



Office of the
**Alternate
Defense
Counsel**

**FISCAL YEAR 2017-18
COMEBACK REQUEST**

March 20th 2017

Lindy Frolich, Director

	FY2016-17 Appropriation	JBC Action	Comeback Request	Action and Comeback Difference
Total	\$400,582.16	\$409,829.41	\$491,301.61	\$ 81,472.19
FTE	0.0	0.0	0.0	0.0
GF	\$ 400,582.16	\$ 409,829.41	\$ 491,301.61	\$ 81,472.19
Salary	\$ 299,988.00	\$ 306,960.00	\$ 373,368.00	\$ 66,408.00
PERA	\$ 30,448.78	\$ 30,978.85	\$ 37,896.85	\$ 6,918.00
AED	\$ 14,399.42	\$ 14,944.08	\$ 18,668.40	\$ 3,724.32
SAED	\$ 14,249.43	\$ 15,348.00	\$ 18,668.40	\$ 3,320.40
Medicare	\$ 4,349.83	\$ 4,450.92	\$ 5,413.84	\$ 962.92
HLD	\$ 36,576.72	\$ 36,576.72	\$ 36,576.72	\$ -
STD	\$ 569.98	\$ 570.84	\$ 709.40	\$ 138.56
Operating	\$ -	\$ -	\$ -	\$ -
Capital Outlay	\$ -	\$ -	\$ -	\$ -

Summary of Initial Request:

The Office of the Alternate Defense Counsel requested \$107,712 (General Fund) in addition to the Common Policy Total Compensation Request of the Executive Branch in order to fully fund 4 FTE staff [Coordinator of Legal Research and Technology (COLRAT), Evaluation and Training Director (ETD), Juvenile Law Coordinator (JLC), and Appellate and Post-Conviction Coordinator (APCC)] to align their salaries with comparable positions within the State of Colorado.

Joint Budget Committee Action:

The JBC approved the requested salary increase for the agency's Appellate and Post-conviction Coordinator, but only partially approved the requests for the remaining positions:

Position	Salary	Medicare	PERA	AED	SAED	STD	Total
COLRAT	\$ 456	\$ 7	\$ 46	\$ 23	\$ 23	\$ 1	\$ 555
ETD	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
JLC	\$ 6,516	\$ 94	\$ 661	\$ 326	\$ 326	\$ 12	\$ 7,936
APCC	\$ 12,903	\$ 187	\$ 1,310	\$ 645	\$ 645	\$ 25	\$ 15,715
Totals:	\$ 19,875	\$ 288	\$ 2,017	\$ 994	\$ 994	\$ 38*	\$ 24,206

*OADC's STD calculation is \$3.00 higher than JBC staff calculation. OADC's calculation is based on 0.190%.

The total JBC amount approved was for an increase of \$24,203, which is \$83,509 less than the agency's budget request for these 4 positions, and \$81,472 less than OADC's Comeback request.

Office of the Alternate Defense Counsel Comeback:

In FY16, the OADC’s caseload was over 18,000 cases, and the Agency contracts with over 600 lawyers, investigators, paralegals and social workers.

The following positions each represent a Division within the Office of the Alternate Defense Counsel: Coordinator of Legal Resources and Technology; Juvenile Defense Coordinator; and Evaluator/Training Director. These Division coordinators/directors are responsible for overseeing, evaluating, and advising contractors in the following areas: case strategy, agency policy, ethical questions, client relationships, court procedures, technology, training, performance evaluations, and changes in the law. In addition, each OADC Division lead supervises or facilitates interns and other ancillary service providers. These positions also participate in state organizations, and assist with budget preparation and legislative efforts.

