

JUDICIAL DEPARTMENT  
FY 2023-24 JOINT BUDGET COMMITTEE HEARING AGENDA

**Thursday, December 15, 2022**  
**9:00 am – 2:30 pm**

**9:00-10:00      COURTS AND PROBATION (C&P)**

Main Presenters:

- Chief Justice Brian D. Boatright, Colorado Supreme Court
- Steven Vasconcellos, State Court Administrator

Topics:

- Introduction and Opening Comments
- Common Questions: Page 1, Questions 1-4 in the packet
- General Questions: Page 5, Questions 5-12 in the packet
- Admin Services for Independent Agencies: Page 16, Question 13 in the packet
- Bridges Program RFI: Page 17, Question 14 in the packet
- Counties Special Funding Request for 23<sup>rd</sup> JD: Page 19, Question 15 in the packet

**10:00-10:30      OFFICE OF STATE PUBLIC DEFENDER (OSPD)**

Main Presenters:

- Megan Ring, State Public Defender

Supporting Presenters:

- Veronica Graves, Human Resources Director
- Matthew Blackmon, Director of Finance

Topics:

- Introduction and Opening Comments
- Common Questions: Page 1, Questions 1-4
- Requests: Page 2, Questions 5-6

**10:30-10:45      BREAK**

**10:45-11:00      OFFICE OF ALTERNATE DEFENSE COUNSEL (OADC)**

Main Presenters:

- Lindy Frolich, Director

Supporting Presenters:

- Darren Cantor, Deputy Director
- Daniel Nunez, Chief Financial Officer

Topics:

- Introduction and Opening Comments: Slides 1-9
- Common Questions: Pages 1-4, Slides 15-18
- Requests: Questions 5-9 in the packet, Slides 10-17
- Admin Services for Independent Agencies: Pages 3-4, Question 8
- Increased Flexibility Court-appointed Counsel: Page 4 Question 9 in the packet, Slide 17

### **11:00-11:15 THE DEPENDENCY AND NEGLECT JUDICIAL PROCESS (OCR AND ORPC)**

Main Presenters:

- Chris Henderson, Executive Director, Office of the Child's Representative
- Melissa Michaelis Thompson, Executive Director, Office of Respondent Parents' Counsel

Topics:

- The Dependency and Neglect Judicial Process: Page 2, Slides 2-9

### **11:15-11:30 OFFICE OF THE CHILD'S REPRESENTATIVE (OCR)**

Main Presenters:

- Chris Henderson, Executive Director
- Ashley Chase, Staff Attorney and Legislative Liaison

Supporting Presenters:

- Mark Teska, Chief Operating Officer

Topics:

- Introduction and Opening Comments: Slides OCR-1 – OCR-4
- Common Questions: Pages 2-3, Questions 1-4 in the OCR responses
- Requests: Pages 3-4, Questions 5-6 in the packet, Slides OCR-5 – OCR-10
- Admin Services for Independent Agencies: Pages 4-5, Question 7 in the packet, Slide OCR-4
- Increased Flexibility Court-appointed Counsel: Pages 5-7, Question 8 in the packet, Slide OCR-11
- Additional Items: Legal Contractor Rate Increase, please see joint ADC/OCR/ORPC response

### **11:30-11:45 OFFICE OF THE RESPONDENT PARENTS' COUNSEL (ORPC)**

Main Presenters:

- Melissa Michaelis Thompson, Executive Director

Supporting Presenters:

- Linda Edwards, Chief Financial Officer
- Ashlee Arcilla, Deputy Director

Topics:

- Introduction and Opening Comments: Page 12, Slides 12-21

- Common Questions: Pages 2-3, Questions 1-4 in the packet, Slide 22
- Requests: Pages 3-5, Question 1 in the packet, Slides 24-29
- Admin Services for Independent Agencies: Pages 5-6, Questions 1 in the packet, Slide 22
- Increased Flexibility Court-appointed Counsel: Pages 6-8, Questions 1 in the packet, Slides 22
- Additional Items: Page 8-11, Question 1 in the packet, Slide 22

### **11:45-12:00      LEGAL CONTRACTOR RATE INCREASE (OADC, OCR, AND ORPC)**

Main Presenters:

- Lindy Frolich, Director, Office of the Alternate Defense Counsel
- Chris Henderson, Executive Director, Office of the Child's Representative
- Melissa Michaelis Thompson, Executive Director, Office of Respondent Parents' Counsel

Topics:

- Legal Contractor Rate Increase: Page 2, Slides 2-14

### **12:00-1:30      LUNCH BREAK**

### **1:30-1:45      OFFICE OF THE CHILD PROTECTION OMBUDSMAN (OCPO)**

Main Presenters:

- Stephanie Villafuerte, Colorado Child Protection Ombudsman
- Jordan Steffen, Deputy Ombudsman

Topics:

- Introduction and Opening Comments: Slides 1-8
- Common Questions: Pages 1-4, Questions 1-4 in the packet, Slide 9
- Requests: Pages 4-20, Question 5 in the packet, Slides 9-16
- Admin Services for Independent Agencies: Page 22, Question 6 in the packet, Slide 17
- Additional Items: Slides 18-24

### **1:45-2:00      INDEPENDENT ETHICS COMMISSION (IEC)**

Main Presenters:

- Dino Ioannides, Executive Director

Topics:

- Introduction and Opening Comments
- Common Questions: Page 1, Questions 1-4 in the packet
- Requests: Page 2, Question 5 in the packet
- Admin Services for Independent Agencies: Page 3, Question 6 in the packet
- Additional Items: None

**2:00-2:15      OFFICE OF PUBLIC GUARDIANSHIP (OPG)**

Main Presenters:

- Sophia M. Alvarez, Executive Director
- Deb Bennett-Woods, Chair – OPG Commission

Topics:

- Introduction and Opening Comments: Slide 1
- Common Questions: Pages 1 - 2, Questions 2-5 in the packet
- Admin Services for Independent Agencies: Page 1, Question 1 in the packet
- Additional Items: Slides 2 -4

**2:15-2:30      COMMISSION ON JUDICIAL DISCIPLINE (CJD)**

Main Presenters:

- Christopher Gregory, Executive Director

Topics:

- Introduction and Opening Comments:
- Common Questions: Pages 1-2
- Requests: Pages 2-3
- Admin Services for Independent Agencies: Page 3
- Additional Items: none



# JUDICIAL DEPARTMENT – COURTS AND PROBATION FY 2023-24 JOINT BUDGET COMMITTEE HEARING AGENDA

Thursday, December 15, 2022  
9:00 am – 2:30 pm

## COMMON QUESTIONS FOR DISCUSSION AT DEPARTMENT HEARINGS

1. **Please describe the implementation plan for new programs added to the Department from one-time stimulus funds (such as the CARES Act, ARPA, and one-time General Fund), as well as any challenges or delays to program implementation.**

### **Diversion Program**

Senate Bill 22-196 (Health Needs of Persons in Criminal Justice System) appropriated \$4.0 million of American Rescue Plan Act (ARPA) funds for use by adult diversion programs. Of this amount \$1.8 million is to be used for grant programs with the intent of diverting individuals with behavioral health disorders from the criminal legal system and into community treatment programs, as specified in S.B. 22-010 (Pretrial Diversion for People with Behavioral Health).

### **History of Diversion Funding**

The General Assembly appropriated \$400,000 annually for Diversion Program operations beginning in FY 2014-15 to support programs in four judicial districts. By FY 2019-20, this same funding amount supported programs in ten districts as the interest and commitment to offering pre-trial diversion options expanded. Appropriations to the Program were reduced to \$100,000 in FY 2020-21 and FY 2021-22 as budget balancing measures, thereby limiting allocations to existing programs and inhibiting expansion of new ones. The number of programs funded in FY 2021-22 fell to ten (down from twelve districts in FY 2020-21), as the 9<sup>th</sup> Judicial District did not apply for funding and the 6<sup>th</sup> Judicial District obtained alternative county-based funding to support its program operations.

Fiscal year 2022-23 was the eighth consecutive year in which Adult Diversion grant requests exceeded available funds. In FY 2022-23, the number of programs funded returned to twelve, with the return of the 9<sup>th</sup> Judicial District and the addition of the 8<sup>th</sup> Judicial District. The infusion of the \$4.0 million federal ARPA funds provided a secure source of two-year funding for program expansion. The Adult Diversion Funding Committee elected to administer half of the federal funding in FY 2022-23, with the remainder reserved for FY 2023-24.

The table below describes the changes in Adult Diversion sites, funding requests, and awards by fiscal year from FY 2014-15 through FY 2022-23:

**Overview of Adult Diversion Programs:  
Funding Requests, Awards and Participant Enrollment**

Fiscal Year	# Applicants for Adult Diversion Funding	# Programs Awarded Funding	Adult Diversion Funding <sup>1</sup> Requested	Adult Diversion Funds Awarded	# Participants Enrolled	% Change in Participant Enrollment (from Prior Year)
FY23	12	12	\$2,031,657	\$1,900,000	Unknown	Unknown
FY22	11	9	\$852,620	\$100,000	801	-37%
FY21	14	11	\$1,137,954	\$100,000	1,275	+ 1%
FY20	11	9	\$890,762	\$400,000	1,259	-17%
FY19	9	9	\$748,455	\$400,000	1,518	-5 %
FY18	9	9	\$694,653	\$400,000	1,592	+ 90%
FY17	6	6	\$570,324	\$400,000	837	+ 67%
FY16	5	5	\$277,923	\$277,923	502	+ 68%
FY15	4	4	\$240,060	\$240,060	299	NA

**Future of Adult Diversion**

As demonstrated above, requests for funding have exceeded the Adult Diversion Program's budget each year representing the overwhelming demand for these programs. Even with variations in the resource environment, the number of programs seeking funding has tripled in just eight years, and the number of participants has increased from just under 300 at the Program's inception to almost 1,600 at its peak utilization. With the budget expansion of \$2.0 million dollars in FY 2022-23, the State Court Administrator's Office (SCAO) is expanding staff capacity of the Adult Diversion Program to include a Program Specialist, through a contract using ARPA administrative funds. When ARPA funds are expended after FY 2023-24, the replacement of the federal funds with a General Fund appropriation will be necessary to maintain the future success of the program and expand its impact to additional sites.

**Information Technology:**

The Department has developed a four-year IT infrastructure plan identifying projects to support an increase in virtual, cloud, and remote technology options. A FY 2021-22 supplemental request for ARPA funds was submitted to support this plan. With the Long Bill appropriation, the plan began in FY 2021-22 and is targeted to be completed in FY 2024-25. Key projects updates:

- SDWAN Project –provides increased network bandwidth and backup capabilities to each court location. The implementation of this project is in the first year of a 3-year plan. The largest schedule challenge with this project is its dependence on third-party vendors that provide local internet circuits needed to complete the implementation. The project is being kept on schedule by adjusting the schedule to match when the internet circuits can be delivered.
- Audio/Visual (A/V) Upgrades – upgrades four hundred and fifty plus (450+) courtrooms and proceedings spaces throughout the state. The overall implementation plan involves the creation of an eight-year replacement lifecycle schedule for all A/V equipment in order to provide the most reliable audio and video experience. Significant supply chain issues have affected delivery dates from the start of the project that impacts the overall schedule. The project is being kept on schedule by installing A/V systems in phases as equipment arrives.

The Department anticipates slowly improving supply chain issues throughout the life of the project.

- Other projects on target to be completed by the end of FY 2024-25:
  - Disaster Recovery – upgrade and replace end-of-life hardware that is fundamental to the Department’s ability to recover access and functionality of business-critical systems;
  - Data Center Refresh – upgrade and replace end-of life hardware and improve our information security architecture;
  - Network Infrastructure Upgrades – upgrade networking equipment that is local to each court location.

Most elements of this implementation plan will require additional spending authority from the Judicial Department Information Technology Cash Fund beginning in FY 2024-25. Both the implemented hardware and software will have on-going maintenance costs and will need to be replaced on a regular lifecycle schedule. This includes equipment such as A/V, networking, and data center hardware, as well as video conferencing (Webex) and information security software. The Department is still preparing the FY 2024-25 impact to the budget; however, we anticipate the Judicial Information Technology Cash Fund will cover these costs.

### **Victim Assistance**

House Bill 21-292 (Federal COVID Funding for Victim’s Services) appropriated \$3.0 million of ARPA funds to the Department for distribution to Local Victims Assistance and Law Enforcement (VALE) Boards in the 22 Judicial Districts throughout the State. The implementation of this legislation required educating stakeholders on the program, holding training sessions, awarding and sub-awarding funds, establishing procedures, forms, workflows, accounting, reporting and monitoring protocols. In FY 2021-22, all of this was done before subrecipients began serving their constituents, leaving approximately five months for local project implementation. This initial funding was only appropriated for a one-year period. Despite this time limitation, the Local VALE programs successfully spent 93 percent of the available funds. Senate Bill 22-183 (Crime Victims Services) provided a second round of funding, allowing for the APRA funds to be spent through December 31, 2024. The Department anticipates that this funding will be fully expended.

2. **Please identify how many rules you have promulgated in the past year (FY 2021-22). With respect to these rules, have you done any cost-benefit analyses pursuant to Section 24-4-103 (2.5), C.R.S., regulatory analyses pursuant to Section 24-4-103 (4.5), C.R.S., or any other similar analysis? Have you conducted a cost-benefit analysis of the Department’s rules as a whole? If so, please provide an overview of each analysis.**

The Judicial Department does not promulgate rules.

3. **How many temporary FTE has the Department been appropriated funding in each of the following fiscal years: FY 2019-20, FY 2020-21, FY 2021-22, and FY 2022-23? For how many of the temporary FTE was the appropriation made in the Long Bill? In other legislation? Please indicate the amount of funding that was appropriated. What is the department’s strategy related to ensuring the short-term nature of these positions? Does the department intend to make the positions permanent in the future?**

The Department was appropriated \$185,846 to fund 1.5 FTE in FY 2022-23 to assist with the administration, monitoring, and reporting of the federal ARPA funds that were received by the Department. It is anticipated that once the ARPA reporting requirements are completed in FY 2024-25, the positions will be eliminated.

4. **Please provide a description, calculation, and the assumptions for the fiscal impact of implementing the provisions of the Partnership Agreement, including but not limited to changes in annual leave accrual, holiday pay, and paid family and medical leave. If your department includes employees who are exempt from the Partnership Agreement, please indicate whether or not you intend to implement similar benefit changes as those required for covered employees. Please provide a breakdown of the fiscal impact of implementing the provisions of the Partnership Agreement for: a) employees who are subject to the Agreement, and b) employees who are exempt from the Agreement.**

The Judicial Branch is exempted from the COWINs Partnership Agreement, however, in an effort to avoid disparity for Judicial Branch employee compensation, portions of the agreement tied to salary, will be similarly implemented. Specifically, Articles:

- 12: Job Classifications and Position Descriptions
- 30.2: Holiday Pay
- 31.1: Across the Board Increases
- 31.2: Pay Equity Study
- 31.6: Step Placement in Pay Plan Based on Time in Job Series

Beginning in January of 2023, the Judicial Department will embark on a Compensation and Classification Renovation project. This project is long overdue and aims to update all 250+ job descriptions to reflect the work currently being performed. Based on the outcomes of the updated job descriptions, a pay plan and salary structure will be created and assigned to each job description. The anticipated outcomes will create symmetry with the work being done in the Executive Branch System Maintained Study outlined in *Article 12 Job Classifications and Position Descriptions of the COWINs Partnership Agreement*.

During the Compensation and Classification Renovation project, the Judicial Department will analyze the data to implement a plan that mirrors the 31.6 Step Placement in Pay Plan Based on Time in Job Series proposed in the COWINs Partnership Agreement. The Executive Branch is requesting 26 FTE to complete the analysis. Based on similar ratio of number of employees to required FTE to complete the analysis, the Judicial Branch would need 4.0 additional FTE. We anticipate the analysis could be completed by the end of 2024. It is not possible to predict the financial impact of this endeavor until the analysis is complete.

Additionally, during the Compensation and Classification Renovation project, a Market Study Analysis will be completed each fiscal year, to keep the Judicial Department compensation competitive and avoid turnover due to salary misalignment. This can result in pay range movement, and individual compensation movement, accordingly. Of note, similar to the Executive Branch, the Judicial Department currently recognizes and addresses salaries that lag the market on an annual basis. Funding requests related to these adjustments are either identified in the Department's total compensation template or addressed in the system maintenance budget request. The Judicial Department contracts with a third-party vendor to conduct a market analysis of individual job position compensation. The Judicial Department uses that analysis to address salaries that lag the market by at least 6 percent. Unlike the Executive

Branch, current practice in the Judicial Department also includes moving incumbents of the effected job classes an equal percentage within the pay range, to proactively abate compression issues.

The Executive Branch currently recognizes and addresses salaries as lagging the market beginning at 15 percent below the market. The Judicial Department's approach of addressing a smaller margin of market lag has allowed us to do smaller incremental movements with lesser financial impact each fiscal year, allowing the Department's compensation to stay more competitive. Further, the Compensation and Classification Renovation project starting in 2023 will modernize our Compensation and Classification branch-wide, with built in sustainability measures for future changes and growth.

Finally, once the Compensation and Classification foundational work identified above, is complete, in order to further ensure symmetry and avoid disparity, the Judicial Department will complete a department-wide Pay Equity Study mirroring the *31.2 Pay Equity Study*, listed in the COWINs Partnership Agreement. The Department anticipates the cost of the study to be approximately \$350,000. Necessary individual salary adjustments will be made based on recommendations from the study. The fiscal impact of implementing recommendations of both the Compensation and Classification project and the Pay Equity Study will be determined upon completion of each.

In an effort to further avoid disparity for employees, the Judicial Department also plans to mirror Article 30.2 Holiday Pay.

## GENERAL QUESTIONS

5. **[Sen. Kirkmeyer] Please describe, explain, and justify the Compensation Plan Maintenance request. Please describe how the Judicial Branch has addressed compensation plan adjustments historically and how compensation plan maintenance, salary range adjustments, and associated salary increases differ from the compensation approach and outcomes in the Executive Branch.**

Every year, the Judicial Department's third-party vendor identifies job classifications that lag the market by at least 6 percent. The Department then uses the vendor's data to support funding requests to increase those salaries and salary ranges to be within market ranges. Similarly, the Executive Branch's total compensation salary survey adjustments increase salaries for classified employees when they lag the market by 15 percent or more. These salary adjustments are reflected in the Department's pots templates. The Compensation Plan Maintenance request is for funding to address the annual adjustments to salaries required in order to proactively address compression pay that results when an employee salary that is determined to lag the market by 6 percent or more is adjusted upward. For more information concerning the Judicial Department's processes related to employee salary analysis, please see question 4, above.

6. **[Sen. Kirkmeyer] If not previously addressed in the common question, please explain whether the collective bargaining/partnership agreement applies to Judicial Branch employees.**

The Judicial Branch is exempted from the COWINs Partnership Agreement, for additional information please see question #4.

7. **[Sen. Kirkmeyer] Please explain and justify the need for the R2 and R5 requests for an additional 7.0 FTE of HR staff and an additional 6.0 FTE of contract management and purchasing staff. Please provide context of the Courts' need for significant additional HR and admin/fiscal support services staff as it relates to the creation of an independent administrative services unit for the independent agencies.**

The concept of an administrative services agency to provide support to the independent agencies in the Judicial Branch has been discussed for some time as the balance of providing efficient services and meeting the needs of all stakeholders has been challenging. As we describe below (and in previous decision items), there is a gap between the administrative capacity and the needs of the Judicial Department. As discussed below, the additional administrative staff requested for the Judicial Department are needed to be able to meet the operational and fiduciary obligations of the Department, excluding the needs of the independent agencies.

The administrative services agency will enable the independent agencies to have more of a connection with the entity fulfilling their administrative needs. The briefing issue narrative provided by the JBC staff outlined some examples of delays in providing support to the independent agencies. These issues are expected to continue even with the addition of the new human resources and financial staff at SCAO.

### **Human Resources**

The success of courts and probation in Colorado is dependent upon the capacity of the organization to fulfill its statutory obligations. Courts and probation are comprised of over 4,000 FTE supported by a Human Resources Division of 31.0 FTE (not including the Director). The Bloomberg BNA's HR Department Benchmarks and Analysis report identifies a benchmark ratio of 1.5 full-time HR staff per 100 employees. Further, the workload has increased in key areas of HR, such as compensation and employee relations due to employment law changes. Therefore, to be fully staffed the HR Team would need a total of 60 FTE, to reach 100 percent capacity.

Stated another way, each SCAO HR Analyst supports an average of 667 employees in widespread geographic locations. Of specific concern, is the potential for agency harm and litigation that can result when employee relations are not able to be addressed in a timely manner due to lack of adequate FTE. The requested FTE would bring the HR Division's total capacity to 61.67 percent. Ostensibly, the services in the areas of employee relations, mandatory training and first point of contact for HR would increase by 50 percent by adding 3.0 FTE and would reduce the service area per Analyst from an average of 667 employees to an average of 444 employees, increasing focused attention and services for each district.

HR workload metrics are influenced by employee turnover, specifically related to the time it takes to process a retirement/separation and to develop and post job descriptions. As of May 2022, the average turnover rate for the Judicial Branch was approximately 14 percent. In FY 2021-22, the HR Division processed 502 retirement/separations, excluding contracts, judges, and law clerks who are generally expected to leave after one year. Additionally, the Colorado Equal Pay for Equal Work Act requires thorough analysis of each pay change and new hire salary offer, which is critical to avoid potential litigation. There are 2.5 FTE who do this analysis, one of which is a Total Compensation Manager who is responsible for leading half of the HR Division's day-to-day functions, including payroll, benefits, and compensation.

It is important to note that, while the above data is specific to organizational turnover and vacancies, it is not reflective of additional responsibilities of the HR Division. In addition to supporting the SCAO in hiring and onboarding new employees, it is also responsible for SCAO Total Compensation and Business Analysis. A portion of the 31.0 FTE identified above are responsible for these functions, which include payroll and legal support.

Finally, while the Judicial Department is not subject to the COWINS Partnership Agreement and uses a system maintenance plan and methodology independent of the Executive Branch, ensuring that disparity is not created within the State of Colorado will require an in-depth analysis of Judicial Department total compensation for each employee. To accomplish this for those in the classified system, the Department of Personnel has requested 26.0 FTE. Judicial

salary analysis will begin in January 2023 and with a similar ratio would require an additional 4.0 FTE. While the 7.0 FTE requested in the Department's R2 budget request is not specific to the upcoming total compensation salary analysis, it is essential for increasing the HR Division capacity from the current 51.66 percent.

#### **Contract and Vendor Management**

As the Department addresses the lack of overall administrative functions and capacity, the need to appropriately engage and manage vendors continues. The Department believes that the actions of the last few years to increase this capacity have been valuable, but there is still more needed to adequately uphold the operational and fiduciary responsibilities in these areas.

The Contracts Management Unit (CMU) addresses the full range of contracting needs for the SCAO and the 22 Judicial Districts. This includes drafting more than 800 contracts annually, in addition to providing other compliance and support services. The CMU is still very early in its development and assessing the total contracts needed for the Department. There is a substantial unmet need for contracts resulting from the high volume of vendors the Department uses across the state. In addition to the current annual contract load, the CMU has identified an additional 680 vendors with 1,500 existing relationships that are operating without an agreement and require a contract as soon as possible. The CMU is applying new efficiency measures and contractual approaches to manage the impact of this currently unmet contract demand. While these changes will mitigate some of the impacts of this additional demand, additional drafting resources are needed. The two additional drafting-focused Contracts Specialist (CS) positions will increase the number of these roles from four to six. The two additional CS2 positions will most directly respond to the work associated with these additional contracts.

As the Contracts Management Unit has increased its capacity to create contracts, it has become apparent to the Department that there is a need for better coordination and collaboration with its vendors. Specifically, there are approximately 1,000 vendors used by the Department to provide services to probationers and other services for individuals in the court system. There are basic administrative aspects associated with the vendor relationship that are critical to procuring, contracting and managing these vendors. There are currently no staff dedicated to these functions within the Department. Instead, the function has fallen on administrative staff, Chief Probation officers, Deputy Chief Probation Officers, Court Executives, SCAO Division Directors and Managers and various other staff. These staff have other functions that make up their full-time work and none are trained or experienced in contract and vendor management. The four purchasing staff will perform several aspects of working with the Department's vendor community in an effort to ensure efficient and excellent services are provided to stakeholders. In addition, the new staff will focus on collecting and monitoring insurance, certifications, background checks and the requirements of the contract itself. These are critical elements of vendor management that have been fully implemented.

**8. [Rep. Bird] Please discuss the Courts' intentions to create a judicial ombudsman position, role, or office.**

Organizational ombuds are employed by both public and private sector organizations across the United States to provide a safe place for employees to navigate workplace challenges and to assist the leadership of the organization in identifying trends in the workplace and recommend systematic improvements. Currently, no state court system in the country employs an organizational ombuds. Within Colorado, the University of Colorado, Colorado State University, and the Denver Public Schools employ organizational ombuds.

A report prepared by Investigations Law Group found that a disproportionately high number of employees did not feel comfortable reporting complaints of discrimination, harassment, or retaliation. In response to this information, the State Court Administrator's Office (SCAO) engaged three national ombuds experts to discuss the benefit of providing an ombuds service to the organization's employees. Organizational ombuds function independently, impartially, informally, and confidentially. Unlike independent ombuds, organizational ombuds are not mandatory reporters, meaning that employees can discuss matters confidentially with the ombuds and then the employee decides the best path to move forward. After consultation with these national experts, it was determined an organizational ombuds is the only appropriate model for navigating Judicial Department employee-to-employee issues. An organizational ombuds serves employees and the organization most effectively when it is housed within the organization it serves. By providing a safe place for employees to discuss concerns and consider options, the national experts say that the organizational ombuds will bolster the formal reporting structures and provide leadership of the organization a better understanding of the concerns facing workers across the state.

The Judicial Organizational Ombuds will report to the State Court Administrator and will be supported by an advisory committee made up of a cross section of Judicial Department leaders from around the state. The responsibilities of the Judicial Organization Ombuds will be defined in a charter and include being available to serve staff in courts, probation, and the SCAO. The Judicial Organizational Ombuds will:

- In accordance with statute, refer all matters involving Judicial Officers directly to the Commission on Judicial Discipline;
- Listen to employees and work to understand issues while remaining neutral with respect to the facts;
- Assist employees in navigating issues and developing and helping individuals evaluate options;
- Guide or coach individuals to deal directly with other parties, including the use of formal resolution resources of the organization;
- Refer individuals to appropriate resolution resources;
- Assist in elevating issues to formal resolution channels;
- Facilitate informal resolution processes; and
- Identify new issues and opportunities for systemic change in the organization.

The organizational ombuds will not do the following:

- Participate in formal investigations or play any role in a formal issue resolution process;
- Serve in any other organizational role that would compromise the neutrality of the ombuds role;
- Receive notice for the organization; or
- Make binding decisions or mandate policies.

An important tool utilized by the Judicial Organizational Ombuds is the Safe Reporting System. The Safe Reporting System is a vendor-developed system that will provide an alternative method for Judicial Department employees to report concerns about the behavior of other Judicial Department employees. It will also allow the staff at the SCAO to receive, track, and report on complaints in a systemic manner that will support the goals of the workplace culture and



organizational development investment. In addition to providing another reporting mechanism for employees, the system would collect key data indicators on types, frequency, and location of concerns that will be analyzed to identify trends and areas of focus to ensure a healthy and safe workplace environment. The central repository of complaints, facilitated by the software system, would also create the opportunity to analyze longitudinal data trends and demonstrate progress of the efforts of the office.

9. **[Rep. Bird] Please provide an overview of the Problem-solving Courts, including history, experience, results or outcomes, and future initiatives.**

Problem-Solving Courts (PSCs) are specialized court dockets heard by judicial officers that attempt to address issues like substance addiction and untreated mental health challenges in order to reduce recidivism rates. Problem-Solving Courts (PSCs) integrate treatment and community resources with case processing. Using multidisciplinary teams, PSCs streamline court dockets, integrate wrap-around services, and improve social determinants of health<sup>1</sup> for participants. PSCs are substantially more resource intense than the traditional approach to docket management.

The State Court Administrator's Office (SCAO) Problem-Solving Court (PSC) Unit (the Unit) currently supports over 700 team members from approximately 80 programs and specialty dockets across 20 judicial districts, which actively serve approximately 3,500 participants.<sup>2</sup> The programs include criminal and civil courts with specializations of adult and juvenile, DUI, mental health, veterans, domestic violence, family treatment (dependency and neglect), and truancy.

**History**

The first PSC in Colorado was implemented in Denver in 1994. Since then, Colorado PSCs have grown exponentially. The first family treatment court (FTC) began operating in 2003 and the first veterans' treatment court (VTC) in 2009. Each of Colorado's PSCs started and continue to be sustained through grassroots efforts and strong local leadership using existing resources and limited involvement from state government.

Statewide coordination of PSCs started in approximately 2007. The PSC Advisory Committee was established by the Supreme Court on April 9, 2008 and charged with the task of developing effective procedures and strategies for implementing evidence-based practices in Colorado Problem Solving Courts. Since its inception, committee members have met on a quarterly basis under the direction of the Committee Chair.

In 2009, Colorado was the recipient of a two-million-dollar American Recovery and Reinvestment Act grant. This grant provided the first statewide funding stream specifically dedicated to PSCs. The Colorado Judicial Department requested and successfully obtained permanent state funding for PSCs in 2011.

**Experience of a PSC for Participant**

Colorado's PSCs use a variety of operational procedures based on location. Participants are identified and referred from a variety of referral sources including attorney representation, probation, treatment, law enforcement, child welfare, and self-referral. PSC programs use validated risk assessments, such as Level of Supervision Inventory (LSI), to identify which participants are at risk for committing new crimes or failing standard probation.<sup>3</sup> After a referral

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<sup>1</sup> [Social Determinants of Health \(SDOH\)](#)

<sup>2</sup> Point in time data from July 1 – September 30, 2021 shows 3,511 participants in that quarter

<sup>3</sup> [NADCP Best Practices Manual, Volume 1](#), page 5.

is received by the program the potential participant is screened using objective program eligibility criteria. PSC participants have a variety of needs related to housing, employment, and education substantiated by statewide program data.

Many participants have extensive criminal history, a history of non-compliance on probation, a diagnosed substance use disorder, or previous child welfare involvement. Once referred and accepted, a participant can expect a sentence to the PSC program as a condition of probation or their adjudicated in a civil matter. On average, criminal PSC programs are 12-24 months in duration, and probation may be extended. Due to the strict and swift timeline requirements of the Adoption and Safe Families Act (ASFA), family treatment courts average closer to 12 months in duration.

PSCs use American Society of Addiction Medicine's (ASAM) criteria to determine treatment level of care.<sup>4</sup> Participants are referred to local treatment providers for services based on their assessed ASAM level of care and their individual treatment plan. Treatment can include, but is not limited to, Inpatient or Residential, Enhanced Outpatient, Intensive Outpatient, group counseling, and individual counseling. The majority of Colorado's PSC Participants (89.7 percent, N=1375) are in outpatient treatment with the remaining in residential treatment (5.4 percent) or inpatient (4.9 percent).

At the start of the program, participants meet with their probation officer or case manager at least every other week and attend court at least two times a month. For every participant, substance testing occurs at a minimum of two times per week on a random schedule, including weekends and holidays. Throughout the program, PSC Teams use behavior modification techniques through sanctions, incentives, and therapeutic adjustments to respond to participant behavior.

As participants progress in the program, they gain stability in the community by securing housing and employment and in their recovery. Participants move closer to program completion, and they attend court and meet with their probation officer or case manager less frequently (once per month). They continue substance use testing at a minimum of two times per week. When a participant completes the program phases and requirements, they celebrate with the PSC team through a graduation ceremony.

In a statewide evaluation of Colorado's PSC programs, NPC Research found that while cost per participant varies widely across our PSC programs, program participation results in reduced use of prison resources, including fewer days in prison.<sup>5</sup> Additionally, NPC's study found that drug court graduates are less likely to reoffend. Compared to the control population after 1 year, they are:

- 9 percent less likely to be rearrested for any offense and
- 4 percent less likely to be rearrested for a drug offense
- Cost per day in a problem-solving court is three times less than the cost per day of incarceration.

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<sup>4</sup> [ASAM Criteria](#)

<sup>5</sup> NPC - CO Statewide Evaluation 2020 of PSCs

Nationally, PSCs result in up to a 58 percent reduction in recidivism.<sup>6</sup> In a multistate evaluation, the National Institute of Justice (NIJ) found that PSC participants reported less engagement in criminal activity and fewer rearrests than a comparison group. The evaluation also found that PSC participants had lower levels substance use and were less likely to test positive for substances in substance screening tests. While treatment costs were high, PSCs saved an average of \$6,000 per participant.<sup>7</sup> In a 2022 review of research, the National Drug Court Resource Center (NDCRC) stated that PSC "programs have been consistently linked to positive outcomes such as decreased recidivism, substance use, and cost to the community."<sup>8</sup>

### **Priorities and Initiatives**

The Unit is focused on six statewide technical assistance (TA) priorities to adequately support district-level operations, enhance participant outcomes, and guide future initiatives:

1. Accreditation Program and Certification Process
  - Colorado is 1 of 10 states nationally that certifies programs through a process that evaluates and ensures compliance with research-based standards.<sup>9</sup>
  - The Unit reviews program operations, provides coaching, and leads application reviews with the Statewide Advisory Committee.
  - Through a Bureau of Justice Assistance FY22 grant, the Unit will ensure accreditation or reaccreditation of 85 percent of Colorado's problem-solving courts (50 total).
2. Equitable Access to Programs, Treatments, and Services
  - The Unit is at the forefront nationally in developing Diversity, Equity, and Inclusion (DEI) Standards that comply with National Association of Drug Court Professionals (NADCP) best practice standard II. DEI training opportunities are provided to teams statewide. The goal of the DEI standards is to provide PSC teams guidance in understanding how their programs are performing through an equity lens.
  - In year two of the Equity Mentor Courts (EMC) program, the Unit provides training and program improvement support to participating district teams. Two teams (1<sup>st</sup> and 2<sup>nd</sup> JD) are the current EMC cohort. Two DUI courts (2<sup>nd</sup> and 5<sup>th</sup> JD) completed EMC last year and continue to support the new cohort. The expansion of EMC curriculum to other programs through on-demand training and expanded live trainings is anticipated over the next several years.
3. Statewide Training Plan
  - The Unit assesses training needs for the state, districts, and programs and customizes training to include annual conferences, in-person, virtual, and hybrid statewide and local trainings, and on-demand via Learning Management Systems (LMS).
  - The Unit implements a multi-tiered statewide training and technical assistance (TTA) program that assists PSC practitioners around the state in acquiring the education, skills, and support they need to adhere to evidence-based best practices shown to improve participant outcomes and reduce recidivism.
4. Program Data Visibility, Evaluation, and Quality Improvement
  - From 2008 to June 30, 2021, PSC Data Drives Dollars (PSC3D) was used as a data collection and analysis tool. In 2018, a grant was awarded to purchase a robust

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<sup>6</sup> Drug-Court-Fact-Sheet-2020.pdf (nadcp.org)

<sup>7</sup> Drug-Court-Fact-Sheet-2020.pdf (nadcp.org) and Drug Courts (ojp.gov)

<sup>8</sup> View of Fall 2022: Equity and Inclusion (ndcrc.org)

<sup>9</sup> Best Practice Standards provide courts with consistent, measurable, and predictable guidelines and operational practices that research establishes as effective and impacting positive participant outcomes for the problem-solving court model.

management information system (MIS), and NPC Research created a temporary MIS (which has been used from July 1, 2021 to present). The procurement process for the new system is complete and will begin the build phase this year.

- To sustain program evaluation, the Unit is collaborating with institutions of higher education and developing an aggregate, live data dashboard.
- Through BJA FY20 grant, a performance measurement tool is in production. The tool will measure compliance and increase PSC adherence with Best Practice Standards.

5. Peer Specialist Site Funding and Support

- A grant awarded to the Unit in 2020 allowed six judicial districts to implement peer specialist programs, including direct peer support, mentoring, and alumni peer coach training, which enhance recovery and aftercare.<sup>10</sup> The Unit is collecting and analyzing the outcomes of their implementation. This information will be essential to the continuation and sustainability of peer programs at the local level.
- The Unit collaborates with American University on a study of the state's veterans' peer mentor services. When funding was awarded in 2018, this was a first-of-its-kind study.

6. Resource Development and Mapping

- The Unit reduces barriers to multidisciplinary team member participation in dedicated PSC dockets by developing solutions to address workload and availability concerns.
- Using focus groups, the Unit identified statewide programmatic needs and collaborates with district-level staff to develop community partnerships, establish alumni and recovery events, and increase availability of and modalities used for training.
- Through BJA FY20, the Unit will continue to build partnerships with institutions of higher education by creating regional Centers of Excellence (COE). Each COE will work with the Unit and stakeholders in their area to address the resource needs of PSCs in their region.

10. **[Rep. Bockenfeld] How many rejected community corrections diversion placements ended up on probation, as opposed to incarcerated? How do pre-COVID data compare to current data?**

The Judicial Department does not collect data regarding local community corrections board screening outcomes and the degree to which those outcomes impact judges' sentencing decisions. The Judicial Department is only able to report on how many community corrections screens occur but do not know the outcome or purpose of those screening referrals, whether for revocation or for new sentence considerations. Additionally, the Office of Community Corrections in the Division of Criminal Justice (DCJ) collects aggregate information about the number of screenings that are done and which of those are accepted or rejected. This information may be available through the Department of Public Safety or in the Community Corrections Annual Report. Due to those factors and some variation at the local level for community corrections screening boards (e.g., screenings may be done presentence, post-sentence, or upon revocation as part of a re-sentence), we can neither report nor estimate with any reliability the degree to which rejected cases are sentenced to probation (in lieu of prison).

