

**COLORADO GENERAL ASSEMBLY  
JOINT BUDGET COMMITTEE**



**SUPPLEMENTAL REQUESTS FOR FY 2015-16 AND  
BUDGET AMENDMENTS FOR FY 2016-17**

**JUDICIAL DEPARTMENT**  
(Office of the Child Protection Ombudsman)

**JBC Working Document - Subject to Change  
Staff Recommendation Does Not Represent Committee Decision**

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## **(9) Office of the Child Protection Ombudsman - Overview**

The Office of the Child Protection Ombudsman (OCPO) was created in 2010 to serve as an independent and neutral organization to investigate complaints and grievances about child protection services, make recommendations about system improvements, and serve as a resource for persons involved in the child welfare system. The Office operated as a non-profit organization under contract with the Department of Human Services. Most recently, the Ombudsman's Office was located within the National Association of Counsel for Children, a national nonprofit organization based in Denver.

Senate Bill 15-204 established the OCPO in the Judicial Department as an independent agency, and it established the Child Protection Ombudsman Board to oversee personnel decisions, operating policies and procedures, and budget. The act required the OCPO, by November 1, 2015, to sign an administrative memorandum of understanding with the Judicial Department with an effective date of no later than January 1, 2016. The act modified the powers and duties of the existing Child Protection Ombudsman Program in the Department of Human Services, and authorized the Executive Director of the Department of Human Services to extend the existing program contract through December 31, 2015.

The Board appointed the new Child Protection Ombudsman in December 2015, and she took office in January 2016. However, as the new OCPO was still in the process of being established last November, the budget request for the OCPO for FY 2016-17 was included as part of the Judicial Department's November 1, 2015, budget request. This request was consistent with the Legislative Council Staff Fiscal Note for S.B. 15-204.

### **SUPPLEMENTAL REQUEST AND BUDGET AMENDMENT – OFFICE OF THE CHILD PROTECTION OMBUDSMAN**

#### **➔ OCPO S1 and BA1: Office Funding**

*Request:* **The OCPO recently submitted a supplemental request for \$239,507 General Fund for FY 2015-16, and a budget amendment for \$334,379 General Fund and 2.0 FTE for FY 2016-17.** The request includes several components, detailed in the table on the next page.

*Recommendation:* **Staff recommends approving the request in part, appropriating \$160,471 General Fund for FY 2015-16 and \$52,770 General Fund (and 0.0 FTE) for FY 2016-17.** Staff's recommendation for each component of the request is detailed in the table on the next page.

*JBC Staff Figure Setting: FY 2016-17*  
*Staff Working Document – Does Not Represent Committee Decision*

<b>Office of the Child Protection Ombudsman: March 2016 Supplemental and Budget Amendment</b>						
<b>Item</b>	<b>FY 2015-16 Supplemental</b>		<b>FY 2016-17 Budget Amendment</b>			
	<b>Request</b>	<b>Recomm.</b>	<b>Request</b>	<b>FTE</b>	<b>Recomm.</b>	<b>FTE</b>
Moving Expenses	\$1,600	\$0				
Technology Expenses	<u>9,586</u>	<u>0</u>	<u>20,822</u>		<u>0</u>	
Computer Setup Temp. Space	1,700	0	0		0	
Computer Setup Perm. Space	1,700	0	0		0	
Set Up IT Network	2,100	0	0		0	
Monthly Computer Service	1,500	0	3,000		0	
Cell Phones	1,800	0	3,600		0	
Copier Rental	786	0	1,572		0	
Cloud Storage			1,200		0	
Internet/Phone Service			6,000		0	
Licenses/Software			250		0	
New Server (One-time)			5,200		0	
Board Expenses	7,200	7,200	16,776		16,776	
Legal Fees	6,271	6,271				
Build-Out	<u>214,850</u>	<u>165,500</u>				
Office Construction	136,500	136,500				
Furniture	78,350	29,000				
Salary Adjustments - Existing Staff			<u>91,913</u>		<u>35,994</u>	
Ombudsman			55,892		0	
Deputy Ombudsman			30,917		11,531	
Investigator			0		32,058	
Intake Manager			5,104		0	
Other Adjustments			0		(7,595)	
Additional Positions			<u>168,273</u>	<u>2.0</u>	<u>0</u>	<u>0.0</u>
PIO/Communications Director			102,128	1.0	0	0.0
Investigator I (Part-time)			37,474	0.5	0	0.0
Administrative Assistant (Part-time)			28,671	0.5	0	0.0
Statewide Community Outreach			<u>36,595</u>		<u>0</u>	
Outreach			14,780		0	
Travel			6,251		0	
Staff Education and Training			11,642		0	
Office Development and Training			3,922		0	
Appropriation to the Department of Human Services for Ombudsman Contract		(18,500)				
<b>Total General Fund</b>	<b>\$239,507</b>	<b>\$160,471</b>	<b>\$334,379</b>	<b>2.0</b>	<b>\$52,770</b>	<b>0.0</b>
Request Above/(Below) Recommendation	\$79,036		\$281,609	2.0		

