355 electronic survey responses concerning 221 GALs; 412 responses were from judicial officers, a 142.4% increase in judicial responses from FY 13-14.



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## C.A.R.E.S. Reports Example



### 30-day visit data

- June 1996 Performance Audit by State Auditor  
48% of GAL case files contained no evidence of a home visit.
- FY 13-14 Visit Report indicates 90% of children in D&Ns to which the El Paso Office was appointed were visited by the GAL in their placement within 30 days of the GAL's appointment
- FY 14-15 Visit Report indicates 96% of children in D&Ns to which the El Paso Office was appointed were visited by the GAL in their placement within 30 days of the GAL's appointment

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## C.A.R.E.S. Reports Example

### Child Present at Hearing Report

- FY 14-15  
**48%** of children (ages 12 to 21) represented by the El Paso GAL Office were present at 248 Permanent Planning & Benchmark Hearings
- FY 15-16 First Quarter  
**61%** of children (ages 12 to 21) represented by the El Paso GAL Office were present at 46 Permanent Planning & Benchmark Hearings

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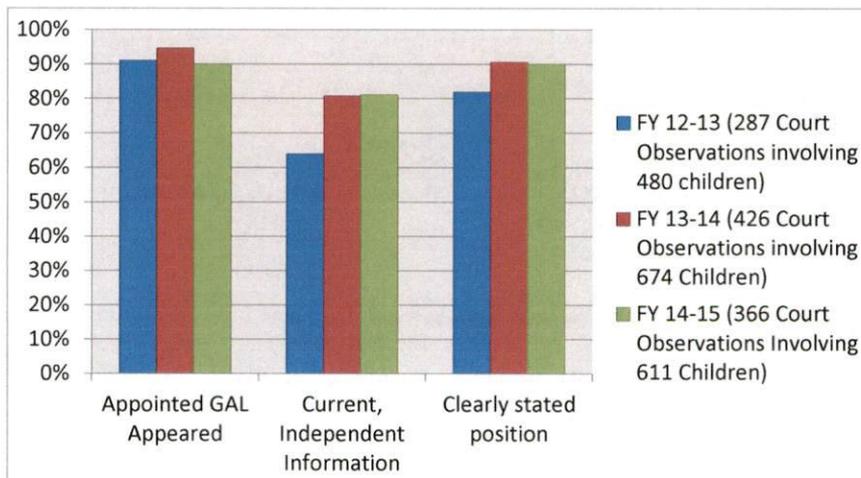
## OCR Evaluation of Attorney

Tri-Annual Extensive Application Process for attorneys in one-third of judicial districts (instituted in FY 12-13)

1. Structured Court Observations
2. Interviews of children/youth, parents, caregivers
3. Writing sample
4. Expanded stakeholder feedback
5. C.A.R.E.S. reports
6. Meetings with key stakeholders
7. Individual meeting with attorney

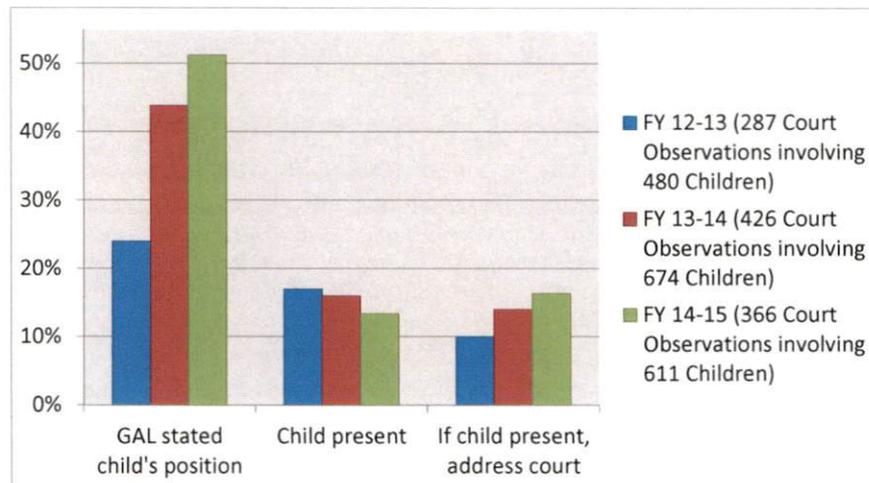
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## Court Observation: GAL's Advocacy



20

## Court Observation: Child's Voice



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## Interviews of Children/Youth

- *"She talked to me about what I wanted the judge to know about me. She was basically my speaker when we went to court. She definitely knew what I wanted the judge to know. I just didn't have the guts to say it myself." – Youth*
- *"I felt more supported by (my GAL) than anyone else on my team. (My GAL) wanted to make sure I knew what I was going to do when I emancipated. She wanted me to have my ducks in a line." "Well every time something went on, he was the one there. He would be the one I would talk to. I would tell him everything." – Youth*
- *"(My GAL) is a positive person in the community, and is always willing to help. Those kind of people make a huge difference in the world. Even though (my GAL) might not be able to move mountains she is able to move people's hearts. She is an angel walking among men... In all my years of being in court and DHS, I've never had someone that vouches for me like (my GAL) does." - Youth*
- *"(My GAL) knew me better than my best friend." – Youth*

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## Interviews of Parents and Caregivers

- *"(The GAL) has been amazing, he's been an amazing advocate for my son."* – Parent
- *"He was fair. He made it known that he wanted what was best for the kids. He was very professional."* –Parent
- *"She's great. She's very kind. She always looks you in the eye. She's very genuine and authentic. She says what's really on her mind. I think she's a great role model for women in our community. The way she treats me personally is uplifting and empowering."* –Parent
- *"She was exceptional and very non-biased and not judgmental and very capable. She offered a lot of insight into what was going on. She had a really good grasp of what was going on. She really knew our daughter and heard her."* – Caregiver
- *"The kids are thriving because of the work she does."* -- Caregiver
- *"(The GAL) never lost sight of making sure my granddaughter was the primary focus."* – Caregiver
- *"Of all the people I've worked with, he is the most responsive to my questions. He's very open. He's the guy I definitely feel comfortable approaching."* – Caregiver

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## OCR Opportunities

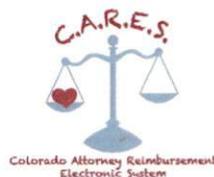
### Regulatory Agenda – None

Chief Justice Directive 04-06

### Legislative Agenda – None

### OCR C.A.R.E.S. – System Enhancements

- Enhanced Reliability
- Enhanced Accountability
- Greater Efficiency
- Track Outcomes
- Improved user experience



24

## Contact Information

- Linda Weinerman, Executive Director  
303.860.1517 ext. 105
- Dorothy Macias, Staff Attorney & Legislative  
Liaison  
303.860.1517 ext. 106

25



## Colorado Department of Public Safety

2015 SMART Act Hearing

December 17, 2015

1

## Colorado Department of Public Safety

Mission:

*Engaged employees working together to provide diverse public safety services to local communities and safeguard lives.*

Vision:

*Seeking excellence in all aspects of public safety through integrity, science, research, technical competence, and community partnerships.*

2

## FY 2016-17 Budget Request

- **R-01 Realignment of Executive Director's Office -- \$4,438,154** reappropriated funds, 5.0 FTE  
*In recent years, CDPS has grown by more than 400 FTE, or nearly 32 percent due to additions in scope and function. This initiative aims to consolidate central service functions, such as budget, accounting, and fleet management to better reflect and serve the Department's current size.*
- **R-02 Additional E-470 Troopers -- \$261,040** cash funds, 2.0 FTE  
*The E-470 Public Highway Authority has requested additional patrolling hours due to traffic volume.*
- **R-03 Jail Survey Study on Impacts of Marijuana Legalization -- \$75,000 Marijuana Tax Cash Funds, 0.0 FTE**  
*Officials from three county jails are reporting a large increase in the homeless jail population. This study will provide data about whether this population increase is related to marijuana legalization.*
- **R-04 Leased Space True-Up -- (\$55,145)** cash funds, 0.0 FTE  
*This is a technical request that corrects an error in where funds were appropriated.*
- **R-05 Eliminate Policing Institute Line Item -- (\$100,000)** cash funds, 0.0 FTE  
*This is a technical request that eliminates a line item that has not had funding since 2011.*
- **R-06 Community Corrections Provider Rate Decrease -- (\$658,873)** General Fund, 0.0 FTE  
*This is a 1.0 percent decrease in per diem payments to community corrections providers.*

3

## 2016 Legislative Agenda

### Parole Report Date Change

Currently, the Division of Criminal Justice is statutorily required to analyze and report on parole board decision making annually on November 1. The data for this analysis is not available from the parole board until mid-August, which does not allow for enough time to clean the data, complete the analysis, and produce the report. The report has been late the last two years, and this bill would change the due date to March 31, which is a more realistic timeframe to complete the work.