11. **[Sen. Zenzinger] Please discuss recent trends in restitution payments, especially child support.** The Judicial Department does not collect child support payments. Pursuant to Title 26, payments for child support and maintenance are handled through the Family Support Registry within the Department of Human Services.

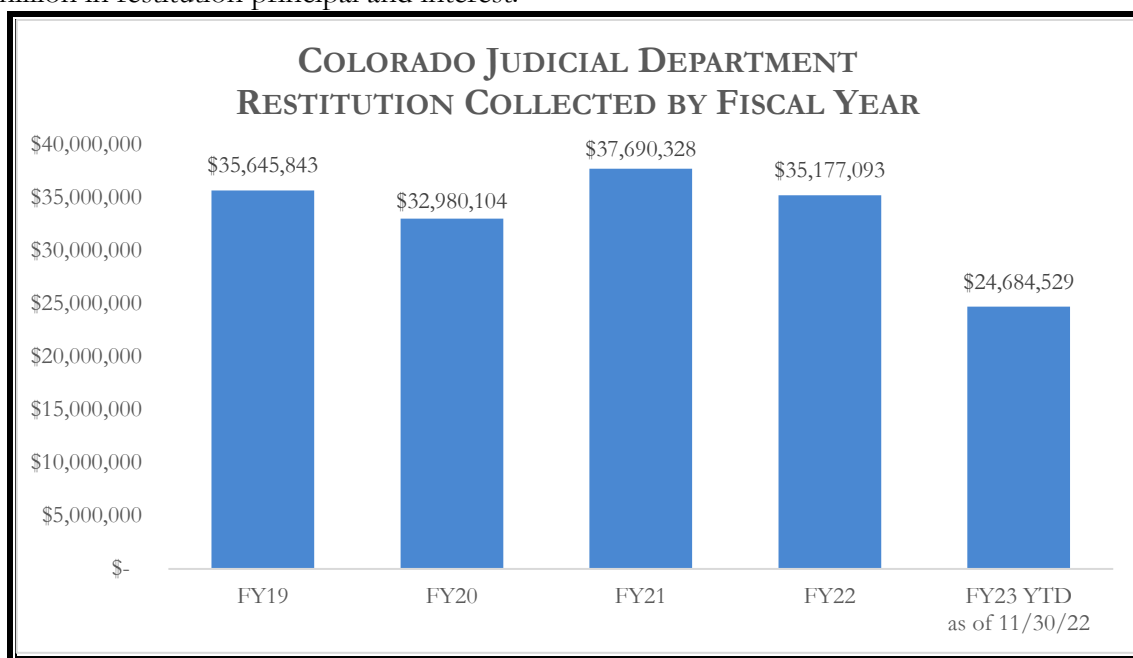
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<sup>10</sup> The Mission Educate grant supports funding and technical assistance for the 1st, 4th, 16th, 17th, 20th, and 22nd Judicial Districts.

The Collections Program in the Judicial Department is a statewide, cash funded program focused on the collection of revenue and restitution. Over the last four fiscal years, the Department has collected an average of approximately \$35 million per year in restitution for victims.

The chart below shows total restitution principal and interest collected for FY 2018-19 through November 30, 2022. During the COVID-19 pandemic, collections decreased slightly during FY 2019-20 but have since returned to pre-pandemic levels. While the chart shows a slight decrease in restitution collections in FY 2021-22, collections in FY 2020-21 included a one-time, lump sum restitution payment of \$3.4 million for a single case.

Restitution collections in FY 2022-23 are on pace to exceed FY 2021-22, largely due to intercepts of the TABOR refund authorized by S.B. 22-233 (TABOR Refund Mechanism for FY 2021-22 Only). As of November 30, 2022, the Department has already collected a total of over \$24 million in restitution principal and interest.



The Department is currently in the process of implementing the Office of Restitution Services created by S.B. 22-043 (Restitution Services for Victims). This Office will further assist victims in navigating the entire judicial system to recover restitution due to them by:

- Receiving requests from victims regarding semi-annual statements of their restitution;
- Answering questions and providing assistance to victims with case-specific questions related to court-ordered restitution;
- Creating and maintaining a web page on the Judicial Department website with resources and information;
- Assisting with training related to the administration of restitution; and
- Collaborating with victim advocacy programs.

12. *[Sen. Bridges]* Please explain how Probation measures recidivism, including any recent changes. Also, please update the Committee on any recent efforts to align definitions for recidivism across multiple departments (Judicial, Corrections, Public Safety).

Colorado probation has conducted an annual recidivism study since 1996. In reports published from 1996 through 2020, probation measured and reported on pre- and post-release recidivism.

Pre-release recidivism was defined as termination from probation for a new felony or misdemeanor criminal act or technical violations, and post-release recidivism was defined as a new misdemeanor or felony filing within one year of successful termination from probation. This definition was consistent with the one used by DCJ to measure recidivism in Community Corrections. In 2019, the Colorado State Legislature passed S.B. 19-108 creating a Juvenile Justice Reform Committee tasked with implementing comprehensive juvenile justice reform throughout the state. One of those reform elements was the creation of a common definition of recidivism for juvenile justice agencies. The Juvenile Justice Reform Committee decided to adopt the definition of recidivism used by the Division of Youth Services (DYS), which necessitated a change in the definition of recidivism used by the Division of Probation Services for juvenile probationers. To maintain consistency in how Colorado reports recidivism for probationers, the definition of recidivism for adult probationers was also changed to that required by the implementation of S.B. 19-108. The new definitions for juvenile pre- and post-release recidivism were implemented in 2021: Pre-release recidivism is defined as a new deferred agreement, adjudication, or conviction while under probation supervision. Post-release recidivism is defined as a new deferred agreement, adjudication, or conviction one, two, and three-years post-release from probation regardless of whether that release is considered successful.

This definition is a departure from previous definitions in several ways. First, pre-release recidivism is now defined by a new deferred agreement, adjudication, or conviction rather than a termination from probation for a new criminal act or technical violations. It is not uncommon for a probationer to have some new criminal activity and still successfully complete probation. This change allows us to identify criminal behavior separate from the ultimate resolution of the probation sentence. Second, the post-release portion of the definition moves away from the filing of charges to a finding of guilt on the case. The use of a conviction (or an adjudication for juveniles or the presence of a deferred agreement for adults and juveniles) is consistent with criminal justice reform practices that emphasize the importance of admissions or findings of guilt and not relying solely on the filing of charges (that may be dismissed or have not reached guilty findings) to make assumptions about continued criminal conduct. Finally, the new definition is not limited to those probationers who have successfully completed probation. Capturing long-term outcomes for individuals regardless of how they ended their time on probation provides a more complete picture of the outcomes of individuals sentenced to probation. Table 1, below, compares the two definitions. While this shift in definition may generate slight changes in the recidivism rates reported, general trends in probation outcomes should remain consistent.

Table 1: Comparison of 1997 to 2021 Definition of Recidivism

Comparison of Recidivism Definitions				
	Previous Definition (1996-2020)		Current Definition (2021-Current)	
	Pre-Release	Post-Release	Pre-Release	Post-Release
Who?	All negative probation terminations-no lifetime SO	All successful terminations	All probation terminations-all probationers	All probation terminations-all probationers

What?	An adjudication or conviction for a felony or misdemeanor, or a technical violation relating to a criminal offense	New filing for a felony or misdemeanor	New deferred agreement, adjudication, or conviction for a felony or misdemeanor	New deferred agreement, adjudication, or conviction for a felony or misdemeanor
When?	Based on probation termination status	Within 1 year of successful termination	During probation supervision-from initial sentence date to termination date	Post termination from probation for 1, 2, and 3 years

Currently, Probation, the Division of Youth Services (DYS), and Diversion have a common definition. Of note, in the last year, Denver County has agreed to share conviction data with Judicial that can, in turn, be shared with other criminal justice agencies for recidivism study purposes. DCJ continues to use criminal filings post-release for Community Corrections cases and, according to the Colorado Department of Corrections website, parole defines recidivism as “a return to prison or offender status in Colorado within three years of release for new criminal activity or a technical violation of parole, probation, or non-department community placement.”

## ADMIN SERVICES FOR INDEPENDENT AGENCIES

### 13. *[Staff]* Please provide the Courts' perspective on creating an administrative services unit for independent agencies.

The Department supports the creation of the Administrative Services for Independent Agencies office as a solution for the human resources and financial-related functions needed by the independent agencies. Over the years, the creation of independent agencies has produced additional workload that was absorbed by the State Court Administrators Office (SCAO). There is currently an existing gap between the administrative capacity of the Department and the needs of the Judicial Branch. This issue is magnified when combined with the administrative needs of the independent agencies.

## BRIDGES PROGRAM RFI

### 14. *[Staff]* Please discuss the Bridges Program RFI and staff's issue brief to better inform the Committee's understanding of the RFI recommendation.

Establishing Bridges as an independent agency facilitates the growth needed to most effectively serve participants, courts, and communities. While the program is successful in meeting the overall mission in its current location within the State Court Administrator's Office, independence supports the role of the court liaison to fully meet all statutory obligations.

Located in the Judicial Branch, the Bridges Program carries an inherent tension for court liaisons between maintaining judicial neutrality in a case and meeting legislative expectations to effect equitable and positive outcomes for participants. Courts — and by extension the Bridges Program in its current location — are expected to maintain a neutral position regarding legal decision making. Court liaisons hold neutrality regarding the behavioral health best interests of participants. However, advocacy for the behavioral health best interests of the participant has the potential to effect outcomes in key decision-making points in a case. Information provided to the courts frequently points to a specific legal outcome, such as dismissal, sentencing, custody status, or whether to issue a warrant for arrest. The program would therefore function better

as an independent agency clearly guided by the legislative directives to promote positive outcomes for participants and to ensure fair and humane treatment within the criminal justice system.<sup>11</sup>

As the program has matured, the role of the court liaison has become more defined, with liaisons functioning as court appointed mental health advocates both in and out of the courtroom. As outlined above, Judicial officers depend on information provided by liaisons to make critical and complex case decisions. Liaisons also work as advocates in the community, both challenging and collaborating with systems to ensure the participant's mental health needs are met and stability factors are addressed. Sometimes the mental health needs of a participant necessitate that the liaison facilitate second opinions or make recommendations to the court that differ from a course of action occurring with a third party (often within the behavioral health system). Often, court liaisons identify barriers within systems that they or the court help to address. The Bridges Program therefore needs the ability to advocate for any appropriate resource that is in the best behavioral health interests of the participant and is best positioned as an independent agency to fulfill this role.

### **RECOMMENDATION**

Expand the program to meet the administrative and infrastructure requirements of becoming an independent agency and fully meet the competency need in the State of Colorado by adding 7 administrative staff and 16 court liaisons to the program in FY24, 33 liaisons in FY25, and 18 liaisons in FY26, bringing the total to 96 court liaisons by June 30, 2026.

Creating an independent office will require at least seven administrative staff to include: executive director, staff assistant, legal program director, clinical program director, director of administrative services,

DEI program director and an office manager. The executive director position is the only position that will require funding for the entire fiscal year. The remaining positions will need partial funding as they will be hiring in the second or third quarter of the year.

With the program at full capacity, the existing 29 court liaisons are only meeting 35 percent of the competency need. Annually, this leaves approximately 4,400 new competency cases unserved each year. Proposed expansion would enable the program to fully meet the competency need in the state. Expansion also enables the program to serve more non-competency cases, enhancing the ability of the Bridges Program to divert individuals from the competency process altogether by providing earlier intervention.

As the program experiences success in its service to courts and participants (refer to Annual Report for detailed outcomes), demand for services continues to increase exponentially. In FY22, liaisons were appointed to approximately 2,000 new competency cases (not including the previous year's carryover) and another 800 non-competency cases. In addition to providing direct service to participants, liaisons file approximately 6,000 reports to the court and make almost 8,000 court appearances annually.

These numbers represent a 107 percent increase in participants over the previous two years. Many liaisons carry upwards of 60 participants on their caseloads at any one point in time. Participants are also considered high acuity in terms of their mental health needs. In the previous fiscal year, court liaisons collaborated in 93 mental health crisis interventions and facilitated cross-agency responses that resulted in 45 successful suicide interventions.

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<sup>11</sup> The General Assembly, in SB 18-251, stated as its legislative intent that, "Colorado must make a commitment to ensure that all individuals within the criminal justice system are treated fairly and humanely, regardless of their behavioral health history or mental state," and directed that the program, "promote positive outcomes for individuals living with mental health or co-occurring behavioral health conditions."



Expansion of service capacity would enable the Bridges Program to bring the benefits of the program to more defendants, thereby supporting long-term stability for participants and positive outcomes for both individuals and communities.

### **RECOMMENDATION**

Over three years, increase the annual budget to \$14 million for the Bridges Program to fully support individuals engaged in the competency system and expand services to create universal access within the criminal justice system to the Bridges Program. Add 67 additional court liaisons. Create and sustain a participant services fund of \$500,000 annually. And provide the necessary administrative and infrastructure support for the program.

The Bridges Program recommends a phased expansion over four years as follows:

	<b>Current</b>	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>	<b>FY27</b>
<b>Liaisons</b>	29	45	78	96	96
<b>Supervisors</b>	1	14	14	14	14
<b>Admin Staff</b>	2	7	9	9	9
<b>Participant Capacity</b>	2393	3690	6396	7872	7872
<b>New Case Capacity</b>	2838	4410	7644	9408	9408
<b>Service Fund</b>	\$0	\$0	\$500K	\$500K	\$500K
<b>Annual Budget</b>	\$2.77M	\$4.93M	\$10.48M	\$13.55M	\$14.02M

Supporting participants successfully out of custody and into community-based services represents potentially significant cost avoidance across systems. The target population served by Bridges is most costly in terms of services provided in custody, in the competency evaluation and restoration process, and in terms of recidivism. Creating alternative interventions, particularly those designed to address long-term stability, can avoid each of the above-listed costs.

Regarding custody-related cost avoidance alone, according to a report by Vera Institute of Justice, in 2015 it cost \$39,303 annually to jail one person in Colorado (which breaks down to \$108 per day). Competency cases have an average case length of more than 450 days. For each Bridges competency participant who is released from custody, there is a jail cost avoidance of \$108/day, totaling \$48,600 over 450 days. Compared to an average Bridges Program cost of \$3/day (\$1,350 for 450 days), rough estimates show a potential jail cost avoidance upwards of \$47,000 per competency participant who is released from custody.

At current service levels and rate of release from custody (35 percent), the program supports approximately 350 competency participants to transition out of custody each year, projecting jail cost avoidance at upwards of \$13 million annually, as compared to the current program cost of \$2.8 million. It is expected that the program would see a proportionate increase in cost benefits with expansion and that the initial investment in the program would more than pay for itself by reducing process and cost burdens on jails and on the court and competency systems.

## **COUNTIES SPECIAL FUNDING REQUEST FOR 23<sup>RD</sup> JD**

15. ***[Staff]*** Please provide as much detail as possible, by fiscal year and task, on the Judicial Department's expenditures and anticipated expenditures related to the transition for the creation of the 23<sup>rd</sup> Judicial District. To the extent possible, please provide context to the special funding request submitted by the counties as it relates to all anticipated state expenditures by the Judicial Department. Are there items in their request that will be addressed by the Judicial Department? Based on the traditional split of responsibility for funding in the state court system, in the Judicial Department's opinion, which items included in the special request might be considered for additional state funding? If the

State were to provide additional funding for the counties for any portion of the transition through a bill, please describe the possible appropriation or funding mechanisms for providing additional funding to the counties and district attorney's offices.

House Bill 20-1026 removes Douglas, Elbert, and Lincoln Counties from the 18<sup>th</sup> Judicial District and creates a 23<sup>rd</sup> Judicial District composed of those counties beginning in 2025. The Judicial Department is required to submit a report with its annual budget request detailing the implementation costs of the creation of the 23<sup>rd</sup> Judicial District. Section 13-5-123.2 C.R.S. (b) states:

(b) For state fiscal years 2020-21 to 2024-25, a part of its annual budget request to the Joint Budget Committee of the General Assembly, the judicial Department shall include details about any budget requests related to the preparation for and creation of the twenty-third Judicial District.

The Department is complying complied with statute and has submitted or will submit this report in its annual budget submission for FY 2020-21 through FY 2023-24.

The costs incurred in FY 2022-23 and FY 202-24 are for alterations required in the numerous computer systems (over 50) including the court case management system.

In FY 2024-25 the costs shift from programming to staffing in anticipation of the 23<sup>rd</sup> Judicial District starting on January 7, 2025. The creation of a new district requires numerous positions including a Court Executive, a Chief Probation Officer and support staff for those positions as well as an additional Judicial Officer. The Department's FY 2024-25 budget submission will include a detail listing and cost of all new positions required for the new District.

The chart below summarizes the cost estimates for implementation.

<b>23rd Judicial District Judicial Department Costs</b>				
	<b>FY23</b>	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>
IT Transition Costs	\$740,000	\$1,100,000	\$200,000	\$0
Staffing/Administrative Cost	\$0	\$0	\$1,200,000	\$1,200,000
New Judge and Associated Costs	\$0	\$0	\$400,000	\$500,000
<b>Total Costs:</b>	<b>\$740,000</b>	<b>\$1,100,000</b>	<b>\$1,400,000</b>	<b>\$1,200,000</b>
<b>Total FTE</b>			<b>12.1</b>	<b>14.5</b>

The numbers listed above and identified in the fiscal note for HB20-1026 do NOT include any costs anticipated to be incurred by the counties for implementation of the 23<sup>rd</sup> Judicial District. However, the Department did submit with its budget request a report prepared by the counties with an estimate of costs to be incurred by them for creation of the 23<sup>rd</sup> Judicial District.

The counties report identified an estimated \$10.3 million cost primarily to split the District Attorney's Office into two separate ones for the 18<sup>th</sup> and the new 23<sup>rd</sup> Judicial Districts. The chart below comes from this report:

<b>Summary of Funding Requested for FY 2023-24</b>	
<b>Arapahoe, Douglas, Elbert and Lincoln Counties and the 18<sup>th</sup> JD District Attorney Office</b>	
1. IT – Infrastructure, equipment, software, implementation costs, domain creation, integration and modification, data preservation, data separation, data migration, transition staffing (not recurring)	\$3,600,000
2. Consultant Fee	\$193,600

3. Transition Contractor/ Project management	\$475,000
4. Forensic Accounting	\$200,000
5. Casefiles and Records	\$1,850,000
6. HR Staffing for Transition	\$60,000
7. Finance Staffing for Transition	\$60,000
8. Targeted DA Office Personnel	\$1,175,000
9. Personnel Benefits	\$2,000,000
10. DA Personnel – Retention bonuses	\$400,000 - \$640,000
11 and 12. Additional IT, HR, Finance and personnel costs related to transition, dependent on implementation decisions.	Unknown
<b>Total Funds</b>	<b>\$10,013,600 - \$10,253,600</b>

The decision concerning funding the above identified expenditures, which by statute are traditionally borne by the counties, is within the purview of the General Assembly. If the State were to provide funding for any of these costs, the Department would recommend an appropriation to the proposed Administrative Services Unit discussed at the briefing.

JUDICIAL DEPARTMENT – OFFICE OF THE STATE PUBLIC DEFENDER

FY 2023-24 JOINT BUDGET COMMITTEE HEARING AGENDA

**Thursday, December 15, 2022**

**9:00 am – 2:30 pm**

COMMON QUESTIONS FOR DISCUSSION AT DEPARTMENT HEARINGS

- 1 Please describe the implementation plan for new programs added to the Department from one-time stimulus funds (such as the CARES Act, ARPA, and one-time General Fund), as well as any challenges or delays to program implementation.**

The OSPD does not receive federal funds.

- 2 Please identify how many rules you have promulgated in the past year (FY 2021-22). With respect to these rules, have you done any cost-benefit analyses pursuant to Section 24-4-103 (2.5), C.R.S., regulatory analyses pursuant to Section 24-4-103 (4.5), C.R.S., or any other similar analysis? Have you conducted a cost-benefit analysis of the Department's rules as a whole? If so, please provide an overview of each analysis.**

The OSPD does not promulgate rules.

- 3 How many temporary FTE has the Department been appropriated funding in each of the following fiscal years: FY 2019-20, FY 2020-21, FY 2021-22, and FY 2022-23? For how many of the temporary FTE was the appropriation made in the Long Bill? In other legislation? Please indicate the amount of funding that was appropriated. What is the department's strategy related to ensuring the short term nature of these positions? Does the department intend to make the positions permanent in the future?**

The OSPD has not been appropriated temporary FTE in the past three fiscal years.

- 4 Please provide a description, calculation, and the assumptions for the fiscal impact of implementing the provisions of the Partnership Agreement, including but not limited to changes in annual leave accrual, holiday pay, and paid family and medical leave. If your department includes employees who are exempt from the Partnership Agreement, please indicate whether or not you intend to implement similar benefit changes as those required for covered employees. Please provide a breakdown of the fiscal impact of implementing the provisions of the Partnership Agreement for: a) employees who are subject to the Agreement, and b) employees who are exempt from the Agreement.**

The OSPD is not included in the Partnership Agreement.

## **Requests:**

**R-1 – Salary Survey**

**R-2 – Leased Space**

**R-3 - Central Office Staffing**

**R-4 - Training – CLE funding**

## **SPECIFIC QUESTIONS**

### **5 [Sen. Kirkmeyer] Please describe, explain, and justify the Compensation Plan Maintenance request.**

The OSPD contracted with an independent compensation firm to conduct a 2022 compensation study. This study revealed that effective July 1, 2022, the OSPD's pay structure is significantly below the market average for 98 percent of its staff within the regional offices. The average salaries of our attorneys are as high as 26% below the market range minimum and average salaries for non-attorney staff are as high as 36% below the market range minimum.

Historically, the OSPD has only assessed market compensation practices for attorneys in comparable positions in Colorado public sector attorney organizations. This year, for the first time, the independent study included all job classifications within the agency in the market analysis.

In order to hire and retain staff (at all levels) to meet the statutory obligations of OSPD, it is imperative to maintain a compensation plan that is externally competitive and internally equitable and transparent, as well as provide means to promote and retain employees who are dedicated to the mission of the agency.

OSPD's intent is to redesign our classification and compensation system to more effectively and cost-efficiently manage our most significant asset, our people. Doing so will ensure all staff is placed competitively within the new pay structure (ranges).

Increased turnover is leading to a lack of experience at critical positions, failure to fund the request means the OSPD's ability to provide representation to clients will be significantly damaged. Service to the public will inevitably be harmed as there is a decreasing number of experienced staff available to assist and resolve issues. OSPD's ability to provide representation will continue to suffer if we are not able to keep pace with external compensation trends in both hiring and retention of all staff.

**6 [Staff] Please provide an update on the paralegal staff request item approved in the last budget cycle.**

The General Assembly approved 66 paralegal positions for FY 2022-23 and another 38 positions for FY 2023-24. OSPD assigned positions to the twenty-one trial offices ensuring each office benefitted from the General Assembly's allocation. The offices advertised the new paralegal positions on statewide platforms and within their local communities. Offices across the state had success in identifying qualified individuals to fill these positions achieving at the time of this submission a 95% hire rate. The central administrative office assembled a focused training program that began in August 2022 for new paralegals that included intensive skills training, recorded these sessions for future use, and identified mentorship for the new staff. In some circumstances, offices relied on this program to train qualified administrative staff members who were interested in establishing the skill set necessary to reclassify to paralegal. Paralegals are engaged in a variety of tasks based on office and case-specific needs including: consolidating and organizing discovery, analyzing and summarizing audio/visual media, building witness and trial notebooks, supporting trial teams, preparing legal pleadings, and communicating with clients.

<b>FY 2022-23 OSPD Paralegal RFI Table</b>													
	July	August	September	October	November	December	January	February	March	April	May	June	SUM
Alamosa	1												1
Arapahoe	4	2											6
Boulder		2											2
Brighton	5	2											7
Colorado Springs	4		3										7
Denver	4	1	4		1								10
Dillon				1									1
Douglas	2												2
Durango	1												1
Fort Collins	3												3
Glenwood	1												1
Golden	4	1					1						6
Grand Junction	2	1											3
Greeley		2	1			1							4
La Junta		1											1
Montrose	1												1
Pueblo	1		1		1								3
Salida		1											1
Steamboat			1										1
Sterling	1												1
Trinidad	1												1
<b>Appropriated</b>	66												
<b>Filled</b>	35	13	10	1	2	1	1						63
<b>Remaining</b>	31	18	8	7	5	4	3						
Total Appropriation =												66	
Filled Positions												95%	

JUDICIAL DEPARTMENT – OFFICE OF ALTERNATE DEFENSE COUNSEL  
FY 2023-24 JOINT BUDGET COMMITTEE HEARING AGENDA

Thursday, December 15, 2022

9:00 am – 2:30 pm

COMMON QUESTIONS FOR DISCUSSION AT DEPARTMENT HEARINGS

1. Please describe the implementation plan for new programs added to the Department from one-time stimulus funds (such as the CARES Act, ARPA, and one-time General Fund), as well as any challenges or delays to program implementation.

**The OADC has not implemented plans for new programs in the past year.**

2. Please identify how many rules you have promulgated in the past year (FY 2021-22). With respect to these rules, have you done any cost-benefit analyses pursuant to Section 24-4-103 (2.5), C.R.S., regulatory analyses pursuant to Section 24-4-103 (4.5), C.R.S., or any other similar analysis? Have you conducted a cost-benefit analysis of the Department's rules as a whole? If so, please provide an overview of each analysis.

**The OADC has not promulgated any new rules in the past year.**

3. How many temporary FTE has the Department been appropriated funding in each of the following fiscal years: FY 2019-20, FY 2020-21, FY 2021-22, and FY 2022-23? For how many of the temporary FTE was the appropriation made in the Long Bill? In other legislation? Please indicate the amount of funding that was appropriated. What is the department's strategy related to ensuring the short term nature of these positions? Does the department intend to make the positions permanent in the future?

**The OADC did not have any temporary FTE in the past year.**

4. Please provide a description, calculation, and the assumptions for the fiscal impact of implementing the provisions of the Partnership Agreement, including but not limited to changes in annual leave accrual, holiday pay, and paid family and medical leave. If your department

includes employees who are exempt from the Partnership Agreement, please indicate whether or not you intend to implement similar benefit changes as those required for covered employees.

**N/A**

Please provide a breakdown of the fiscal impact of implementing the provisions of the Partnership Agreement for:

a) employees who are subject to the Agreement, and

**N/A**

b) employees who are exempt from the Agreement.

**N/A**

## REQUESTS

5. *[Staff]* Please describe and explain the R3 Post Conviction Unit request item. Please address and provide the Agency's perspective on the statutory requirement to provide legal representation by contract only.

**After consultation with the Senior Assistant Attorney General assigned to advise and represent The Office of The Alternate Defense Counsel, we do not believe the statutes in question require representation be provided solely through the use of independent contractors. §21-2-103, "Alternate defense counsel--qualifications—employees" provides in subsection (3) that, "The alternate defense counsel shall employ and fix the compensation of any other employees necessary to discharge the functions of the office of alternate defense counsel." In reviewing not only the statutory language provided in the Office of Legislative Legal Services (OLLS) opinion, but also the language provided above, it is clear to The OADC that representation can be provided by employees. Had the General Assembly intended to limit representation to be provided solely by independent contractors, they could easily have specified that through the use of "solely" or "independent contractor" or "non-employee."**

6. *[Staff]* Please describe and explain the R6 Social Worker Fellowships request item. Please describe and provide an update on the attorney fellowships approved in the last budget cycle.

**The OADC has long recognized that the pool of attorneys contracting with our agency lacks both people willing to live in and practice law in rural areas of Colorado**



(Greater Colorado) and people who identify as Black, Indigenous, and people of color (BIPOC). The same is true for the pool of forensic social workers contracting with our agency.

Holistic defense requires defense teams to expand their focus beyond the discrete legal matter at hand to address factors that impact recidivism and criminal system involvement such as lack of housing, unemployment, and more. To further advance the OADC's focus on holistic public defense and support the Agency's mission, the OADC is working to make interdisciplinary teams the norm to address "enmeshed" consequences to incarceration and conviction/adjudication such as loss of housing, inability to find employment, and loss of benefits. We believe the increase in social workers as interdisciplinary defense team members in all areas of the state will allow the OADC to help an even higher volume of clients in a cost-effective way.

Targeted recruitment for each fellowship will differ however, the fellowship model will be similar in its design to provide a stable process that will increase the likelihood of long-term financial success for rural practitioners and practitioners who identify as BIPOC. Thus, the OADC has proposed two separate social work fellowships that should be considered together: The Greater Colorado Forensic Social Work Fellowship; and 2. The Inclusivity Forensic Social Work Fellowship.

We have not hired either attorney fellow as of this date. The attorney fellows will be recruited and supervised by the Attorney Development Coordinator. The Attorney Development Coordinator was approved at the same time as the Fellowships and we had a protracted hiring process for the Attorney Development Coordinator. The unusually lengthy process was the result of our agency's commitment to diversity, equity, and inclusion in our workforce and the lack of a full time human resources and DEI Coordinator. This left the work to be performed by staff that was ill prepared for the tasks and a contract advisor where we were not her sole responsibility. While everyone worked diligently and sacrificed numerous personal hours to fulfill the obligations of creating an equitable process, we did not make an offer until October 10th.

The person we made the offer to accepted but being a practicing lawyer needed almost six weeks to close out her case load. This individual has now gone through our onboarding process and is building out the programmatic infrastructure and mentoring support system for our future fellows. She will announce the Fellowships to a national audience in early January. We hope to have the Fellows selected on or before March 31, 2023.

#### ADMIN SERVICES FOR INDEPENDENT AGENCIES

7. *[Staff]* Please provide the Agency's perspective on creating an administrative services unit for independent agencies.

The OADC supports the creation of the JBC led 'Administrative Services Unit' for smaller Judicial independent agencies, however the OADC does not believe any efficiency would be gained from being part of the combined fiscal and administrative pool. Similar to the OCR and ORPC the OADC has low administrative and overhead costs relative to its overall budget. Approximately 92% of the Agency's budget/expenditures are dedicated to representing OADC clients. The remaining 8% is dedicated to administrative costs. The OADC has a lean administrative staff, that are responsible for administering two contractor billing systems, processing all accounting functions, developing and implementing budgets and expenditures, and provides overall administrative support for the Agency. The OADC agrees with the OCR's response to this question in that in order to maintain the current level of administrative service would require at least the same staffing level at a centralized administrative support unit and no efficiencies would be gained and would further create less efficiencies when removed from the OADC's current operational policies and processes.

#### INCREASED FLEXIBILITY FOR THE AGENCY PROVISION OF COURT-APPOINTED COUNSEL

8. *[Staff]* Please provide the Agency's perspective on staff recommendations for increased flexibility to the agency provision of court-appointed counsel.

Our request already includes a request to create a 10-FTE post-conviction unit, so we appreciate the staff recommendation for increased flexibility for the provision of court-appointed counsel. We believe that it is feasible to use FTE for post-conviction and appellate cases, although many of those cases would still need to be handled by independent contractor team members to avoid ethical conflicts. We do not believe that it would be feasible to use FTE for trial level cases as the sheer number of those cases handled in any given year would make it impossible to screen for ethical conflicts.

#### LEGAL CONTRACTOR RATE INCREASE

9. *[Sen. Bridges]* Please describe, explain, and justify the independent agencies' request for the legal contractor rate increase. (Please submit a single, joint response with the other agencies.)

**As requested, please reference the ORPC, OCR, and OADC joint response to this question.**

JUDICIAL DEPARTMENT – OFFICE OF ALTERNATE DEFENSE COUNSEL

FY 2023-24 JOINT BUDGET COMMITTEE HEARING

**WRITTEN RESPONSES ONLY**

**COMMON QUESTIONS: PLEASE RETAIN THE NUMBERING IN ORDER TO MAINTAIN CONSISTENT LABELING FOR COMMON QUESTIONS ACROSS DEPARTMENTS.**

1. What are the major cost drivers impacting the Department?

**The major cost driver impacting the OADC is the number of cases handled by the Agency's contractors. Approximately 95% of the Agency's total appropriation goes toward representing clients on OADC cases.**

Is there a difference between the price inflation the Department is experiencing compared to the general CPI?

**N/A**

Please describe any specific cost escalations, including but not limited to impacts driven by employee compensation, workforce challenges, and construction costs.

**The OADC did see a 6.91% increase in total for its Conflict-of-interest Contracts and Mandated Costs LBLI primarily due to the reopening of courtrooms and jail/prison visits. As vaccination rates continue to increase, the cost/caseload numbers for the OADC are slowly returning to pre-pandemic levels. The OADC did not experience cost escalations driven by employee compensation, workforce challenges, or construction costs.**

2. How is the Department's caseload changing and how does it impact the Department's budget? Are there specific population changes, demographic changes, or service needs (e.g. aging population) that are different from general population growth?

**Pre-pandemic the Agency experienced caseload increases each fiscal year since FY16 as demonstrated by the following chart.**

	FY16	FY17	FY18	FY19*	FY20	FY21	FY22
Caseload	18,244	20,103	22,638	25,022	24,085	23,746	24,897
<i>Caseload % change</i>	9.38%	10.19%	12.61%	10.53%	-3.74%	-1.41%	4.85%
Conflict-of-interest Contract & Mandated Costs Expenditures	\$ 30,044,610	\$ 31,241,185	\$ 33,528,226	\$ 37,625,802	\$ 36,850,006	\$ 35,059,677	\$ 37,483,528
<i>Expenditures % change</i>	3.23%	3.98%	7.32%	12.22%	-2.06%	-4.86%	6.91%
Total LBLI Expenditures	\$ 30,037,642	\$ 32,932,573	\$ 35,367,129	\$ 39,698,549	\$ 39,484,863	\$ 37,744,339	\$ 39,750,983
<i>Expenditures % change</i>	1.16%	9.64%	7.39%	12.25%	-0.54%	-4.41%	5.32%

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

**As previously stated the OADC is experiencing cost/caseloads returning to pre-pandemic levels and is anticipating these numbers to increase in the upcoming fiscal years.**

3. Provide a list of any legislation with a fiscal impact that the Department has: (a) not implemented, (b) partially implemented, or (c) missed statutory deadlines. Please specifically describe the implementation of ongoing funding established through legislation in the last two legislative sessions. Explain why the Department has not implemented, has only partially implemented, or has missed deadlines for the legislation on this list. Please explain any problems the Department is having implementing any legislation and any suggestions you have to modify legislation.

**The OADC does not have any outstanding legislation to be implemented.**

4. State revenues are projected to exceed the TABOR limit in each of the next two fiscal years. Thus, increases in cash fund revenues that are subject to TABOR will require an equivalent amount of General Fund for taxpayer refunds. Using the attached spreadsheet, please:
  - a. List each source of non-tax revenue (e.g., fees, fines, parking revenue, etc.) collected by your department that is subject to TABOR and that exceeds \$100,000 annually. Describe the nature of the revenue, what drives the amount collected each year, and the associated fund where these revenues are deposited.

**N/A**

- b. For each source, list actual revenues collected in FY 2020-21, and projected revenue collections for FY 2021-22 and FY 2022-23.

**N/A**

- c. List each decision item that your department has submitted that, if approved, would increase revenues subject to TABOR collected in FY 2022-23.

N/A

**NOTE: An example template for providing data for this question will be provided by JBC Staff.**

5. Recent trends in funded and actual full time equivalent employee positions.
- d. Please use the attached spreadsheet to summarize the department's funded and actual FTE for the last three fiscal years.

Part A: Please summarize the Department's funded and actual FTE for the last three fiscal years.

Trend Information: Funded FTE and Actual FTE				
Fiscal Year	Funded FTE*	Actual FTE	Actual Above/(Below) Funded FTE	% Difference
2019-20	16.0	16.0	0.0	0.0%
2020-21	16.0	16.0	0.0	0.0%
2021-22	16.0	16.0	0.0	0.0%
2022-23	21.0	21.0	0.0	0.0%
FTE Change over 3 years				
% Change over 3 years				

\* "Funded FTE" equals the number of full time equivalent positions specified in the annual Long Bill or in appropriation clauses in other acts. These FTE figures reflect the number of positions that correspond to the amounts appropriated.

- e. Please use the attached spreadsheet to identify the origin of changes in funded FTE for FY 2021-22, including the number of new positions the Department has been able to fill.

Part B: Please identify the origin of changes in funded FTE for FY 2021-22, including the number of new positions the Department has been able to fill.

FY 2021-22: Status of New Funded FTE				
Fiscal Year	Funded FTE	Actual FTE	Actual Above/(Below) Funded FTE	% Difference
<b>TOTAL BASE: 2020-21</b>	<b>16</b>	<b>16</b>	<b>0</b>	<b>0%</b>
<i>Decision Items:</i>	0	0	0	0%
	0	0	0	0%
<i>Bills:</i>	0	0	0	0%
	0	0	0	0%
<i>FTE changes unrelated to decision items or bills</i>	0	0	0	0%
<b>TOTAL: 2021-22</b>	<b>16</b>	<b>16</b>	<b>0</b>	<b>0%</b>

- f. If positions have not been filled, please respond to the following:
- i. How have vacancy savings been utilized?