*Analysis:*

**Background Information: S.B. 15-204 Appropriations.** Senate Bill 15-204 established the Office of the Child Protection Ombudsman (OCPO) in the Judicial Department as an independent agency, and it established the Child Protection Ombudsman Board. In order to provide six months of funding for the Department of Human Services' contract for FY 2015-16, and to provide funding for the start-up costs and six months of operations of the new OCPO, the act reduced the General Fund appropriation to the Department of Human Services (from \$512,822 to \$242,450), and appropriated \$351,086 General Fund and 2.2 FTE to the Judicial Department. The following table, excerpted from the final Legislative Council Staff Fiscal Note for S.B. 15-204, details the assumptions that underlie the appropriation changes in the bill.

<b>Table 1. Expenditures Under SB 15-204</b>		
<b>Cost Components</b>	<b>FY 2015-16</b>	<b>FY 2016-17</b>
<b>JUDICIAL DEPARTMENT</b>	<b><u>\$351,086</u></b>	<b><u>\$503,876</u></b>
Personal Services	141,760	340,226
FTE	2.2 FTE	4.3 FTE
Operating Expenses and Capital Outlay Costs	20,712	3,800
Travel, Training, Office Equipment, Printing, and Other Expenses	39,000	78,000
Judicial Department Accounting and Human Resources	10,000	20,000
Office Space Build-Out	115,000	0
Centrally Appropriated Costs	24,614	61,850
<b>DEPARTMENT OF HUMAN SERVICES</b>	<b><u>(\$270,372)</u></b>	<b><u>(\$512,822)</u></b>
Contract for Child Protection Ombudsman	(270,372)	(512,822)
<b>TOTAL</b>	<b><u>\$80,714</u></b>	<b><u>(\$8,946)</u></b>

**Joint Budget Committee Action to Date.** On January 12, 2016, the Committee approved a request for \$21,567 General Fund for FY 2015-16 for the OCPO to cover the cost of legal services provided by the Department of Law to the newly created Child Protection Ombudsman Board, and to provide funding for an additional 40 hours of legal services required to facilitate the continuity of program operations as the program transitioned from the Department of Human Services to the Judicial Branch.

On February 17, 2016, the Committee approved a staff recommendation to appropriate a total of \$483,876 General Fund (and 4.0 FTE) for FY 2016-17 for the operations of the OCPO. This amount is consistent with the Fiscal Note for S.B. 15-204.

**Applicable Deadlines and Criteria.** Pursuant to Section 2-3-208, C.R.S., state agencies are required to submit supplemental requests and corresponding budget amendments by January 2, and budget amendments that do not correspond to supplemental requests by January 15. However, an agency may submit a supplemental request or a budget amendment after these deadlines if the request is "based upon circumstances unknown to, and not reasonably

foreseeable by, the state agency prior to the deadline". Given that the new office that was created by S.B. 15-204 did not begin operations under the newly appointed Ombudsman until January 2016, staff believes it is reasonable that these requests were submitted after the statutory deadlines. This situation is similar to requests that have been submitted by elected statewide officials who take office in January. In addition, staff believes that the supplemental request meets the Joint Budget Committee's supplemental criteria:

<b>Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria?</b> [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	<b>YES</b>
JBC staff agrees that this request meets supplemental criteria, but believes that it is the result of an unforeseen contingency as well as new data.	

Description of Request and Staff Recommendations. The OCPO request includes several components, described below, along with the staff recommendation for each.