### Create Authority for E-Citations during Traffic Stops

This proposal will eliminate the need for a traffic violator to execute a written promise to appear and will align the traffic code with the county court code, which does not contain the written requirement. This change will allow the Colorado State Patrol to issue electronic citations rather than written tickets. Other states that have moved to an electronic format have experienced a significant reduction in the amount of time needed to conduct a traffic stop.

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## 2016 Legislative Agenda

### **Transfer of First Responder Certification Program from CDPS to CDPHE**

Currently, the Division of Fire Prevention and Control (DFPC) in the Department of Public Safety (CDPS) administers the First Responder Certification program. A first responder is an emergency medical care provider trained to deal with an emergency incident upon arriving at the scene. The Colorado Department of Public Health and Environment (CDPHE) certifies emergency medical services providers, including emergency medical technicians and paramedics, who provide medical treatment and transport to patients within a defined scope of practice. This proposal would transfer the First Responder Certification program to CDPHE to provide one-stop shopping for all EMS certification needs.

### **SB 13-283 Law Enforcement Data Clean-Up**

There are current statutory data requirements related to law enforcement and marijuana that have proven impossible to collect. This proposal would strike 1) the requirement for the Division of Criminal Justice to collect law enforcement costs relating specifically to marijuana, since these costs cannot be isolated from other costs; and 2) the requirement to collect data on marijuana initiated contacts, since there is no uniform definition.

5

## 2016 Regulatory Agenda

- CDPS plans to promulgate or update rules in each of its operating divisions during 2016.
- Please see the attached handout for the full regulatory agenda, as submitted to the General Assembly on November 2.

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## CDPS is . . .

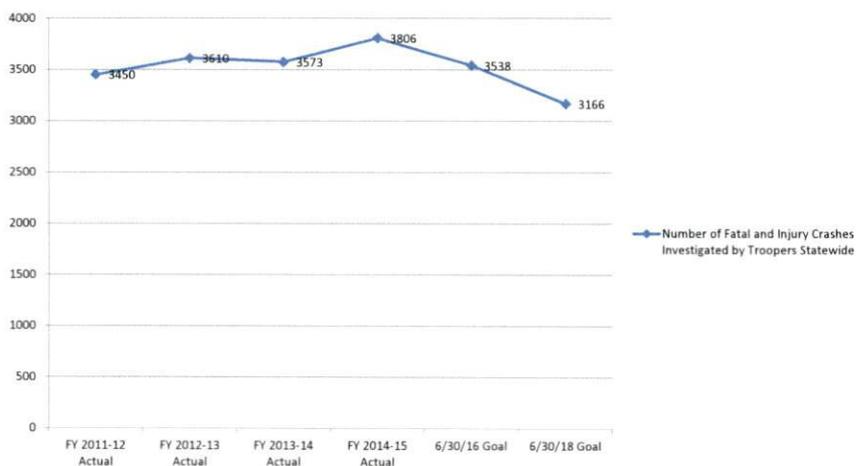
The Colorado State Patrol



## FY 2015-16 Strategic Policy Initiatives

1. Reduce by 5% (from 3,725 to 3,538) the number of fatal and injury crashes under the CSP's jurisdiction by June 30, 2016 and by 15% (from 3,725 to 3,166) by June 30, 2018 for highway users.

## Reduce the Number of Fatal and Injury Crashes Investigated by Troopers Statewide



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## CDPS is . . .

The Colorado Bureau of Investigation



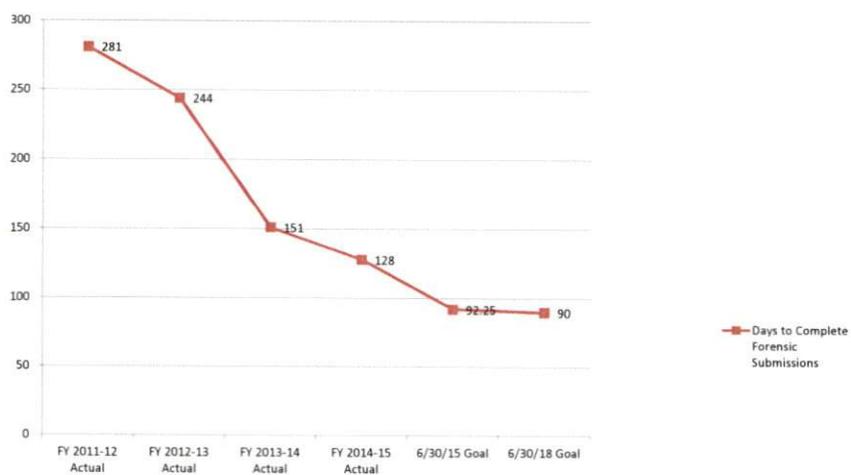
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## FY 2015-16 Strategic Policy Initiatives

2. Reduce the average forensic turn around time by 25% (from 123 days to 92.25 days) by June 30, 2016 with the goal of reaching an average turn around time of 90 days by June 30, 2018 for submitting law enforcement agencies.

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## Reduce the Average Forensic Turnaround Time (in days)



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## CDPS is . . .

The Division of Fire Prevention and Control



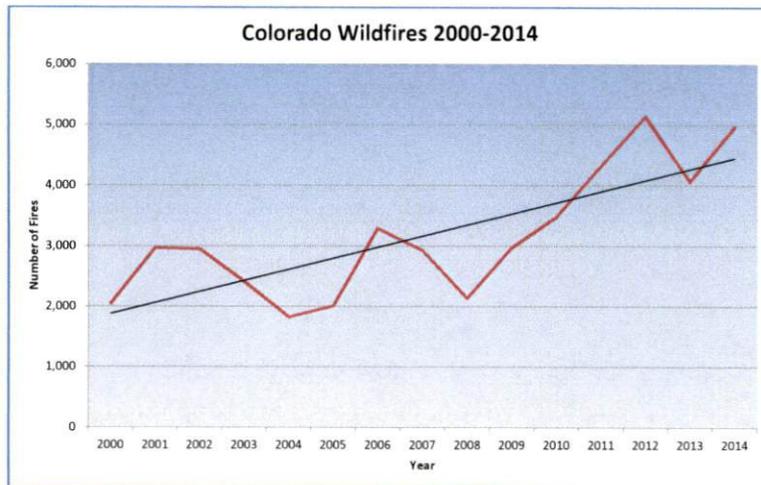
13

## FY 2015-16 Strategic Policy Initiatives

3. Reduce the number of wildland fires that threaten lives or property by 5% (from 40 to 38) by June 30, 2016 and by 10% (from 40 to 36) by June 30, 2018 for the people of Colorado.

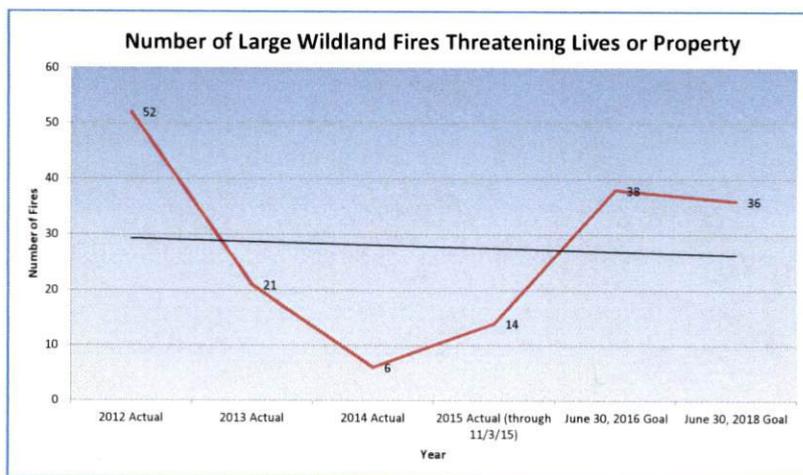
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## Reduce the Impact and Incidence of Wildland Fire



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## Reduce the Impact and Incidence of Wildland Fire



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## CDPS is . . .