N/A

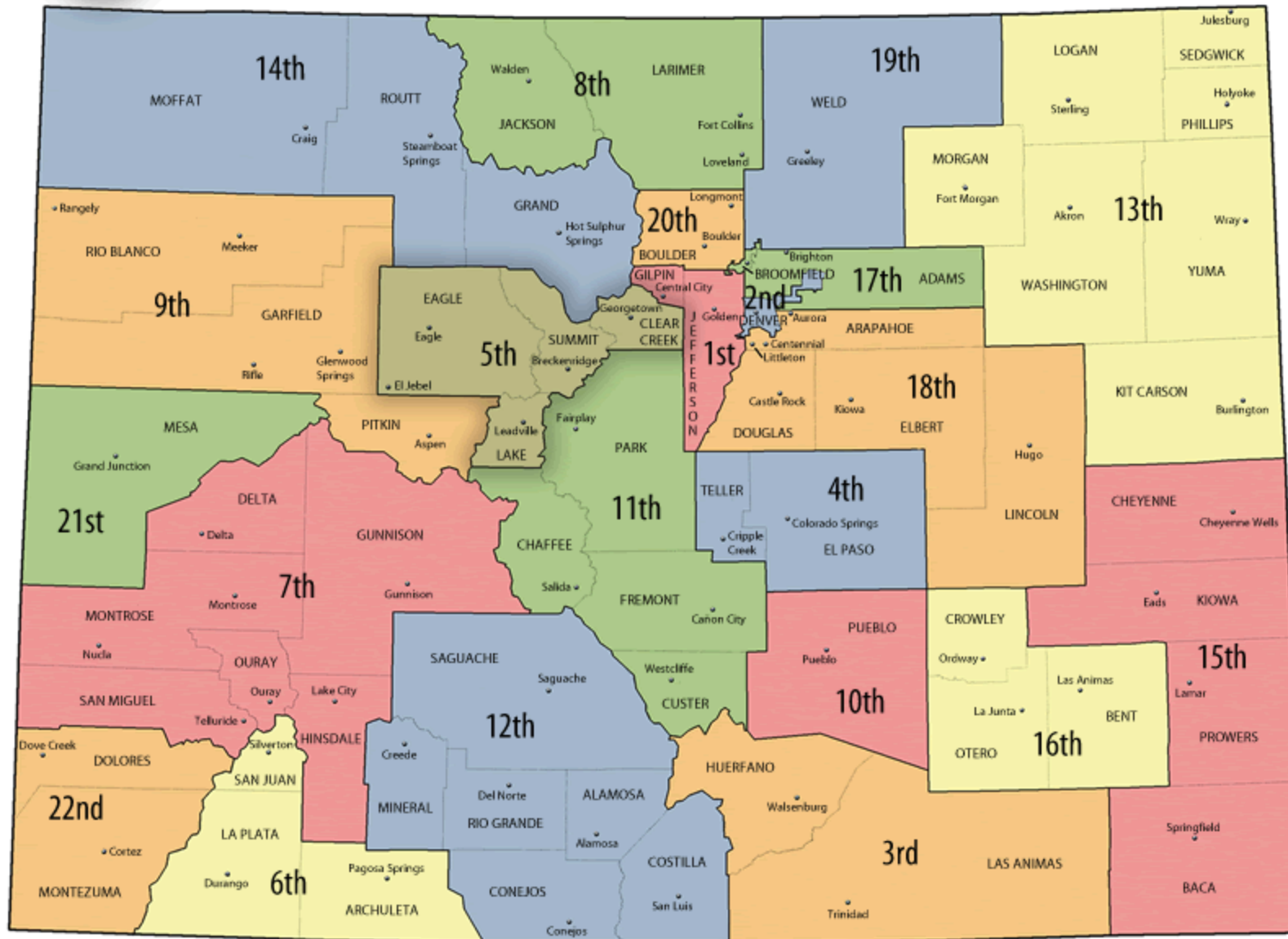
- ii. What challenges are preventing positions from being filled?

**N/A**

*NOTE: An template for providing data with sample responses will be provided by JBC Staff.*



# COLORADO JUDICIAL DISTRICTS





Office of the

# Alternate Defense ounsel

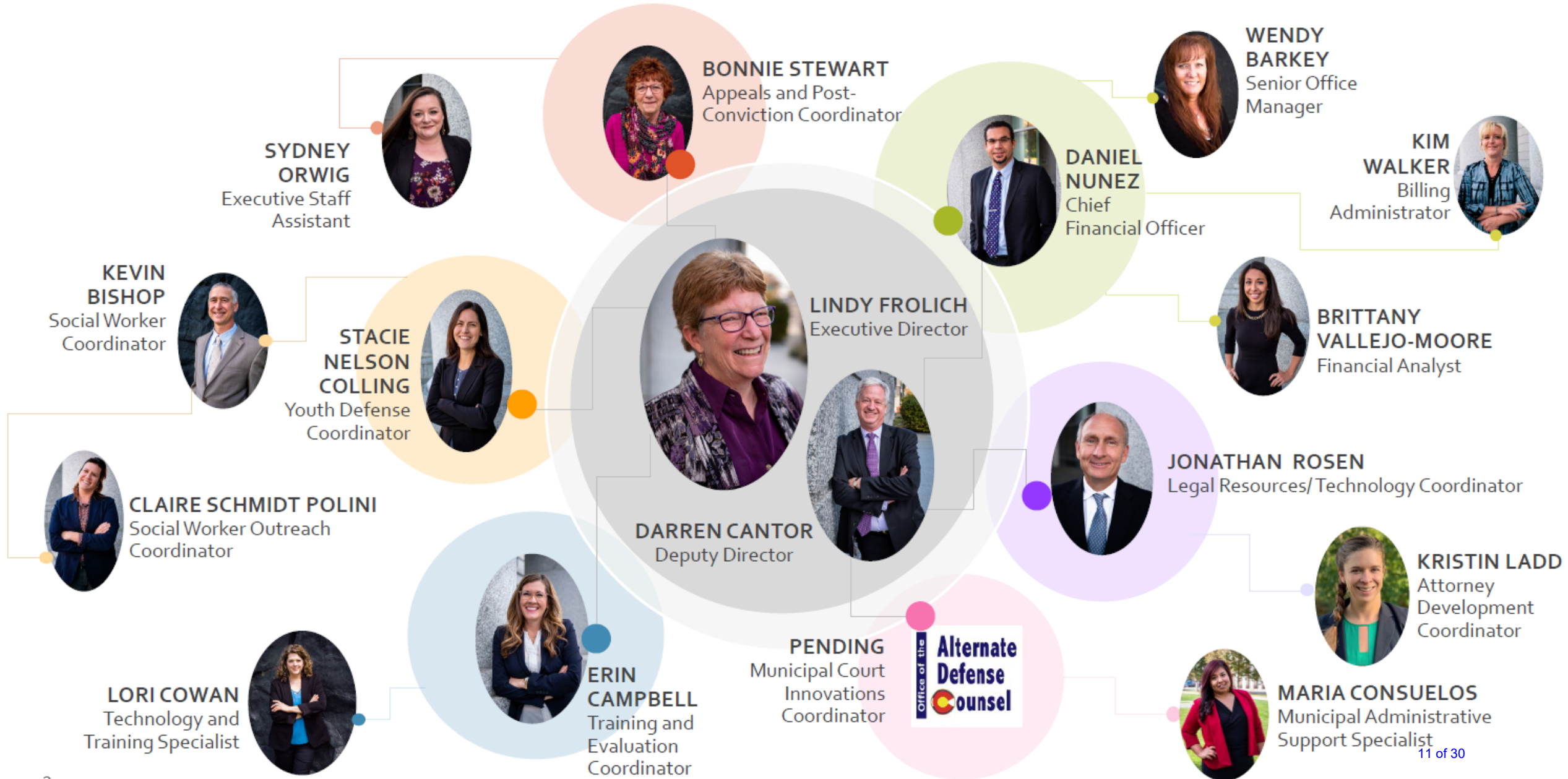
Judicial Branch

## **Fiscal Year 2023-2024 Budget Presentation**

**Lindy Frolich, Director**



# THE OFFICE OF THE ALTERNATE DEFENSE COUNSEL





LAKEWOOD, Colo. — A total of nine juveniles have been arrested in connection with two attacks on RTD's W line.

Seven teenagers are each charged with one count of second-degree assault in connection with an attack that happened on Oct. 14. They were taken into custody at Long View High School on West 2nd Place on Friday, according to a [Lakewood Police](#) spokesman.





## CRIME

# 10 motorcycle club members arrested in 2020 Arvada shooting

The suspects were arrested in four states after a months-long investigation by the Arvada Police Department into the July 2020 incident.

ARVADA, Colo. — The [Arvada Police Department \(APD\)](#) and law-enforcement agencies in other states have arrested 10 suspects in an altercation between motorcycle clubs in July 2020 that left one person dead and three injured.

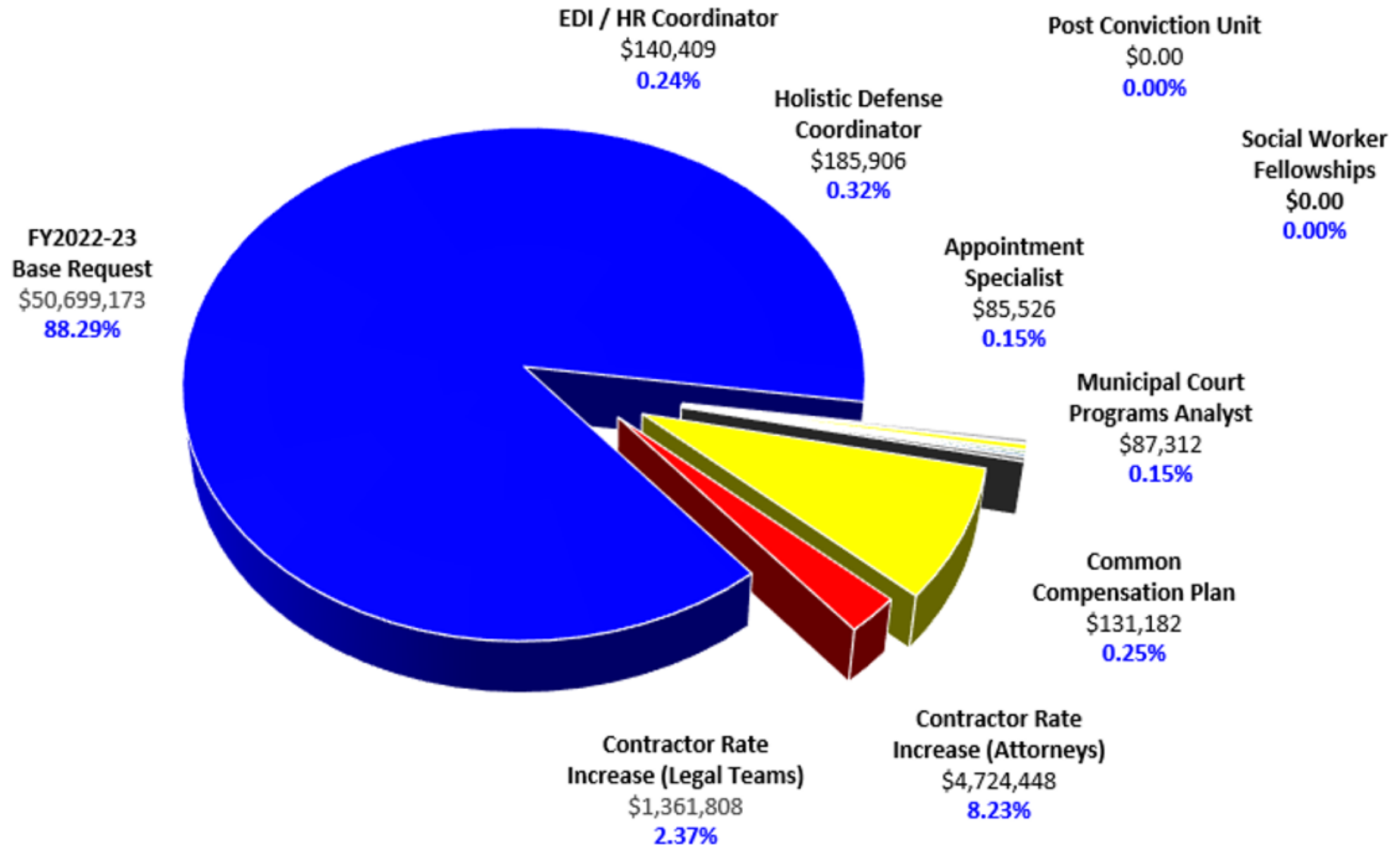
The months-long investigation into the July 11, 2020 incident found that an altercation between the Mongols and the Hells Angels resulted in the death of Hells Angels member William "Kelly" Henderson, 43, Arvada Police said in a news release.



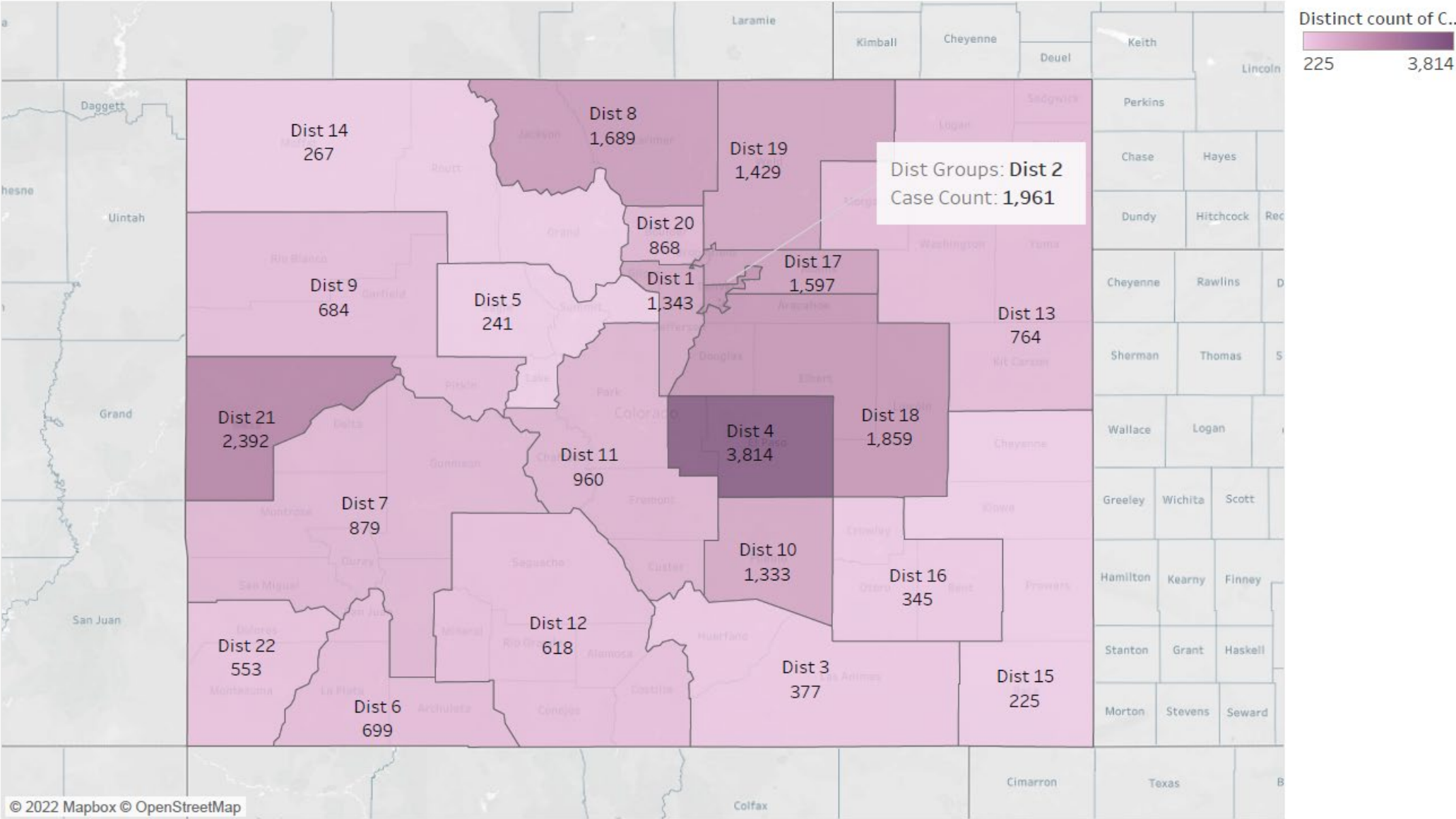
The suspects all together face 33 charges, but not every suspect faces every charge:

- First-degree murder after deliberation
- First-degree murder with extreme indifference
- Attempted first-degree murder after deliberation (3 counts)
- Attempted first-degree murder with extreme indifference (3 counts)
- Colorado Organized Crime Control Act, pattern of racketeering/participation in an enterprise
- Colorado Organized Crime Control Act, pattern of conspiracy/racketeering/participation in an enterprise
- First-degree assault (7 counts)
- Aggravated robbery (2 counts)
- Second-degree assault
- Accessory to a crime (first-degree murder)
- Vehicular assault (3 counts)
- Felony menacing
- Tampering with physical evidence
- Menacing (2 counts)
- Identity theft
- Reckless endangerment (2 counts)
- Third-degree assault
- Mandatory sentences for violent crimes

## FY 2023-24 Budget Request of \$ 57,415,764

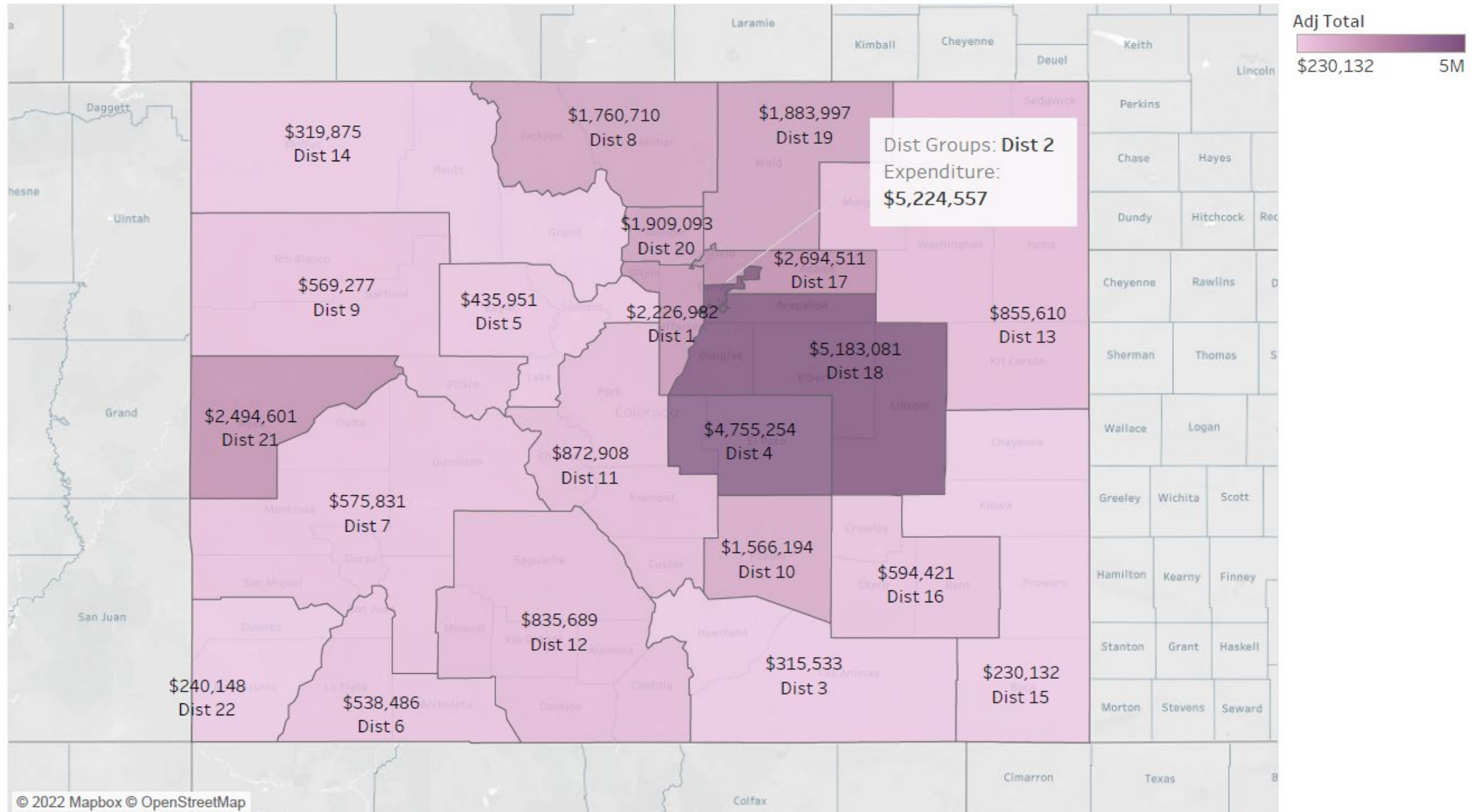


Case Count by District Map FY22



Map based on Longitude (generated) and Latitude (generated). Color shows distinct count of Case ID (t Appointment). The marks are labeled by Dist Groups and distinct count of Case ID (t Appointment). The data is filtered on Fiscal Year Total Year, which keeps 2022.

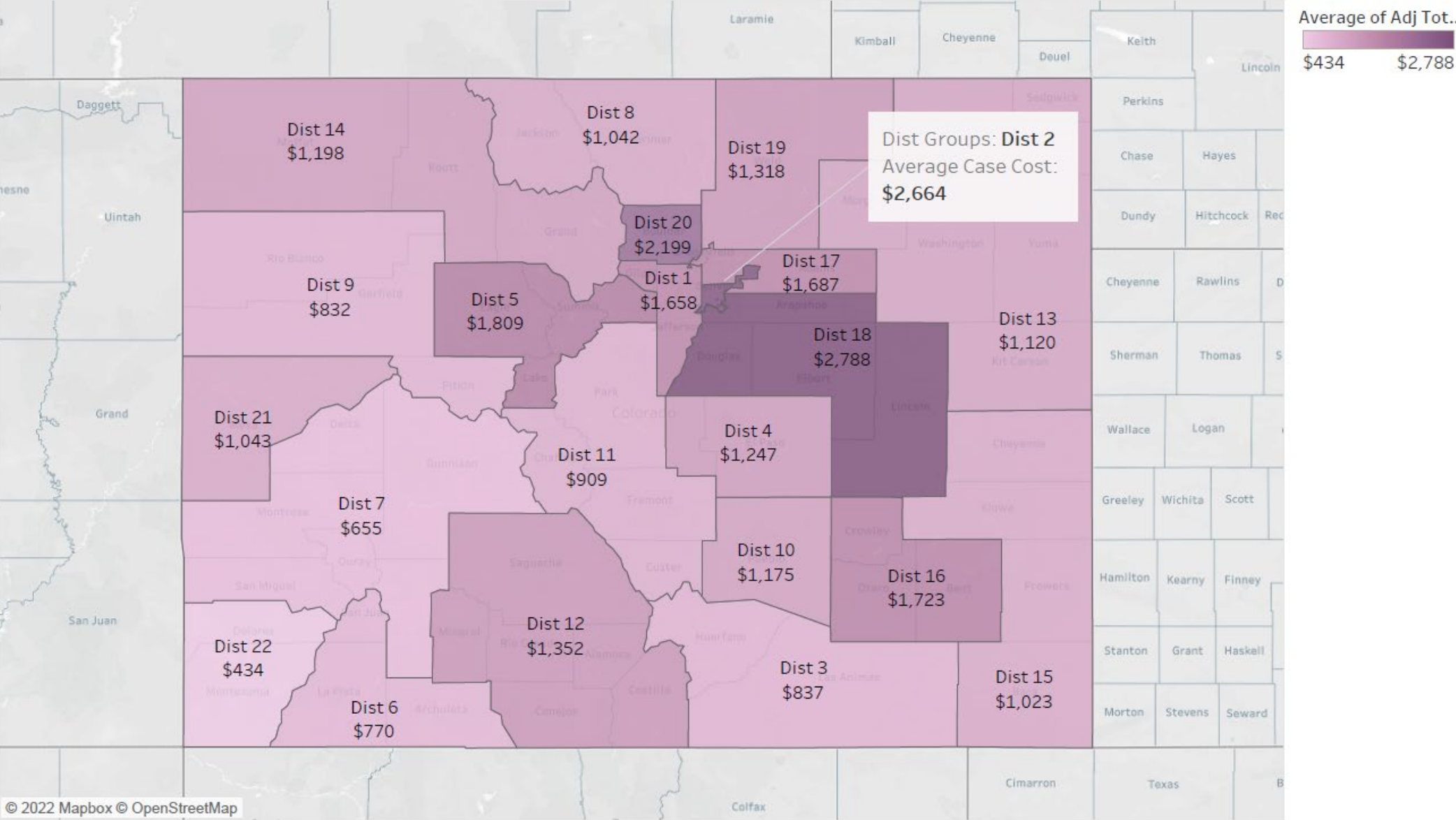
## Expenditures by District Map FY22



Map based on Longitude (generated) and Latitude (generated). Color shows sum of Adj Total. The marks are labeled by sum of Adj Total and Dist Groups. The data is filtered on Fiscal Year Total Year, which keeps 2022.



Average Cost per case by District Map FY22



Map based on Longitude (generated) and Latitude (generated). Color shows Average of Adj Total/COUNTD Case ID. The marks are labeled by Dist Groups and Average of Adj Total/COUNTD Case ID. The data is filtered on Fiscal Year Total Year, which keeps 2022.

	FY16	FY17	FY18	FY19*	FY20	FY21	FY22
Overall Average Cost per Case	\$ 1,581	\$ 1,523	\$ 1,456	\$ 1,474	\$ 1,498	\$ 1,451	\$ 1,449
<i>change from prev FY</i>	-8.2%	-3.7%	-4.4%	1.2%	1.6%	-3.1%	-0.1%

$$(\$1,581 - \$1,449) = \$132 \times 24,897 = \$3,286,404$$

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



## **FY 2023-24 Base Request of \$ 50,699,173**

PLUS DI 1 – Change Request – EDI / HR Coordinator \$ 140,409

PLUS DI 2 – Change Request – Holistic Defense Coordinator \$ 185,906

PLUS DI 3 – Change Request – Post-Conviction Unit \$ 0

PLUS DI 4 – Change Request – Appointments Specialist \$ 85,526

PLUS DI 5 – Change Request – Municipal Court Programs Analyst \$ 87,312

PLUS DI 6 – Change Request – Social Worker Fellowships \$ 0

PLUS DI 7 – Change Request – Common Compensation Plan \$ 131,182

PLUS DI 8 – Change Request – Contractor Rate Increase ( Attorney ) \$ 4,724,448

PLUS DI 9 – Change Request – Contractor Rate Increase ( Legal Team ) \$ 1,361,808

## **FY 2023-24 Budget Request of \$ 57,415,764**



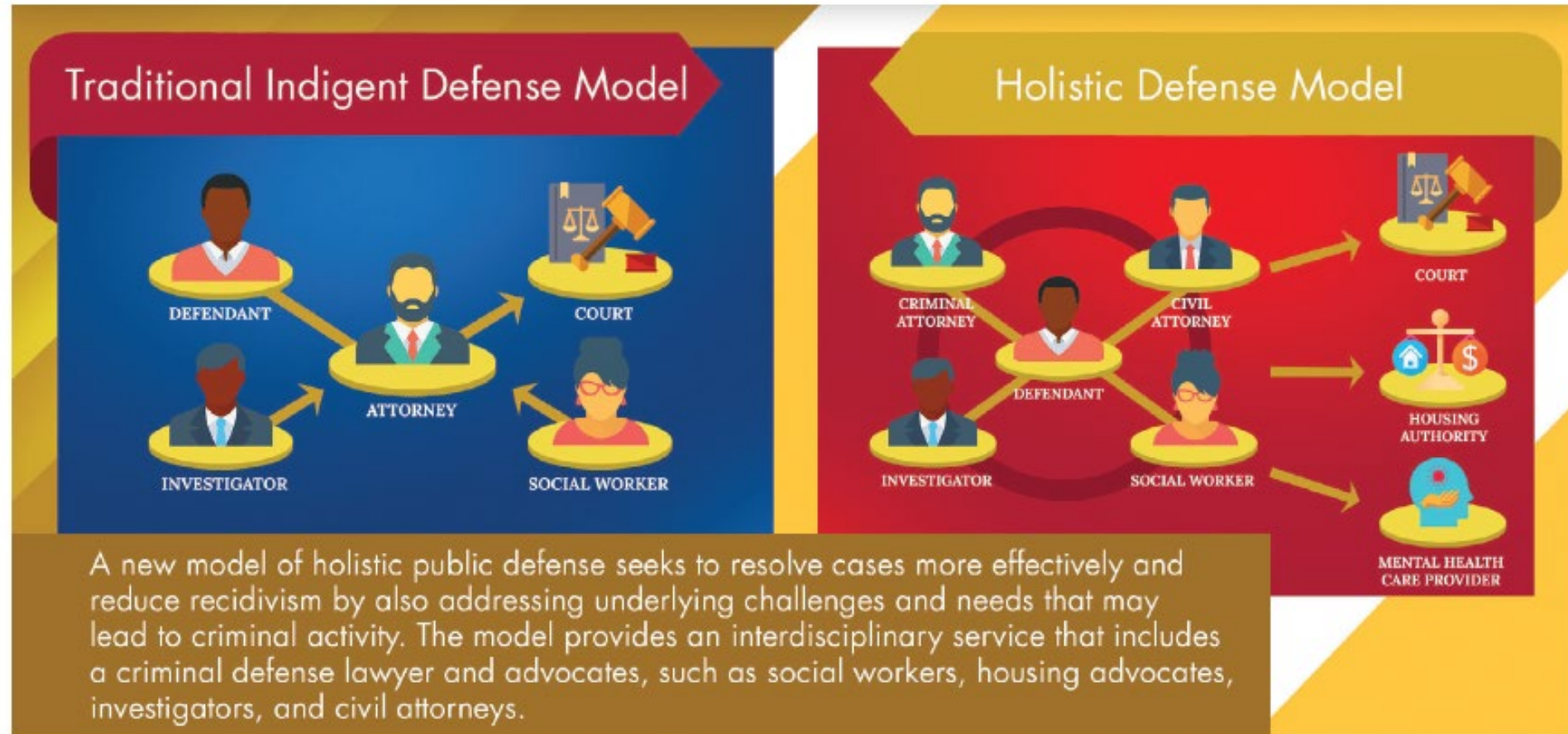
## Mission Statement

The mission of the Office of the Alternate Defense Counsel (OADC), through the practice of holistic public defense, is to help adults and children who the government has charged with criminal and delinquent offenses. The OADC's holistic practice model fosters ethical, informed, and standard-driven best practices in public defense. The OADC allocates resources in a manner intentionally designed to rebalance the disparate power wielded by the government in the criminal legal system. We advocate for every client's inherent worth and dignity by centering the client's experiences and voice to achieve the best legal outcome.

The OADC is dedicated to zealous, client-centered advocacy rooted in social justice, integrity, and humility. We recognize that we are working within a broken and racist criminal legal system. Public defense advocates play an essential role in challenging bias and disparity within the courtroom, within our offices, and within ourselves. There is a disparate presence of violent policing, over-charging, and harsher sentencing outcomes for Colorado's people of color and other vulnerable populations. The OADC is unwavering in its support of decarceration, the decriminalization of youth, and equity within the criminal legal system. 21 of 30

# R-2 Holistic Defense Coordinator

Figure 1. Comparing Defense Models



SOURCE: Quattrone Center for the Fair Administration of Justice at Penn Law. Used with permission.

## R-2 Holistic Defense Coordinator

- 1.0 FTE. \$185,906 impact to the State's GF.
- Assist the Agency in achieving its mission of ensuring that a holistic public defense model is maintained within the Agency and is offered through practice with indigent adults and youth facing criminal prosecution.
- To help ensure high quality legal services while also reducing the cost of representation and over-incarceration.



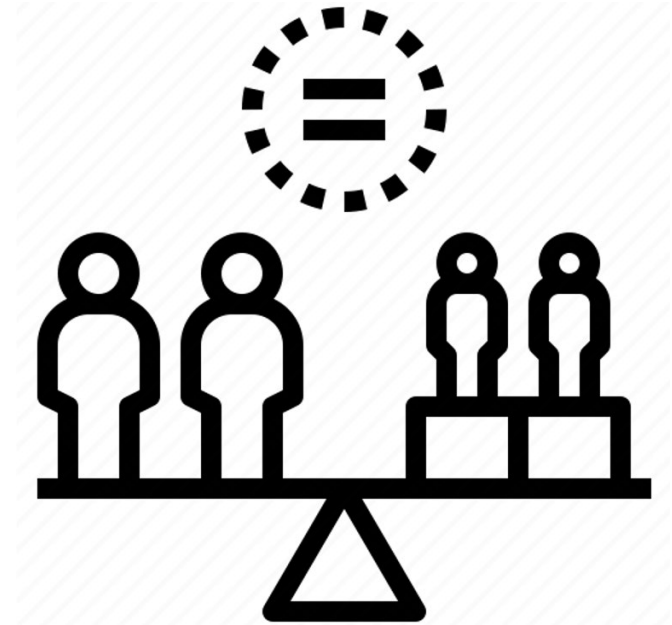
## R-6 Social Worker Fellowships

- 2.0 FTE. \$0 impact to the State's GF. Funding transferred from Conflicts of Interest LBLI.
- Two-year fellowships.
- To increase the availability of social workers in the legal deserts in greater Colorado.
- To address the lack of BIPOC social workers in the agency's contractor pool.
- See Discussion Question #6



# R-1 EDI / HR Coordinator

- 1.0 FTE. \$140,409 impact to the State's GF.
- To lead and increase equity, diversity, and inclusion (EDI) initiatives within the Agency's newly formed EDI model.
- Serve as the official Human Resources Coordinator for the Agency.
- Update to status of attorney fellowships - See Discussion Question #6



## R-3 Post-Conviction Unit

- 10 FTE. \$0 impact to the State's GF. Funding transferred from Conflicts of Interest LBLI.
- Team will address statewide legal needs for OADC clients on post-conviction (Crim. P. 35(c)) cases.
- Increased difficulty finding contractors to accept these cases.
- See discussion question #8.