- *Moving expenses (\$1,600 for FY 2015-16).* The OCPO incurred expenses to move furniture, files, and computers from its former location to temporary space in the Carr Center, and the OCPO will incur additional expenses to move into permanent space in the Carr Center in June 2016. While the Fiscal Note did not specifically identify moving costs, it did include \$39,000 in FY 2015-16 for six months of miscellaneous operating, travel, and training expenses (over and above telephone and supply expenses). Staff does not have any data to indicate that the existing appropriation is insufficient to cover these expenses. **Staff recommends denying this request.**
- *Technology expenses (\$9,586 for FY 2015-16; \$20,822 for FY 2016-17).* The OCPO requests funding to cover a variety of technology related expenses that are detailed in the table at the beginning of this section. The Fiscal Note included one-time funding of \$4,920 for computers and software for four staff, \$950 per staff person for telephone and supply expenses, plus another \$39,000 in FY 2015-16 and \$78,000 in FY 2016-17 for miscellaneous operating, travel, and training expenses. Staff does not have any data indicating that these amounts (which are reflected in the existing FY 2015-16 appropriation and the appropriation approved by the Committee for FY 2016-17) are insufficient to cover these expenses. **Staff recommends denying this request.**
- *Board expenses (\$7,200 for FY 2015-16; \$16,776 for FY 2016-17).* Senate Bill 15-204 requires the newly created 12-member board to meet "a minimum of two times per year and additionally as needed", and it requires at least one meeting per year to be held outside the Denver area. Board members serve without compensation, but may be reimbursed for actual expenses incurred. The OCPO requests funding to cover board-related expenses. The OCPO notes that three board members travel substantial distances to attend meetings in Denver, and the board has been meeting monthly and plans to continue doing so until the office is fully established. The request for FY 2016-17 is based on 12 meetings, including one in Pueblo. It is staff's understanding that the Fiscal Note anticipated fairly minimal board-related expenses. Given the timing of when this board was established and when the new Ombudsman was appointed, staff believes that it is reasonable to provide additional funding

for at least the first 18 months of OCPO operations to allow the board to meet monthly. **Staff recommends approving the requests for FY 2015-16 and FY 2016-17.**

- *Legal fees (\$6,271 for FY 2015-16).* In January, staff recommended an appropriation of \$21,567 to cover legal services expenses incurred by the newly create board as of December 2015 (\$17,767) plus another \$3,800 to cover the costs of purchasing an additional 40 hours of legal services related to other personnel- and board-related issues. The OCPO subsequently learned that a total of \$24,038 was incurred for legal services prior to January, and thus requests an additional \$6,271. Consistent with staff's recommendation in January, **staff recommends approving this request.**
- *Carr Center space build-out (\$136,500).* The Fiscal Note estimated costs of \$115,000 to finish office space in the Carr Center for the OCPO based on a cost of \$100 per square foot (sf) for 1,150 sf. The space that the OCPO will be occupying in the Carr Center is 2,300 sf, including 2,000 sf for seven offices and common areas, plus 300 sf for a conference room (to be shared with the Office of the Respondent Parents' Counsel). The Judicial Department indicates that the cost of finishing the space will be \$110/sf, plus an additional \$15,000 for cabling. The OCPO thus requests an additional \$136,500 for FY 2015-16. **Staff recommends approving the request.** While the space is larger than anticipated, if the OCPO is likely to grow in the future it is more cost-effective to secure and prepare the space now.
- *Furnishings (\$78,350).* The Fiscal Note identified one-time capital outlay costs of \$13,892 for furnishings based on the standard fiscal note allocation of \$3,473/FTE for a cubicle/workstation. The OCPO has identified a need for \$96,350 for furnishings, including \$67,350 for seven offices (an average of \$9,621/office), \$10,000 for a small conference room, \$9,000 for the lobby area, and \$10,000 for half the cost of the shared conference room furnishings. The OCPO plans to use \$18,000 of the existing capital outlay appropriation for this purpose, and thus requests an additional \$78,350 for FY 2015-16. **Staff recommends approving \$29,000 of this request.** The existing appropriation provides the standard allocation to furnish offices for the existing four positions. However, given that S.B. 15-204 established a new independent office, it seems reasonable to provide some additional one-time funding to furnish the common spaces. [Please note that if the Committee chooses to approve the request for new positions (described below), \$4,703 should be added to the requested amount to provide furnishings and a computer for each approved position.]
- *Salary adjustments for existing staff (\$91,913 for FY 2016-17).* The OCPO requests funding to increase the salaries for the three staff positions that are currently filled. At the request of the Ombudsman, the Human Resources unit within the State Court Administrator's Office (SCAO) identified positions within the Judicial and Executive Branches (as well as elsewhere) that might be applicable to the four existing OCPO positions. The requested salary increases are described below.
  - Ombudsman/ Executive Director: Increase salary from \$109,000 to \$159,320 based on the existing salary paid to the Directors of three other Judicial agencies (the Office of the Alternate Defense Counsel, the Office of the Child's Representative, and the Office of the

Respondent Parents' Counsel). Last September, the SCAO Human Resources unit indicated that an Associate Ombudsman for the Federal Reserve Bank (with a salary range of \$107,000 to \$197,000) is a close match to the Child Protection Ombudsman position in regards to investigations and program management, and the Director position at SCAO is also a reasonable salary range to consider (\$120,996 to \$159,320).