The Division of Homeland Security and  
Emergency Management



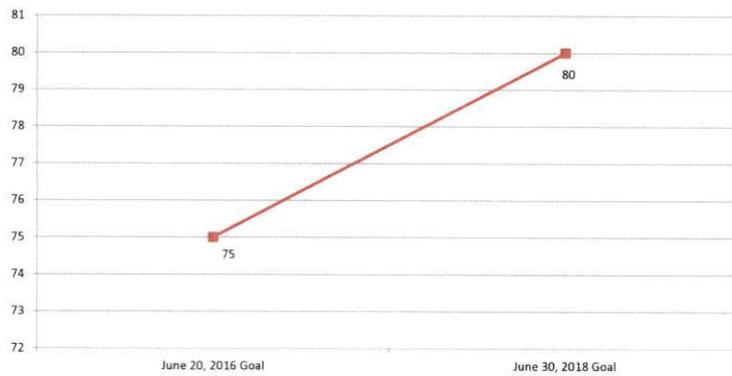
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## FY 2015-16 Strategic Policy Initiatives

4. Switch from measuring individual product satisfaction to measuring global customer satisfaction for the Colorado Information Analysis Center (CIAC) and improve the customer satisfaction score from being unmeasured to 75% by June 30, 2016 and to 80% by June 30, 2018 for CIAC customer agencies.

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## Increase Customer Satisfaction with CIAC Outputs



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## CDPS is . . .

The Division of Criminal Justice



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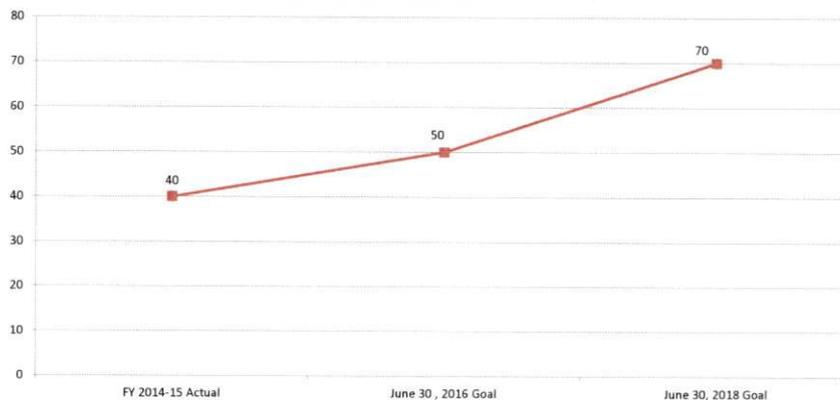
## FY 2015-16 Strategic Policy Initiatives

5. Increase the percentage of community corrections programs using the Evidence-Based Progressions Matrix with fidelity from 40% to 50% by June 30, 2016 and to 70% by June 30, 2018 to improve offender outcomes.

21

## Increase Use of Evidence Based Practices in Community Corrections

Percentage of Community Corrections Using the Evidence-Based Progressions Matrix with Fidelity



22

## CDPS Contact Information

- Questions?

- Contacts:

Jana Locke, CDPS Legislative Liaison

[Jana.locke@state.co.us](mailto:Jana.locke@state.co.us)

303-842-1590

Sergeant Dave Hall, CSP Legislative Liaison

[David.hall@state.co.us](mailto:David.hall@state.co.us)

303-945-1495

# U.S. Department of Health & Human Services

*Improving the health, safety, and well-being of America*

## Health Information Privacy

For example, a medical record, laboratory report, or hospital bill would be PHI because each document would contain a patient's name and/or other identifying information associated with the health data content.

By contrast, a health plan report that only noted the average age of health plan members was 45 years would not be PHI because that information, although developed by aggregating information from individual plan member records, does not identify any individual plan members and there is no reasonable basis to believe that it could be used to identify an individual.

The relationship with health information is fundamental. Identifying information alone, such as personal names, residential addresses, or phone numbers, would not necessarily be designated as PHI. For instance, if such information was reported as part of a publicly accessible data source, such as a phone book, then this information would not be PHI because it is not related to health data (see above). If such information was listed with health condition, health care provision or payment data, such as an indication that the individual was treated at a certain clinic, then this information would be PHI.

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### Covered Entities, Business Associates, and PHI

In general, the protections of the Privacy Rule apply to information held by covered entities and their business associates. HIPAA defines a covered entity as 1) a health care provider that conducts certain standard administrative and financial transactions in electronic form; 2) a health care clearinghouse; or 3) a health plan.<sup>3</sup> A business associate is a person or entity (other than a member of the covered entity's workforce) that performs certain functions or activities on behalf of, or provides certain services to, a covered entity that involve the use or disclosure of protected health information. A covered entity may use a business associate to de-identify PHI on its behalf only to the extent such activity is authorized by their business associate agreement.

See the OCR website <http://www.hhs.gov/ocr/privacy/> for detailed information about the Privacy Rule and how it protects the privacy of health information.

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### De-identification and its Rationale

The increasing adoption of health information technologies in the United States accelerates their potential to facilitate beneficial studies that combine large, complex data sets from multiple sources. The process of de-identification, by which identifiers are removed from the health information, mitigates privacy risks to individuals and thereby supports the secondary use of data for comparative effectiveness studies, policy assessment, life sciences research, and other endeavors.

The Privacy Rule was designed to protect individually identifiable health information through permitting only certain uses and disclosures of PHI provided by the Rule, or as authorized by the individual subject of the information. However, in recognition of the potential utility of health information even when it is not individually identifiable, §164.502(d) of the Privacy Rule permits a covered entity or its business associate to create information that is not individually identifiable by following the de-identification standard and implementation specifications in §164.514(a)-(b). These provisions allow the entity to use and disclose information that neither identifies nor provides a reasonable basis to identify an individual.<sup>4</sup> As discussed below, the Privacy Rule provides two de-identification methods: 1) a formal determination by a qualified expert; or 2) the removal of specified individual identifiers as well as absence of actual knowledge by the covered entity that the remaining information could be used alone or in combination with other information to identify the individual.

Both methods, even when properly applied, yield de-identified data that retains some risk of identification. Although the risk is very small, it is not zero, and there is a possibility that de-identified data could be linked back to the identity of the patient to which it corresponds.

Regardless of the method by which de-identification is achieved, the Privacy Rule does not restrict the use or disclosure of de-identified health information, as it is no longer considered protected health information.

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### The De-identification Standard

Section 164.514(a) of the HIPAA Privacy Rule provides the standard for de-identification of protected health information. Under this standard, health information is not individually identifiable if it does not identify an individual and if the covered entity has no reasonable basis to believe it can be used to identify an individual.

**§ 164.514 Other requirements relating to uses and disclosures of protected health information.**

**(a) Standard: de-identification of protected health information.** Health information that does not identify an individual and with respect to which there is no reasonable basis to believe that the information can be used to identify an individual is not individually identifiable health information.

Sections 164.514(b) and (c) of the Privacy Rule contain the implementation specifications that a covered entity must follow to meet the de-identification standard. As summarized in Figure 1, the Privacy Rule provides two methods by which health information can be designated as de-identified.