# Top 10

- 10
- 9
- 8
- 7
- 6
- 5
- 4
- 3
- 2
- 1

**THE END**

# Questions ?

- Contact Information

- Lindy Frolich – Director – (303) 515-6925  
[lindy@coloradoadc.com](mailto:lindy@coloradoadc.com)
- Darren Cantor – Deputy Director – (303) 515-6935  
[darren@coloradoadc.com](mailto:darren@coloradoadc.com)
- Daniel R. Nunez – Chief Financial Officer – (303) 515-6924  
[daniel@coloradoadc.com](mailto:daniel@coloradoadc.com)

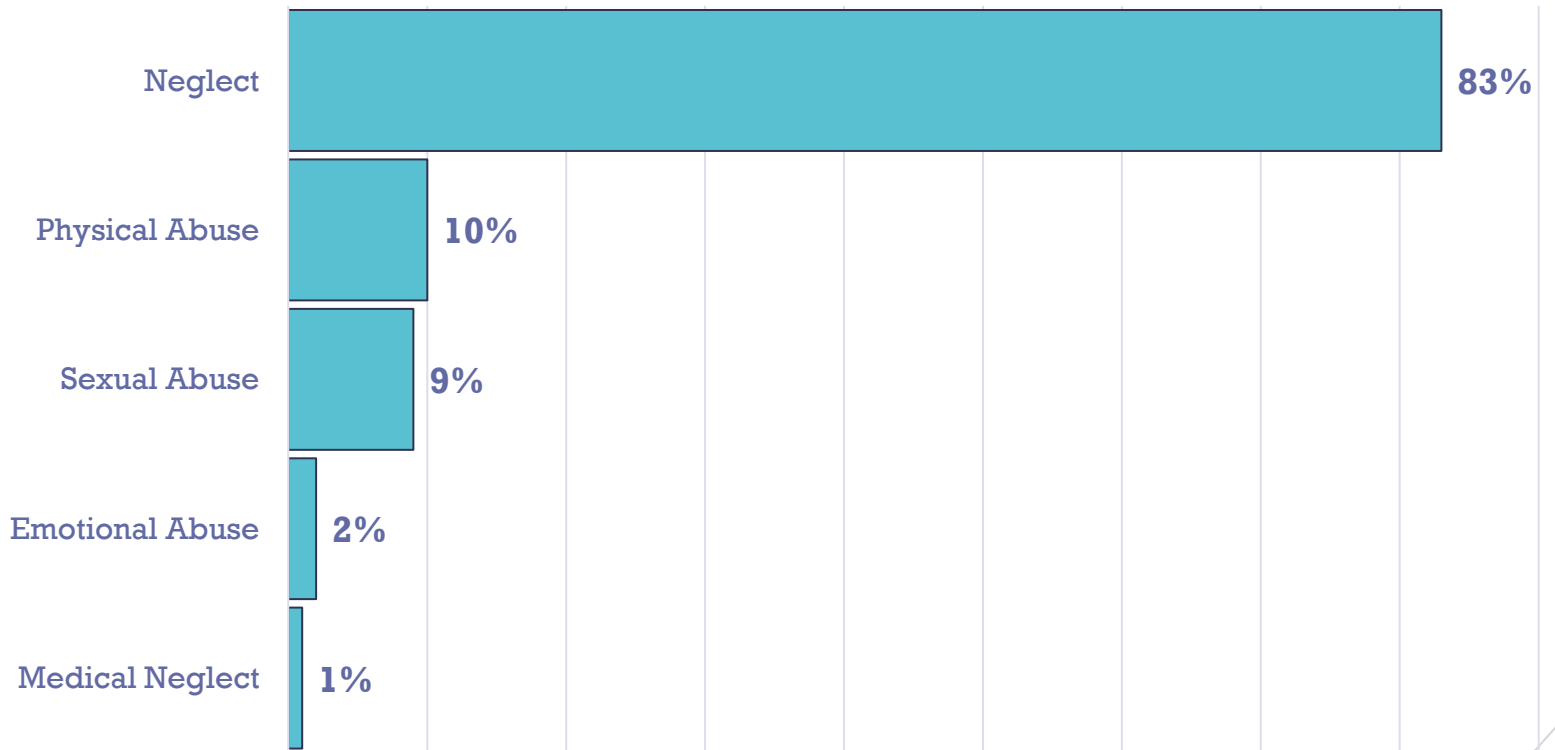


# Dependency and Neglect Proceedings

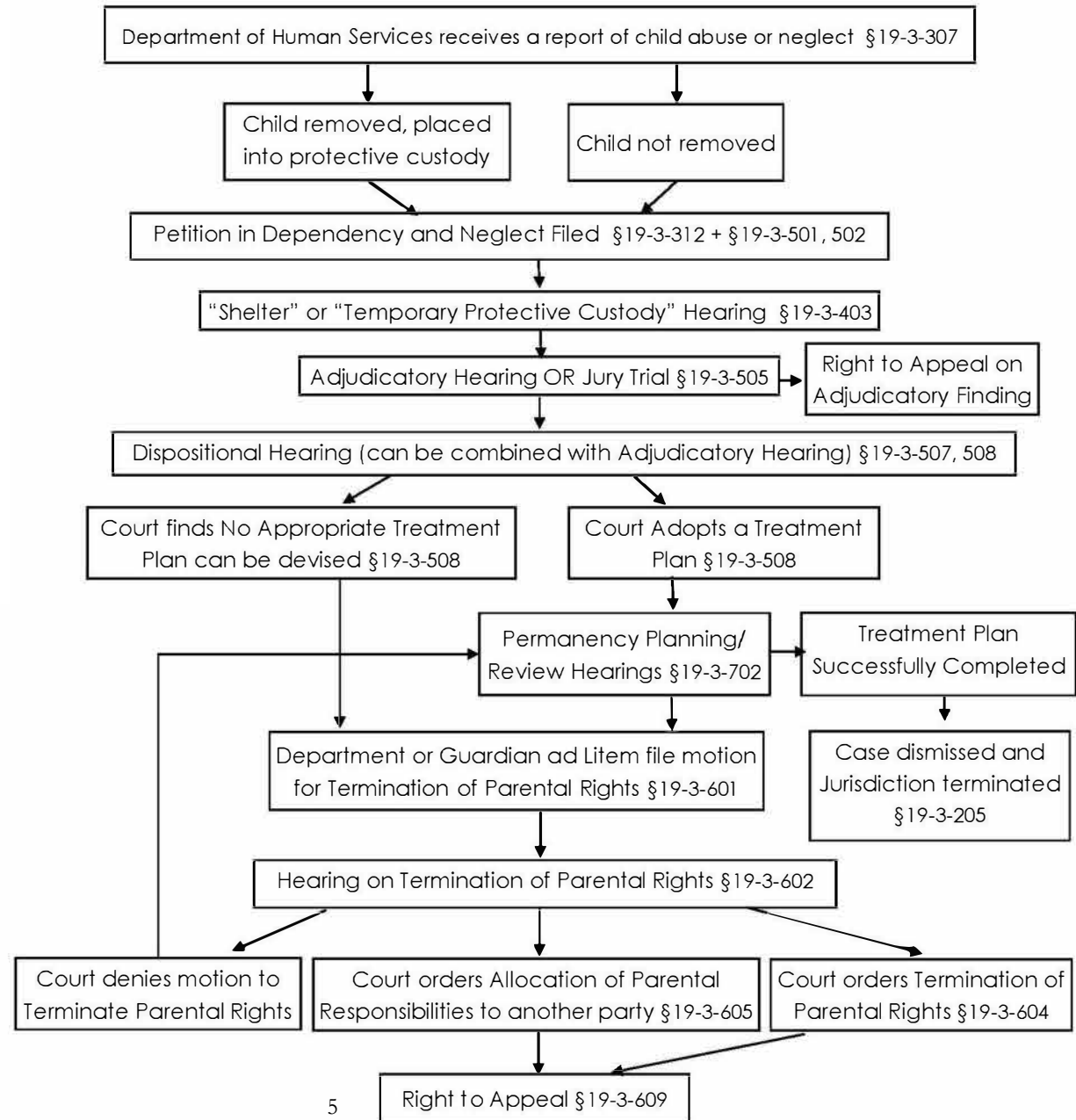
## How it begins

- County Department of Human Services (DHS) or law enforcement bring family to the attention of the courts.
- If a child is removed from their parent/caregiver, DHS or law enforcement must get a court order (done ex parte).
- Parents are entitled to a hearing with 48 hours of removal.
- At the initial hearing (known by many names such as a shelter hearing, temporary custody hearing, or preliminary protective proceedings) the parties are appointed counsel and the family begins their legal journey.

# Maltreatment Types of Children in Colorado



## COLORADO DEPENDENCY AND NEGLECT CASE FLOWCHART





# Laws Impacting Child Welfare

Interstate  
Compact for the  
Placement of  
Children

Americans with  
Disabilities Act

Indian Child  
Welfare Act

Uniform Child-  
Custody  
Jurisdiction and  
Enforcement Act

Education Law

Immigration Law

State Law

Family Law

Social Science  
Research

Federal Law

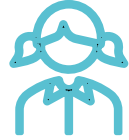
Constitutional  
Law

The Child Abuse  
Prevention and  
Treatment Act

Family First  
Prevention  
Services Act

Adoption and  
Safe Families Act

# Who is involved



Children and youth (can be a sibling group)



Parents/Guardians for each of the children



Caseworker for the County



Judicial Officer



Sometimes - kin/relatives available for placement

# Legal Teams



Guardian ad Litem  
(GAL)

Counsel for Youth  
(CFY)

Case Consultant  
(CC)



CASA Volunteer



Parents

Respondent Parent  
Counsel (RPC)

Respondent Parent  
Counsel (RPC)

Respondent Parent

Counsel (RPC)

Social Worker/Family  
Advocate

Parent Advocate



Caseworker

Assistant County  
Attorney (ACA)



Kin/Relatives

Intervenors/Special  
Respondents may  
have counsel



Foster Parents

## How it ends

- Jurisdiction terminates when reunification has succeeded, or a child achieves permanency in another way AND after all appeals have been exhausted.
- Goal of every case is to return home to a parent (or to have remained home while addressing the issues).
- When that doesn't happen children may
  - be with kin/relative(s) through APR/Guardianship
  - be adopted by kin/relative(s)
  - be with foster parent(s) through APR/Guardianship
  - be adopted by foster parent(s)
  - be emancipated from foster care

JUDICIAL DEPARTMENT – OFFICE OF THE CHILD'S REPRESENTATIVE  
FY 2023-24 JOINT BUDGET COMMITTEE HEARING AGENDA

Thursday, December 15, 2022

9:00 am – 2:30 pm

COMMON QUESTIONS FOR DISCUSSION AT DEPARTMENT HEARINGS

1. Please describe the implementation plan for new programs added to the Department from one-time stimulus funds (such as the CARES Act, ARPA, and one-time General Fund), as well as any challenges or delays to program implementation.

**OCR response:** The OCR did not receive any one-time stimulus funds.

2. Please identify how many rules you have promulgated in the past year (FY 2021-22). With respect to these rules, have you done any cost-benefit analyses pursuant to Section 24-4-103 (2.5), C.R.S., regulatory analyses pursuant to Section 24-4-103 (4.5), C.R.S., or any other similar analysis? Have you conducted a cost-benefit analysis of the Department's rules as a whole? If so, please provide an overview of each analysis.

**OCR response:** The OCR has not promulgated any rules in the past year.

3. How many temporary FTE has the Department been appropriated funding in each of the following fiscal years: FY 2019-20, FY 2020-21, FY 2021-22, and FY 2022-23? For how many of the temporary FTE was the appropriation made in the Long Bill? In other legislation? Please indicate the amount of funding that was appropriated. What is the department's strategy related to ensuring the short term nature of these positions? Does the department intend to make the positions permanent in the future?

**OCR response:** The OCR does not have any temporary FTEs.

4. Please provide a description, calculation, and the assumptions for the fiscal impact of implementing the provisions of the Partnership Agreement, including but not limited to changes in annual leave accrual, holiday pay, and paid family and medical leave. If your department includes employees who are exempt from the Partnership Agreement, please indicate whether or not you intend to implement similar benefit changes as those required for covered employees. Please provide a breakdown of the fiscal impact of implementing the provisions of the Partnership Agreement for: a) employees who are subject to the Agreement, and b) employees who are exempt from the Agreement.

**OCR response:** Employees of the OCR are not covered by the Partnership Agreement; however, the budget request includes the proposed 5% across-the-board salary adjustment. Other than the across-the-board salary adjustment, the OCR does not anticipate any additional material costs should it implement provisions of the Partnership Agreement for employees who are exempt from the agreement.

## REQUESTS

5. *[Staff]* Please describe and explain the R2 Caseload Adjustment request item.

**OCR response:** The OCR's caseload is driven by appointments and length of case. As the OCR does not control either of these factors, it bases its caseload projection on historical appointment and filing trends and its assessment of legal and practice developments.

The OCR begins its estimates for caseload and workload adjustments for the FY 2023-24 budget year with the FY 21-22 actuals by specific case type (Dependency & Neglect, Juvenile Delinquency, Domestic Relations, Paternity, Probate, Truancy and all other). From those actuals, the OCR estimates increases/decreases in caseload and cost per appointment based on historical appointment trends, judicial filings, and legal and practice developments. Workload changes (i.e., cost per appointment) are estimated based on case complexity, practice trends and other factors. The total projected court-appointed counsel costs are the estimated caseload multiplied by the estimated cost per appointment (sum of all case types). This estimate is compared to the prior year appropriation (base budget) to determine the net increase or decrease in the OCR's budget request.

For the last three fiscal years, court-appointed counsel expenditures have been below the budget due primarily to decreases in caseload resulting from the pandemic. While the OCR continues to carefully monitor caseload and workload to assess whether this recent "under budget" trend will continue, the OCR does estimate it can reduce its overall court-appointed counsel by a modest amount in FY 23-24.

6. *[Rep. Bird]* Please explain the need for a staff attorney for EDI-related leadership for the office for R3.

**OCR response:** The OCR seeks an EDI attorney to address the concerning disparities impacting our communities of color, LGBTQ communities and disability communities in the child welfare juvenile justice systems. This position will operate on three levels: 1) case-specific litigation strategies and supports; 2) state- and district-level policy and systems advocacy; and 3) recruitment and retention of diverse attorneys and staff. As explained

below, the demands of this position extend beyond HR qualifications and require extensive and specialized legal skills and knowledge.

OCR's central mandate is to provide effective legal advocacy for children and youth. It does so primarily through independent contract attorneys. These attorneys must understand the historic and current factors that drive disproportionality and discrimination and that place children and youth at greater risk of family separation and harm because of their race, culture, disability, sexual orientation, and gender identity. OCR attorneys must continue to develop strong advocacy tools and skills to address these factors head-on in their cases. They must also engage in culturally competent investigation, case planning, and advocacy, and continuously work to identify and address bias that may be impacting their own decisions or those of others on their cases. The OCR has a responsibility to support attorneys in doing this case-level work and does so through its training, support materials, case consultations and staffings, and oversight. This key function of the EDI position requires legal knowledge, experience, and skills.

As OCR attorneys' ability to successfully advocate for equity, inclusion, and justice is dependent on the systems in which they work, OCR must also address these issues in its systemic and policy work. OCR also must continue to identify ways to diversify its attorney pool to better reflect the communities its attorneys represent. Pages 79-80 of the OCR's FY 2023-24 Budget Request detail the targeted responsibilities of the requested EDI attorney. The OCR believes that legal knowledge and skills are required to successfully fulfill the overwhelming majority of these responsibilities and that all responsibilities are appropriate for an attorney staff.

In recent years, other child welfare and juvenile justice agencies have added EDI positions to effectively address these issues. As children and youth are the ultimate consumers of our child welfare and juvenile justice systems and arguably the party with the most at stake, they need and deserve attorneys who are well-equipped to fight for justice in their cases. As the OCR takes pride in its lean administrative structure, it has attempted to identify and achieve EDI goals with existing staff and a volunteer EDI committee. After employing this approach for several years, the OCR believes that a full-time attorney position is needed to effectively prioritize, coordinate, and advance this work. To maintain efficiencies, the OCR has requested only one position rather than separate HR and attorney positions but believes the attorney qualifications are essential to the OCR's ability to meet its legislative mandate.

## ADMIN SERVICES FOR INDEPENDENT AGENCIES

7. *[Staff]* Please provide the Agency's perspective on creating an administrative services unit for independent agencies.

**OCR response:** While the OCR supports the creation of an administrative services unit for smaller independent agencies, it does not believe any efficiencies would be gained from OCR being part of the combined fiscal and administrative "pool." Approximately 91% of the OCR's expenditures are for representing children and youth (combination of

independent contractors and employees) with only 9% administrative costs. The OCR's very lean administrative staff develops and maintains a robust case management/billing system, develops and monitors budgets and expenditures, and provides overall administrative support for the entire organization. This administrative support is thoughtfully tailored to support OCR in meeting its legislative mandate in a cost-effective manner. Maintaining OCR's high level of administrative service would require at least the same staffing level at a centralized administrative support unit and no efficiencies would be realized. In fact, removing that direct support and placing it in a separate entity would likely be less efficient since it would be one layer removed from the OCR's operations.

In addition to the inefficiencies described above, including the OCR in this unit would likely create conflicts with other independent agencies, particularly the Office of Respondent Parents' Counsel (ORPC). Contract attorneys for the OCR and ORPC are frequently opposing counsel. Having the same staff process payments for expert witnesses, discovery, process servers, etc. could create significant conflicts. Furthermore, agencies such as the OCR and ORPC were created, in part, because of a need for independence. Comingling these services would erode that independence.

While the OCR has received excellent payroll support from the SCAO over the years, it has no issue transferring that function for all independent agencies from the SCAO to a new administrative services unit. The OCR's only question is whether a 0.5 FTE Payroll Analyst is sufficient staffing to support all the payroll needs of eight independent agencies.

## INCREASED FLEXIBILITY FOR THE AGENCY PROVISION OF COURT-APPOINTED COUNSEL

8. *[Staff]* Please provide the Agency's perspective on staff recommendations for increased flexibility to the agency provision of court-appointed counsel.

**OCR response:** The OCR appreciates the opportunity and ideas for increased flexibility suggested in the briefing document. Before implementing the suggestions, the OCR will need to give careful thought to the budgeting needs, feasibility, and sustainability of the ideas presented.

With regard to the **differential hourly rate**, the OCR has considered this option for attorneys in the past. The questions and potential issues that have led OCR not to request such flexibility in a budget request are multifold. First, the OCR does not believe that it can effectively characterize case complexity by case type. In the OCR's experience, the individualized needs of the child and family and ever-evolving case developments determine complexity. While D&N cases are often the most time-intensive cases, as indicated by the OCR's appointment costs (Exhibit C), with incentives to serve families and children outside of the child welfare system created by the Family First Prevention Services Act and other child welfare initiatives, the OCR continues to hear from attorneys that the issues presented in other case types (delinquency, domestic, paternity, truancy, and probate) have become increasingly similar to those presented in D&N cases, with additional complexities created by lack of formal county-department involvement.



Similarly, attempting to classify cases by the types of issues presenting at the outset (sexual abuse allegations, for example) does not work as many issues do not emerge until later in the case and each issue presents its own complexities and demands. Finally, assigning a higher rate to certain case types would create serious morale and retention issues in OCR's contractor pool and send an incorrect message that some case types are more important than others.

Similarly, compensating attorneys differently based on years of experience would not capture the true skills or value of the services they provide. Some of OCR's most impressive attorneys are relatively new attorneys who bring passion and enthusiasm to this work and a willingness to learn, analyze cases thoroughly and creatively, and litigate zealously when needed. As the professional responsibilities and practice standards remain universal to all attorneys regardless of years of experience, the OCR is also concerned that differential pay for the same work may result in litigation.

The OCR also appreciates the opportunity to **explore alternatives to the contractor model of delivering attorney services through the use of 10 FTEs**. Before the OCR could begin consideration of such alternatives, it would need clarification on the intent and parameters of this authority. While the OCR believes that an office structure, particularly a multidisciplinary one, has the potential to provide effective attorney services, its experience providing direct representation through its El Paso County Office of the Guardian ad Litem and implementing its 2011-2017 Multidisciplinary Law Office Pilot Program make the OCR aware of some of the potential challenges and implications of piloting alternative models of representation. These challenges include but are not limited to: infrastructure costs; adequate compensation; sustainability; and continuity of representation.

As noted in the OCR's Budget Request, the El Paso County GAL pre-dated the creation of the OCR by one year. The OCR believes this office is a wise investment of state resources. The El Paso office is uniquely situated to attract a more diverse pool of attorneys because a new attorney can obtain health and retirement benefits, PTO, structured management, and support, while qualifying for the Public Interest Loan Forgiveness Program. The office also provides valuable training and supervision for attorneys new to the field. Through this investment in training and supervision, the OCR is essentially growing the pool of attorneys statewide. These benefits do require an investment of state resources, as the average cost per appointment is higher for this office than for independent contractors due to the investment in infrastructure and supervision. As the OCR has struggled over recent years to recruit and retain attorneys at the office's current salaries, the OCR would need to continue to evaluate FTE attorney and staff salaries and potentially offer higher salaries to meet ongoing program goals. For these reasons, the OCR believes that a simple allocation of current CAC dollars may not provide sufficient funding for alternatives to the contractor model and that additional operations and personnel dollars may be needed.

From 2011 to 2017, the OCR engaged in a multidisciplinary law office (MDLO) pilot project, authorized by SB 03-258, Footnote 118. In this pilot, the OCR contracted with three law offices in Denver and Arapahoe counties to study alternative methods of providing attorney services through a MDLO structure similar to the El Paso County

Guardian ad Litem Office. While the OCR identified many benefits to this model of representation, the OCR ultimately was unable to continue the pilot program due to the higher costs of the model and the evaluation's inconclusive data regarding improved attorney performance or case outcomes. While this evaluation did not measure the other benefits of a multidisciplinary law office model articulated above, the discontinuation of the MDLO contracts at the end of the pilot resulted in the potential disruption of continuity of representation for many children who had been represented by the MDLOs. While the OCR and the MDLO attorneys worked very hard to minimize disruptions in representation by keeping the same attorneys on cases whenever possible, the OCR learned a valuable lesson about ensuring the sustainability of FTE/law office models of representation. For this reason, the OCR would want to ensure the commitment of sufficient and sustainable funding, infrastructure, supervision, and administrative investments prior to implementing any FTE-type alternative to its current contractor model. This points to the need for operations and personnel dollars in addition to the CAC dollars referenced in the briefing document.

## LEGAL CONTRACTOR RATE INCREASE

9. *[Sen. Bridges]* Please describe, explain, and justify the independent agencies' request for the legal contractor rate increase. (Please submit a single, joint response with the other agencies.)

[Please see joint ADC/OCR/ORPC response.](#)



COLORADO OFFICE OF  
**THE CHILD'S  
REPRESENTATIVE**

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**Presentation to the Joint Budget Committee**  
*December 15, 2022*





# OCR MISSION

OCR gives children and youth a voice in Colorado legal proceedings through high-quality legal representation that protects and promotes their safety, interests, and rights.

## Vision

Justice, opportunity, and healthy families for all court-involved children and youth.

## Values

**Accountability:** Colorado’s children, attorneys, families, and communities can count on OCR to ensure that each decision we make and action we take advances our mission in a fair, inclusive and transparent manner.

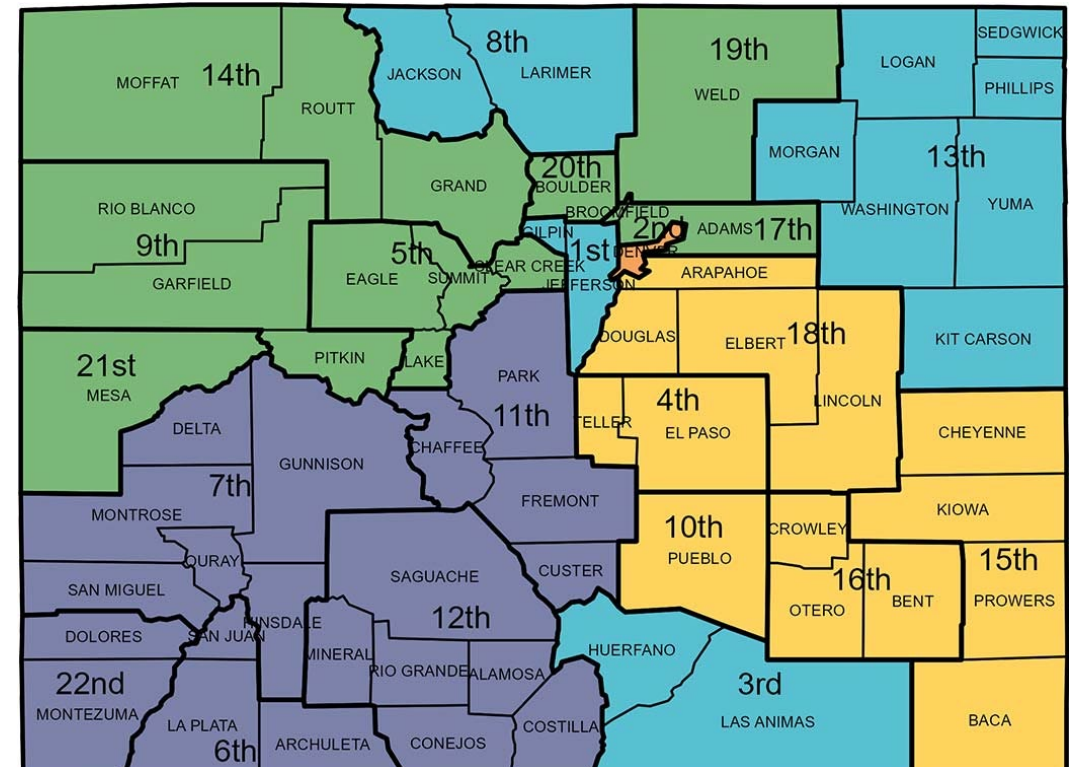
**Efficiency:** OCR strives to accomplish its mission and conserve resources by streamlining efforts, adhering to deadlines, resolving conflict constructively, and honoring well-defined projects, processes, and roles. We balance our drive to achieve with thoughtful planning and implementation.

**Empowerment:** OCR cultivates an environment of respect and honesty. We value the diverse experiences and expertise of the children we serve, our attorneys, and our staff. We invest time to reflect and connect, focus on strengths, value feedback, and recognize success. We stand for justice and support each other in our mission to empower children.

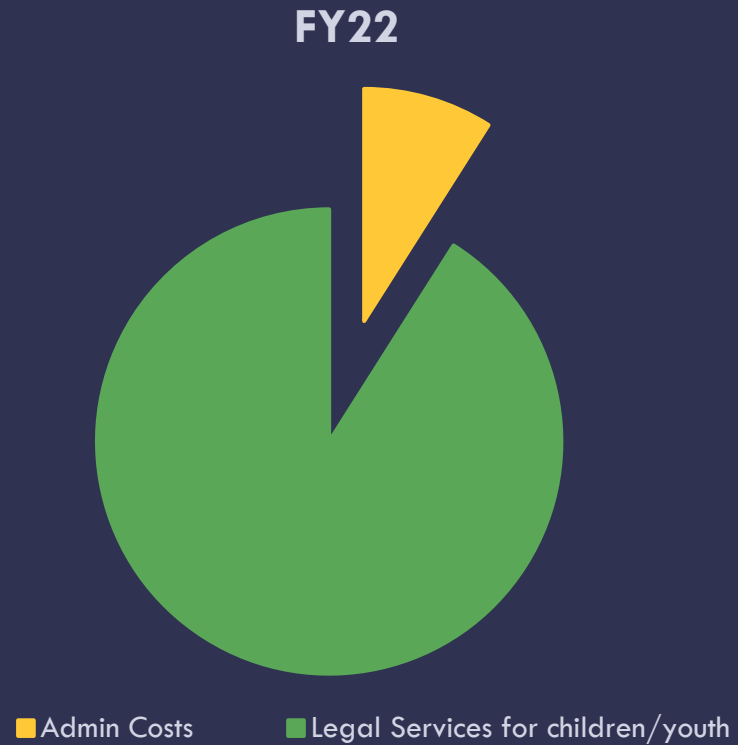
# OCR ATTORNEYS

OCR contracts with approximately 270 attorneys covering all 22 Judicial Districts

- GAL or CFY is appointed for every child or youth named in a D&N case in Colorado.
- CFY is appointed for every youth in a Foster Youth in Transition Program Case.
- GALS are appointed at the discretion of the court in Juvenile Delinquency, Paternity, Probate, Adoption, Mental Health, and Domestic Relations matters.
- GALS may also be appointed for a victim or witness.
- GALS are appointed for every youth 16 or 17 years old seeking a marriage license.



# CASELOAD DRIVEN BUDGET



# FY24 Budget Requests

"In light of the rising costs of, well, everything, and the inability of the OCR to offer group insurance or loan forgiveness like other public interest attorneys, it seems a fair rate would be closer to \$100/hour."

Our number one budget priority is a joint request with the ADC and ORPC which you will hear more about shortly.

R1 & R4

# GENERAL FUND REQUESTS

## R2

Court-Appointed Counsel Caseload/Workload Adjustment

-\$634,018

## R3

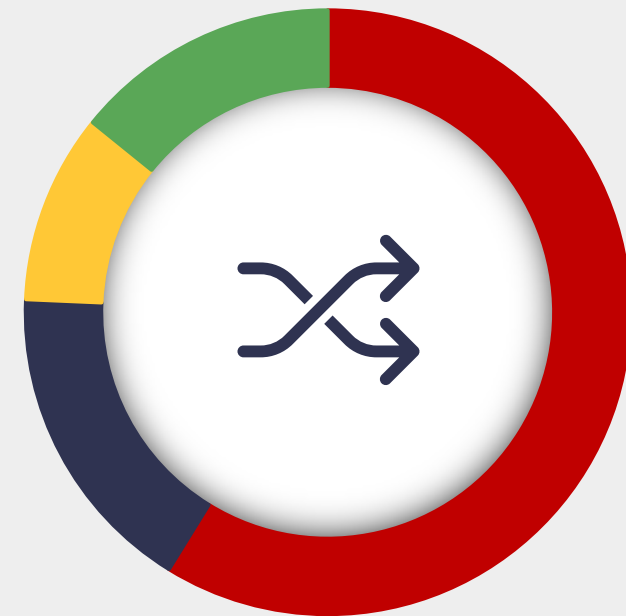
EDI Staff Attorney \$181,935

## R5

Administrative Staffing Adjustments \$109,291

## R6

Common Comp Plan \$152,851 (general fund)



■ CAC Reduction ■ R3 ■ R5 ■ R6

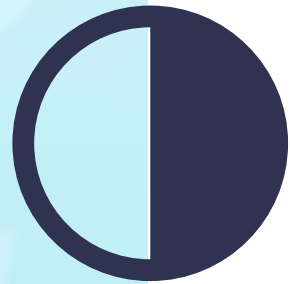




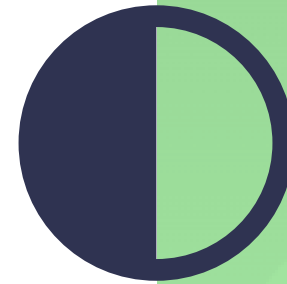
## R3 — EQUITY, DIVERSITY, AN INCLUSION STAFF ATTORNEY POSITION

- State/district legal policy and system advocacy.
- Case specific litigation strategies and supports to confront disparities in the courtroom.
- Recruitment/retention of diverse attorneys and staff.

## R5 - ADMINISTRATIVE STAFFING ADJUSTMENTS



Increase current 0.5 FTE Case Operations Assistant to a full 1.0 FTE



Increase a current 0.4 FTE Staff Assistant position to a full 1.0 FTE and reclassify as an Accountant II.

# R6 - COMMON COMPENSATION PLAN





# R7 INCREASE TO TRAINING APPROPRIATION

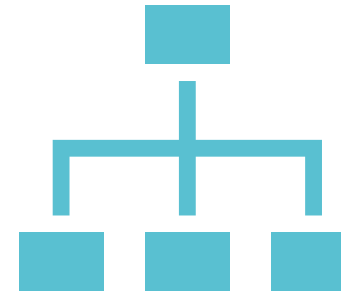
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Reappropriated  
IV-E Funding

# INCREASED FLEXIBILITY FOR THE AGENCY PROVISION OF COURT-APPOINTED COUNSEL



Thoughtful analysis to determine sustainability.



Determine the necessary infrastructure and administration needs.

**THANK YOU!**



COLORADO OFFICE OF  
**THE CHILD'S  
REPRESENTATIVE**

Please feel free to contact us with questions, comments, or need for information related to children and youth in Colorado legal proceedings.

**Chris Henderson**, Executive Director  
[chrishenderson@coloradochildrep.org](mailto:chrishenderson@coloradochildrep.org)  
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JUDICIAL DEPARTMENT – OFFICE OF THE RESPONDENT PARENTS'  
COUNSEL

FY 2023-24 JOINT BUDGET COMMITTEE HEARING AGENDA

Thursday, December 15, 2022

9:00 am – 2:30 pm

COMMON QUESTIONS FOR DISCUSSION AT DEPARTMENT HEARINGS

1. Please describe the implementation plan for new programs added to the Department from one-time stimulus funds (such as the CARES Act, ARPA, and one-time General Fund), as well as any challenges or delays to program implementation.

**ORPC Response:** The ORPC has not received and does not expect to receive any federal funds from stimulus bills or other new federal legislation.

2. Please identify how many rules you have promulgated in the past year (FY 2021-22). With respect to these rules, have you done any cost-benefit analyses pursuant to Section 24-4-103 (2.5), C.R.S., regulatory analyses pursuant to Section 24-4-103 (4.5), C.R.S., or any other similar analysis? Have you conducted a cost-benefit analysis of the Department's rules as a whole? If so, please provide an overview of each analysis.

**ORPC Response:** The ORPC does not promulgate rules.

3. How many temporary FTE has the Department been appropriated funding in each of the following fiscal years: FY 2019-20, FY 2020-21, FY 2021-22, and FY 2022-23? For how many of the temporary FTE was the appropriation made in the Long Bill? In other legislation? Please indicate the amount of funding that was appropriated. What is the department's strategy related to ensuring the short term nature of these positions? Does the department intend to make the positions permanent in the future?

**ORPC Response:** The ORPC has not been appropriated temporary FTE in any of the following fiscal years: FY 2019-20, FY 2020-21, FY 2021-22, and FY 2022-23.

4. Please provide a description, calculation, and the assumptions for the fiscal impact of implementing the provisions of the Partnership Agreement, including but not limited to changes in annual leave accrual, holiday pay, and paid family and medical leave. If your



department includes employees who are exempt from the Partnership Agreement, please indicate whether or not you intend to implement similar benefit changes as those required for covered employees. Please provide a breakdown of the fiscal impact of implementing the provisions of the Partnership Agreement for: a) employees who are subject to the Agreement, and b) employees who are exempt from the Agreement.

**ORPC Response:** The Partnership Agreement does not apply to Judicial Branch Agencies like the ORPC. To preserve fairness and equity, the ORPC has adopted and will continue to adopt employee policies similar to some but not all of the policies in the Partnership Agreement as dictated by the ORPC's needs and capacity. Due to the small size of the ORPC, compliance with the entire Partnership Agreement is not feasible due to lack of staffing. The ORPC has aimed to incorporate the Partnership Agreement when possible. For instance, the ORPC increased its leave accrual in accordance with changes made to the Executive Branch agency leave policies. In addition, the ORPC will seek funding increases for payroll and benefits commensurate with those requested in accordance with the Partnership Agreement.

## REQUESTS

1. *[Staff]* Please describe and explain the R2 Policy and Legislative Staff Attorney and R3 Paralegal request items.

- a. **ORPC Response: R2 Policy and Legislative Staff Attorney**

The ORPC has requested 1 FTE and \$185,839 in General Fund for a Policy and Legislative Staff Attorney to focus on policy and legislative changes needed to make Colorado a national leader in preventing family separations and the often devastating and long term effects of those separations.

Fortunately, there is increasing recognition that many of the child welfare policies of the past 40+ years have focused on adoption and permanency for children, thereby unnecessarily removing children from their families of origin at the expense of family integrity and with often disastrous consequences for the children. These policies have disproportionately impacted people of color.

As a result of the recognition that the previous policies have failed, Federal policy is rapidly changing to support family preservation and prevent the entry of children into the child welfare system. Colorado and the ORPC must be prepared to keep up with these changes and to implement meaningful and significant changes to the child welfare system in Colorado. During the 2022 session, ORPC staff:

- Tracked 82 bills that had significance for families in the child welfare system,
- Participated in over 55 committees, including 5 task forces or workgroups which the ORPC is statutorily required to participate in, and



- Tracked and provided input on many proposed regulatory rule changes made by the many committees of the Colorado Department of Human Services.

Existing staff are performing these tasks on top of their normal job requirements and do not have the capacity to increase their efforts in this critical and increasingly important area. The ORPC needs a full-time person for the following tasks:

- Engage with legislators and other policymakers,
- Initiate important policy and legislative changes for children and families in the child welfare system,
- Direct the efforts of existing staff,
- Track and engage with numerous legislative and policy changes initiated by other stakeholders,
- Research child welfare reform policies and network with other states to determine how initiatives have been implemented, how successful they have been, and consider consequences,
- Track all introduced child welfare legislation and regulatory changes at both the state and federal levels that could impact Colorado parents with child welfare involvement,
- Research initiatives, determine ORPC's position, and coordinate outreach and testimony to legislators and policymakers,
- Develop and distribute materials to train and support ORPC contractors in changes resulting from new legislation and policies, including podcasts, webinars, fact sheets, motions, forms, etc.

b. **ORPC Response: R3 Paralegal**

The ORPC has requested 1.0 FTE and \$98,866 to hire a Staff Paralegal. Currently, the ORPC achieves its legislative mandates with a staff of 16 FTE, including 7 attorney FTE. The typical ratio of paralegals to attorney staff is 1 to 4.

Current attorney staff are struggling to keep pace with both the legislative mandates and the volume of administrative duties that accompany the mandates. An experienced paralegal will be able to provide support with the following agency duties at a much lower cost to the State than if attorneys perform the work:

- Research caselaw for arguments before the Colorado Supreme Court;
- Research caselaw and social science, including nationwide trends to understand, develop, and advocate for legislative and policy change;
- Coordinate and maintain lists of legislators and outside agency stakeholders to facilitate communication and collaboration on ORPC legislative initiatives;

- Research trends in different jurisdictions to support appropriate recruitment and allocation of RPC, emerging concerns, and annual budget requests;
- Maintain the ORPC database of published and unpublished Colorado appellate court opinions necessary to identify trends in Colorado case law;
- Coordinate court observations by identifying attorneys who need to be observed, pulling dockets to determine opportunities for observation, and scheduling observations with attorney staff.
- Observe counsel, social workers, and family advocates in court to ensure high quality legal representation and strong interdisciplinary teamwork;
- Research, coordinate, draft, and format weekly/monthly ORPC publications provided to assist independent contractors;
- Coordinate and facilitate administrative communication for the appointment of appellate counsel;
- Review and approve/deny administrative requests from independent contractors such as requests for excess fees, travel expenses, and experts;
- Update and maintain the ORPC's large pool of expert and investigator information, including areas of expertise and concentration, contact information, qualifications, and rates;
- Update, redact, format, and cite check incoming motions for the ORPC motions bank used to assist counsel in litigation; and
- Communicate with parents and coordinate and track parent and other stakeholder complaints;

In addition to these tasks, which require a trained and experienced paralegal, a paralegal can also assist with administrative tasks as needed. Some of the exacting and time-consuming tasks that a paralegal could assist with include:

- Scheduling internal and external meetings, including meetings with legislators, other agencies, legislation stakeholders, and independent contractors;
- Drafting minutes at internal and external meetings and sending out tasks and agendas for follow-up meetings;
- Assisting with administrative needs for contractor recruitment, including coordinating applications, scheduling interviews, drafting, sending, and filing contracts, and onboarding and off-boarding contractors; and
- Maintaining ORPC's website and updates to the ORPC's motions bank.

## ADMIN SERVICES FOR INDEPENDENT AGENCIES

1. *[Staff]* Please provide the Agency's perspective on creating an administrative services unit for independent agencies.

**ORPC Response:** The ORPC supports the establishment of the ASIA (Administrative Services for Independent Agencies) unit. The ORPC has a small administrative staff responsible for developing and maintaining its billing system, monitoring budgets and expenditures, and providing overall administrative support for the entire organization. The ORPC must retain its ability to continue normal administrative operations in a manner that does not produce conflicts with other state agencies. For example, the ORPC must maintain its accounts receivable and vendor payments oversight. Contract attorneys for the OCR and ORPC are frequently opposing counsel. Having the same staff process payments for expert witnesses, discovery, process servers, etc. could create significant conflicts. Furthermore, agencies such as the OCR and ORPC were created, in part, because of a need for independence. Comingling these services would erode that independence.

The ORPC currently receives payroll support through SCAO and has entered into an MOU for HR support through SCAO. If approved, the ORPC would seek these services and high level agency supports through the establishment of ASIA.

## INCREASED FLEXIBILITY FOR THE AGENCY PROVISION OF COURT-APPOINTED COUNSEL

1. *[Staff]* Please provide the Agency's perspective on staff recommendations for increased flexibility to the agency provision of court-appointed counsel.

**ORPC response:** The ORPC appreciates the opportunity and ideas for increased flexibility suggested in the briefing document. Before implementing the suggestions, the ORPC will need to give careful thought to the budgeting needs, feasibility, and sustainability of the ideas presented.