- Deputy Ombudsman: Increase salary from \$74,160 to \$102,000 based on a Senior Manager position at the SCAO (with a salary range of \$102,396 to \$137,376). The SCAO Human Resources unit also indicated that a Probation Services Analyst IV position may be considered comparable (with a salary range of \$83,664 to \$112,056).
- Intake Manager: Increase salary from \$59,226 to \$63,822 based on a Staff Assistant position at the SCAO (with a salary range of \$50,544 to \$67,740). The SCAO Human Resources unit also indicated that a Probation Officer (with a salary range of \$45,528 to \$82,092) and a Youth Services Counselor II (with a salary range of \$54,768 to \$80,160) may be considered comparable.

**Staff recommends adding a total of \$35,994 for FY 2016-17.** The Fiscal Note for S.B. 15-204 assumed that the OCPO would "generally continue current operations at existing salary and budgeting levels", with modifications for space build-out and adjustments to conform employee benefits (*e.g.*, PERA contributions) and operating expenses with state common policies. It is staff's understanding that two of the contract employees have been retained (the Deputy Ombudsman and the Intake Manager), and the salaries for these two individuals are 3.0 percent higher than assumed in the Fiscal Note. The Board hired a new Ombudsman, and her salary is 2.8 percent higher than assumed in the Fiscal Note. It is staff's understanding that the contractor only utilized a part-time Investigator, and this position is currently vacant.

Staff's recommendation is based on the following changes:

- Increase the Deputy Ombudsman salary from \$74,160 to \$83,664, the minimum of the range for a Probation Services Analyst IV. Staff selected this salary range based on two other comparable positions in the Department of Human Services (DHS). First, this salary is equivalent to the salary paid to the second tier of professional staff within the DHS' Administrative Review Unit. This 26-person unit acts as a third party that conducts federally required case reviews and quality assurance for both the Division of Child Welfare and the Division of Youth Corrections. This involves on-site case review and face-to-face meetings with children in out of home placement, reviewing child welfare assessments and cases where families are receiving in-home services, and providing an independent assessment of requirements and practice related to the key decision making steps within the child welfare system.

Second, the DHS has requested funding (through R1) using the General Professional (GP) IV classification (at the range minimum) to add two Child Protective Services Specialists to: (a) monitor, supervise, and provide oversight of county department of social services practice; (b) provide training, coaching, and technical assistance to all 64 counties; (c) provide training to community partners in all aspects of child protection; (d) serve as a subject matter expert in child protective practice; and (e) represent the Division

of Child Welfare in local, state, and national arenas. The recommended salary is near the maximum of the range for a GP IV.

- Increase the salary for the existing Investigator position from \$38,000 to \$64,420. This is the same salary requested for a new 0.5 FTE Investigator position (described below); this request is based on the mid-point of the range for a Criminal Investigator I. Staff believes that the Executive Branch Compliance Investigator II may be a more appropriate occupational class for this position based on the nature of the work; this is the classification for most of the staff within the Administrative Review Unit. However, the proposed salary is within the range for this position (\$58,884 to \$86,184).
- Provide \$10,000 for the purchase of other professional services (an amount that is lower than the amount assumed in the Fiscal Note but still appears to be reasonable).

Based on conversations with the Ombudsman, staff's recommendation is designed to ensure that the Ombudsman can retain the existing Deputy Ombudsman and hire an employee with the experience necessary to conduct investigations when warranted in response to complaints that are received. This, in turn, should free up the Deputy Ombudsman to study data and identify systemic issues that should be addressed, and to assist the Ombudsman in community outreach.