[Skip Navigation](#)

# U.S. Department of Health & Human Services

*Improving the health, safety, and well-being of America*

## Health Information Privacy

### Guidance Regarding Methods for De-identification of Protected Health Information in Accordance with the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule

This page provides guidance about methods and approaches to achieve de-identification in accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule. The guidance explains and answers questions regarding the two methods that can be used to satisfy the Privacy Rule's de-identification standard: Expert Determination and Safe Harbor<sup>1</sup>. This guidance is intended to assist covered entities to understand what is de-identification, the general process by which de-identified information is created, and the options available for performing de-identification.

In developing this guidance, the Office for Civil Rights (OCR) solicited input from stakeholders with practical, technical and policy experience in de-identification. OCR convened stakeholders at a workshop consisting of multiple panel sessions held March 8-9, 2010, in Washington, DC. Each panel addressed a specific topic related to the Privacy Rule's de-identification methodologies and policies. The workshop was open to the public and each panel was followed by a question and answer period. More information about the workshop, including a summary and streaming video, can be found at the right.

#### General

- [1.1 Protected Health Information](#)
- [1.2 Covered Entities, Business Associates, and PHI](#)
- [1.3 De-identification and its Rationale](#)
- [1.4 The De-identification Standard](#)
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#### Guidance on Satisfying the Safe Harbor Method

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- [3.6 What is "actual knowledge" that the remaining information could be used either alone or in combination with other information to identify an individual who is a subject of the information?](#)
- [3.7 If a covered entity knows of specific studies about methods to re-identify health information or use de-identified health information alone or in combination with other information to identify an individual, does this necessarily mean a covered entity has actual knowledge under the Safe Harbor method?](#)
- [3.8 Must a covered entity suppress all personal names, such as physician names, from health information for it to be designated as de-identified?](#)
- [3.9 Must a covered entity use a data use agreement when sharing de-identified data to satisfy the Safe Harbor Method?](#)
- [3.10 Must a covered entity remove protected health information from free text fields to satisfy the Safe Harbor Method?](#)

#### Glossary of Terms

### Protected Health Information

The HIPAA Privacy Rule protects most "individually identifiable health information" held or transmitted by a covered entity or its business associate, in any form or medium, whether electronic, on paper, or oral. The Privacy Rule calls this information *protected health information (PHI)*<sup>2</sup>. Protected health information is information, including demographic information, which relates to:

- the individual's past, present, or future physical or mental health or condition,
- the provision of health care to the individual, or
- the past, present, or future payment for the provision of health care to the individual, and that identifies the individual or for which there is a reasonable basis to believe can be used to identify the individual. Protected health information includes many common identifiers (e.g., name, address, birth date, Social Security Number) when they can be associated with the health information listed above.

[Read the Full Guidance](#)



[Read the Full Guidance](#)

#### Comments & Suggestions

In an effort to make this guidance a useful tool for HIPAA covered entities and business associates, we welcome and appreciate your sending us any feedback or suggestions to improve this guidance. You may submit a comment by sending an e-mail to [ocrprivacy@hhs.gov](mailto:ocrprivacy@hhs.gov).

#### Workshop

Read more on the [Workshop on the HIPAA Privacy Rule's De-Identification Standard](#)

#### Acknowledgements

OCR gratefully acknowledges the significant contributions made by Bradley Malin, PhD, to the development of this guidance, through both organizing the 2010 workshop and synthesizing the concepts and perspectives in the document itself. OCR also thanks the 2010 workshop panelists for generously providing their expertise and recommendations to the Department.

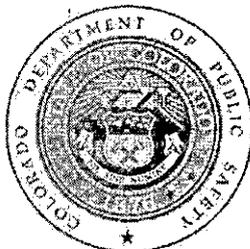
**From:** Sex Offender Management Board <lucy.klos@state.co.us>

**To:** SpikeCO558 <SpikeCO558@wmconnect.com>

**Subject:** Point of Contact Letter

**Date:** Fri, Jan 16, 2015 2:07 pm

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## **SOMB**

**January 16, 2015**

**To:** All Listed Treatment Providers, Polygraph Examiners, and Supervision Officers/Agencies

**From:** The Sex Offender Management Board (SOMB)

**Re:** Continuity of Care

The Sex Offender Management Board (SOMB) has formed a Continuity of Care Committee to assist all listed treatment providers, polygraph examiners, and supervision officers/agencies in providing continuity and consistency of treatment and supervision services for adults and juveniles who have committed sexual offenses. In order to assist with this process, the SOMB has decided to post on its website a resource list accessible to all stakeholders that provides a treatment/supervision/polygraph agency point of contact. In this way, when a client moves from one treatment program to another, listed treatment providers will know who to contact in terms of obtaining treatment, supervision, and polygraph records from previous case involvement.

So what information are we seeking from you? Please provide the following information related to your treatment, polygraph, or supervision agency:

**Type of Agency:** Treatment, Supervision, or Polygraph

**Name of Agency:**

**Address of Agency:**

**Phone Number:**

**Email Address:**

**Point of Contact for Records:** Name of person and agency role (in case person changes)

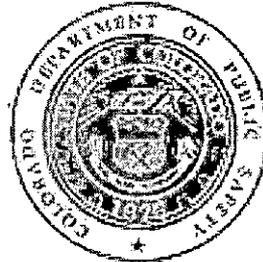
**Any Specific Requirements to Obtain Records Beyond Standard Release of Information:**

Full Time Opportunity

From Sex Offender Management Board harmony.fox@state.co.us

Fri, Jan 2, 2015 12:32 pm

To SpikeCO55B SpikeCO55B@wmconnect.com



## State of CO - CDPS - DCJ - SOMB

### Aurora Mental Health - Full Time Therapist Position

The Offenders Group at *Aurora Mental Health* is looking for a **full time therapist**. Preferring someone who is a SOMB associate or full operating level sex offense specific therapist, or working towards either.

**Job duties** include co-facilitating groups, conducting individual sessions, writing progress notes, as well as month end reports for probation/parole. Additionally, conducting intakes and evaluations, both sex offense specific and mental health are part of the job.

Caseloads are of manageable size and allow for good therapeutic interventions and necessary case management. Must be available and willing to work evenings Monday through Wednesday. This team works Monday through Thursday. If you meet the qualifications and are interested in the position send your cover letter and resume to [sheilapomeranz@aumhc.org](mailto:sheilapomeranz@aumhc.org)

State of CO - CDPS - DCJ - SOMB

700 Kipling St.

Denver, Colorado 80215

COLORADO	SEXUALLY VIOLENT PREDATOR	ASSESSMENT SCREENING INSTRUMENT
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<b>E</b>	<b>SOMB Evaluator or Trained DOC Staff/Contractor Please Complete Part 2 (Note: If using Part 3C, the PO may complete Part 2)</b>	P 5 of 9
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The relationship categories are identified in federal and state statute. The following definitions were developed by representatives of the Sex Offender Management Board, the Judicial Department and the Department of Corrections to assist the court and the state board of parole (per 16-11.7-103(4)(e), C.R.S.) in the identification of "undue risk." For purposes of this document, undue risk includes the designation of sexual predator as outlined in 18-3-414.5(III) C.R.S.

THE OFFENDER MUST MEET ONE OF THE FOLLOWING THREE SEXUALLY VIOLENT PREDATOR RELATIONSHIP DEFINITIONS: 1) STRANGER, OR 2) ESTABLISHED A RELATIONSHIP, OR 3) PROMOTED A RELATIONSHIP.

### A. STRANGER

Pursuant to 18-3-414.5(1)(a)(III), C.R.S., the victim is a stranger to the offender when the victim has never known or met the offender, or has met the offender in such a casual manner as to have little or no familiar or personal knowledge of said offender, prior to the current offense.