With regard to the differential hourly rate, the ORPC has considered this option for attorneys in the past. The questions and potential issues that have led ORPC not to request such flexibility in a budget request are multifold. The ORPC does not believe that it can effectively characterize case complexity by case type. Unlike the other independent agencies, the ORPC has only one case type. In the ORPC's experience, the individualized needs of the child and family and ever-evolving case developments determine complexity of the representation. Attempting to classify cases by the types of issues presenting at the outset (sexual abuse allegations, for example) does not work as many issues do not emerge until later in the case and each issue presents its own complexities and demands. If the ORPC moves toward differential hourly rates, there will need to be a determination regarding the complexity level of the case in order to tie the appointment to a specific rate. The numerous factors that would go into making such a determination would be challenging. This model could incentivize lawyers to argue that their case is complex, or would require the ORPC staff to make a determination regarding case complexity in every RPC appointment. In FY2021-22, the ORPC would have needed staffing sufficient to make this determination in 5,811 appointments.

Prior to FY 2017-18, there was a payment and fee model in most child welfare cases where GALs and RPCs in some counties were paid hourly while RPC in most counties were paid a flat fee that equated to 15 hours of work that was supposed to last for the first two years of the RPC's appointment. This model resulted in pay disparities between counties and contractor types. Also

at that time, RPC being paid a flat fee for the appointment could receive a second flat fee if their case reached the stage of a termination of parental rights. This second flat fee payment was higher than the initial flat fee paid for an RPC taking a new appointment. Because RPC could receive a “termination bonus” for reaching the termination stage of a case, many RPC were perversely incentivized to reach this stage to receive additional funds for ongoing legal representation. In its FY 2017-18 Budget Request, the ORPC requested and the JBC approved ORPC R-1, in which the ORPC requested that the mixed flat fee/hourly contractor payment model in effect at that time be changed to an hourly payment model. In that request, the ORPC said, “Adopting the hourly payment model statewide would have the following effects, all of which will increase the positive outcomes for children involved in dependency and neglect proceedings:

- Achieve pay parity with other agencies in dependency and neglect proceedings,
- Achieve parity between judicial districts,
- Achieve parity within judicial districts,
- Incentivize attorney acceptance of respondent parent cases,
- Incentivize thorough and adequate preparation of cases, and
- Increase the availability of data needed to develop minimum practice standards, determine if those standards need to be enforced, establish pilot programs, and review the performance of the ORPC . . .”

ORPC is concerned that basing rates of pay on case complexity could inadvertently remove all of these incentives and positive effects of a single and consistent hourly rate of pay. Historically, having different rates of pay has created unintended negative effects. For example, in the past, there have been different rates paid to contractors for in-court versus out-of-court time, where RPC were paid more for in-court time. This model incentivized contractors to resolve issues in-court which is inefficient and perpetuated ideas that RPC were overly litigious and taking issues to court because the rate of pay was higher. The ORPC needs to be very mindful of the ways different rate schedules can incentivize contractors to act differently. Assigning a higher rate to certain case types would create problems in ORPC’s contractor pool and send an incorrect message that some case issues are more important than others.

Similarly, compensating attorneys differently based on years of experience would not capture the true skills or value of the services they provide. Some of ORPC’s most impressive attorneys are relatively new attorneys who bring passion and enthusiasm to this work and a willingness to learn, analyze cases thoroughly and creatively, and litigate zealously when needed. As the professional responsibilities and practice standards remain universal to all attorneys regardless of years of experience, the ORPC is also concerned that differential pay for the same work may result in litigation. The ORPC’s AG specifically noted that differential rates of pay are what is expected in an employee/employer relationship and establishing such differential rates of pay for contractors could lead to potential litigation regarding employment status.

The ORPC also appreciates the opportunity to explore alternatives to the contractor model of delivering attorney services through the use of 10 FTEs. Before the ORPC could begin consideration of such alternatives, it would need clarification on the intent and parameters of this

authority. While the ORPC believes that an office structure, particularly a multidisciplinary one, has the potential to provide effective attorney services there are nonetheless challenges to this model such as: infrastructure costs; adequate compensation; sustainability; and continuity of representation. For these reasons, the ORPC believes that a simple allocation of current CAC dollars may not provide sufficient funding for alternatives to the contractor model and that additional operations and personnel dollars may be needed.

If the ORPC was given the opportunity to explore this model, the agency would want to ensure the commitment of sufficient and sustainable funding, conflict management, infrastructure, supervision, and administrative investments prior to implementing any FTE-type alternative to its current contractor model. This points to the need for operations and personnel dollars in addition to the CAC dollars referenced in the briefing document.

## LEGAL CONTRACTOR RATE INCREASE

1. *[Sen. Bridges]* Please describe, explain, and justify the independent agencies' request for the legal contractor rate increase. (Please submit a single, joint response with the other agencies.)

**ORPC response:** The Office of Respondent Parents' Counsel (ORPC), the Office of the Child's Representative (OCR), and the Office of Alternate Defense Counsel (OADC) are charged with providing reasonable compensation to their contractors based on the following statutes:

- ORPC, C.R.S. 13-92-101
- OCR, C.R.S. 13-91-101
- OADC, C.R.S. 21-2-105

The current standard hourly rate for attorney contractors of the ORPC, OCR, and OADC is \$85. The ORPC, OCR, and OADC believe that \$85 is not a reasonable rate of compensation for these reasons:

- The current hourly rate is a fraction of the rates earned by other Colorado attorneys doing similar work.
- The hourly rate has not kept pace with the CPI and is falling below the CPI at an ever-increasing rate.
- Attorneys leave the work frequently and increasingly note the inadequate pay rate as a cause.
- The rate does not attract and/or retain experienced attorneys, who often can perform the work most efficiently and effectively.

When considering compensation for attorneys contracting with these agencies, it is important to note that the rate must cover:

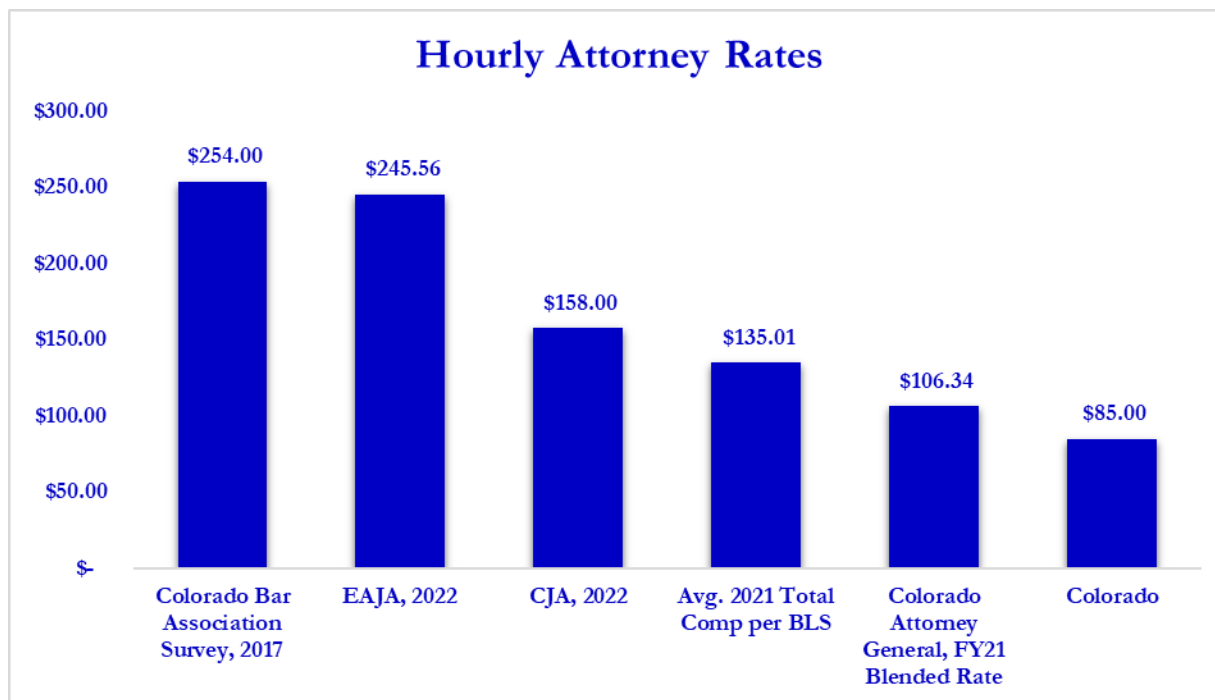
- Life, Dental, and Health Insurance
- Office Overhead
- Malpractice Insurance
- Retirement Savings

- Time Off
- Student Loan Repayment
- Administrative and Office Management Time
- Professional Development Time

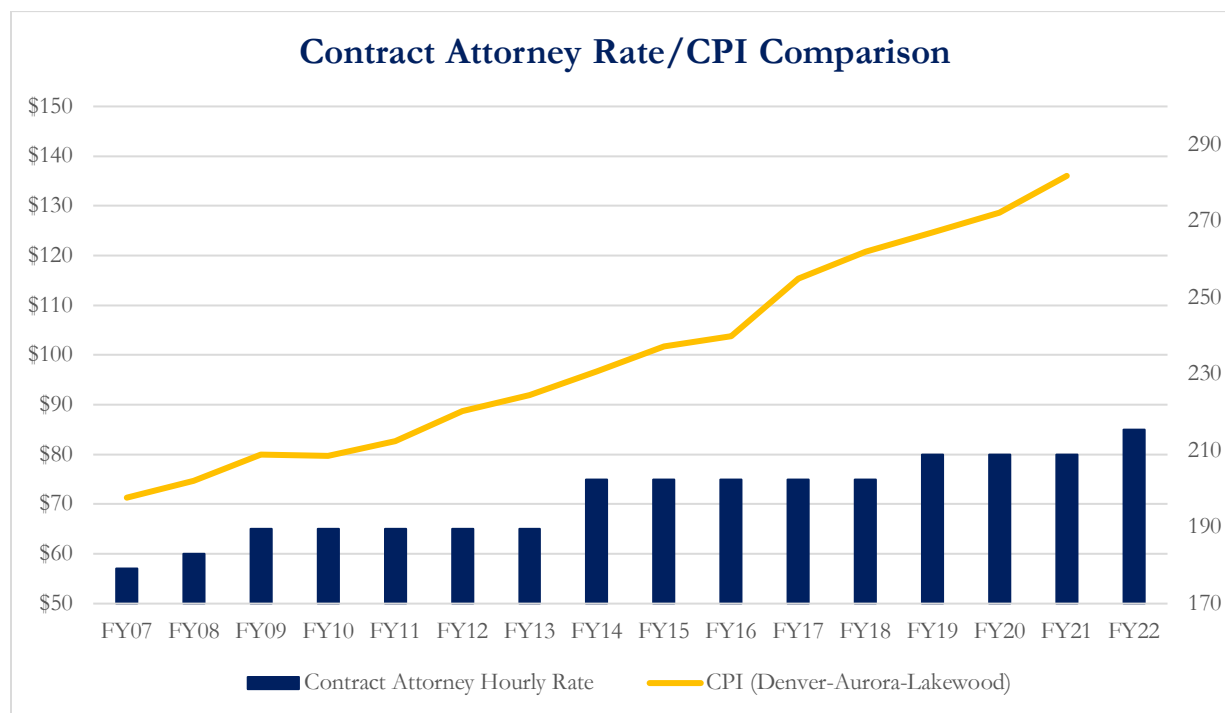
OCR's Budget Request details the financial impact of these costs, demonstrating that the take home pay of the agencies' contractors amounts to far less than the billable rate.

As shown in the table and chart below, the current hourly rate is a fraction of the rates provided to other attorneys in Colorado. The hourly attorney rate of ORPC, OCR, and OADC ranges from 35% to 80% of the hourly rates earned by other Colorado attorneys. Our agencies are not complying with our statutory requirements to provide reasonable compensation to our contractors.

Colorado Attorney Hourly Rates				
Attorney Rates	Hourly Rate	Current Colorado Rate	Current Colorado Rate as Percentage of Other Rate	Other Rate as Percent of Colorado Rate
Colorado Bar Association, Economics of Law Practice Survey, 2017	\$ 254.00	\$ 85.00	33%	299%
Equal Access to Justice Act, 2022	\$ 245.56	\$ 85.00	35%	289%
Criminal Justice Act, 2022	\$ 158.00	\$ 85.00	54%	186%
BLS Average Attorney Total Comp, Colorado, 2021	\$ 135.01	\$ 85.00	63%	159%
Colorado Attorney General Blended Rate, SFY 2020-21	\$ 106.34	\$ 85.00	80%	125%



In addition, the hourly rate increases received by the attorney contractors of the ORPC, OCR, and OADC have not kept pace with Colorado inflation. As shown in the table below, the CPI has increased at a much greater rate than the attorney hourly rate. If the requested rate increase is approved, the increased attorney hourly rate will still lag the CPI increases, but the gap between the CPI and the increased rate will be much smaller.



Attorney contractors of the independent agencies are increasingly reporting that they can no longer afford to accept our work, or that they cannot afford to accept as much of our work. Some samples of attorney feedback about the rates are shown below.

“It is getting harder and harder to keep doing this work when we could be earning much more – with benefits – in private practice or other branches of the government; plus no option for student loan forgiveness which is really frustrating.” *ORPC Contractor*

“In the past I've always answered that compensation was fair, and I'm grateful for the recent raise, but my OCR rate is now less than a third of my private pay rate.” *OCR Contractor*

“Compensation has not kept up with cost of living in Colorado. My practice has remained steady over the last five plus years (in terms of number of clients, billable hours, etc.) yet due to the rising cost of living, I am struggling to make ends [meet] more than I did 5 or 10 years ago. I live paycheck to paycheck and have zero funds left to put toward retirement. Sadly, I have begun to consider alternative employment options.” *OCR Contractor*

“My firm wants to always be part of the ADC family, but we can't take run of the mill appellate or 35c cases because of the rate. We get a dozen calls a day for private work and make 4 and 5x's as much on those cases.” *OADC Contractor*

It is becoming harder to attract and retain contractors when they have much more sustainable options available. As a result, the Agencies have lost many experienced attorney contractors and risk losing even more. In the long run, the State will save money in the decreased costs of cases and in the costs that result when there are poor outcomes (e.g., harm to children, permanent loss of parental rights, and unjust imprisonments) and will help prevent the very real suffering of the indigent Colorado citizens that the contractors of the ORPC, OCR, and OADC represent. Though the 17.7% increase requested seems large, it is a justified investment and will help the State retain the invaluable contractors who do this very difficult work.

ORPC, OCR, and OADC have also requested a rate increase for non-attorney contractors, including but not limited to social work staff (ORPC R4, OCR R4, OADC R9). Providing multidisciplinary representation is consistent with nationally recognized best practice and constitutes a sound investment of state dollars, as staff with social work expertise enhance representation at rates lower than the attorney rate. A decision not to fund this rate increase could lead to turnover and recruitment issues, as well as decreased participation by other team members. The ultimate impact—poor outcomes for clients—generally translates into increased taxpayer costs either through replacing team members (who then must repeat the work previously completed) or, for OADC, increased sentences to incarceration (the most taxpayer- expensive alternative available in sentencing individuals). For the ORPC and OCR, poor outcomes for clients can mean delays in permanency for children and unnecessary family disruptions. The agencies also believe that experienced contractors would decline state agency contracted work if the rates paid to contractors do not remain competitive.

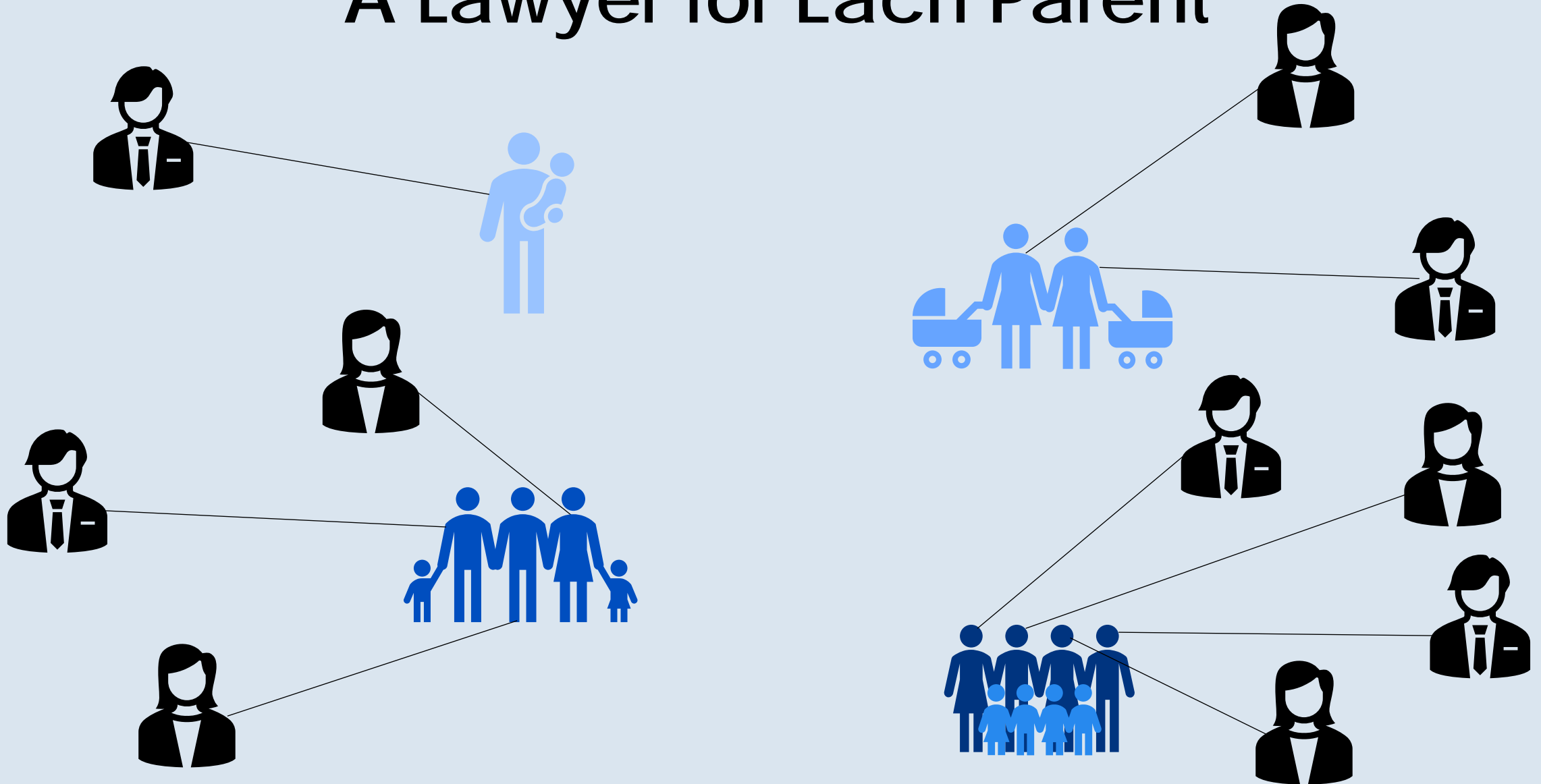


# Presentation to the Joint Budget Committee

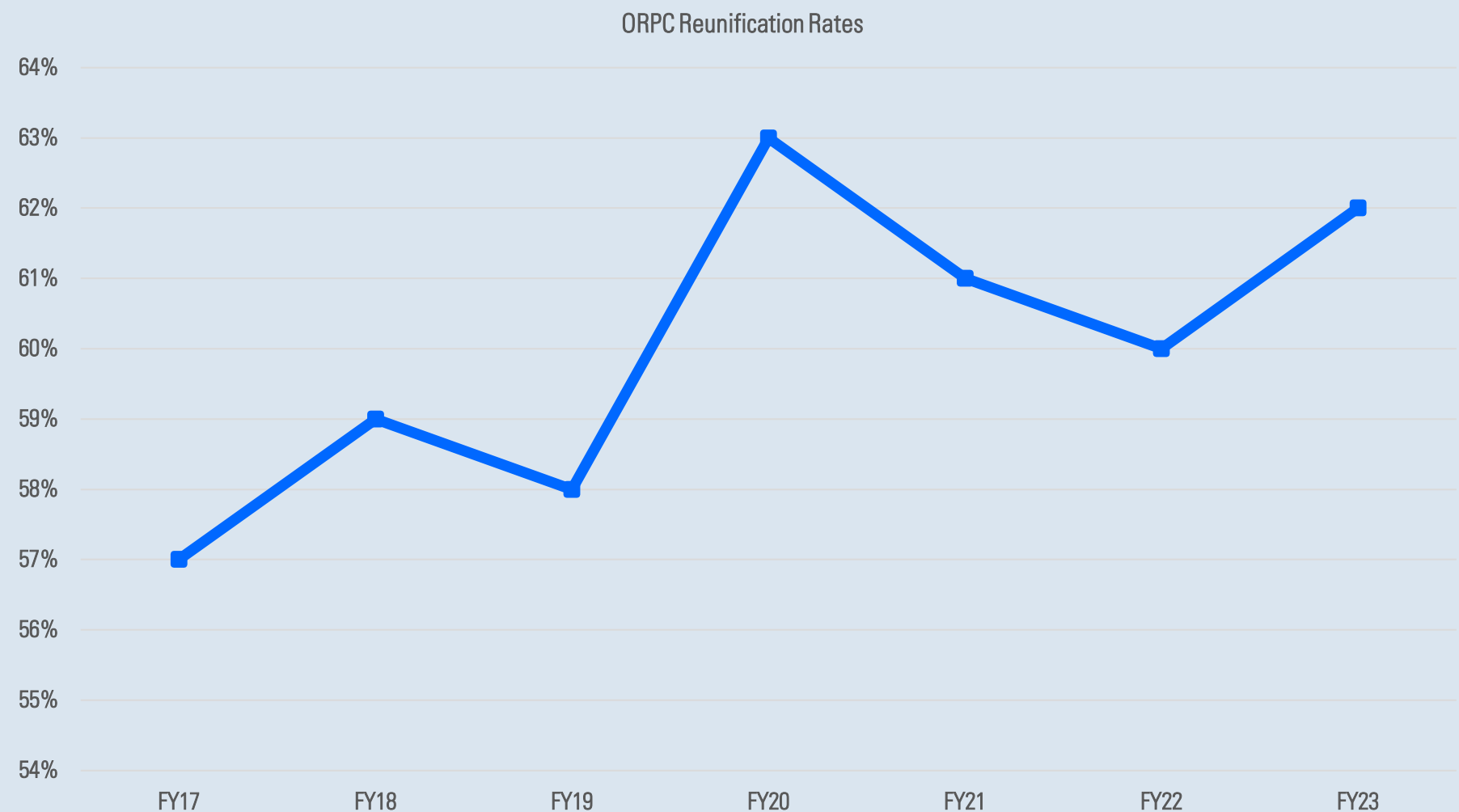
December 15, 2022



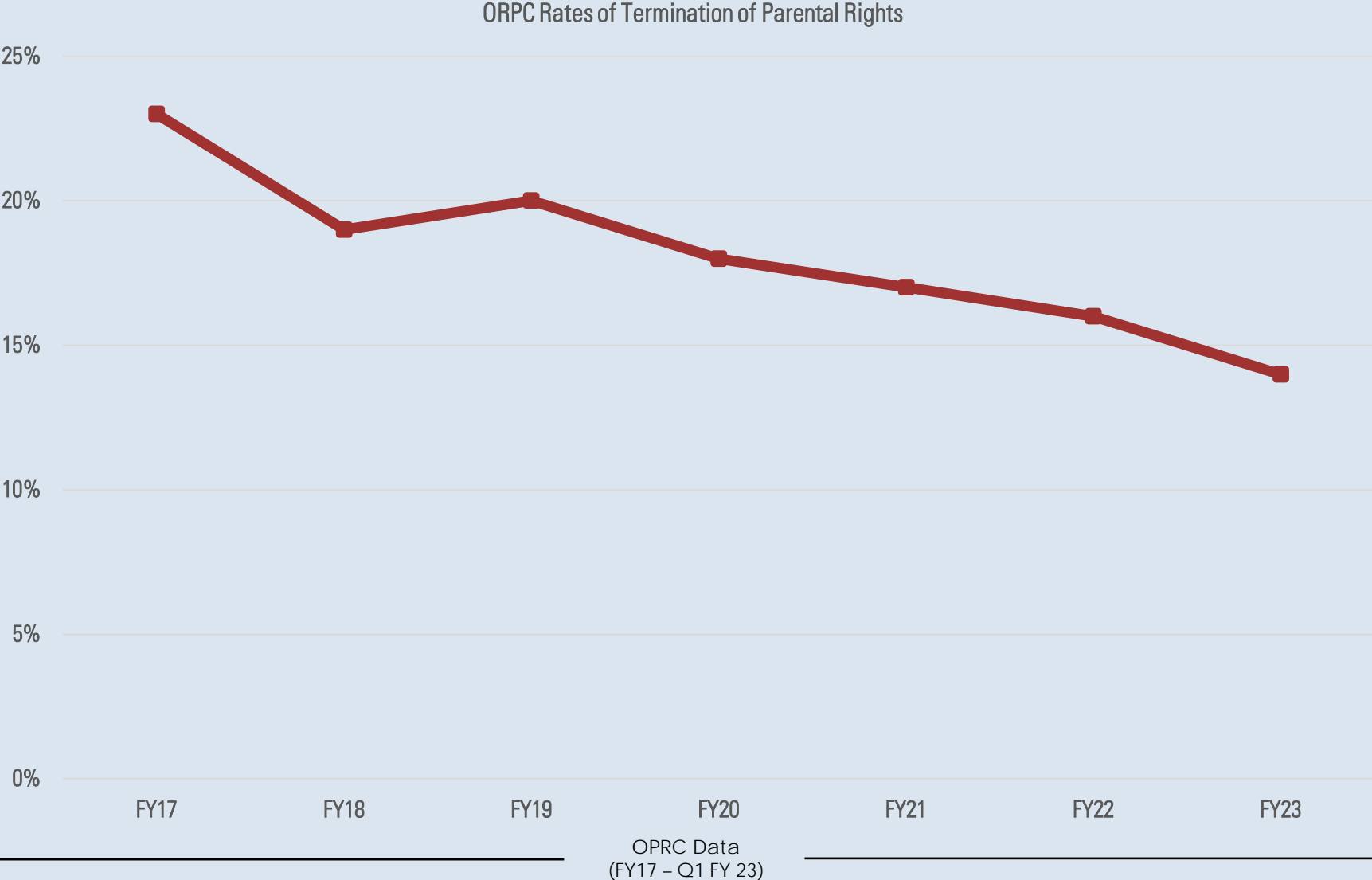
# A Lawyer for Each Parent



# Families are Safely Reunifying at Higher Rates



# Fewer Families are Permanently Losing Ties



# Cost per Appointment

\$1,841.66

Average Annual Appointment Cost

\$3,873.10

Average Total Appointment Cost

# Our Impact

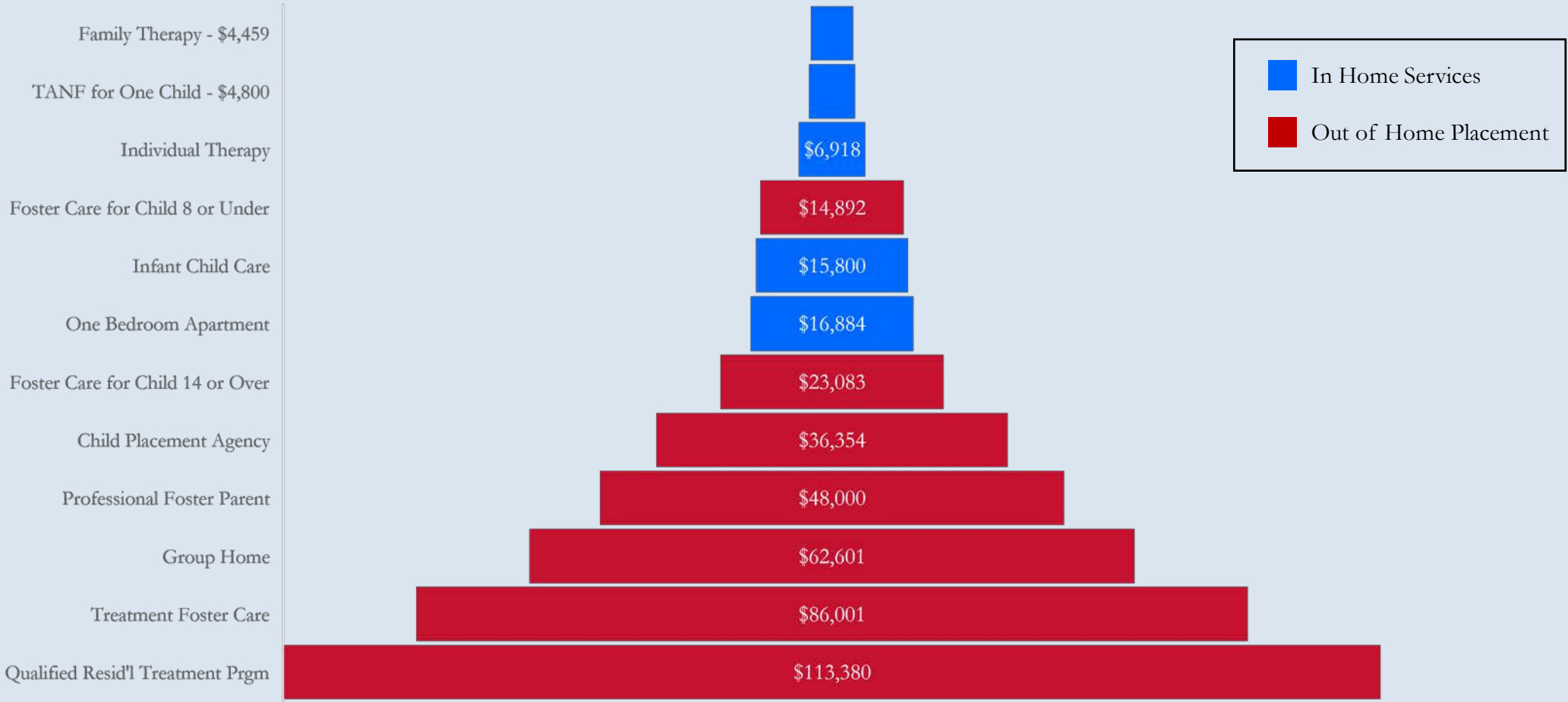
Since we opened our doors...

We have represented  
**30,748** parents.

And worked to reunify  
**12,579** parents with their  
children.

# Our Impact

Average Annual Cost for Services



# Cash spent on foster care is the tip of the iceberg



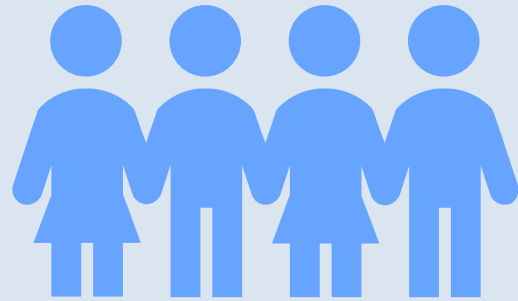
Cost of 1 year in foster care for 1 Colorado child

Societal cost of 1 child spending 1 year in foster care

Societal cost of 1 child aging out of foster care



# In the first quarter of FY 23



3,708 children were in out-of-home  
care



422 had been in placement for at least  
3 years

Cost of foster care at lowest rate for just those 422 children over 3 years:

$$\$40.80 \times 30 \text{ days} \times 36 \text{ months} \times 422 = \$18,595,008$$

# Potential Savings



If ORPC Contractor advocacy helped to bring home those 422 children just 1 month sooner:

**\$516,528** saved

If ORPC Contractor advocacy helped to bring home just 10% of those 422 children 1 year sooner:

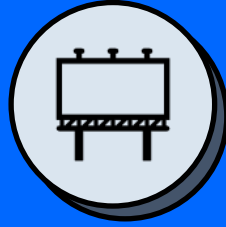
**\$1,233,792** saved

# Questions



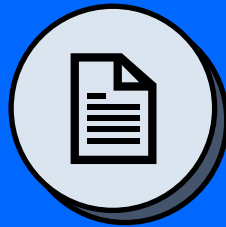
## Common Questions

One-Time Stimulus Funds, Promulgate Rules, Temporary FTE, Partnership Agreement



## Requests

ORPC R-2 and ORPC R-3



## Admin Services for Independent Agencies

ASIA



## Increased Flexibility for CAC

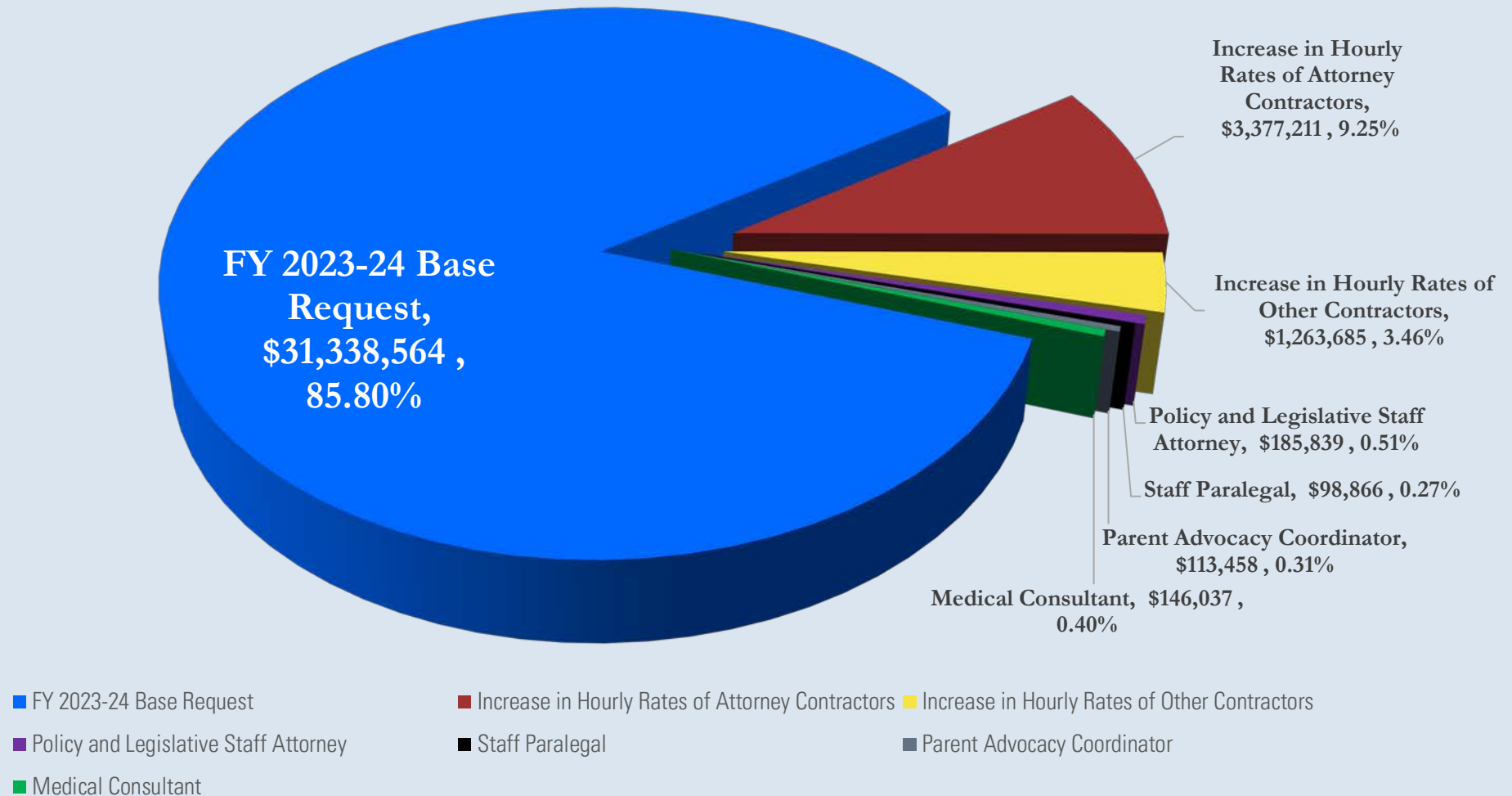
10 FTE/Rate of Pay



## Contractor Rate Increase

Joint request from ORPC, OCR, OADC

# Overall Budget Request





Policy &  
Legislative  
Staff  
Attorney

# Recent Legislative Achievements

## **HB18-1104: Carrie Ann Lucas Parental Rights for People with Disabilities (renamed for her in 2021)**

- Prohibits discrimination against parents or prospective parents with disabilities in custody matters and requires reasonable accommodations be considered by courts in dependency and neglect cases.

## **HB21-1101: Preserving Family Relationships**

- Contact between parents and children 72 hours after removal
- Right to a hearing before visits are suspended or restricted
- Legal and enforceable open adoption option



# Colorado Leads

- Office of the Child's Representative
- Office of Respondent Parents' Counsel
- Much of the Children's Code:  
Unchanged for 30 years.



Staff  
Paralegal





# THE NEED FOR A STAFF PARALEGAL

Monitor Updates  
in Social Science  
Research

Maintain Case  
Law Updates

Schedule  
Stakeholder  
Meetings

Update ORPC  
Motions Bank

Coordinate &  
Conduct Court  
Observations

Format ORPC  
Publications

Review and/or  
Deny Requests  
from Experts

Communicate  
with Parents

Draft Meeting  
Minutes

Update ORPC  
Website

Facilitate  
Appointment of  
Counsel

Maintain ORPC's  
Pool of Experts

# Thank You!

Melissa Michaelis Thompson, Esq.