The Agency has chosen to compare the positions of First Attorney General, Managing State Public Defender, and Legal Division Director. The following is a list of comparable skills and responsibilities from the job descriptions of both the First Attorney General and Managing State PD and known duties of Legal Division Director*:

Position	Summary of duties
1st Asst Attorney General	Supervised attorneys, investigators, paralegals, participates in state organizations, training, draft policy, budget preparation, evaluates attorney performance, carry a caseload, reviews and drafts legislation.
Managing State Public Defender	Overall management of an office, including administration, personnel, supervision, training, caseload management, ethics

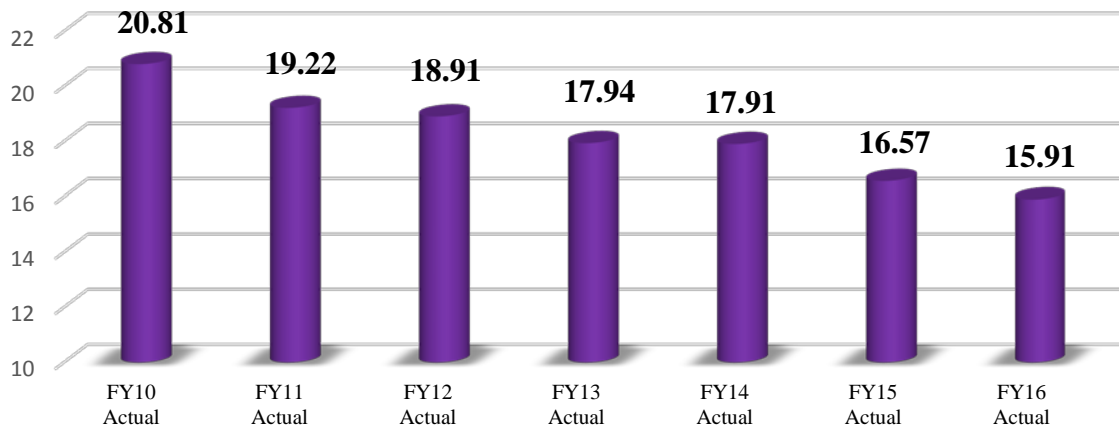
**The agency was not able to obtain a job description for this position, but believes that the duties associated with this position closely align with duties of the 3 OADC Division lead positions.*

Anticipated Cost Savings:

As the following chart shows, the agency’s total number of attorney hours per case has steadily **decreased** from 20.81 in FY10 to 15.91 in FY16.

Contain Case Costs		FY10 Actual	FY11 Actual	FY12 Actual	FY13 Actual	FY14 Actual	FY15 Actual	FY16 Actual
Contain the total number of Attorney hours per case. Includes all case type hours.	Actual	20.81	19.22	18.91	17.94	17.91	16.57	15.91
	<i>% change</i>		<i>-7.64%</i>	<i>-1.61%</i>	<i>-5.13%</i>	<i>-0.17%</i>	<i>-7.48%</i>	<i>-3.98%</i>

Attorney Hours per case from FY2010 - FY2016



The total percent decrease from FY10-16 is 23.5%. This six year decrease in average attorney hours of 4.9 hours per case comes at a time where there is universal agreement that cases are becoming more complex. Without the high level experience of these three division directors, the agency would not have been able to control these hours in this way.

Had the average number of attorney hours per case remained constant (at 20.81 hours per case), the agency's budget for 2016 would have had to be increased by \$6,705,037.

Additionally, as is shown in the chart below, the agency's average TOTAL cost per case has decreased from \$1,769 in FY10 to \$1,647 in FY16, in spite of the fact that the contract attorneys' average hourly rate per case has increased from \$65 per hour to \$75 per hour.