Meets STRANGER Criterion:  Yes  No

Select the appropriate data source(s):

- |                                                                        |                                                                                                         |
|------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> 1. Criminal History                           | <input type="checkbox"/> 10. Victim Report (self report or from any data source)                        |
| <input type="checkbox"/> 2. Pre-Sentence Investigation Process         | <input type="checkbox"/> 11. Sexual History (official record, self report)                              |
| <input type="checkbox"/> 3. Police Report                              | <input type="checkbox"/> 12. Sex Offense Specific Mental Health Evaluation                              |
| <input type="checkbox"/> 4. Mental Health Evaluation                   | <input type="checkbox"/> 13. Prison Record                                                              |
| <input type="checkbox"/> 5. Official Record/Documentation              | <input type="checkbox"/> 14. Self-Report                                                                |
| <input type="checkbox"/> 6. Child Protection or Social Service Records | <input type="checkbox"/> 15. CCIC                                                                       |
| <input type="checkbox"/> 7. Demographic Information                    | <input type="checkbox"/> 16. Results of a Plethysmograph Examination or an Abel Screen (SOMB Standards) |
| <input type="checkbox"/> 8. NCIC                                       | <input type="checkbox"/> 17. Polygraph                                                                  |
| <input type="checkbox"/> 9. Education Records                          | <input type="checkbox"/> 18. Other (Specify)                                                            |

### B. ESTABLISHED A RELATIONSHIP

Pursuant to 18-3-414.5(1)(a)(III), C.R.S., the offender established a relationship primarily for the purpose of sexual victimization when any two of the following criteria are present (check all that apply). List all data sources used in the box below.

- The offender has a history of multiple victims and similar behavior.
- The offender has actively manipulated the environment to gain access to this victim.
- The offender introduced sexual content in the relationship (introduction of pornography, inappropriate discussion of sexual relations with child).
- The offender persisted in the introduction of sexual contact or inappropriate behavior of a sexual nature despite lack of consent or the absence of the ability to consent.

Meets ESTABLISHED A RELATIONSHIP Criteria: (Offender must meet at least two of the above items to meet "established a relationship" criteria).

Yes  No

Select the appropriate data source(s):

- |                                                                        |                                                                                                         |
|------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> 1. Criminal History                           | <input type="checkbox"/> 10. Victim Report (self report or from any data source)                        |
| <input type="checkbox"/> 2. Pre-Sentence Investigation Process         | <input type="checkbox"/> 11. Sexual History (official record, self report)                              |
| <input type="checkbox"/> 3. Police Report                              | <input type="checkbox"/> 12. Sex Offense Specific Mental Health Evaluation                              |
| <input type="checkbox"/> 4. Mental Health Evaluation                   | <input type="checkbox"/> 13. Prison Record                                                              |
| <input type="checkbox"/> 5. Official Record/Documentation              | <input type="checkbox"/> 14. Self-Report                                                                |
| <input type="checkbox"/> 6. Child Protection or Social Service Records | <input type="checkbox"/> 15. CCIC                                                                       |
| <input type="checkbox"/> 7. Demographic Information                    | <input type="checkbox"/> 16. Results of a Plethysmograph Examination or an Abel Screen (SOMB Standards) |
| <input type="checkbox"/> 8. NCIC                                       | <input type="checkbox"/> 17. Polygraph                                                                  |
| <input type="checkbox"/> 9. Education Records                          | <input type="checkbox"/> 18. Other (Specify)                                                            |

CONTINUE IN PART 2

**C. PROMOTED A RELATIONSHIP**

*Consider only when stranger or established a relationship criteria above do not apply.*

Pursuant to 18-3-414.5(1)(a)(III), C.R.S., the offender promoted an existing relationship primarily for the purpose of sexual victimization when the first item below is present and any other item is present (check all that apply). List all data sources used in the box below.

The offender took steps to change the focus of the relationship to facilitate the commission of a sexual assault such as but not limited to planning, increased frequency of contact, introduction of inappropriate sexual contact, stalking, seduction or drugging of the victim,

**AND**

- The offender engaged in contact with the victim that was progressively more sexually intrusive, or
- The offender used or engaged in threat, intimidation, force or coercion in the relationship, or
- The offender engaged in repetitive non-consensual sexual contact, or
- The offender established control of the victim through means such as but not limited to emotional abuse, physical abuse, financial control or isolation of the victim in order to facilitate the sexual assault.

Meets **PROMOTED A RELATIONSHIP** Criteria: (The promoted criteria are met when the first bullet and at least one of the bottom four bullets apply).

Yes  No

Select the appropriate data source(s):

- |                                                                        |                                                                                                         |
|------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> 1. Criminal History                           | <input type="checkbox"/> 10. Victim Report (self report or from any data source)                        |
| <input type="checkbox"/> 2. Pre-Sentence Investigation Process         | <input type="checkbox"/> 11. Sexual History (official record, self report)                              |
| <input type="checkbox"/> 3. Police Report                              | <input type="checkbox"/> 12. Sex Offense Specific Mental Health Evaluation                              |
| <input type="checkbox"/> 4. Mental Health Evaluation                   | <input type="checkbox"/> 13. Prison Record                                                              |
| <input type="checkbox"/> 5. Official Record/Documentation              | <input type="checkbox"/> 14. Self-Report                                                                |
| <input type="checkbox"/> 6. Child Protection or Social Service Records | <input type="checkbox"/> 15. CCIC                                                                       |
| <input type="checkbox"/> 7. Demographic Information                    | <input type="checkbox"/> 16. Results of a Plethysmograph Examination or an Abel Screen (SOMB Standards) |
| <input type="checkbox"/> 8. NCIC                                       | <input type="checkbox"/> 17. Polygraph                                                                  |
| <input type="checkbox"/> 9. Education Records                          | <input type="checkbox"/> 18. Other (Specify)                                                            |

**SUMMARY OF PART 2 RELATIONSHIP INFORMATION**

- |                                                      |                                                       |
|------------------------------------------------------|-------------------------------------------------------|
| <b>A. Meets STRANGER Criterion:</b>                  | <input type="checkbox"/> Yes                          |
|                                                      | <input type="checkbox"/> No                           |
|                                                      | <input type="checkbox"/> NA because "B" or "C" is Yes |
| <b>B. Meets ESTABLISHED A RELATIONSHIP Criteria:</b> | <input type="checkbox"/> Yes                          |
|                                                      | <input type="checkbox"/> No                           |
|                                                      | <input type="checkbox"/> NA because "A" or "C" is Yes |
| <b>C. Meets PROMOTED A RELATIONSHIP Criteria:</b>    | <input type="checkbox"/> Yes                          |
|                                                      | <input type="checkbox"/> No                           |
|                                                      | <input type="checkbox"/> NA because "A" or "B" is Yes |

**If A, B, or C is YES, PLEASE PROCEED TO PART 3.**

COLORADO

SEXUALLY VIOLENT PREDATOR

ASSESSMENT SCREENING INSTRUMENT

P/E | **SOMB Evaluator, Trained DOC Staff or Probation Officer Complete Part 2.** | P 5 of 7

The relationship categories are identified, but not defined, in state statute. The following definitions were provided by the Colorado Supreme Court in their recent 2013 cases to assist in the identification of sexually violent predators as outlined in 18-3-414.5 (III) C.R.S. These Colorado Supreme Court decisions have found that the Sex Offender Management Board (SOMB) was not given legislative authority to define the relationship criteria. Therefore, final determination of relationship criteria rests with the sentencing court or the parole board.

The SOMB notes that the relationship criteria section of the SVP assessment screening instrument, although required by the statute, is not based on research and is not related to the statistical probability of risk for re-arrest for a new sexual offense. However, the SOMB recognizes that the offender's relationship to the victim can have a significant impact on the level of trauma to the victim.

If the offender refuses to participate in the assessment, other collateral sources of information, such as victim statements or police reports, should be utilized to determine the relationship criterion. Refer to the manual for further information and examples.

Identify which of the following, if any, relationship categories apply.

### A. STRANGER

The stranger-relationship criterion "is satisfied where either the victim is not known by the offender or the offender is not known by the victim, at the time of the offense." When the trial court assesses whether or not the stranger criterion is met, "it should consider the context of the parties' relationship at the time of the offense." People v. Hunter, \_\_ P.3d \_\_ (Colo. 2013)(10SC146)(\*2).

Meets the STRANGER Criterion:  Yes  No

### B. ESTABLISHED A RELATIONSHIP

An offender "establishes a relationship" with his victim primarily for the purpose of sexual victimization where he creates, starts, or begins a relationship primarily for that purpose. People v. Gallegos, \_\_ P.3d \_\_ (Colo. 2013)(09SC1084)(\*1).