Staff does not recommend the requested increase for the Ombudsman. The proposal would match the Ombudsman salary to that of Directors of three other judicial agencies that provide legal representation; the salaries for these three positions are tied to that of a district court judge. It is staff's understanding that this policy was established because these Directors work with judges all across the state, and they oversee hundreds of private attorneys who regularly represent clients in district court. This rationale does not appear to correspond to the duties of the Ombudsman. The current Ombudsman salary of \$109,000 appears to be reasonable as it is within one of the comparable ranges identified by the SCAO, and it is equivalent to the salary of the Manager of the DHS' Administrative Review Unit. Should the Committee determine that the salary range for the Director position at SCAO is the most appropriate match, staff would recommend applying the common policy of utilizing the minimum of that range for this position (\$120,996), rather than the requested maximum of the range.

Staff does not recommend the requested increase for the Intake Manager position as the existing salary is above the midpoint of the salary range identified for a comparable position.

- *Additional positions (\$168,273 and 2.0 FTE for FY 2016-17).* The OCPO requests funding to add a total of 2.0 FTE, including the following:
  - 1.0 FTE Public Information Officer/Communications Director to address the OCPO's statutory duty to educate and conduct statewide outreach with stakeholder groups;
  - 0.5 FTE Investigator to investigate complaints received; and
  - 0.5 FTE Administrative Assistant to handle administrative tasks.



**Staff recommends denying this request.** Primarily, staff is not comfortable recommending an expansion of this office when it was just established in January and it is not yet fully staffed. In addition, from a process perspective, staff is not comfortable expanding the OCPO staff by half, when the Fiscal Note for the bill that established the office reflected a simple continuation of existing operations. In addition, due to the timing, the Committee has not had an opportunity to learn about and discuss this proposal through the normal briefing and hearing process. Please note that staff's recommendation above is designed to make sure that the OCPO has sufficient funding to hire one full-time, experienced investigator (*i.e.*, to actually staff the office as anticipated in the Fiscal Note). While the other two requests would likely improve the office's outreach efforts and efficiency, staff believes that these requests are premature and could be considered in the future.

- *Statewide community outreach (\$36,595 for FY 2016-17).* The OCPO requests funding for statewide community outreach efforts, including the following:
  - \$14,780 to purchase communication tools (*e.g.*, subscriptions to an on-line commercial e-mail service, on-line survey tools, and a legislative tracking service) and to improve the agency website and produce marketing and education materials;
  - \$6,251 for the Ombudsman and the Deputy Ombudsman to visit 12 counties to meet with stakeholders in all regions of the state;
  - \$11,642 for three staff to attend the annual national Ombudsman Association conference and two staff to attend the annual national child abuse and neglect conference; and
  - \$3,922 for the Ombudsman to visit three well established Ombudsman offices in other states.

**Staff recommends denying this request.** The Fiscal Note included funding for miscellaneous operating, travel, and training expenses (\$39,000 in FY 2015-16 and \$78,000 in FY 2016-17). Staff does not have any data indicating that these amounts (which are reflected in the existing FY 2015-16 appropriation and the appropriation approved by the Committee for FY 2016-17) are insufficient to cover at least some of the expenses identified in this request.

**Finally, staff recommends reducing the appropriation to the Department of Human Services for FY 2015-16 for the Child Protection Ombudsman contract by \$18,500 General Fund.** The Department indicates that absent any other action it will revert at least \$18,500 General Fund at the end of the fiscal year.

In February, staff provided a table to illustrate how the recommended appropriation for FY 2016-17 could be allocated, based on the Committee's common policies for employee benefits. Staff has provided an updated table that reflects the changes recommended in this packet. The Long Bill appropriation, however, will reflect these funds in a single "Program Costs" line item appropriation, providing maximum flexibility to the Ombudsman.

*JBC Staff Figure Setting: FY 2016-17*  
*Staff Working Document – Does Not Represent Committee Decision*

<b>Illustration of Allocation of Recommended Appropriation to the Office of the Child Protection Ombudsman for Program Costs</b>			
<b>Description</b>	<b>February 2016 Recommendation</b>	<b>March 2016 Recommendation</b>	<b>Change</b>
Personal Services	\$329,717	\$363,002	\$33,285
FTE	4.0	4.0	0.0
Health, Life, and Dental	44,259	44,259	0
Short-term Disability	548	601	53
S.B. 04-257 Amortization Equalization Disbursement	13,848	15,183	1,335
S.B. 06-235 Supplemental Amortization Equalization Disbursement	13,704	15,025	1,321
Salary Survey	0	0	0
Merit Pay	0	0	0
Operating, Board, Travel, and Training Expenses	<u>81,800</u>	<u>98,576</u>	<u>16,776</u>
<b>TOTAL</b>	<b>\$483,876</b>	<b>\$536,646</b>	<b>\$52,770</b>