Executive Director

[mthompson@coloradorpc.org](mailto:mthompson@coloradorpc.org)



# — INCREASE IN HOURLY RATES OF CONTRACTORS

Office of the Alternate Defense Counsel

Office of the Child's Representative

Office of Respondent Parents' Counsel





**The enabling legislation of all three agencies requires the offices to establish fair and realistic rates of compensation for attorney services.**

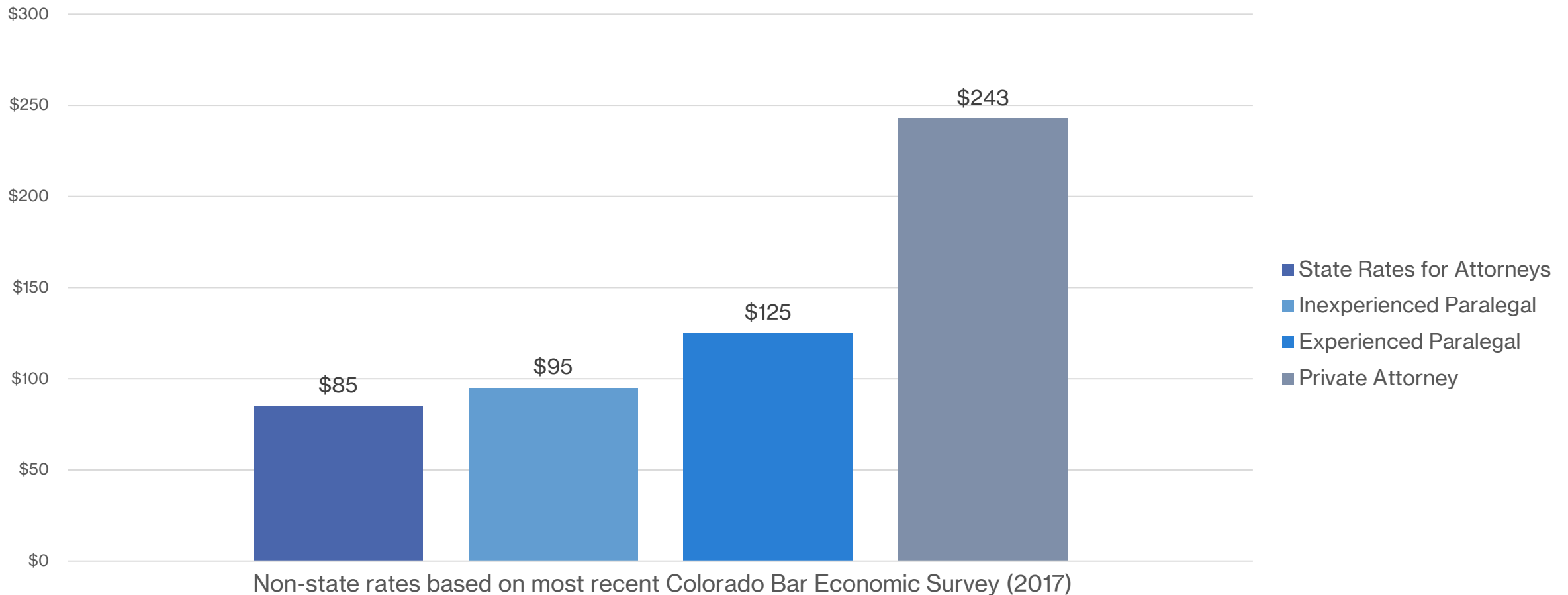
C.R.S. §§ 13-92-101, C.R.S. § 13-91-101, C.R.S. § 21-2-105



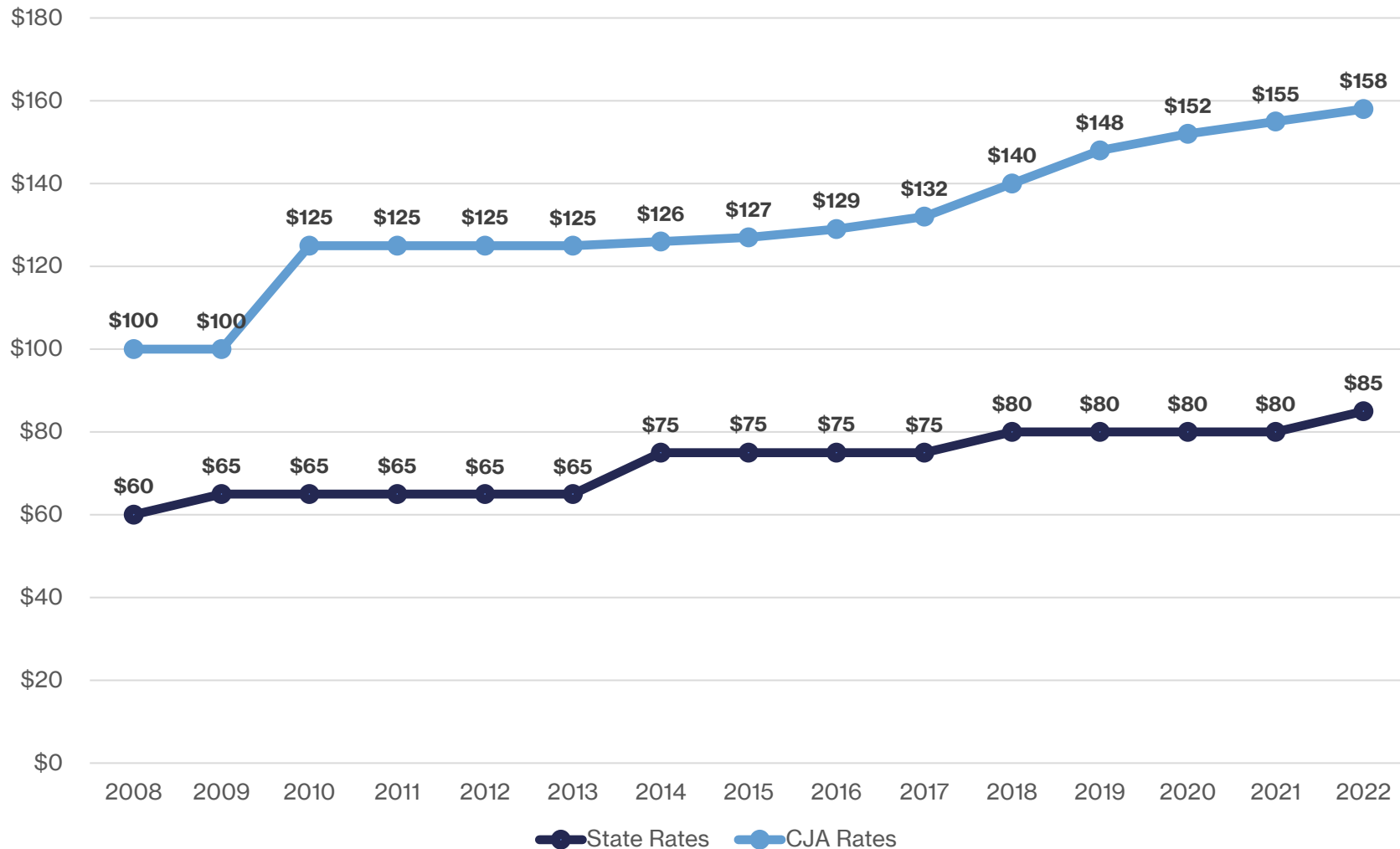
“My firm wants to always be part of the ADC family, but we can't take run of the mill appellate or 35c cases because of the rate. We get a dozen calls a day for private work and make 4 and 5x's as much on those cases. BUT we are always willing to take something novel, complex, etc. or help if they can be especially helpful in some way, e.g. do an oral argument when there is a need, etc. Or write amicus briefs. ”

-OADC CONTRACTOR

# State Rates Remain Well Below 2017 Private Sector



# History of State Attorney Rates

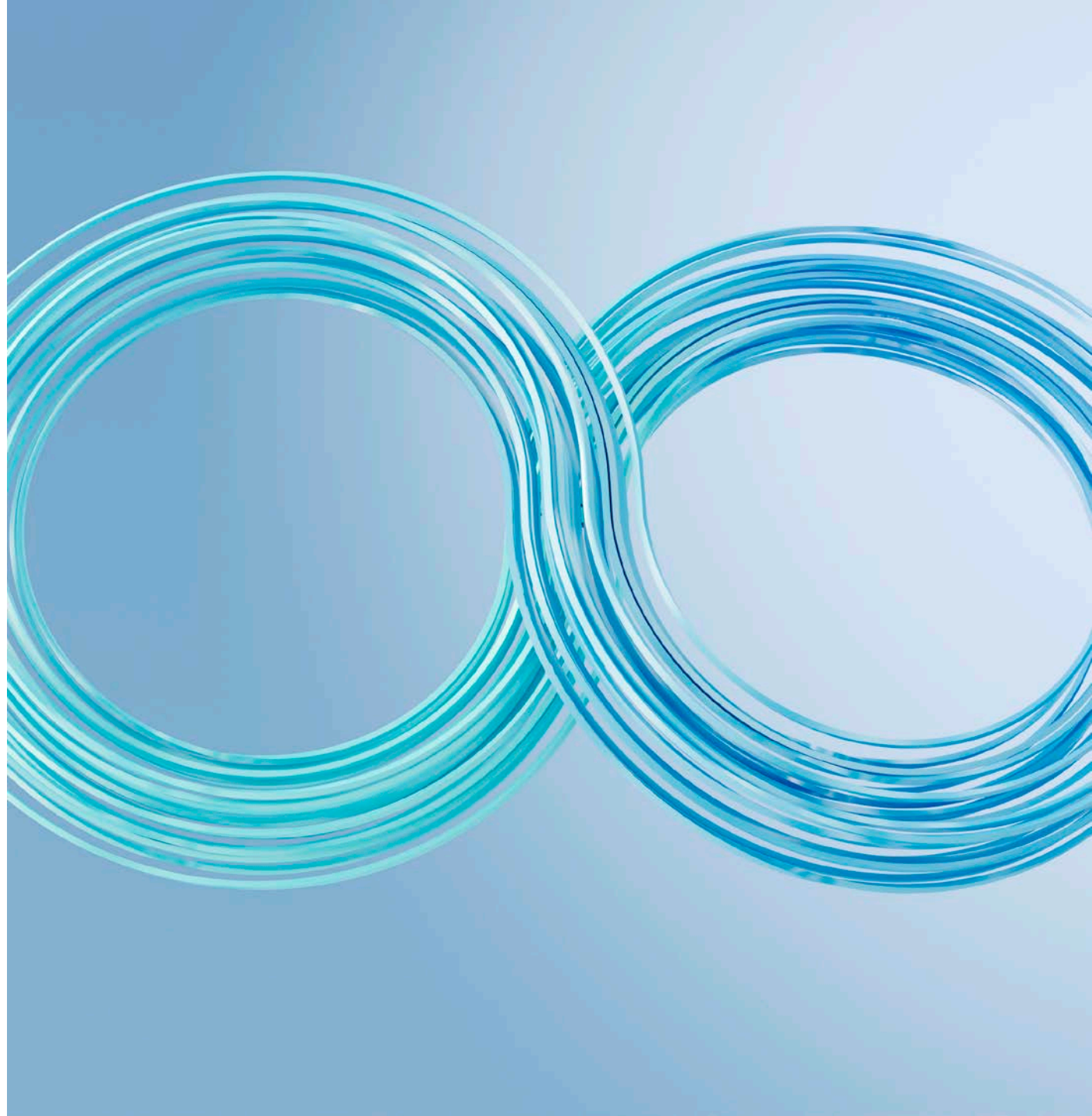


63%



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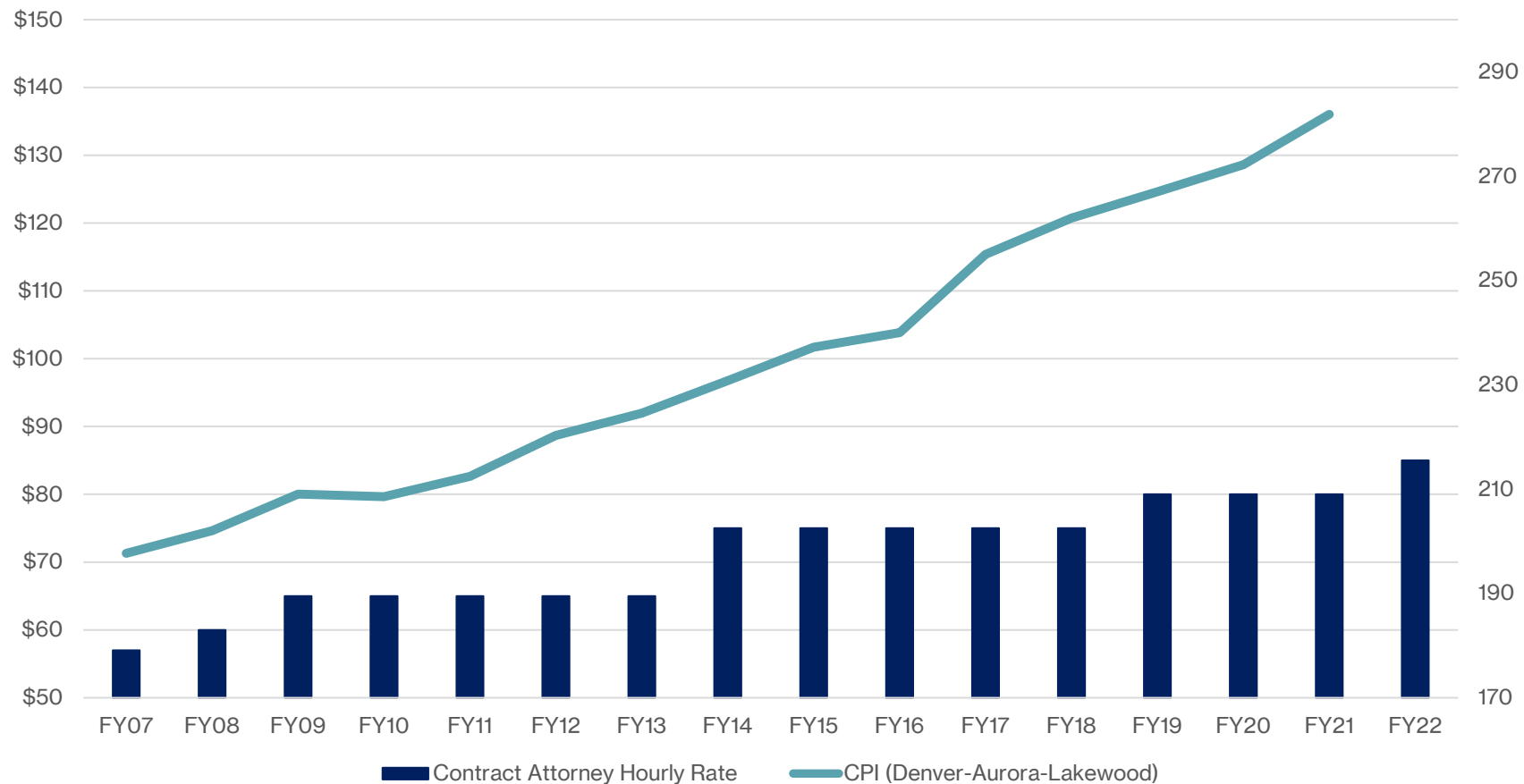
**The \$100 per hour rate being requested in FY 2023-24 is equal to the CJA rate in effect 15 years ago.**



“Compensation has not kept up with cost of living in Colorado. My practice has remained steady over the last five plus years (in terms of number of clients, billable hours, etc.) yet due to the rising cost of living, I am struggling to make ends [meet] more than I did 5 or 10 years ago. I live paycheck to paycheck and have zero funds left to put toward retirement. Sadly, I have begun to consider alternative employment options.”

-OCR CONTRACTOR

# Current Contract Attorney Rate Compared to CPI



# The State Attorney Contractor Rate Must Cover...



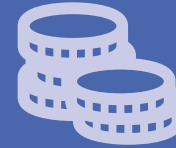
Life, Dental, & Health Insurance



Office Overhead



Malpractice Insurance



Retirement Savings



Paid Time Off



Student Loan Repayment



Administrative & Office Management Time

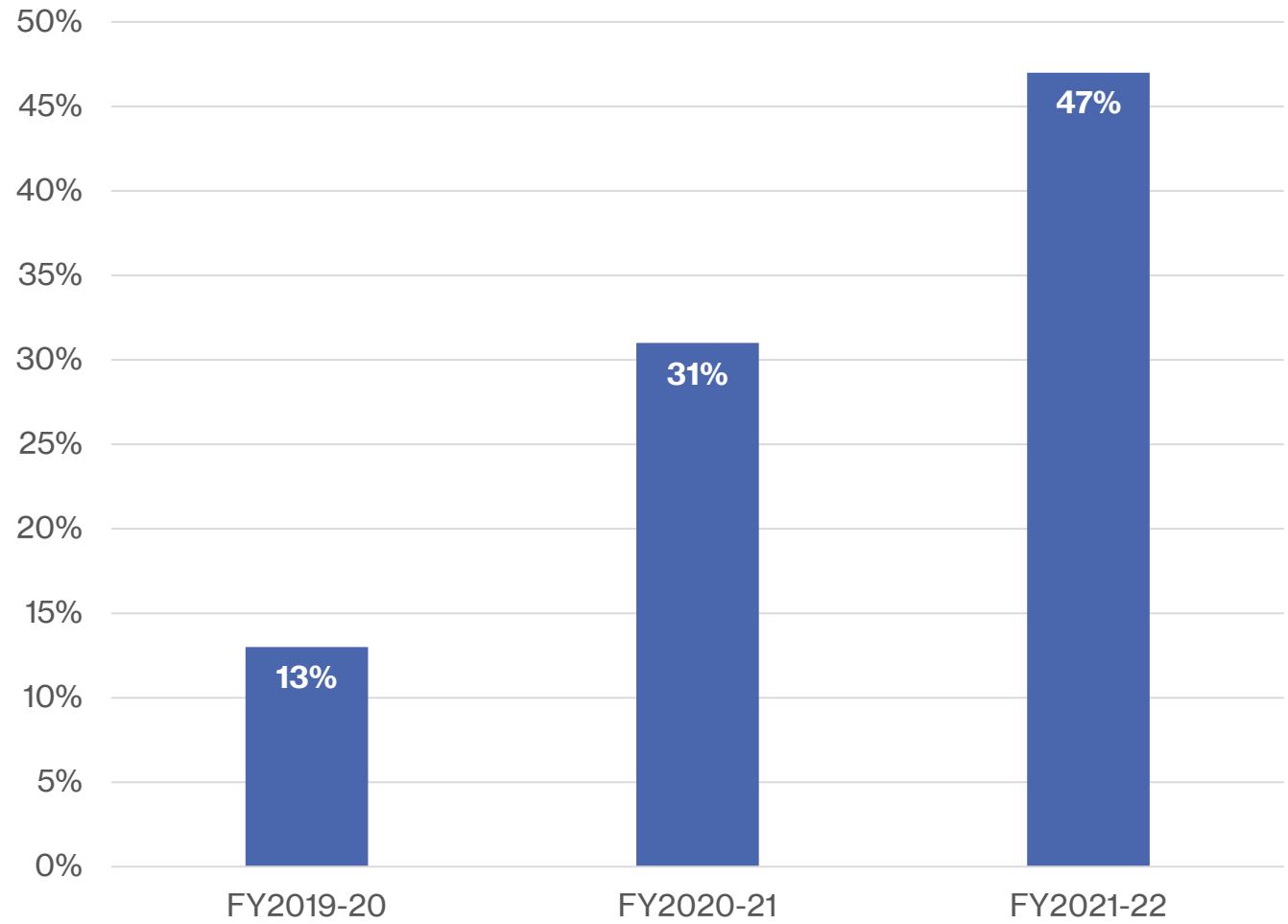


Professional Development

“It is getting harder and harder to keep doing this work when we could be earning much more – with benefits – in private practice or other branches of the government; plus no option for student loan forgiveness which is really frustrating.”

-ORPC CONTRACTOR

# Percentage of Quitting RPC Leaving ORPC Work for a Full-Time Job with Benefits



# A Reasonable Rate of Pay is an Investment in Colorado's Court System

Colorado Attorney Hourly Rates				
Attorney Rates	Hourly Rate	Current Colorado Rate	Current Colorado Rate as Percentage of Other Rate	Other Rate as Percent of Colorado Rate
Colorado Bar Association, Economics of Law Practice Survey, 2017	\$ 254.00	\$ 85.00	33%	299%
Equal Access to Justice Act, 2022	\$ 245.56	\$ 85.00	35%	289%
Criminal Justice Act, 2022	\$ 158.00	\$ 85.00	54%	186%
BLS Average Attorney Total Comp, Colorado, 2021	\$ 135.01	\$ 85.00	63%	159%
Colorado Attorney General Blended Rate, SFY 2020-21	\$ 106.34	\$ 85.00	80%	125%

- Retain more experienced attorneys to reduce turnover and case delays
- Enable current attorneys to take more state appointed work
- Allow attorneys to better afford increased cost of doing business and benefits



# Thank you!

**Lindy Frolich**

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**Chris Henderson**

[chrishenderson@coloradochildrep.org](mailto:chrishenderson@coloradochildrep.org)

Office of the Child's Representative

**Melissa Michaelis Thompson**

[mthompson@coloradoorpc.org](mailto:mthompson@coloradoorpc.org)

Office of Respondent Parents' Counsel





JUDICIAL DEPARTMENT – OFFICE OF THE CHILD PROTECTION  
OMBUDSMAN

FY 2023-24 JOINT BUDGET COMMITTEE HEARING AGENDA

Thursday, December 15, 2022

9:00 am – 2:30 pm

COMMON QUESTIONS FOR DISCUSSION AT DEPARTMENT HEARINGS

1. Please describe the implementation plan for new programs added to the Department from one-time stimulus funds (such as the CARES Act, ARPA, and one-time General Fund), as well as any challenges or delays to program implementation.

**CPO Response to Question 1:** The Office of Colorado’s Child Protection Ombudsman (CPO) received \$24,000 in one-time General Funds during Fiscal Year 2022-23 to continue the agency’s use of a unique tool and database – as well as technical support for the use of the tool – to effectively review egregious incidents of child abuse or neglect, near child fatalities caused by abuse and neglect and child fatalities caused by abuse and neglect (critical incidents).

The CPO’s statute was amended during the 2021 session to not only ensure the agency has clear authority to review these cases, but to ensure the CPO may access crucial information – such as coroner reports, health records and law enforcement reports.<sup>1</sup> Pursuant to C.R.S. §19-3.3-103(2), the CPO has a duty to educate the public concerning issues impacting the child protection system, including recommendations to reduce and prevent child fatalities caused by abuse and neglect. To effectively carry out this charge, the CPO recognized the need to implement a process that is transparent, innovative, inclusive of multiple disciplines and unique from other review processes that exist in Colorado. Additionally, the CPO recognized that whatever process it implemented must be inclusive of multiple disciplines – including child welfare, law enforcement, medical, behavioral health, education – and create an environment focused on identifying systemic problems and improvements, not focused on individual blame.

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<sup>1</sup> Please see [House Bill 21-1272](#)

To address this need, the CPO opted to implement Safety Science in its review of critical incidents, including child maltreatment deaths. Safety Science is an evidence-based approach to understanding everyday work, performance outcomes, critical incidents and organizational culture within complex systems. Some of the outcomes of this approach include the establishment of an atmosphere where everyone feels safe to discuss challenges and vulnerabilities which enhances shared accountability among systems partners. Additionally, it creates a system dedicated to learning and improving which leads to increased staff engagement, morale and retention as well as overall improved outcomes for children and families.

As such, the CPO requested and was provided the one-time funds to contract with Collaborative Safety, Inc., which provided the agency with in-depth trainings regarding the principles of Safety Sciences and how to utilize those principles while reviewing critical incidents. The CPO received advanced practical training and technical assistance from Collaborative Safety, which included specialized interview training to help employees better engage with agencies and service providers during reviews. The CPO's year-long contract also ensured the agency had unlimited technical support from Collaborative Safety and access to the Systems Learning Mapping Tool (SLMT). The SLMT is a cloud-based software which the agency utilized during reviews of critical incidents. The combination of this training and access to the SLMT has resulted in a unique approach to reviewing critical incidents in Colorado. That approach centers on understanding everyday work, performance outcomes and organizational culture within complex systems. By using Safety Science, the CPO is now able to build a culture of safety within Colorado's child protection system, one capable of promoting improvements to underlying systemic issues.

Since receipt of the one-time funds, the CPO has built out the policies and practices for its critical incident review program, trained all client services analysts on Safety Science and use of the SLMT and ensured the staff are able to effectively administer reviews. The CPO has conducted two reviews. During these reviews, the CPO facilitated meetings with agencies, including front line staff and supervising staff who worked on the child's case. During these reviews, the CPO was able to learn about critical decision points in each case and whether those decisions demonstrate a need for systemic improvement. The CPO is unable to release reports on either case until criminal proceedings are concluded. However, the agency is currently drafting what will ultimately be public reports detailing what the reviews found and any systemic issues that need to be addressed.

Like many agencies, the CPO is struggling to recruit and retrain staff, including Client Services Analysts, which review these and other cases for the agency. Effectively, the CPO has experienced substantial vacancies in two of the five analyst positions at the agency. This has somewhat delayed these reviews, which are time intensive and require analysts to review hundreds of pages of documents from multiple sources, including child welfare, law enforcement, medical records and, in some cases, coroner reports. This is in addition to carrying a full caseload, many of which have been more than double the desired amount during the past six months.

Additionally, the CPO may not self-initiate cases, including reviews of critical incidents. As a result, the agency is only able to review the critical incidents that are brought to it by clients. The CPO is considering ways to promote its program externally, so more critical incidents are reported to the agency.

The CPO will not seek additional one-time funds for this program. During the past six months, the CPO has continued to evaluate its internal database and has determined that it is able to bring the SLMT in-house. The training and technical support provided by Collaborative Safety has been – and will continue to be – vital in establishing the program. However, the CPO has determined it will ultimately be more cost effective to integrate the tool into its own database.

**The CPO will also provide submit a response to the Request for Information submitted for this program.**

2. Please identify how many rules you have promulgated in the past year (FY 2021-22). With respect to these rules, have you done any cost-benefit analyses pursuant to Section 24-4-103 (2.5), C.R.S., regulatory analyses pursuant to Section 24-4-103 (4.5), C.R.S., or any other similar analysis? Have you conducted a cost-benefit analysis of the Department's rules as a whole? If so, please provide an overview of each analysis.

**CPO Response to Question 2: The CPO does not have authority to promulgate rules.**

3. How many temporary FTE has the Department been appropriated funding in each of the following fiscal years: FY 2019-20, FY 2020-21, FY 2021-22, and FY 2022-23? For how many of the temporary FTE was the appropriation made in the Long Bill? In other legislation? Please indicate the amount of funding that was appropriated. What is the department's strategy related to ensuring the short term nature of these positions? Does the department intend to make the positions permanent in the future?

**CPO Response to Question 3:** Currently, the CPO has not been appropriated funding for temporary FTE. However, the CPO intends to submit a supplemental request for Fiscal Year 2022-23 to backfill two contract, periodic employees – an Employee Support Services Manager and a Client Services Analyst – which were brought on this fiscal year.

The CPO is seeking to make both positions permanent and has submitted correlating requests in its Fiscal Year 2023-24 budget request.<sup>2</sup>

Please see the CPO’s response to Question 5 (Request Item 1 and Request Item 2) for additional information.

4. Please provide a description, calculation, and the assumptions for the fiscal impact of implementing the provisions of the Partnership Agreement, including but not limited to changes in annual leave accrual, holiday pay, and paid family and medical leave. If your department includes employees who are exempt from the Partnership Agreement, please indicate whether or not you intend to implement similar benefit changes as those required for covered employees. Please provide a breakdown of the fiscal impact of implementing the provisions of the Partnership Agreement for: a) employees who are subject to the Agreement, and b) employees who are exempt from the Agreement.

**CPO Response to Question 4:** The CPO serves as an independent agency house in the Colorado Judicial Branch. Because of the CPO’s size, the agency coordinates with Judicial for the administration of its payroll and employee benefits and has largely adopted the Judicial Department’s personnel rules and policies. The CPO has worked with Judicial to distribute COLA increases, but has otherwise seen no impacts to the agency’s operations or budget.

## REQUESTS

5. *[Staff]* Please describe and explain the R1 HR Support Services, R2 Client Services Analyst, and R3 Community Engage and Outreach request items.

**CPO Response to Question 5:** In 2016, the Office of Colorado’s Child Protection Ombudsman (CPO) was established as an independent state agency housed in the Colorado Judicial Branch (Judicial Branch). When the CPO was first established as an independent agency, it had a total of 3 employees and the agency’s total budget for Fiscal Year 2015-16 was \$484,762. The CPO opened a total of 580 cases during the same fiscal

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<sup>2</sup> Please see the CPO’s [FY 2023-24 Agency Summary and Budget Request](#), RI-01 and RI-02.

year. During the past six years, the CPO has worked diligently to fulfill its statutory mandate to serve the citizens of Colorado on a one-to-one and systemic level. Through consistent and creative outreach and education, the CPO has worked to educate citizens, legislators and stakeholder partners about the agency's unique and impactful services.

The results of these efforts are substantial. Repeatedly during the past six years, the CPO has identified issues impacting how child protection services are administered in this state and issued recommendations for improvement. To date, the CPO's work has led to five pieces of successful legislation that have addressed long-standing and complicated issues. Much of this work has been rooted in the one-to-one services the agency offers any citizen who contacts it. The CPO has refined and expanded these services, so that each client receives free and confidential services to review and help resolve concerns they have about the child protection system. While the issues presented to, or identified by, the CPO have been diverse and complex, growth in the demand for CPO services has remained constant.

As the agency has refined and improved its practice, the demand for the CPO's services has continued to grow each year. Since Fiscal Year 2018-19, the CPO has seen an average increase of 20 percent in cases each year. In fact, the CPO opened a record number of cases during the past fiscal year, totaling 982 cases.

This unyielding demand for CPO services has resulted in the agency growing and expanding at a rate much faster than anticipated. Today, the CPO is comprised of 10.5 FTE and operates with an annual budget of \$1,355,762.<sup>3</sup> The six request items detailed below reflect the impacts of this growth on the agency and the services the CPO provides citizens. Each item will play a unique role in ensuring the agency is able to continue providing Colorado citizens with the services and perspective for which the CPO was established.

#### **RI-01 Employee Support Services Manager – \$110,803 annually and 1.0 FTE**

When the CPO was established as an independent state agency, it was situated with the Judicial Branch similar to other independent agencies, such as the Office of Alternative Defense Counsel, the Office of the Colorado State Public Defender, the Colorado Office of the Child's Representative and the Colorado Office of Respondent Parents' Counsel.

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<sup>3</sup> See Appendix 1, CPO Staff Organization Chart

After the CPO was placed in the Judicial Branch in 2016, a Memorandum of Understanding (MOU) was executed between the CPO and the Supreme Court Administrator's Office (SCAO). While the Judicial Branch has no authority – and in most instances – no involvement with the CPO's services, the MOU detailed administrative support services the Judicial Branch would provide to the CPO. These include human resource services, such as hiring and payroll; budget support services such as assistance with annual budget submissions, supplemental requests and figure setting; purchasing and accounting; and dedicated office space at the Ralph Carr Judicial Center in Denver, Colorado. Given the provisions of the MOU, the CPO has not sought a permanent FTE to absorb any of these services. Ultimately, the CPO has relied on assistance from the Judicial Branch for these services during the past six years.

The CPO's use of some services – such as payroll and accounting – has remained constant as part of the agency's overall operations. Utilization of other services – such as human resources management – have ebbed with need. Until earlier this year, the CPO had no concerns or issues accessing human resource services from the Judicial Branch. For example, the CPO has worked with the Judicial Branch's human resources specialists to navigate complex leave cases for employees with medical needs. The Judicial Branch has provided guidance regarding best practices for carrying out terminations, including how to discuss such decisions with employees and how to prevent legal liability. However, it was not until February of 2022 that the CPO became concerned with its ability to access human resource management assistance from the Judicial Branch.

During the past nine months, a culmination of events has impacted the CPO's overall operations, ability to properly support existing staff, recruit new staff and proactively avoid legal liability for the agency. Beginning in February 2022, and continuing to current day, the CPO has encountered unexpected and unprecedented need for human resources support services. During this time the CPO has experienced prolonged employee absences, unexpected vacancies and performance management cases. However, also during the past nine months, the CPO was informed that the Judicial Branch had shifted its interpretation of the MOU. The CPO was informed that the Judicial Branch no longer believed it was appropriate – or required – to provide the CPO with guidance regarding a significant portion of human resource issues. While the Judicial Branch would continue to provide assistance in the administration of the agency's payroll and employee benefits, it would no longer advise or assist the CPO with other human resource needs.

The CPO first became aware of these changes after it requested assistance with human resource matters that required urgent attention and assistance. In these instances, the

CPO attempted to contact the Judicial Branch and request guidance – as it had done in the past. However, the Judicial Branch informed the agency that – given the SCAO’s current interpretation of the MOU – the CPO’s questions constituted a request for “legal services” which could not be provided. The CPO was directed to confer with the CPO’s assigned attorney general for guidance regarding this case. Several subsequent requests by the CPO were met with the same response from the Judicial Branch.

The CPO met with the SCAO on April 28, 2022; July 29, 2022; and August 11, 2022, to discuss the MOU. During those meetings, the SCAO confirmed that it would no longer provide the CPO guidance regarding:

- Employee performance management and monitoring;
- Complex leave cases;
- Recruitment and onboarding best practice;
- Determining appropriate leave for complicated cases;
- Cases involving employee discipline and possible terminations; and
- Day-to-day guidance regarding compliance with applicable federal and state laws, including the Family and Medical Leave Act (FMLA) and the Americans with Disabilities Act (ADA).

The SCAO informed the CPO that providing assistance in these areas would constitute the Judicial Branch providing legal guidance and support to another state agency, which is impermissible. This interpretation of the MOU has impacted daily operations in the agency, as well as agency planning and growth. Because the CPO has not previously handled these services, current staff have absorbed these duties, primarily the Deputy Ombudsman. The duties and responsibilities absorbed by the Deputy Ombudsman include entering and approving all staff leave, performance management cases, administration of employee performance evaluations and human resource management.

Since March 2022, the Deputy Ombudsman has dedicated more than 300 hours to human resources management for the agency. This equates to more than 31% of the available working hours for the months of March, April, May, June, July and August. It should be noted that the CPO’s Director of Administrative Services and Director of Client Services have also absorbed duties related to hiring and recruitment, onboarding and maintenance of personnel files. Today, the Deputy Ombudsman dedicates at least 30 to 40 hours per month to human resources management. Many of these areas require consultation with the agency’s attorney general. This demand on the CPO’s attorney general had significant impacts to the agency’s legal services budget. Between February 2022 and July 2022, 44%

of the CPO's available legal services budget was dedicated to addressing human resource issues.

More importantly, maintaining this role with the Deputy Ombudsman has created a circumstance that is uncomfortable for employees and precarious for the agency. Currently, there is no separation between leadership and employees seeking support for non-performance-based issues. The Deputy Ombudsman – in consultation with the Attorney General's Office – is currently advising employees of their rights under the FMLA, ADA, as well as questions about leave and pay. This provides no degree of separation between employees seeking information and their supervisor. Employees should not be required to disclose medical information, mental health needs and other concerns, to the same person whose job duties include performance monitoring, pay and termination decisions. The CPO has had employees who have experienced long-term medical issues, maternity leave, mental health needs and physical limitations. Without the ability to direct employees to a Judicial Branch analyst – or an in-house human resource analyst – employees are required to disclose these concerns with leadership just to receive resources and guidance.

Recognizing the urgency and severity of the need for consistent human resource assistance, the CPO advertised for a full-time, contract Employee Support Services Manager. This position will not only absorb the human resources duties currently carried by the Deputy Ombudsman, it will also establish and direct the agency's in-house human resources program. They will also serve as a liaison between the CPO and the Judicial Branch regarding services still being provided, such as payroll and benefits. Other duties will include:

- Manage the talent acquisition process, which may include recruitment, interviewing and hiring of qualified job applicants. The position will collaborate with CPO managers to understand skills and competencies required for openings.
- Create and maintain a record keeping system for all personnel files.
- Coordinate training and professional development for all CPO staff. This includes identifying and coordinating training opportunities that provide professional development for employees.
- Provide support and guidance to staff when complex, specialized and/or sensitive issues arise, including employees who are experiencing personal health issues.
- Administer benefits and payroll utilizing the Judicial Branch's existing systems and processes. This person will serve as a liaison to the Judicial Department's staff.
- Review, monitor and develop CPO personnel rules.



- Oversee employee disciplinary meetings, terminations and investigations of allegations of wrongdoing.
- Maintain compliance with federal, state, and local employment laws and regulations, and recommended best practices.
- Maintain knowledge of trends, best practices, regulatory changes, and new technologies in human resources, talent management, and employment law.<sup>4</sup>

A copy of the full job posting has been provided in Appendix 4. At the time of submission, the CPO had scheduled interviews with multiple qualified applicants. The agency anticipates the position to be filled by early November. (The CPO will submit a supplemental request for its Fiscal Year 2022-23 budget to cover the cost of the new position.)

The CPO is requesting \$110,803 (including PERA, Medicare, AED/SAED, and STD) and 1.0 FTE to transition its current Human Resources Program Manager from a contract position to a permanent, full-time position. This position would fall into the following category:

Human Resource Analyst II (R43210)<sup>5</sup>

Salary range: \$70,368 – \$83,856 – \$97,344

The CPO is seeking the midpoint salary for this position. The midpoint salary is necessary to attract applicants who have experience establishing and managing similar programs. This would also keep the salary consistent with other manager positions in the agency.

Impact if request is not granted: Continuing without in-house human resources support is untenable for the agency. If this request is not granted – and the CPO is unable to continue the work of the contract position – several operational and programmatic areas of the agency will be impacted.