Meets the ESTABLISHED A RELATIONSHIP Criterion:  Yes  No

### C. PROMOTED A RELATIONSHIP

An offender "promotes a relationship" if, "excluding the offender's behavior during the commission of the sexual assault that led to his conviction, he otherwise encouraged a person with whom he had a limited relationship to enter into a broader relationship primarily for the purpose of sexual victimization." People v. Gallegos, \_\_ P.3d \_\_ (Colo. 2013)(09SC1084)(\*1).

Meets the PROMOTED A RELATIONSHIP Criterion:  Yes  No

### D. NONE OF THE ABOVE

DOES NOT Meet Any Of The Above Relationship Criteria:  Yes  No

### SELECT THE DATA SOURCE(S) USED TO DETERMINE RELATIONSHIP CRITERIA

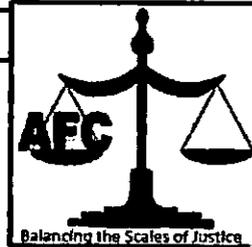
- |                                                                        |                                                                                  |
|------------------------------------------------------------------------|----------------------------------------------------------------------------------|
| <input type="checkbox"/> 1. Criminal History                           | <input type="checkbox"/> 10. Victim Report (self report or from any data source) |
| <input type="checkbox"/> 2. Pre-Sentence Investigation Process         | <input type="checkbox"/> 11. Sexual History (official record, self report)       |
| <input type="checkbox"/> 3. Police Report                              | <input type="checkbox"/> 12. Sex Offense Specific Mental Health Evaluation       |
| <input type="checkbox"/> 4. Mental Health Evaluation                   | <input type="checkbox"/> 13. Prison Record                                       |
| <input type="checkbox"/> 5. Official Record/Documentation              | <input type="checkbox"/> 14. Self-Report                                         |
| <input type="checkbox"/> 6. Child Protection or Social Service Records | <input type="checkbox"/> 15. CCIC                                                |
| <input type="checkbox"/> 7. Demographic Information                    | <input type="checkbox"/> 16. Plethysmograph Examination or VRT Assessment        |
| <input type="checkbox"/> 8. NCIC                                       | <input type="checkbox"/> 17. Polygraph                                           |
| <input type="checkbox"/> 9. Education Records                          | <input type="checkbox"/> 18. Other (Specify)                                     |

PROCEED TO PART 3

## Advocates for Change

# Sex Offense Issues

affecting change in Colorado's sex offense laws, policies, and attitudes



### RECIDIVISM RATES FOR THOSE WITH A SEX OFFENSE

WHO HAVE BEEN RELEASED FROM PRISON AND ARRESTED FOR ANOTHER SEX CRIME

COMPILED JULY 2014 -- NOTE: States not listed were states for which we could find little or no information.

LOCATION	SOURCE	WEBSITE OR PUBLICATION	STUDY RELEASE	SUBJECTS	TRACKED	RECIDIVISM RATE
CANADA	Solicitor General	<a href="http://www.publicsafety.gc.ca">www.publicsafety.gc.ca</a>	2005	4673	3Yrs	1.7%
UNITED STATES	US Dept of Justice	<a href="http://WWW.OJP.USDOJ.GOV/BJS/Recidivism_of_Prisoners_Released_in_1994">WWW.OJP.USDOJ.GOV/BJS/Recidivism of Prisoners Released in 1994</a>	2005	9,691	3Yrs	3.5%
	Bureau of Statistics	<i>Recidivism of Prisoners Released in 30 States in 2005:Patterns from 2005 to 2010</i>	2014	6878	5Yrs	1.7%
AL	Alaska DOC	<a href="http://www.usafair.org/recidivism_studies">www.usafair.org/recidivism_studies</a>	2009	232	3Yrs	3.4%
AZ	Arizona DOC	<a href="http://www.azcorrections.gov">www.azcorrections.gov</a>	2007	3205	15Yrs	5.5%
CA	CDCR	<a href="http://www.cdcr.ca.gov/adult_Research_Branch/">www.cdcr.ca.gov/adult_Research_Branch/</a>	2013	8490	3Yrs	1.9%
CO	CDOC CDPS	<a href="http://dcj.state.co.us">dcj.state.co.us</a>	2013	689	3Yrs	2.6%
CT	State of Connecticut	<a href="http://www.usafair.org/recidivism_studies">www.usafair.org/recidivism_studies</a>	2012	746	5Yrs	1.7%
DE	Office of Policy & Mgt	<a href="http://www.usafair.org/recidivism_studies">http://www.usafair.org/recidivism_studies</a>	2007	No data	3Yrs	3.8%
FL	FDOC	<a href="http://www.lynn.edu/about-lynn/news-and-events/news/media/2012/11/sex-offender-risk-and-recidivism-in-florida-2012/view">www.lynn.edu/about-lynn/news-and-events/news/media/2012/11/sex-offender-risk-and-recidivism-in-florida-2012/view</a>	2012	500	5Yrs	5.2%
IL	Justice Research & Statistics	<a href="http://www.usafair.org/recidivism_studies">www.usafair.org/recidivism_studies</a>	2010	2493(9st)	3Yrs	2.4%
IN	Indiana DOC	<a href="http://www.usafair.org/recidivism_studies">www.usafair.org/recidivism_studies</a>	2009	387	3Yrs	5.7%
IA	IA Dept. of Human Rights	<i>Division of Criminal &amp; Juvenile Justice Planning and Statistical Analysis Center</i>	2004	2493(9st)	3Yrs	3.5%
ME	Maine Stat. Analysis Center	<a href="http://www.usafair.org/recidivism_studies">www.usafair.org/recidivism_studies</a>	2010	552	3Yrs	3.8%
MI	Michigan Parole Board	<a href="http://sexoffender-reports.blogspot.com/2009/05/chart-michigan-recidivism-rates-all.html">sexoffender-reports.blogspot.com/2009/05/chart-michigan-recidivism-rates-all.html</a>	2000	4762	11YR	2.4%
MN	Minnesota DOC	<a href="http://www.usafair.org/recidivism_studies">www.usafair.org/recidivism_studies</a>	2010	3166	8.4YR	3.0%
MO	Missouri DOC	<a href="http://ipp.missouri.edu/files/ipp/attachments/sex_offender_recidivism.pdf">ipp.missouri.edu/files/ipp/attachments/sex_offender_recidivism.pdf</a>	2010	200	No data	2.2%
NM	New Mexico Sentencing	<i>Exploratory Sex Offender Recidivism Study</i>	2012	126	5Yrs	1.8%
NY	New York DOC	<a href="http://www.usafair.org/recidivism_studies">www.usafair.org/recidivism_studies</a>	2013	No data	8Yrs	2.1%
NC	Significance of Sex Offender Residency Restrictions	<i>Evidence from North Carolina: report by Songman Kang, Duke University</i>	2012	No data	5Yrs	2.2%
OH	Sex Offender Study:2000 reconvicted sex offenders	<a href="http://www.usafair.org/recidivism_studies">www.usafair.org/recidivism_studies</a>	2000	879	10Yrs	3.7%
SC	Medical School of South Carolina	<i>Evaluating the Effectiveness of SORNA for Reducing Sexual Violence against Women</i>	2010	490	8+Yrs	4.0%
TN	TBI	<i>Tennessee Department of Safety</i>	2007	557	3Yrs	3.5%
VT	Vermont DOC	<i>A Model of Static and Dynamic Sex Offender Risk Assessment</i>	2011	759	3Yrs	4.6%
WA	WA State Inst for Pub Policy	<a href="http://www.wsipp.wa.gov/rptfiles/05-08-1203.pdf">www.wsipp.wa.gov/rptfiles/05-08-1203.pdf</a>	2005	4091	5Yrs	2.7%

Advocates for Change, (AFC), P.O. Box 103392, Denver, CO 80250

Ph: 720-329-9096 Email: [advocates4changeafc@yahoo.com](mailto:advocates4changeafc@yahoo.com) Website: [advocates4change.org](http://advocates4change.org)

Beginning in FY 2000, DCJ was awarded grant funding<sup>2</sup> which was used to fulfill the first step towards this legislative mandate. A process evaluation evaluating compliance with the *Adult Standards and Guidelines* throughout the state was conducted by the Division of Criminal Justice Office of Research and Statistics. This evaluation was completed in December of 2003 (**Attachment E**) and indicated that the *Adult Standards and Guidelines* were sufficiently implemented statewide.