	FY10	FY11	FY12	FY13	FY14	FY15	FY16
Actual Expenditures	\$22,274,216	\$19,561,921	\$21,237,923	\$21,647,265	\$24,354,906	\$28,468,131	\$30,044,610
Actual Cases	<u>12,594</u>	<u>11,878</u>	<u>12,585</u>	<u>13,290</u>	<u>15,085</u>	<u>16,680</u>	<u>18,245</u>
Average Cost per case	\$ 1,769	\$ 1,647	\$ 1,688	\$ 1,629	\$ 1,615	\$ 1,707	\$ 1,647
Average Attorney Hourly Rate	\$ 65	\$ 65	\$ 65	\$ 65	\$ 65	\$ 75	\$ 75



Office of the
**Alternate
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**Fiscal Year 2017-2018
Budget Request - Comeback**

March 20, 2017

Lindy Frolich, Director

REQUEST FOR \$81,742 in Personal Services

- The OADC's decision item request (R1) for salary survey increases totaled \$107,712.
- JBC staff recommended \$24,203, which was approved by the JBC.
- $\$107,712 - \$24,203 = \$83,509$
- Comeback Request is for **\$81,742 in Personal Services**

Position Title	JBC Staf Recommendation	Comeback Request		
Coordinator of Legal Research and Technology	\$557	\$34,727		
Evaluation and Training Director	\$-	\$19,033		
Juvenile Law Coordinator	\$7,936	\$27,712		
Appellate Post-Conviction Coordinator	\$15,711	\$-		
	\$24,203	\$81,472		

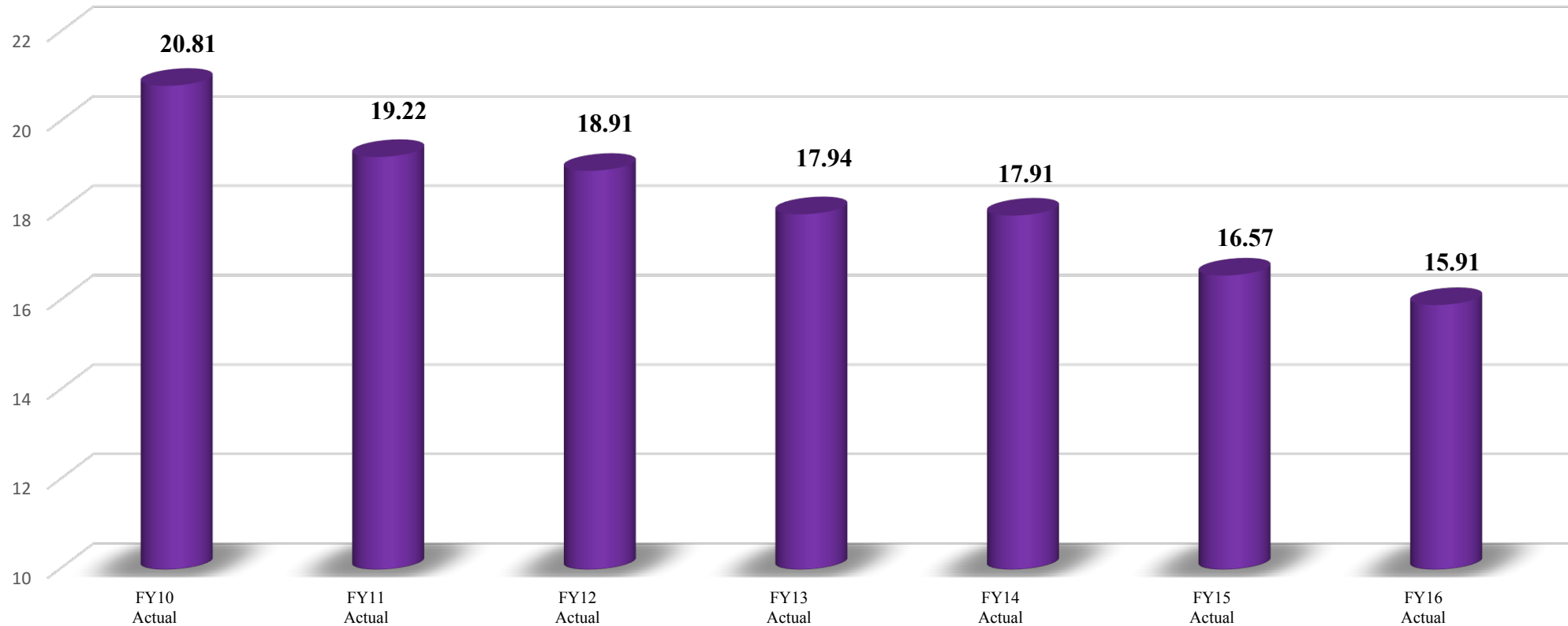
Savings to the State of Colorado due to cost saving measures implemented by OADC staff.