First, the Deputy Ombudsman will be required to continue carrying out the duties described above. Second, the agency will not be able to ensure that employees have an appropriate environment to seek resources for a multitude of concerns related to physical and mental well-being. As stated above, without a dedicated position, agency leadership is required to fill this role, removing the necessary separation to ensure employees are not required to disclose personal information. This position will also be key in developing

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<sup>4</sup> See Appendix 2, CPO Employee Support Services Manager Job Posting

<sup>5</sup> See Appendix 3, Human Resources Analyst II Job Description (R43210)

sustainable practices that promote a healthy workplace for CPO employees and enhances recruitment and retention for the agency.

### **RI-02 Client Services Analyst – \$103,052 annually and 1.0 FTE**

Nationally and in Colorado, the administration of child protection services has never been more complicated. The lingering impacts of the COVID-19 pandemic have revealed the fragility of the dozens of systems that must coordinate to provide children and families timely and appropriate services. It has also revealed the precarious nature of the workforce charged with administering these services – particularly those working on the frontlines. Local child welfare agencies continue to struggle to maintain a workforce to handle these cases. The compounding impacts of these issues are felt most by the children and families attempting to navigate these systems, including parents working to regain custody of their children, family members working to care for children placed in their homes and children and youth themselves.

The CPO has experienced this shift in two ways: First in the consistent increase in the number of citizens seeking services each year and, in the increasing complexity presented in individual cases.

The CPO's Client Services Team is currently comprised of five Client Services Analysts (CSA).<sup>6</sup> CSAs are charged with responding to the concerns and questions brought to the agency by citizens. Each analyst – as well as the Director of Client Services – are currently required to carry a caseload. Each case brought to the CPO is unique and can require hours to months of work by each analyst. Cases vary in complexity, as well as the systems that they involve. Many of the cases brought to the CPO require CSAs to study the practices and requirements of multiple systems – including child welfare services, Medicaid, and behavioral health services – and determine whether the interactions between those systems are adequately serving children and families in Colorado. CSAs provide a unique review of citizens' concerns that may not be obtained through any other state agency. The demand for these reviews has grown consistently – and substantially – during the past four fiscal years.

Since FY 2018-19, the CPO has seen an average increase of 20 percent in cases each year. During the past fiscal year, the CPO opened a record number of cases – totaling 982 cases. As the caseloads continue to increase, the CPO has not shifted its requirements that each

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<sup>6</sup> See Appendix 4, CPO Client Services Analyst Job Description

case receive a complete and thorough review. To accommodate the increase in the cases, and maintain the standards required for each case, the CPO's five CSAs and the Director of Client Services have had to carry higher caseloads and keep cases on their caseloads longer. With few exceptions, the CPO aims to complete each case review within 60-business days. For CSAs to meet this mark, while also taking on new cases, the CPO has determined that each analyst should carry a caseload of 20 to 25 cases.

Based on the growth experienced during previous fiscal years, the CPO anticipates it will see – at a minimum – a 15% increase in cases each year for the foreseeable future. At this rate, the CPO will open approximately 1,300 cases during Fiscal Year 2023-24. To maintain thorough and timely review of cases, each CSA would be required to carry at least 33 cases – approximately 30% above the recommended caseload.

These cases are complicated and involve systems that span a broad spectrum of specialties – such as child welfare services, Medicaid, schools, law enforcement and behavioral health services – which require CSAs to review not only what each system requires, but how each of these systems is interacting with the other. Additionally, these cases often involve evolving circumstances that require the CSA to adjust their review to new information or developments. Some examples of complex cases include:

- A non-custodial parent contacted the CPO concerned that their teenage son was using Fentanyl with his father. The youth disclosed his substance use, however, the responding agencies informed the CPO there was no available services for youth using substances. The CPO has been working to review this case – and identify services for this youth – for more than six months. The CSA on the case has completed more than 20 hours of work – including interviews with collateral agencies such as, hospitals in multiple states, child welfare services in multiple states and substance use experts. The CSA has placed more than 20 calls attempting to locate substance use services for this youth. This case remains open, and the youth has still not been provided therapeutic services or comprehensive medical care to address his substance use.
- The CPO was contacted by adoptive parents whose son had experienced placement in 23 different facilities to help address his mental health needs. After exhausting available resources in Colorado, the child was placed in a facility out-of-state which now desired to discharge the child to his family without a subsequent placement or treatment plan. According to the parents, the facility threatened to place the child on a plane back to Colorado and advised them they could either meet the child at

the airport or contact local child welfare services. His parents – concerned about the child’s previous threats to hurt himself and his parents – were frustrated because the state’s mental health system was not addressing the needs of their son. In the three weeks this case has been open, the assigned CSA has contacted facilities in multiple states, sought medical records from multiple placements, and made half a dozen phone calls to decipher the inconsistencies contained in the child’s records. This case required approximately 10 hours of attention in one week alone. This case is an ongoing and the CSA is still working to ensure the child is not discharged without a subsequent care plan.

CSAs must maintain these complex cases on their caseload, while also taking on new cases. Cases of this complexity are increasingly becoming the norm for the agency. In fact, during the first quarter of FY 2022-23, the CPO has closed 33% fewer cases compared to the same quarter the previous fiscal year.

Additionally, current staffing levels requires all CSAs and the Director of Client Services to carry full caseloads. Operating at this maximum capacity does not accommodate extended leave or vacancies for any of these positions. If the CPO experiences a vacancy in one of these positions, caseloads for each of the remaining analysts routinely reach up to 40 to 50 cases, creating a backlog that can take weeks or months to clear out. During the past fiscal year, the CPO has experienced simultaneous vacancies in the CSA positions. These vacancies, which are more easily absorbed by larger agencies, have significant impacts to the CPO. During the first quarter of FY 2022-23, these vacancies have resulted in caseloads between 70 to 90 cases for each of the remaining CSAs and the Director of Client Services. This is almost triple the recommended caseload.

Recognizing the urgency and severity of these caseloads – and the need to provide timely services to citizens – the CPO advertised for a full-time, contract CSA during July 2022. The position was filled and joined the agency in September of the same year. This position carries all the duties of a full-time CSA and will help return caseloads to a manageable level. Additionally, this position will be key in maintaining caseloads at manageable levels as the CPO continues to see rising cases during the upcoming fiscal years. (The CPO will submit a supplemental request for its Fiscal Year 2022-23 budget to cover the cost of the new position.)

The CPO is requesting \$103,052 (including PERA, Medicare, AED/SAED, and STD) and 1.0 FTE to transition its current contract CSA to a permanent, full-time position. This position would fall into the following category:

Probation Services Analyst I (R43485)<sup>7</sup>

Salary Range: \$63,720 – \$75,960 – \$88,140

The CPO is requesting an annual salary of \$76,736, slightly above the midpoint. This request reflects the requested salary adjustment for this position discussed in RI-04(G). This will ensure this position is equitable with other CSAs in the agency.

Impact if request is not granted: Without an additional CSA, the CPO will not be able to maintain caseloads of 25 or fewer. This will result in cases remaining open longer. The majority of citizens who contact the CPO call in crisis – often after having attempted to maneuver various other grievance processes. Often, by the time citizens contact the CPO their concerns require timely review and delays can have significant impacts in their lives. The agency hears from parents or foster parents with approaching court dates, parents whose children have been removed from their care and children and youth residing in 24-hour facilities with no other recourse.

Additionally, the CPO will be unable to ensure the Director of Client Services does not carry a full caseload. Requiring the Director of Client Services to carry a full caseload may delay progress in other areas for the agency. This includes the review of child fatalities, the monitoring of unaccompanied immigrant children in state licensed facilities and other systemic work. Additionally, it will impact the quality of training and supervision that can be provided to the other CSA's thereby implicating the CPO's ability to recruit and retain employees.

**RI-03 Communications, Community Engagement and Outreach – \$129,095 annually and .5 FTE**

***RI-03(A) Transition the CPO's Public Information Coordinator to Full Time – \$54,095 annually and .5 FTE***

The CPO is charged with helping “*educate the public concerning child maltreatment and the role of the community in strengthening families and keeping children safe.*”<sup>8</sup> The agency has long recognized the importance of fulfilling this charge as it provides citizens, legislators and stakeholder partners with information about the issues

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<sup>7</sup> See Appendix 5, Probation Services Analyst I Job Description (R43485)

<sup>8</sup> See C.R.S. §19-3.3-103(c)

identified by the CPO. The agency also prioritizes connecting citizens with the CPO's services, which they are entitled to and should have knowledge of. The CPO is required to *"recommend to the general assembly, the executive director, and any appropriate agency or entity statutory, budgetary, regulatory, and administrative changes, including systemic changes, to improve the safety of and promote better outcomes for children and families receiving child protection services in Colorado."*<sup>9</sup> While the agency routinely delivers such recommendations, it has found that it needs to ensure it is consistently and clearly communicating with the public regarding ongoing work and promoting the CPO's services to the citizens who may need them.

As such, during the past four fiscal years, the CPO has dedicated resources to a variety of methods to ensure the agency is clearly and consistently communicating with the public it serves. This includes updating its website so the public – including youth – may easily connect with the agency and remain up to date about the services the CPO provides. The CPO has worked with website designers and a local public relations firm to streamline messaging and create in-house tools that will allow the CPO to effectively deliver its messaging to citizens, as well create consistent products detailing the CPO's reviews and systemic findings.

During FY 2022-23, the CPO was awarded a part-time Public Information Coordinator, after the CPO determined that one of the most efficient and effective methods for providing consistent and clear information to the public was to bring someone in-house. Doing so would remove any delay caused by utilizing an outside vendor. This position was also designed to relieve the Deputy Ombudsman and Director of Legislative Affairs and Public Policy from producing outreach materials and products. The CPO was able to fill this position in August of 2022 and the benefits were immediately recognized. The Public Information Coordinator has quickly engaged with the CPO's mission, products and existing outreach methods.

However, the position was almost immediately limited by its part-time status. The position immediately absorbed the following duties:

- Responding to media inquiries regarding CPO cases and public policy initiatives;
- Creating material for and maintaining the CPO's social media accounts;
- Promoting and publishing updates and notices about the Timothy Montoya Task Force to Prevent Children from Running Away from Out-of-Home Placements

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<sup>9</sup> See C.R.S. §19-3.3-103(e)

and the Mandatory Reporting Task Force which are both housed within the CPO; and

- Maintaining website content.

While these duties are central tenants for the position, the part-time status of this position keeps it in a purely reactionary posture. A full-time position would allow the CPO to report on trends and issues the agency identifies sooner. For example, there are several instances each year in which the CPO identifies concerns or trends regarding how child protection services are delivered. Examples include:

- A series of cases in which child welfare workers were not making required, monthly contact with children involved in open child welfare cases;
- Data that demonstrated parents in a specific jurisdiction were not getting timely or regular visits with their children after they were removed from their care; and
- Multiple cases that involve children and youth who spend weeks or months in emergency rooms waiting for placement in a behavioral health facility.

Additionally, without a full-time position, the CPO will not be able to take proactive steps to engage with key populations in Colorado – namely the children and families who benefit from the CPO’s services.

Of the nearly 1,000 cases opened by the CPO during FY 2021-22, only 53 of them were initiated by a child or youth. The majority of those youth were residing in the Division of Youth Services, where information about the CPO is readily available and youth may access the agency directly via phones at the facilities. While the CPO is encouraged by these contacts, it is clear the agency is not hearing from children or youth in residential child care facilities, youth residing in foster homes and other youth involved with the child protection system.

Transitioning the Public Information Coordinator position from a part-time to full-time position will allow the agency to take a more proactive – and targeted – approach in reaching children and youth across Colorado. If the funds are provided, the full-time position will coordinate state-wide tours to promote the CPO’s services, expedite updates to the CPO’s website and revise outreach materials to make them more youth friendly and accessible.

The CPO is requesting \$54,095 (including PERA, Medicare, AED/SAED, and STD) and .5 FTE to convert the CPO's Public Information Coordinator from a part-time position to a full-time position. This position would fall into the following category:

Public Information Coordinator (R43222)<sup>10</sup>

Salary range: \$70,368 – \$83,856 – \$97,344

The CPO is requesting funds to reach the midpoint salary to ensure the agency can recruit and/or retain an employee with several years of experience. The midpoint salary is necessary to attract applicants who have experience establishing and managing similar programs. This would also keep the salary consistent with other manager positions in the agency.

Impact if request is not granted: The CPO will be unable to effectively transition its outreach and communication programs to a more proactive posture. Ultimately, the CPO will be unable to effectively communicate with children and youth who need the CPO's services and for whom the agency was designed in the first place. Additionally, if the position remains at a part-time status, the CPO will struggle to recruit and retain a qualified and experienced employee who can not only handle day-to-day operations but develop strategic plans and outreach campaigns effectively.

***RI-03(B) Equity, Diversity and Inclusion Consultation and Strategic Support – \$35,000 one-time***

Colorado's population is as diverse as its landscape. The CPO is acutely aware of the disproportionate impact the child protection system has on communities of color and under resourced communities. The agency has long monitored these impacts and keeps up-to-date with the expansive amount of literature detailing these disparate impacts. As such, the CPO must ensure that its staff and the CPO Advisory Board, are appropriately trained regarding equity, diversity and inclusion (EDI) principles so the agency may not only appropriately handle cases involving concerns of racism and exclusion, but the agency may also serve as the most effective advocates for citizens who call with these concerns.

Additionally, like many agencies in Colorado, the CPO must also look inward to determine if its own practices, messaging and actions are compliant with EDI

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<sup>10</sup> See Appendix 6, Public Information Coordinator Job Description (R43222)



principles. While training is a crucial component of this work, the CPO must also ensure that the agency is integrating these principles into its own work. This will require the CPO to contract with an outside vendor who will evaluate the CPO's internal culture, processes and business landscape. The selected vendor will also complete an in-depth analysis of the CPO's website and other materials to determine not only needed improvements, but how the CPO may better connect with diverse communities. The CPO is also seeking a vendor who will provide recurring training and provide the CPO with a strategic plan to implement change and ensure the agency adheres to EDI principles on a day-to-day basis.

The CPO recognizes that this is just the first step to integrating the agency's practice with EDI principles. While the agency is aware that many similar-sized agencies are employing full-time employees to monitor and carry out this work, the CPO has determined that it must first determine what is needed to successfully carryout this work. The CPO anticipates subsequent requests during upcoming fiscal years to ensure the agency continues to implement EDI work into its practices.

The CPO received quotes from multiple vendors in researching this request and determined that \$35,000 is an appropriate figure to ensure the contract allows for ample training, thorough assessment and the necessary support to implement the work.

As such, the CPO is seeking \$35,000 for a one-year contract with an outside vendor for EDI analysis, training and strategic support.

Impact if request is not granted: The CPO will continue to independently research EDI principles and work to implement them. However, without the assistance of a professional vendor, the CPO will be delayed in implementing the most effective and appropriate practices. This includes best practices to recruit and retain diverse staff, effectively connect with diverse communities and properly amend any necessary messaging or materials.

***RI-03(C) Tori Shuler Youth Program – \$40,000 annually***

When Tori Shuler first learned that the state of Colorado was considering establishing a child protection ombudsman office, she was a young adult with experience in Colorado's foster care system. Ms. Shuler was a fierce advocate for the formation of the agency, and then for transitioning the agency to an independent state agency.

While legislation was under consideration by the General Assembly, Ms. Shuler would wait to catch legislators in the hallway and, on one occasion, stopped then Gov. John Hickenlooper as he walked to his office. Passionately, and repeatedly, she told each of them, “We need this office for foster kids.”

Ms. Shuler, as an advocate and as a six-year member of the CPO Advisory Board, has long recognized the potential of the CPO to elevate the experience, perspective and knowledge of youth impacted by Colorado’s child protection system.

Unfortunately, the CPO has not yet been able to fully realize her vision or the vision of many others and fulfill a charge for which it was created. Thousands of children are impacted by the child protection system every year. But the CPO is not hearing from them. During the past fiscal year, the CPO only heard from 53 children and youth. This is not a result of a lack of effort. During the past two years, the CPO has worked to make meaningful connections with children and youth to inform them of the CPO’s services, and to learn how we can improve those services to better serve them. For example, the agency formed the CPO Board Youth Voice Subcommittee. This subcommittee utilized the expertise and connections of CPO Board members to connect with and learn from other organizations that work with youth in Colorado. The subcommittee also completed a review of the CPO’s youth-specific materials to identify improvements and is working to develop ongoing reviews to ensure these materials are fresh and engaging. These efforts revealed the need to create more streamlined messaging for children and youth, and the need to develop ongoing outreach efforts to ensure that the lived experience of children and youth are represented in the CPO’s ongoing work.

However, as in previous years, the CPO has not had the resources to implement these changes and that is because the agency does not have dedicated funds to consistently and meaningfully engage with children, youth and young adults who have experienced the child protection system.

For example, during the past fiscal year, the CPO was able to utilize vacancy savings to contract with Think of Us (TOU), a nationally recognized organization that specializes in engaging youth impacted by the child protection system and using their perspectives to improve systems. TOU pulled together four youth panels to discuss the CPO’s work, products, messaging and services to determine where improvements may be made. The panels’ insights were invaluable. One youth pointed out that the CPO receives concerns from citizens via its online complaint form and through the

phone. However, the youth pointed out, that many youth residing in out-of-home care do not have access to a phone or computer to file a complaint. This feedback, as well as others, was provided to the CPO in a strategic report. Unfortunately, the CPO does not have the necessary funds to implement many of the changes suggested.

The CPO also lacks the necessary resources to create appropriate and trauma-informed spaces for children, youth and young adults to engage with the CPO's systemic public policy initiatives. The CPO has determined that it cannot – in good conscious – move some public policy initiatives forward without engaging with children, youth and young adults to gain their insights and suggestions. For example, on May 27, 2021, the CPO published an issue brief detailing significant gaps in Colorado's "Protections for Youth in Foster Care Law."<sup>11</sup> The CPO reviewed the law and regulations that dictate how youth in foster care are advised of their care and protections. While well intended, Colorado's current law falls short of protecting youth in foster care. Specifically, the law does not create comprehensive mandated protections for foster youth. This omission has also resulted in a disjointed system that provides youth in foster care with inconsistent – and sometimes inaccurate – information. The issue brief has not resulted in any regulatory, legislative or budgetary reform, largely because the CPO has not had the funds to coordinate a collective of children, youth and young adults to determine the next steps. Incorporating their voices and perspectives is key when determining appropriate reform efforts and determining how to best to serve children and youth in Colorado. This is true for this project, as well as other reviews the CPO has concluded and is currently working on. To move forward on this project – and others – without the perspective of children, youth and young adults would be a disservice to Colorado.

The CPO is requesting \$40,000 annually to establish the CPO Tori Shuler Youth Program.

Generally, the requested \$40,000 will be equally divided into two categories:

1. Contract with Fostering Great Ideas – The first set of funds – approximately \$20,000 – will be used to contract with a local vendor, Fostering Great Ideas. Fostering Great Ideas will support the CPO in connecting and coordinating with youth and young adults who have experience with the child protection system to provide their input and response to the CPO's ongoing projects. Fostering

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<sup>11</sup> See CPO Issue Brief, "[Strengthening Colorado's Foster Youth Protection Laws.](#)"

Great Ideas will recruit youth and young adults to participate in CPO initiatives and will prepare them for the engagement. This includes advising the participants of the content and expectations for each meeting. More specifically, Fostering Great Ideas will help to facilitate coordinate the following for the CPO:

- Youth stakeholder meetings to provide the CPO and other child protection professionals with their insight and guidance regarding public policy initiatives and recommendations.
- Youth panels to provide the CPO with feedback and guidance regarding the CPO's practices, including, but not limited to, outreach efforts, youth-specific collateral, ensuring the agency's practices for youth-initiated cases are trauma informed and appropriate and ensuring the agency's youth-centered programs are inclusive and informative.
- Establishing youth systemic change committees for each of the CPO's systemic initiatives.
- Completing youth surveys to supplement the CPO's research for systemic initiatives and outreach efforts.

The proposed contract with Fostering Great Ideas would also ensure that all youth who work with the CPO have access to a series of trainings that not only provide them with guidance on how to engage in such work, but also ensures they are able to care for themselves. In sharing their lived experience, youth and young adults often recount traumatic experiences from their own lives. These trainings will ensure that youth who engage with the CPO in this manner will have access to trauma-informed trainings and resources. Additionally, Foster Great Ideas will also ensure that all engagements the CPO sponsors with youth and young adults are done so in a trauma-informed way.

Finally, Fostering Great Ideas will work with the CPO to develop a long-term strategic plan, which will ensure the CPO is able to carry these youth-focused practices into the future. This plan will help the CPO increase its contact with youth in Colorado, increase the services the CPO provides directly to youth or young adults receiving services from the child protection system and will ensure that youth voice is a central tenant in all CPO work.

This plan will address whether the agency would benefit from a permanent position or formal fellowship, whether efforts to coordinate with youth should be adjusted and what long-term goals the CPO should develop.

## 2. Compensation for Youth Participants and Development of Youth Collateral and Research

The remaining \$20,000 would be dedicated to two primary functions.

\$5,000 for Acknowledgments – First, the CPO would like to acknowledge the time and expertise of the youth and young adults who participate in the CPO's stakeholder meetings, panels and other discussions. This is common practice among agencies who engage youth and young adults with lived experience in the child protection system. The CPO found that the average acknowledgement for youth and young adults who participate in similar panels is \$25 to \$30 an hour, or a comparable gift card. (It should be noted that the preferred practice is direct compensation to youth and young adults, as compared to providing them with gift cards.) Similar rates are utilized by the Office of Colorado's Child Representative Lived Experts Action Panel and the Colorado Department of Human Services' Family Voice Counsel. Using the rates mentioned above, the CPO could provide for approximately 167 to 200 hours of youth and young adult engagement. If additional hours are needed, the CPO intends to utilize funds previously marked for collateral and research development. (See below.)

\$15,000 for Youth-focused Collateral and Messaging – A key element of the CPO's increased and coordinate engagement with Colorado youth is to improve its outreach efforts and the collateral it uses to inform youth about their right to utilize the CPO's services and what services the CPO offers them. The CPO's current materials are lacking age-appropriate language and are largely static. The majority of the CPO's youth collateral are flyers and handouts. Through the CPO's work with Think of Us, the agency has learned that it needs to develop additional outreach materials on multiple platforms. This includes producing a new video that captures youth voice and experience with the agency, such as an interview with a previous youth client. The Think of Us report also stated that the CPO should complete more direct outreach to community organizations and revamp the CPO's static outreach materials to include appropriate language and content. Additionally, the CPO will utilize the

information and feedback provided through the panels coordinated by Fostering Great Ideas to continually improve its materials and messaging.

The CPO generated this figure based on estimates provided by the vendor who provides the CPO with design services and website development, as well as past invoices for similar projects. Estimates included revisions to the CPO's website and online complaint form, designing and printing new static collateral and producing a new youth-centered video for the CPO's website. The funds may also be used to travel expenses, for in-person outreach campaigns to meet youth in the community.

## ADMIN SERVICES FOR INDEPENDENT AGENCIES

6. *[Staff]* Please provide the Agency's perspective on creating an administrative services unit for independent agencies.

**CPO Response to Question 6:** The CPO is in support of creating an administrative unit for independent agencies. As stated above, the rapid growth experienced by the CPO during the past six years has substantially expanded the amount of administrative support the agency requires. This includes the administration of human resource management, but it also includes administering the agency's payroll and employee benefits, expanding the agency's procurement practices and needs, increased accounting activity and additional supports in monitoring the agency's operating budget. Essentially, the CPO's needs in these areas have become more complex and now require more time and resources – the combined effect of which far exceed the original intent of the CPO's MOU with Judicial.

Additionally, while the agency has strong working relationships with many Judicial employees in these areas, the roles of these employees often shift, and the CPO is unsure of its primary point of contact for a particular service. For example, this spring the CPO migrated to the new payroll system administered by Judicial. The CPO was not on the original distribution list for the migration and had to effectively "catch up." Currently, the CPO is still struggling to utilize the system effectively, with approximately half of the agency's staff still unable to access the system consistently. The CPO has struggled to find a consistent point of contact to address these issues with. The creation of a central administrative services unit would eliminate that confusion and provide the agency with consistent points of contact and expectations for addressing questions and seeking support.

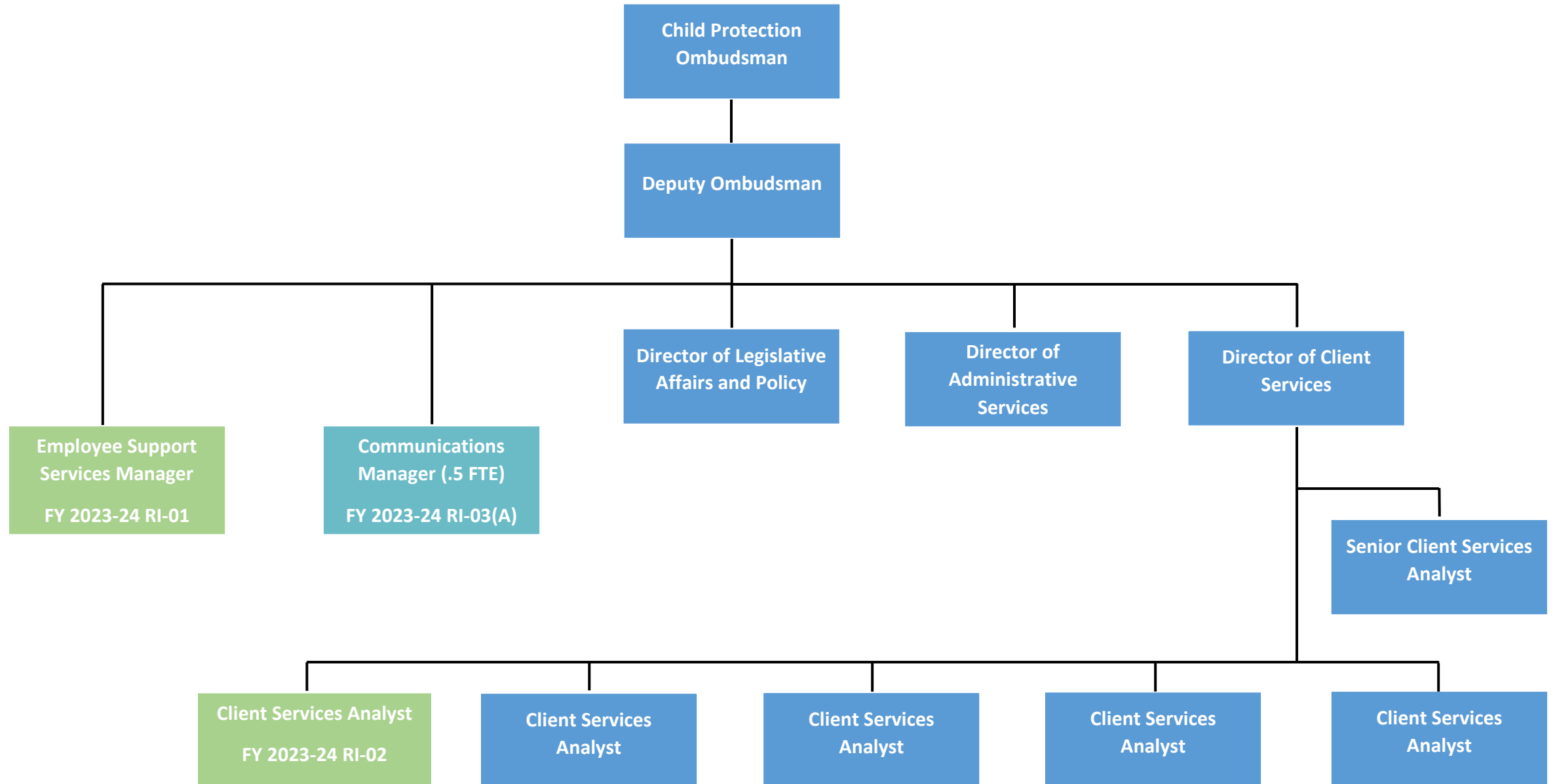
More importantly, the CPO and other independent agencies are unique agencies with responsibilities, operations and employee structures that are substantially different from

the Judicial Department. By establishing a central administrative services unit, the CPO will be able to access individuals who are familiar with the agency, its needs and limitations. Currently, the CPO spends a substantial amount of time articulating its distinct role and employee structure when seeking resources. However, dedicated staff would not only ensure the agency receives more efficient guidance, but that the agency receives specialized attention and resources.

Finally, the develop of the central administrative services unit would provide the CPO and other independent agencies with an appropriate degree of separation from the Judicial Department. This is particularly true in the area of human resource management. Currently, if the CPO seeks assistance from the Judicial Department, it must – directly or indirectly – reveal employee information and circumstances to an outside agency. The ability to discuss human resource issues and other operations with a dedicated staff will help the CPO operate with the level of independence intended by the General Assembly.

# **Appendix 1**





## **Appendix 2**



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**Position:** Human Resources Program Manager

**Status:** 40 Hour Per Week / Full-time Contract Position (October-June 30, 2023)

**Salary:** \$40/Hour

**FSLA Classification:** Contract

**Program/Department:** Office of Colorado's Child Protection Ombudsman

**Location:** Denver, Colorado

**Reports to:** Ombudsman/Deputy Ombudsman

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#### **AGENCY STATEMENT**

The Office of Colorado's Child Protection Ombudsman (CPO) was established in 2010 to improve the child protection system by serving as a resource to citizens, employing a complaint process for citizens to voice their concerns about child protective services and by making recommendations to the Governor's Office, Colorado State Legislature and other stakeholders for system improvements.

The CPO is housed within the Colorado Judicial Department and is independent from other agencies within the child protection system.

#### **POSITION OVERVIEW**

This is a new position for the CPO. The agency currently has 10.5 employees with diverse backgrounds and experience. The CPO is not part of the Colorado government personnel system. Rather, the CPO is an independent agency that is governed by its own personnel rules. These rules comply with applicable provisions of state and federal employment laws. The CPO reviews and updates its personnel rules annually. All CPO employees serve as 'at will' employees at the pleasure of the Ombudsman.

To date, the CPO has exclusively relied upon the Colorado Judicial Department (Department) to provide human resource management and other administrative services. However, the CPO now requires an internal human resources professional who can create, lead and direct the agency's human resources management (HR) program. The CPO will continue to rely on the Department's payroll and leave management systems. This position will serve as a liaison between the CPO and the Department, while supporting the CPO's in-house HR program. A full description of the position's duties is below.

This position requires a person who is an excellent communicator, meaning they can effectively give oral and written reports, and prepare clear and concise documentation. A team-oriented mindset is crucial for this position, as well as the ability to embrace diversity and build and maintain quality professional relationships. The person who fills this position must be organized, utilize effective time management skills and understand the importance of deadlines. Honesty, reliability and the ability to

keep commitments to colleagues and clients are vital aspects of the position. This position requires someone who can seek effective solutions to help resolve concerns and issues in a timely manner

#### **POSITION DESCRIPTION AND DUTIES**

This contract position will provide advice to CPO leadership and staff regarding a broad range of human resource issues. This position will work with CPO leadership to do the following:

- Manage the talent acquisition process, which may include recruitment, interviewing and hiring of qualified job applicants. The position will collaborate with CPO managers to understand skills and competencies required for openings.
- Create and maintain of a record keeping system for all personnel files.
- Coordinate training and professional development for all CPO staff. This includes identifying and coordinating training opportunities that provide professional development for employees.
- Provide support and guidance to staff when complex, specialized and/or sensitive issues arise, including employees who are experiencing personal health issues.
- Administer benefits and payroll utilizing the Department's existing systems and processes. This person will serve as a liaison to the Department's staff.
- Review, monitor and develop CPO personnel rules.
- Oversee employee disciplinary meetings, terminations and investigations of allegations of wrongdoing.
- Maintain compliance with federal, state, and local employment laws and regulations, and recommended best practices.
- Maintain knowledge of trends, best practices, regulatory changes, and new technologies in human resources, talent management, and employment law.
- Performs other duties as assigned.

#### **REQUIRED SKILLS AND ABILITIES**

This position requires a diverse set of skills and abilities. Required skills and abilities include:

- Excellent verbal and written communication skills.
- Excellent interpersonal, negotiation and conflict resolution skills.
- Excellent organizational skills and attention to detail.
- Strong analytical and problem-solving skills.
- Ability to prioritize tasks and to delegate them when appropriate.
- Ability to act with integrity, professionalism and confidentiality.
- Thorough knowledge of employment-related laws and regulations.
- Proficient with Microsoft Office Suite or related software.

#### **REQUIRED QUALIFICATIONS**

Possession of a bachelor's degree and three years' experience in human resources, benefits and/or organizational development.

#### **DESIRED QUALIFICATIONS**

SHRM-CP or SHRM-SCP highly desired.

#### **WORK ENVIRONMENT**

The noise level in the work environment is usually quiet. This position is subject to varying and

unpredictable situations; may handle emergency or crisis situations; and is subject to possible interruptions.

### **CONDITIONS OF EMPLOYMENT**

The successful applicant in this position must be willing and available to submit to the following conditions:

- Must be willing to submit to and able to successfully pass a criminal background check.
- This position will require documented proof of full COVID-19 vaccination. Vaccinated means two weeks after a second dose in a two-dose series for the COVID-19 vaccine, as defined by current guidance issued by the Colorado Department of Public Health and Environment. New employees will be required to provide attestation to their status with proof of vaccination within thirty (30) business days of hire. Religious and medical exemptions and reasonable accommodation will be addressed as required by law pursuant to the Equal Employment Opportunity Commission's vaccination guidance.
- All CPO employees may be required to work at the CPO office suite at the Ralph L. Carr Judicial Center in Denver, Colorado, either on a hybrid or full-time basis. Currently, the CPO is requiring all employees to work two days per week in the office.

### **SUPERVISOR RESPONSIBILITIES**

No supervisory responsibilities. Responsible for one's own work product.

### **HOW TO APPLY**

To be considered for this position, you must email [knielsen@coloradocpo.org](mailto:knielsen@coloradocpo.org), and submit the required items outlined below. **Applications must be submitted by 5 p.m. on Monday, September 26, 2022.** Please include "Human Resources Employee Assistance Manager" in the subject line.

Applications will not be accepted through any other state or government website or application process.

Applications must include:

- Cover letter
- Resume identifying specific experience and dates of employment.

## **Appendix 3**

# Human Resources Analyst II

## Human Resources Analyst II Job Description

**Job Title:** Human Resources Analyst II

**Job Code:** R43210

**Job Series:** Human Resources Analyst

**FLSA Status:** Exempt

**OCC Group:** Professional Services (PS)

**Signature of the State Court Administrator approval available on file in the Human Resources Division.**

**General Statement Of Duties:** Provides professional human resources services for the Colorado Judicial Department. This position may be assigned to and required to provide human resources related services to specific departments throughout the Judicial Department.

**Distinguishing Factors:** The Human Resources Analyst II is distinguished from other human resources classifications due to the responsibility of performing a wide variety of human resources related functions. The Human Resources Analyst II provides advice and assistance to judges, management, and employees on a broad range of human resources issues including; the interpretation of personnel rules and federal, state and local laws concerning employment in order to reduce liability; implementation of human resources rules and policies; employee recruitment and retention; performance management; training and development; and employee relations. This position will effectively interface with employees, all levels of management and members of the Human Resources Division. Supervision is received from the Manager of Employee Relations.

**Essential Functions Of the Position:** Reviews, interprets, and advises on federal, state and local employment regulations including but not limited to Family Medical Leave Act, Fair Labor Standards, Workers' Compensation, and the Americans with Disability Act. Initiates changes to Judicial Department policy to ensure compliance.

Creates and facilitates training on human resources topics which incorporate employment trends, remains consistent with federal and state regulations, and addresses management and employee needs.

Provides advice and management consultation to Judges, Court Executives, Chief Probation Officers, Division Directors, and employees regarding human resources issues requiring the interpretation and application of personnel rules, human resources laws and individual circumstances.

Conducts office hours in various assigned locations on a regular basis.

Monitors the employment environment to ensure consistent treatment of employees state-wide.

May represent the Human Resources Division on various judicial committees or as a participant in various projects.

Participates in creating and implementing specialized projects in the area of human resources. Areas may include but are not limited to, EEO, HRIS, Database Administration, Employee Relations, Training, Performance Appraisals, Investigations, and Compensation Analysis.

Provides support on the research, design, implementation and communication of human resources initiatives.

Human Resources Analyst IIs participate as an advisory member on regional Performance Management Teams (PMT).

Conducts classification reviews and provides recommendations regarding proper classification. Provides recommendations for updates and revisions to job descriptions as needed.

May assist in conducting wage analysis and providing compensation recommendations.



Drafts personnel rules, administrative recommendations, Chief Justice Directives; designs forms; proposes procedures and directives based upon research and evaluation of issues and problems; and analyzes proposed legislation for possible impact on the Judicial Department.

Participates in recruitment and selection for Colorado Judicial Department personnel.

Responds to EEOC complaints, conducts investigations into claims of discrimination and harassment, and makes formal recommendations. Assists in the resolution of employee disputes. Some positions may provide mediation.

Human Resources Analyst IIs shall be available to local district management and employees on issues related to corrective and disciplinary actions. May be considered a first line of contact during employee emergencies.

Attends meetings and training as required.

Performs other duties as assigned.

**Supervisor  
Responsibilities:**

Responsible for one's own work product and may provide guidance, assistance, or mentorship to less knowledgeable or experienced coworkers, volunteers, or interns. This may include scheduling of work, instructing in work methods, and reviewing work products.

**Minimum  
Education:**

Graduation from an accredited college or university with a bachelor's degree and three years of experience in human resources, benefits, and/or organizational development which must have included one year of training (group facilitation) experience. Additional work experience in these or other related fields may be substituted on a year for year basis for the required formal education.

**Physical Demands:**

While performing the duties of this job, the employee is regularly required to talk or hear. The employee frequently is required to use hands and fingers and reach with hands and

arms. The employee is occasionally required to stand and reach with hands and arms. The employee must occasionally lift and/or move up to 10 pounds. Specific vision abilities required by this job include close vision, distance vision, peripheral vision, and ability to adjust focus.