Based on the results of the process evaluation, the SOMB undertook the second portion of this legislative mandate and evaluated the effectiveness of the *Adult Standards and Guidelines* (**Attachment F**). A final report was submitted to the legislature in December of 2011. Specifically, the study focused on outcomes related to the behavior of offenders subject to the *Adult Standards and Guidelines* by examining 1-and 3-year sexual and general recidivism rates. The sample consisted of 689 sex offenders (Probation n = 356, Parole n = 333) who successfully discharged or completed from a parole or probation sentence between July 1, 2005 and June 30, 2007. In order for adult sex offenders to successfully discharge from criminal justice supervision, all areas of the *Adult Standards and Guidelines* must be sufficiently completed. Table 9 presents the findings from the report.

**Table 8. Probation and Parole Recidivism Outcomes**

	No Recidivism	339	260	599 (86.9%)
One-Year	New Sexual Crime	3	2	5 (0.7%)
	New Violent, Non-Sexual Crime	5	33	38 (5.5%)
	New Non-Violent, Non-Sexual Crime	9	38	47 (6.8%)
TOTAL		356	333	689 (100%)
	No Recidivism	319	117	496 (72.0%)
Three-Year	New Sexual Crime	8	10	18 (2.6%)
	New Violent, Non-Sexual Crime	10	64	74 (10.7%)
	New Non-Violent, Non-Sexual Crime	19	82	101 (14.7%)
TOTAL		356	333	689 (100%)

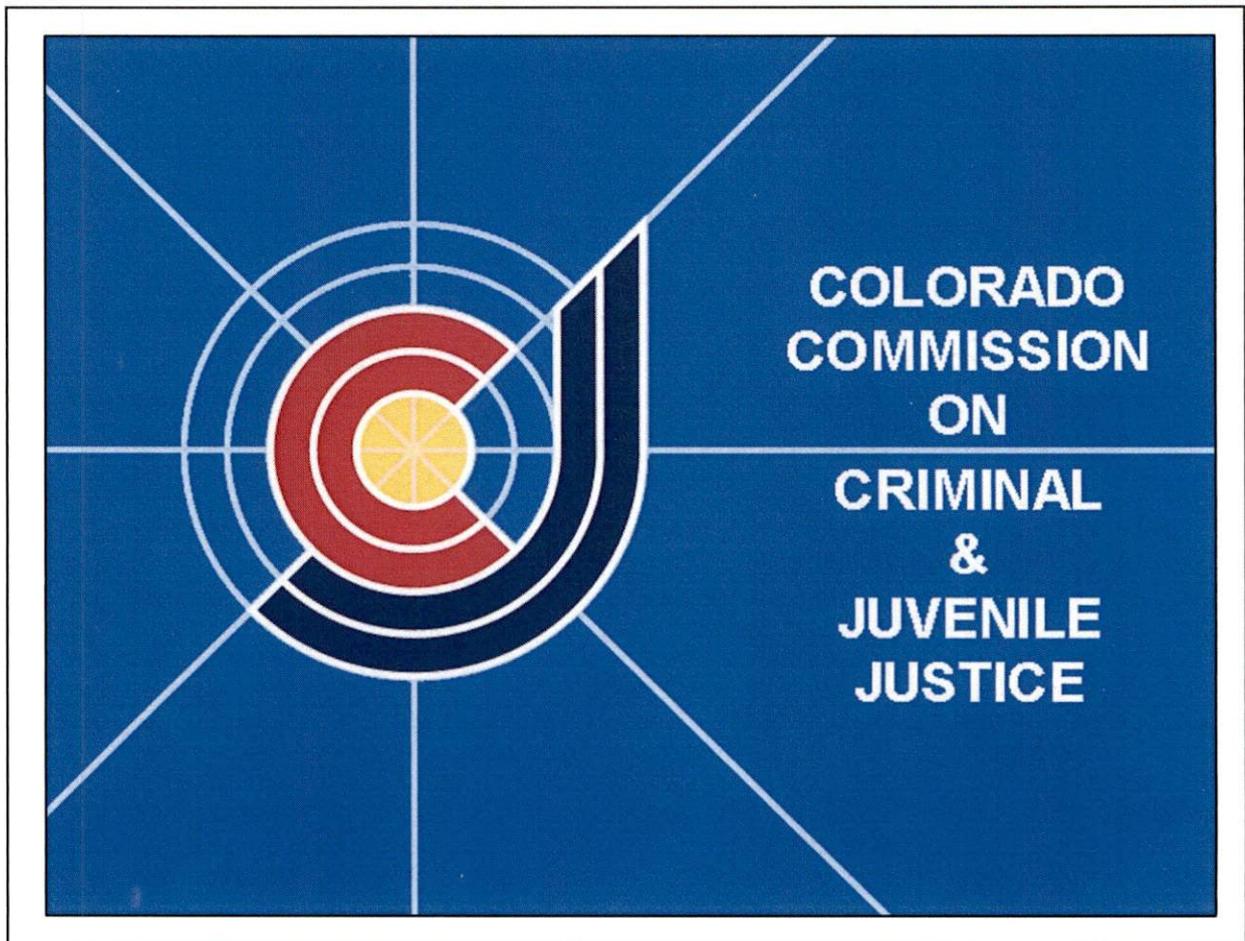
Note: Recidivism was defined in this evaluation as the occurrence of new court filings within one year and within three years of termination of supervision. This includes both district and county filings (Denver county data were not available for this study). This new court filing method uses new prosecutions as a conventional approach adopted by varying agencies throughout the state. New convictions are concededly lower than court filings, while new arrests are much higher. As a result, court filings are a more neutral measure of recidivism which neither overestimate arrest rates nor underestimate conviction rates. These data are based on Colorado filings as out-of-state data were not available.

Compared nationally and the current literature, sex offender recidivism rates in Colorado were consistent with national trends. Less than one percent of the sample (n = 5) had new sexual crime recidivism one year after successful discharge from supervision, while 2.6% (n = 18) had a new sexual crime three years after successful discharge from supervision.

#### External Evaluation

The most recent evaluation of the SOMB occurred in FY 2013. The Joint Budget Committee authorized in Senate Bill 2013-230 to fund \$100,000 for an external evaluation, specifically to "conduct a thorough review, based on risk-need-responsivity principles and the relevant literature, with recommendations for improvement as warranted, of the efficacy, cost-effectiveness, and public safety implications of Sex Offender Management Board programs and policies with particular attention to:

<sup>2</sup> Drug Control and System Improvement Program Grant (Federal dollars administered through the Division of Criminal Justice





**Colorado Commission on Criminal & Juvenile Justice**

**The Colorado Commission on Criminal and Juvenile Justice is a multidisciplinary 27-member entity that was established in 2007 by C.R.S. 16-11.3-101 to improve “the effective administration of justice” by undertaking a comprehensive examination of the criminal and juvenile justice systems and making recommendations for reform.**