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Average Cost per case	\$ 1,769	\$ 1,647	\$ 1,688	\$ 1,629	\$ 1,615	\$ 1,707	\$ 1,647
Average Attorney Hourly Rate	\$ 65	\$ 65	\$ 65	\$ 65	\$ 65	\$ 75	\$ 75

$$\text{decrease} = \frac{1,769 - 1,647}{1,647} = 6.89\%$$

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Attorney Hours per case from FY2010 - FY2016



Attorney hours per case from FY10 –
FY16

$$\% \text{ decrease} = \frac{15.91 - 20.81}{20.81} = 23.5\%$$

$20.81 - 15.91 = 4.90$ hours per case decrease

$4.90 \times 18,245 = 89,401$ lawyer hours

$89,401 \times \$75/\text{hr} = \underline{\underline{\$6,705,375}}$

ADC's TRAINING DIVISION

Lindy

It was great to see you at the trial advocacy training. Very impressive program with a very strong group of presenters and group leaders. I attended a similar program in Missouri when I first started with the state office in Wichita in 1999 and NCDC in 2005 but, discounting the length and intensity of NCDC, your program was better in several respects.

I cannot imagine all the hard work that went into organizing it all. And I expect I will continue to learn every time I attend. It is also such a wonderful opportunity to experiment with new approaches in a less risky (for the client) environment.

Thank you for that opportunity.

OADC's Juvenile Division

The OADC Juvenile Coordinator has increased the quality of juvenile defense by creating a specialized Juvenile Division through a rigorous screening process for attorneys and a new juvenile-specific OADC contract requiring compliance with juvenile standards of practice and maintenance of specialization through regular training. . She can quickly identify if someone has already done this research, or quickly pull the sources that the defender will need to complete the research, or arrange for a researcher, law student, or paralegal to pull sources and draft research summaries at a lower rate than the defender would charge.

As one OADC contractor commented:

Being able to call the juvenile coordinator for a kid with numerous cases in different counties enabled me to coordinate my defense team to pick up all of the cases and work out a global disposition that resolved all cases in all counties. This coordination between counties for the same child resulted in clear communication and expectations for the child and enabled me to explain to each county the child's particular treatment needs. Additionally, the ability to put the same defense team in all counties reduced the number of court dates and resulted in much great efficiency in communication.

ADC's COORDINATOR OF LEGAL RESEARCH AND TECHNOLOGY (COLRAT)

The best indicator of the importance of COLRAT is the contractor feedback,
for example:

EXAMPLE 1

As an appellate ADC contractor, I have found the weekly case summaries to be a big help in increasing the efficiency of my legal research. I read the succinct summaries each week. .In addition, I can think of several occasions where the motions bank and/or consultation with Jonathan (COLRAT) has saved me hours of unfocused research and brainstorming.

EXAMPLE 2

Consultation with Jonathan has become so important to me that I now consider at least one phone call to him to be part of my work on all my ADC cases.

EXAMPLE 3

whenever I use the motions bank it saves me a couple of hours on Westlaw Research System.

EXAMPLE 4

One trial level contractor sent COLRAT an email about possible constitutional challenges to restrictions on defense attorney's ability to access sensitive evidence . The email came in at 2:38pm. COLRAT had previously prepared materials on this topic for another attorney and was able to reply with those materials at 3:10pm. And at 3:14pm the following reply came – “Thank you very much! I think you just kept me from spinning my wheels. “