December 2015



**Colorado Commission on Criminal & Juvenile Justice**

<b>Stan Hilkey</b> , Commission Chair Executive Director, Department of Public Safety	<b>Doug Wilson</b> , Commission Vice-Chair State Public Defender
<b>Jennifer Bradford</b> , Dept. of Higher Education	<b>John Cooke</b> , State Senator, Senate District 13
<b>Kelly Friesen</b> , Grand County Juvenile Justice Department	<b>Charles Garcia</b> , former Denver Manager of Safety
<b>Kate Horn-Murphy</b> , Victim Representative, 17 <sup>th</sup> Judicial District	<b>Evelyn Leslie</b> , Colorado School for Family Therapy
<b>Beth McCann</b> , State Representative, House District 8	<b>Joe Morales</b> , State Board of Parole
<b>Norm Mueller</b> , Criminal Defense Attorney	<b>Kevin Paletta</b> , Lakewood Police Chief
<b>Joseph Pelle</b> , Boulder County Sheriff	<b>Eric Philp</b> , Director of Probation Services
<b>Rick Raemisch</b> , Executive Director Department of Corrections	<b>Rose Rodriguez</b> , Community Corrections Representative
<b>Lang Sias</b> , State Representative, House District 27	<b>Pat Steadman</b> , State Representative, Senate District 31
<b>David Weaver</b> , Weld County Commissioner	<b>Scott Turner</b> , Deputy Attorney General
<b>Robert Werthwein</b> , Department of Human Services	<b>Michael Vallejos</b> , Judge 2 <sup>nd</sup> Judicial District
<b>Meg Williams</b> , Juvenile Parole Board	<b>Peter Weir</b> , DA, 1 <sup>st</sup> Judicial District
	<b>Dave Young</b> , DA, 17 <sup>th</sup> Judicial District
	<b>Jeanne M. Smith</b> , Director, Division of Criminal Justice
	<b>Vacant</b> , Juvenile Justice Representative

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Colorado Commission on Criminal & Juvenile Justice

**CCJJ Mission Statement**

**The mission of the Commission** is to enhance public safety, to ensure justice, and to ensure protection of the rights of victims through the cost-effective use of public resources. The work of the commission will focus on evidence-based recidivism reduction initiatives and the cost-effective expenditure of limited criminal justice funds.

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Colorado Commission on Criminal & Juvenile Justice

**Current Task Forces & Subcommittees**



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## Colorado Commission on Criminal & Juvenile Justice

### Current CCJJ Task Forces

#### **Community Corrections Task Force**

Ongoing work focuses on improvements to local community corrections board processes, analyzing and making recommendations regarding best practices for specific target populations (medium, high risk, low risk/high stakes) and recommending improvements to the offender referral process.

#### **Re-entry Task Force**

Exploring technical violations, collateral consequences of a conviction, and access to medical/mental health care for offenders.

#### **Data Sharing Task Force**

Evaluating data sharing issues between agencies and across the criminal justice system. Exploring the feasibility of a single repository of offender data that could be accessed by all agencies resulting in more effective offender management, reduction in redundancy, and increased public safety.

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## Colorado Commission on Criminal & Juvenile Justice

### Current CCJJ Subcommittees

#### **Legislative Subcommittee**

Reviews the language of bills derived from CCJJ recommendations and determines whether legislation reflects the original recommendation intent. Members review legislation or legislative changes as bills progress through the legislature.

#### **Mandatory Parole Subcommittee**

Studied efficacy of the current parole release system, made recommendations to (1) revise statutory purposes of parole, (2) increase clarity of sentences, and (3) set the length of parole terms based on risk to reoffend.

#### **Minority Overrepresentation (MOR) Subcommittee**

The role of the Subcommittee is to focus and advance the continuing efforts by the Commission regarding issues of minority over-representation in the criminal justice system. The MOR Subcommittee, on behalf of the CCJJ, also compiles a variety of data and information on disproportionate minority contact. These educational materials may be found on the CCJJ website at <https://www.colorado.gov/pacific/ccjj/ccjj-dmc>.

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**Previous Task Forces and Subcommittees**

- *Bail Subcommittee*
- *Community Corrections Task Force*
- *Cost Savings Subcommittee*
- *Direct File Subcommittee*
- *Drug Policy Task Force*
- *Juvenile Justice Task Force*
- *Re-Entry Oversight Committee*
- *Behavioral Health Task Force*
- *Cyber-bullying Committee*
- *First-Responder Study Group*
- *MOR Committee*
- *Probation Task Force*
- *Incarceration Task Force*
- *Transition Task Force*
- *Post-Incarceration Supervision Task Force*
- *Sentencing Task Force*
- *Sex Offense/Offender Task Force*

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Colorado Commission on Criminal & Juvenile Justice

**A few Commission accomplishments**

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**Colorado Commission on Criminal & Juvenile Justice**

**Drug law reform (2009/2012)**

- SB13-250: created new drug grid, DF1-DF4/DM1,2, petty

DRUG LEVEL	PRESUMPTIVE RANGE	AGGRAVATED RANGE	PAROLE
DF 1	8 – 32 years	n/a	3 years
DF 2	4 – 8 years	8 – 16 years	2 years
DF 3	2 – 4 years	4 – 6 years	1 year
DF 4	6 months – 1 year	1 – 2 years	1 year
	<b>MINIMUM</b>	<b>MAXIMUM</b>	
DM 1	6 months, \$500 fine or both	18 months, \$5,000 fine or both	
DM 2	\$50 fine	12 months, \$750 fine or both	

- Allows a “wobbler”— Court may vacate the felony conviction and enter a misdemeanor conviction if defendant completes community based sentence (certain cases ineligible based on prior record)
- Effective October 2013

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**Colorado Commission on Criminal & Juvenile Justice**

**DRUG LAW REFORMS 2009/2012**

***Increase treatment availability prior to restructuring drug laws (2009)***

- Increase in Persistent Drunk Driver Surcharge (\$550,000/year) (HB 10-1347)
- Drug offender surcharge *assessed* doubled (HB10-1352)
- \$1,545,409 for community corrections treatment beds (HB10-1360)
- \$2,057,225 services for parolees (HB10-1360)
- First \$2M in medical marijuana sales/use tax fund substance abuse treatment programs (HB10-1284)

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### Colorado Commission on Criminal & Juvenile Justice

- **Restructuring Theft statute (HB 13-1160)**

BEFORE

Offense Level	Value
F3	\$20K and up
F4	\$1K - \$20K
F5	\$1K - \$20K (rental property)
F6	
M1	\$500 - \$1K
M2	Less than \$500
M3	
PO1	

AFTER

Offense Level	Value
F2	\$1M and up
F3	\$100K - \$1M
F4	\$20K - \$100K
F5	\$5K - \$20K
F6	\$2K - \$5K
M1	\$750 - \$2K
M2	\$300 - \$750
M3	\$100 - \$300
PO1	Less than \$100

HB14-1266—thresholds applied to criminal mischief, fraud by check, defrauding a secured creditor, and unauthorized use of a financial transaction device, and computer crime

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### Colorado Commission on Criminal & Juvenile Justice

#### EVIDENCE-BASED DECISION MAKING

- **Bail reform (2012)**
  - **Implement evidence-based decision making practices**
  - **Discourage the use of financial bond** for pretrial detainees
    - HB 13-1236

More than 10 counties are now using the Colorado Pretrial Assessment Tool (CPAT)
- **Introduce a structured decision-making guide for use by the Colorado parole board (2009)**
  - HB10-1374
  - *Colorado Parole Board Release Guidelines Instrument*
    - Use of actuarial risk scale
    - Determination of readiness
  - Annual report of progress and findings

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Colorado Commission on Criminal & Juvenile Justice

## Recent Commission Bills

**House Bill 15-1022** Created a petty ticket option for law enforcement as an alternative to initiating formal proceedings for youth.

**House Bill 15-1072** Made changes to the harassment statute to clarify cyberbullying behaviors.

**House Bill 15-1203** Retroactively provided earned time credit to certain individuals sentenced under the habitual criminal statute.

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Colorado Commission on Criminal & Juvenile Justice

## Current Commission Legislative Recommendations

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**Colorado Commission on Criminal & Juvenile Justice**

**CCJJ 2016 Legislative Recommendations**

**Update and Rewrite the Statutory Purposes of Parole to Reflect Contemporary and Evidence-Based Common Practices**

*Colorado's Purpose of Parole statute (C.R.S. 17-22.5-102.5) requires updating to reflect current research that promotes offender success while making the transition from prison to the community. Many states have revised their parole statutes to reflect evidence-based practices and policies, and to include a focus on preparation for community release along with public protection.*

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**Colorado Commission on Criminal & Juvenile Justice**

**Questions?**

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**Colorado Commission on Criminal & Juvenile Justice**

**For more information about the Commission  
and its activities, please see the  
Commission's website at  
[www.colorado.gov/ccjj](http://www.colorado.gov/ccjj)**

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