**Work  
Environment:**

The noise level in the work environment is usually quiet. This position is subject to varying and unpredictable situations; may handle emergency or crisis situations; is subject to many interruptions; may handle multiple calls and inquiries simultaneously; and may occasionally handle absentee replacement on short notice. Position may require frequent travel with overnight stays.

## **Appendix 4**



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**Position:** Associate Ombudsman -- Client Services Analyst

**Status:** Full Time

**Salary:** \$70,000 with benefits

**FSLA Classification:** Exempt

**Program/Department:** Office of Colorado's Child Protection Ombudsman

**Location:** Denver, Colorado

**Reports to:** Director of Client Services

---

**AGENCY STATEMENT:**

The Office of Colorado's Child Protection Ombudsman (CPO) was established to improve the child protection system by serving as a resource to citizens, employing a complaint process for citizens to voice their concerns about the child protection system and by making recommendations to the Colorado General Assembly, Governor and other stakeholders for system improvements.

The agency has 10 full-time employees with diverse backgrounds and experience. This position sits within the five-person Client Services Team and reports to the Director of Client Services and the Ombudsman. CPO employees serve at the pleasure of the Ombudsman.

**POSITION OVERVIEW**

This position values public services and has a strong desire to help meet the needs of CPO clients. Analysts must be passionate about providing quality customer service to all clients and serving as a leader in the child protection community. The CPO aims to provide every client with education, information and resources during each interaction they have with this agency. This position requires a person who is an excellent communicator, meaning they can effectively give oral and written reports, and prepare clear and concise documentation. A team-oriented mindset is crucial for this position, as well as the ability to embrace diversity and build and maintain quality professional relationships. The person who fills this position must be organized, utilize effective time management skills and understand the importance of deadlines. Honesty, reliability and the ability to keep commitments to colleagues and clients are vital aspects of the position. This position requires someone who can seek effective solutions to help resolve concerns and issues in a timely manner.

**POSITION DESCRIPTION AND DUTIES**

This is an entry-level position at the agency. Analysts have substantial responsibility and discretion to exercise independent judgment and complete accurate and thorough analysis while reviewing complaints. The analyst operates independently, but under the overall direction of the Director of Client

Services and the Ombudsman. The analyst keeps the agency informed of progress of cases, potentially controversial matters and the implications of the work performed.

### ***Overview***

Analysts receive inquiries and complaints from the public and independently review a variety of issues from moderate to difficult complexity. Such issues involve a range of sensitive and factual situations. Complaints may include concerns or questions about a wide variety of issues, including child welfare services, Medicaid, behavioral health services, residential treatment for children and youth, the Division of Youth Services, parental rights and applicable law and regulations.

Analysts are required to carry a full caseload. Cases are equally divided among client service analysts. In reviewing complaints and cases, analysts may be required to identify applicable standards, regulations and practices. They may also be required to identify situations in which no clear criteria or standards exist. Duties typically require the analyst to make decisions based on independent, substantial analysis of the issues presented by citizens. Their analysis typically include:

- Review of applicable laws, regulations and policies.
- Accurate interpretation of law, regulations and policies and meaningful application of those standards to the facts in each case.
- Identification of key issues in each case and prioritization of those issues.
- Determination of an accurate and meaningful resolution for each case to possibly include facilitation of conversations, recommendations and appropriate guidance.

### ***Examples of duties:***

- Receive complaints from citizens and provide phone coverage for Client Services during normal business hours.
- Educate clients regarding agency practices, procedures and jurisdiction in an understandable manner so those with little to no familiarity with the child protection system can meaningfully engage in the process.
- Collect, analyze and interpret information needed to complete a thorough case review. This often includes utilizing external sources – such as child welfare records, court records, regulations and law – and facilitating discussions with relevant agencies and stakeholders.
- Notify all parties of the case resolution and disposition.
- Monitor cases for trends and possible systemic issues within the child protection system.
- Draft a variety of written products based on individual case assignments, trends and systemic public policy issues. These products may include briefs, blogs and letters.
- Performs other duties as assigned.

### **SKILLS AND ABILITIES:**

The analyst position requires a diverse set of skills and abilities. Analysts are required to be flexible and all-utility players, as all agency employees are expected to aid in the overall advancement of the CPO and the child protection system.

Applicable skills and abilities include:

- Initiative and ability to work with little supervision.

- Ability to effectively communicate with a wide audience, as evidenced by sound writing skills, a strong command of the English language and the ability to change speaking and writing styles to fit the target audience.
- Comfort working with people experiencing extreme stress or crisis, as well as confrontational situations with both clients and stakeholders. This skill is demonstrated by maintaining control of one's response to effectively guide a conversation or interview to elicit necessary information, while using person-centered language that is respectful and empathetic.
- Independently conduct research and review law, regulations, caselaw and policies using external databases, such as Westlaw, Lexis, Colorado Code of Regulations and the Colorado Department of Human Services' memo series.
- Must be able to conduct fair and impartial investigations, as evidenced by the ability to:
  - Gather and analyze information and data;
  - Reason logically and accurately;
  - Read, comprehend and interpret state laws, regulations, legal opinions, administrative interpretations, policy and procedure manuals and similar resource materials;
  - Define allegations and issues and accurately summarize the various positions and the merits of each;
  - Describe and apply ombudsman principles, standards and techniques appropriate to the complaint under review;
  - Initiate and complete and review without bias and to present findings supported by evidence; and
  - Suggest practical and effective solutions.
- Ability to work under pressure and demonstrate flexibility and creativity within a changing work environment.
- Ability to establish and maintain cooperative working relationships with other employees and with persons contacted in the course of work.
- Proficiency with Outlook and Microsoft Office Suite programs, including Word, Excel and PowerPoint is required.

#### **REQUIRED QUALIFICATIONS:**

Possession of a bachelor's degree and three years of relevant employment experience are required.

Acceptable relevant experience may include:

- Child welfare social caseworker or supervisor experience and knowledge of Colorado's child protection system.
- Investigative work for public or private agencies with experience and knowledge of Colorado's child protection system.
- News reporting for which one of the responsibilities involved investigative reporting and working knowledge of government agencies.
- Work in the legal profession, including attorneys and paralegals with experience and knowledge of Colorado's child protection system.
- Conflict resolution experience, including mediators and facilitators with experience and knowledge of Colorado's child protection system.

#### **DESIRED QUALIFICATIONS:**

- Advanced degree in an applicable field, including, but not limited to, social and behavioral sciences, public administration, the legal field, quality assurance, journalism and communications.

- Knowledge of the Colorado Department of Human Services to include organizational structure, divisions and duties
- Spanish language fluency

**SUPERVISOR RESPONSIBILITIES:**

No supervisory responsibilities. Responsible for one's own work product.

## **Appendix 5**



# Probation Services Analyst I

## Probation Services Analyst I Job Description

<b>Job Title:</b>	Probation Services Analyst I
<b>Job Code:</b>	R43485
<b>Job Series:</b>	Probation Services Analyst
<b>FLSA Status:</b>	Exempt
<b>OCC Group:</b>	Professional Services (PS)

**Signature of the State Court Administrator approval available on file in the Human Resources Division.**

**General Statement Of Duties:** Participates in program or project management in the Division of Probation Services to improve managerial procedures and practices in the Colorado Judicial Department's probation business.

**Distinguishing Factors:** The Probation Services Analyst I classification is distinguished from other classifications due to the focus on research, compiling and analyzing data, and providing recommendations based on findings which may influence local or state wide probation policies and procedures. Positions in this classification will participate in, but do not spend more than 50% of their time on ongoing program or project management responsibility. Supervision is received from a Probation Services Analyst II, III, IV or Division Director.

**Essential Functions Of the Position:** Reviews and evaluates organizational policies, practices, structure, functions, programs, work methods, resources, relationships within various probation departments, management and program performance; interprets data; prepares reports and provides recommendations.

Identifies problems within various probation departments; offers recommendations and implements solutions; compares estimates and trend projections through the application of mathematical or statistical methods.

Drafts rules, administrative recommendations, and Chief Justice Directives; revises forms; develops and assists in implementing program policies and procedures for various probation departments.

Compiles and analyzes information collected; verifies accuracy of information; identifies issues and problems; formulates recommendations that will encourage local or state wide change.

Establishes response procedures designed to address internal and external requests for information.

Attends meetings and training as required.

Performs other duties as assigned.

**Supervisor  
Responsibilities:**

No formal supervisory responsibility. Responsibility for one's own work product and work within a unit performing similar functions. Rarely provides lead function, advice, or explains work instructions to other employees or volunteers.

**Minimum  
Education:**

Graduation from an accredited college or university with a bachelor's degree and three years of management analysis experience in statistical or economic analysis, office systems, methods and procedures, work measurement, forms design, program planning or other related fields. Additional work experience in these or other related fields may be substituted on a year for year basis for the required formal education.

**Physical Demands:**

While performing the duties of this job, the employee is regularly required to talk or hear. The employee frequently is required to use hands and fingers and reach with hands and arms. The employee is occasionally required to stand and reach with hands and arms. The employee must occasionally lift and/or move up to 10 pounds. Specific vision abilities required by this job include close vision, distance vision, peripheral vision, and ability to adjust focus.

**Work  
Environment:**

The noise level in the work environment is usually quiet. This position is subject to varying and unpredictable situations;

may handle emergency or crisis situations; is subject to many interruptions; may handle multiple calls and inquiries simultaneously; and may occasionally handle absentee replacement on short notice.

## **Appendix 6**

# Public Information Coordinator

## Public Information Coordinator Job Description

**Job Title:** Public Information Coordinator

**Job Code:** R43222

**Job Series:** Public Information Coordinator

**FLSA Status:** Exempt

**OCC Group:** Professional Services (PS)

**Signature of the State Court Administrator approval available on file in the Human Resources Division.**

**General Statement Of Duties:** Assists in development and implementation the Colorado Judicial Department's communications, public education and information programs. Primary responsibilities will include content analysis and development, publications, and public education.

**Distinguishing Factors:** Positions in this classification are distinguished from other classifications by the focus on Colorado Judicial Department communications, public education and information programs. This position reports to the Public Information Manager.

**Essential Functions Of the Position:** Assists in responding to media inquiries by gathering information and referring the media to appropriate resources.

Works with public information officer to provide workshops and round table discussions for the media about the courts statewide.

Updates, edits, and distributes the "Media Guide to Colorado Courts".

Develops, designs branch publications including annual report narratives, self-help brochures, and executive summaries of reports.

Assists in the development and implementation of statewide public education project initiatives, including coordination of Supreme Court and Court of Appeals "Courts in the Community Program".

Manages logistics with Supreme Court and Court of Appeals regarding requests to visit the court; attends court visits and provides event support to court staff and PIO.

Assists in developing press releases, media alerts and Branch announcements.

Works with PIO to develop and implement strategies for dealing with difficult issues publicly and for garnering positive press attention.

Serves as an advisor for programs and individuals within the Judicial Department on communications matters.

Assists in providing advice to judges in matters related to the media and in media relations training for judges.

Works with PIO and Web Administrator to develop and enhance the Colorado Judicial Branch's internet and intranet websites.

Seeks and secures approvals for internet postings and works with the Webmaster to post information to the internet in a timely manner.

Assists in managing social media outlets for the Colorado Judicial Branch.

Provides staff support to Supreme Court and Court of Appeals committees as appropriate.

**Supervisor  
Responsibilities:**

No formal responsibility. Responsible for one's own work product and work within a unit performing similar functions.

**Minimum  
Education:**

A bachelor's degree from an accredited college or university in communications, journalism, judicial or public administration or a related field. Master's degree preferred. Minimum three years experience in news media, emphasis on court-related reporting highly desired; experience in education, communications, court management or like field may be substituted. Institutional knowledge of the courts is highly preferred. Working knowledge of web-based communications preferred. Additional related work experience may be substituted on a year for year basis for the required formal education.

**Physical Demands:**

While performing the duties of this job, the employee is regularly required to talk or hear. The employee frequently is required to use hands and fingers and reach with hands and arms. The employee is occasionally required to stand and reach with hands and arms. The employee must occasionally lift and/or move up to 10 pounds. Specific vision abilities required by this job include close vision, distance vision, peripheral vision, and ability to adjust focus.

**Work  
Environment:**

The noise level in the work environment is usually quiet. This position is subject to varying and unpredictable situations; may handle emergency or crisis situations; is subject to many interruptions; may handle multiple calls and inquiries simultaneously; and may occasionally handle absentee replacement on short notice.



# Office of Colorado's Child Protection Ombudsman

Fiscal Year 2023-24 Agency Summary  
and Budget Request

December 15, 2022

Stephanie Villafuerte, Colorado Child Protection Ombudsman  
Jordan Steffen, Deputy Ombudsman



# How We Serve Colorado Citizens

## INDEPENDENT & NEUTRAL PROBLEM SOLVER

The CPO is charged with helping citizens navigate a complex child protection system and educating stakeholders and the community.


## DUTIES

- Free and confidential services
- Objectively researches and investigates concerns
- Illuminates issues with the system
- Educates the public, legislators and stakeholders
- Makes recommendations for child protection system improvement

### How We Work for Colorado


Colorado's Child Protection Ombudsman was created to ensure the state's complex child protection system consistently provides **high quality services** to every child, family and community in Colorado.

[OUR WORK](#)[FAQS](#)




#### Listen

We listen to people about their experience with and concerns about child protection.




#### Investigate

We research and investigate concerns reported by any Coloradan about service delivery within the child protection system.




#### Resolve

We determine the best way to resolve concerns – that might mean bridging communication barriers or resolving conflicts based on misunderstanding.



#### Identify Trends

We identify trends where the community's needs have changed and the system hasn't had the funding, resources or practices to keep up with it. As a result, we make public recommendations for system improvement.



#### Lasting Change

We convene lawmakers, professionals and other stakeholders to advance legislation and policies that have a lasting, positive impact on children and families.



# CASE PROCESS

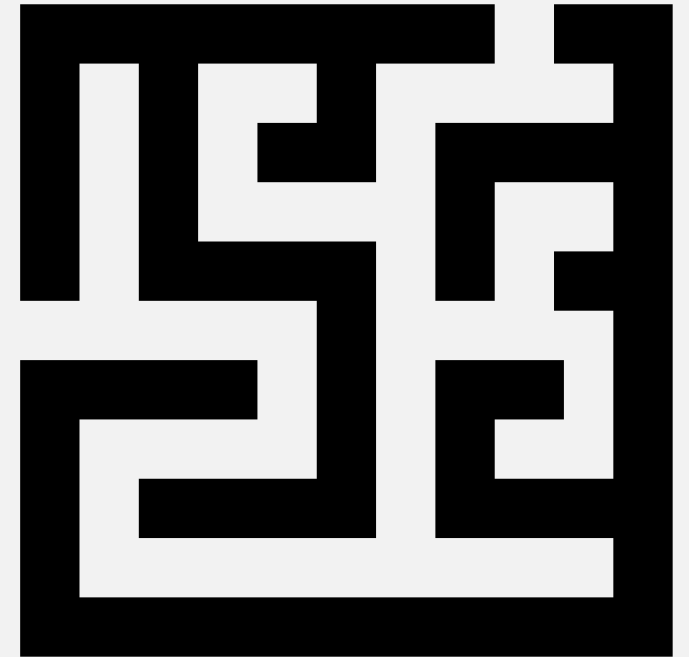


- The CPO takes calls during business hours and receives online complaints 24/7.
- The CPO receives almost 1,000 calls each year.
- Independent case review for all concerns.
- Reviews include Trails, court records, medical records, etc.
- Outcomes may vary based on need and may include resolution of both individual concerns and systemic issues.

# Complex Cases

## Examples of Complex Issues:

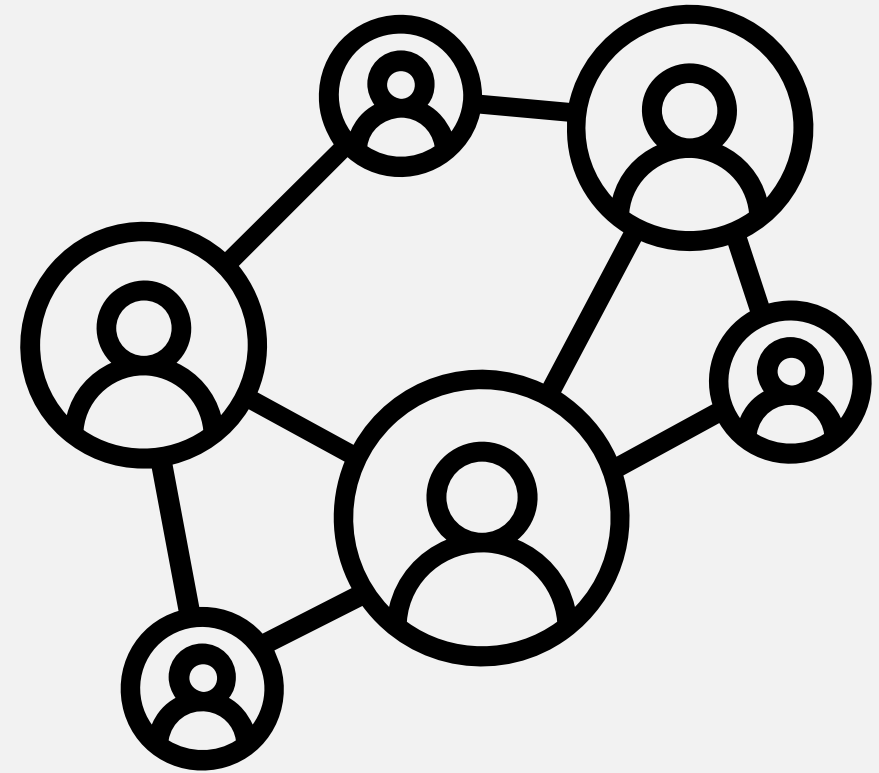
- Poor living conditions in the Division of Youth Services
- Insufficient access to behavioral health care for children and youth residing in residential facilities
- Parents' access to information and care plans for children and youth in out-of-home placements
- Cases involving multiple systems
- Lack of placements for children and youth who require acute behavioral health services



# Educate and Inform

## At a minimum, the CPO shall:

- “[H]elp educate the public concerning child maltreatment and the role of the community in strengthening families and keeping children safe.” *See C.R.S. 19-3.3-103(2)(c)*
- “[R]ecommend to the general assembly, the executive director, and any appropriate agency or entity the statutory, budgetary, regulatory, and administrative changes, including systemic changes, to improve the safety of and promote better outcomes for children and families receiving child protection services in Colorado.” *See C.R.S. 19-3.3-103(2)(e)*



**Quality  
Assurance for  
Residential  
Child Care  
Facilities**

**Youth Who Run  
Away from Out-of-  
home care**

**Mandatory  
Reporting  
Laws**

# Public Policy Collaborations

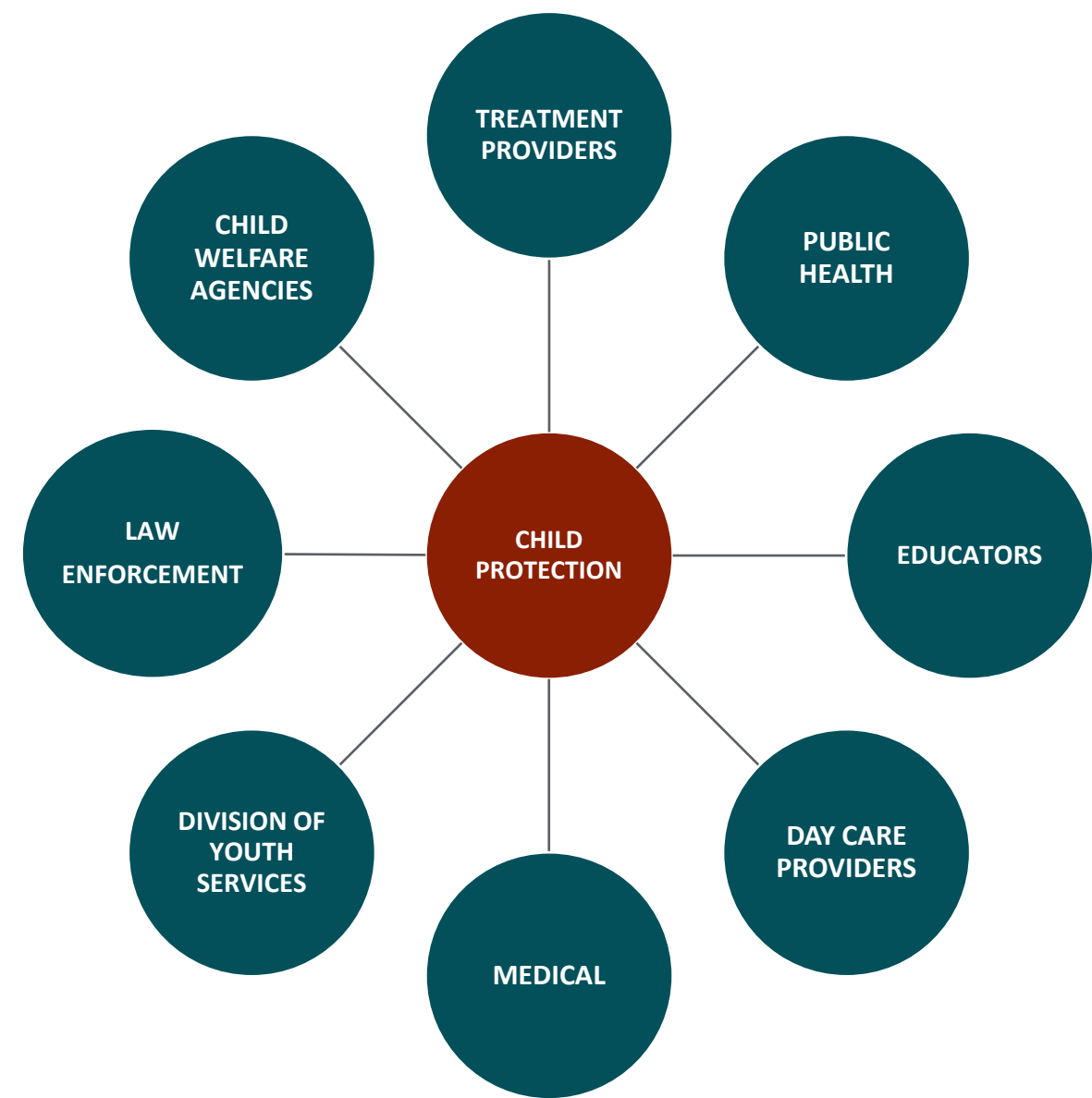
# Increasing Caseloads

- The CPO received a record number of calls in Fiscal Year 2021-22, resulting in a total of 982 cases.
- 15% increase from the previous fiscal year.
- Growing number of calls concerning behavioral health.
- Currently, the CPO anticipates opening approximately **1,300** cases in FY 2023-24.

CPO Case History	Total Number of Cases
Fiscal Year 2021-22	982
Fiscal Year 2020-21	852
Fiscal Year 2019-20	725
Fiscal Year 2018-19	575
Fiscal Year 2017-18	611



# The Child Protection System



# Discussion Questions

- CPO Critical Incident Review Program
- No Rulemaking Authority
- No Temporary FTE
- Impacts of Partnership Agreement



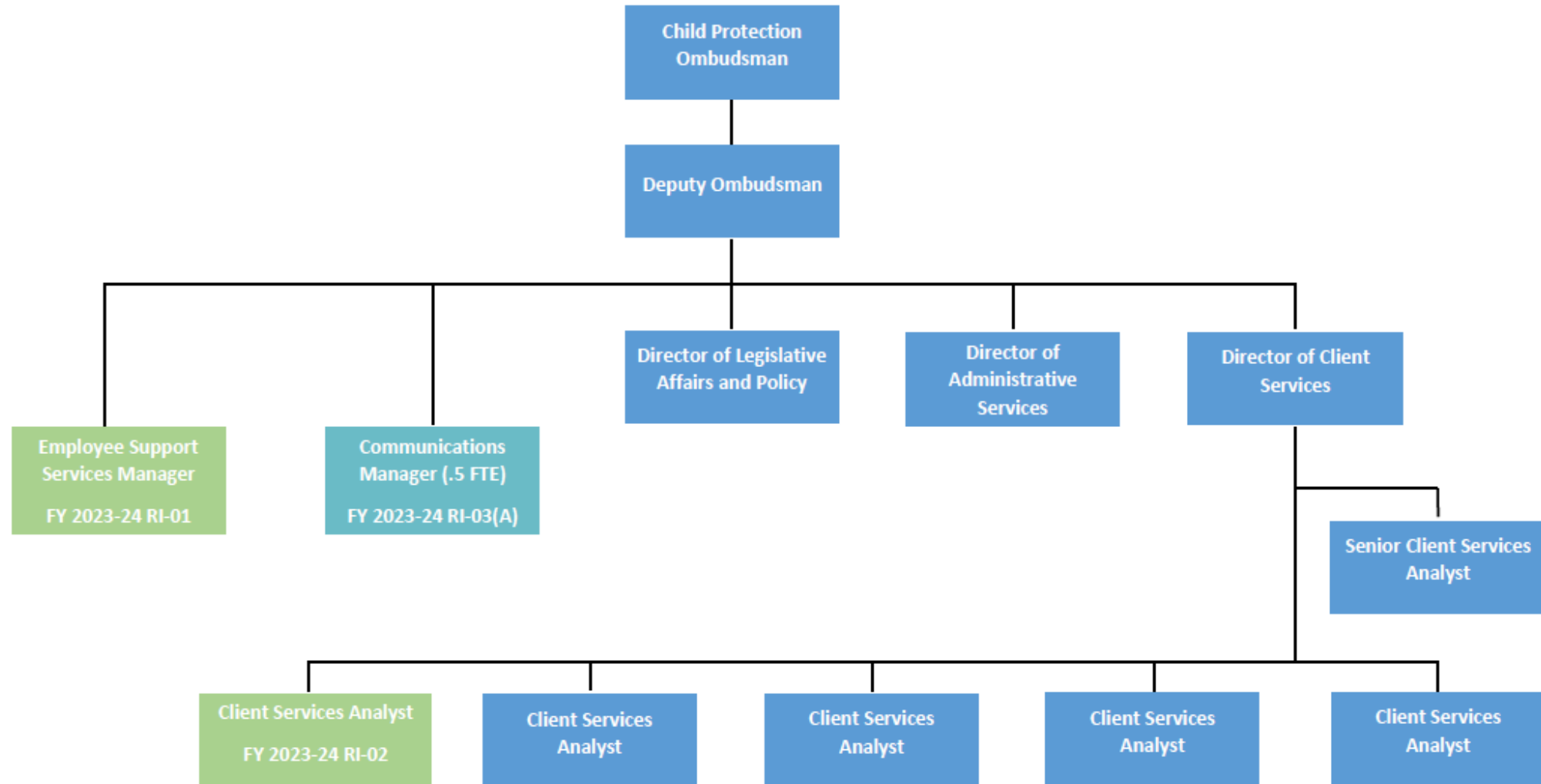


**New FTE: Human  
Resources Manager  
and Client Services  
Analyst**

**Reclassifications  
and Salary  
Adjustments**

**Communications:  
Youth Voice and  
EDI Support**

# CPO FY 2023-24 Budget Request



# RI-01 Employee Support Services Manager

## Justification:

- Increased staff require more support than may be offered through the CPO's MOU with the Judicial Department.
- Current CPO staff to not specialize in HR management.
- Staff need an in-house resource for questions and support.
- Current staff and resources cannot sustain the additional workload.

## Impact if Not Granted:

- Deputy Ombudsman will continue to carry most of the HR responsibilities and other duties will be delayed.
- CPO will be delayed in developing sustainable practices that promote a healthy workspace for employees.

## Total Request for RI-01

- \$110,803 annually
- 1 FTE

## Position Classification and Range:

- Human Resources Analyst II
- \$70,368 – \$83,856 – \$97,344

# RI-02 Client Services Analyst

## Justification:

- Agency continues to see an increase in the number of cases received each fiscal year – average of 20% increase each year.
- Cases presented to the CPO are increasingly complex and require more attention and time.
- Current staff levels require the Director of Client Services to carry a full caseload, delaying program development.
- One vacancy or absence can more than double the caseloads of other analysts.

## Impact if Not Granted:

- CPO will not be able to maintain caseloads of 25 or fewer cases.
- Director of Client Services will continue to carry a full caseload.

## Total Request for RI-02

- \$103,042 annually
- 1 FTE

## Position Classification and Range:

- Probation Services Analyst I
- \$63,720 – \$75,960 – \$88,140



# RI-03(A) Public Info Position to Full-Time Status

## Justification:

- A full-time position is vital in carrying out the CPO's efforts to connect with youth and promote youth voice.
- Educating and informing the public is a central tenant in the CPO's charge.
- Part-time position keeps this employee in a reactionary posture.
- CPO is unable to proactively build its communication program and complete proactive outreach to communities.

## Impact if Not Granted:

- Communications will remain reactive.
- Agency will be delayed in developing strategic communication plans.

## Total Request for RI-03(A)

- \$54,095 annually
- .5 FTE

## Position Classification and Range:

- Public Information Coordinator
- \$70,368 – \$83,856 – \$97,344

# RI-03(B) Equity Diversity and Inclusion Support

## Justification:

- CPO must ensure that its staff and the CPO Advisory Board, are appropriately trained regarding equity, diversity and inclusion (EDI) principles so the agency may not only appropriately handle cases involving concerns of racism and exclusion.
- CPO must assess its own policies, practices and messaging.
- Agency requires assistance of an experienced and thoughtful vendor to help train and assess practices.
- One-year contract will help agency assess whether, permanent positions or funding are needed.

## Impact if Not Granted:

- CPO will be delayed in implementing the most effective and appropriate practices.

## Total Request for RI-03(B)

- \$35,000 One-time

# RI-03(C) Tori Shuler Youth Program

## Justification:

- Dedicated funds will ensure the CPO can systematically and consistently seek and elevate youth voice.
- Consistent funds will ensure the agency is able to coordinate with youth to receive input on issues identified by the agency and provide full recommendations to improve programs.
- CPO will be better able develop messaging that is youth friendly and engaging.

## Impact if Not Granted:

- Without dedicated funds to ensure there is timely and consistent communication with youth, and the ability to carry out suggested changes, the agency will be delayed in doing so implementing youth-centered programs.

## Total Request for RI-03(C)

- \$40,000 Annually



**Needed  
support and  
specialized  
guidance**

**Autonomy**

**Consistent  
working  
relationships**

# Administrative Services for Independent Agencies



## RI- 04: Salary Increases and Position Classifications

### **TOTAL Request = \$88,560**

- Includes increases for 10 positions
- Increases range from 8% to 10% per position.
- Two reclassifications reflect additional job duties and realignment.
- Salary range adjustments intended to keep employees in comparable positions within the salary ranges set by the Judicial Department's Fiscal Year 2023 compensation plan.

# RI-04 Reclassification/Salary Adjustments

## Non-Classification Adjustment

Position	Classification	FY 23 Salary Range	Current Salary	Requested Salary
Child Protection Ombudsman	Not Applicable	Not Applicable	\$147,718 (Annual)	\$158,954 (Annual)



# RI-04 Reclassification/Salary Adjustments

## Reclassifications

Position	Classification	FY 23 Salary Range	Current Salary	Requested Salary
Deputy Ombudsman	Current: Probation Services Analyst IV (R43488)	Current: 95,532 – 113,808 – 132,096	\$113,580 (Annual)	\$124,938 (Annual)
	Requested: Deputy Director of Probation Services (R43131)	Requested: 125,148 – 147,336 – 169,512		
Director of Client Services	Current: Probation Services Analyst III (R43487)	Current: 82,788 – 98,664 – 114,540	\$91,356 (Annual)	\$100,492 (Annual)
	Requested: Probation Services Analyst IV (R43488)	Requested: 95,532 – 113,808 – 132,096		



# R-04 Reclassification/Salary Adjustments

## Salary Range Adjustments

Position	Classification	FY 23 Salary Range	Current Salary	Requested Salary
Director of Administrative Services	Executive Assistant to the Supreme Court Administrator (R41051)	75,828 – 90,360 – 104,904	\$81,204 (Annual)	\$87,700 (Annual)
Director of Legislative Affairs and Public Policy	Legislative Liaison (R47000)	87,324 – 104,064 – 120,816	\$86,052 (Annual)	\$90,255 (Annual)
Senior Client Services Analyst	Probation Services Analyst II (R43486)	70,368 – 83,856 – 97,344	\$76,128 (Annual)	\$82,218 (Annual)
Client Services Analyst	Probation Services Analyst I (R43485)	63,720 – 75,960 – 88,140	\$71,052 (Annual)	\$76,736 (Annual)



# RI-05 Restoration of CPO Operating Budget

## Justification:

- After the onset of COVID-19, the CPO – like other state agencies – was asked to trim \$30,000 from its budget to accommodate projected impacts. The CPO was able to absorb most of these cuts by reverting an unfilled FTE and funds intended to assist the CPO with its outreach and communication.
- CPO cut \$10,000 from its base operating budget.
- Staff and programs have increased but the budget has not been restored.

## Impact if Not Granted:

- CPO will be required to rely on vacancy savings and, if applicable, surplus to maintain the baseline functions of the agency.

## Total Request for RI-05

- \$10,000 Annually

# RI-06 Contract Investigator Services

## Justification:

- Additional support is necessary to conduct specialized investigations into concerns about youth residing at residential child care facilities and the Division of Youth Services.
- CPO receives dozens of cases concerning youth in these facilities each year.
- Often the agency is forced to rely on findings and investigations done by other agencies.
- Dedicated investigative support will allow the CPO to more thoroughly review these cases in a timely way.

## Impact if Not Granted:

- CPO will be unable to conduct full-scale independent investigations on cases impacting youth.

## Total Request for RI-06

- \$48,191 Annually



# QUESTIONS?



JUDICIAL DEPARTMENT – INDEPENDENT ETHICS COMMISSION  
FY 2023-24 JOINT BUDGET COMMITTEE HEARING AGENDA

Thursday, December 15, 2022

9:00 am – 2:30 pm

COMMON QUESTIONS FOR DISCUSSION AT DEPARTMENT HEARINGS

1. Please describe the implementation plan for new programs added to the Department from one-time stimulus funds (such as the CARES Act, ARPA, and one-time General Fund), as well as any challenges or delays to program implementation.

Not applicable. The Independent Ethics Commission (“IEC”) did not receive any stimulus funds.

2. Please identify how many rules you have promulgated in the past year (FY 2021-22). With respect to these rules, have you done any cost-benefit analyses pursuant to Section 24-4-103 (2.5), C.R.S., regulatory analyses pursuant to Section 24-4-103 (4.5), C.R.S., or any other similar analysis? Have you conducted a cost-benefit analysis of the Department’s rules as a whole? If so, please provide an overview of each analysis.

The IEC engaged in rulemaking in FY 2022 to update its procedural rules. In doing so, the IEC combined two distinct sets of rules—its Rules of Procedure and its Access to Records rules—into one set of updated Rules of Procedure. The result was one set of rules for all IEC operations. The rulemaking process required reordering, combining, separating, amending, and deleting various parts of multiple rules. As such, it is not possible to quantify the specific number of individual rules promulgated by the IEC in FY 2022. What can be quantified is the total number of old rules (10) and the total number of rules in the new adoption (22).

The IEC is authorized to adopt rules by the Colorado Constitution. Colo. Const. art. XXIX, § 5(1). The IEC is not subject to the Colorado administrative procedures act, including its rulemaking requirements and, as such, has not conducted a cost-benefit or regulatory analysis of the type contemplated in article 4 of title 24, C.R.S. *See Colo. Ethics Watch v. Independent Ethics Comm’n*, 369 P.3d 270, 274 (Colo. 2016).

3. How many temporary FTE has the Department been appropriated funding in each of the following fiscal years: FY 2019-20, FY 2020-21, FY 2021-22, and FY 2022-23? For how many of the temporary FTE was the appropriation made in the Long Bill? In other legislation? Please indicate the amount of funding that was appropriated. What is the department’s strategy related to ensuring the short term nature of these positions? Does the department intend to make the positions permanent in the future?



The IEC has had no temporary FTE appropriated in any of the above-listed fiscal years, neither in the Long Bill nor in any other legislation.

4. Please provide a description, calculation, and the assumptions for the fiscal impact of implementing the provisions of the Partnership Agreement, including but not limited to changes in annual leave accrual, holiday pay, and paid family and medical leave. If your department includes employees who are exempt from the Partnership Agreement, please indicate whether or not you intend to implement similar benefit changes as those required for covered employees. Please provide a breakdown of the fiscal impact of implementing the provisions of the Partnership Agreement for: a) employees who are subject to the Agreement, and b) employees who are exempt from the Agreement.

Not applicable. The IEC is not subject to the Partnership Agreement, based on the definitions set forth in § 24-50-1102, C.R.S.

## REQUESTS

5. Please describe and explain the R1 Website Upgrade request item. Please provide an update on the staff request approved in the last budget cycle.

The IEC requests approval for \$50,000 for the hiring of an independent contractor to facilitate the IEC's compliance with HB21-1110 ("the Act"). The Act requires the IEC, as a "public entity", to provide appropriate accessibility to the IEC's services—including its website—for individuals with a disability. Included among the requirements under the Act are the IEC's obligation to develop a written accessibility plan and comply with standards established by the Governor's Office of Information Technology by July 1, 2024. Because of limited staffing and because the Act's requirements are technical in nature and outside the expertise of the IEC and its staff, the IEC does not have the internal resources necessary to comply with the Act.

The \$50,000 request is a one-time request that will enable the IEC to preliminarily comply with the Act and to determine whether future additional allocations will be required, as more fully explained in the Decision Item Request. If approved, the IEC intends to contract with a vendor that specializes in the remediation contemplated by the Act; this will enable a fulsome evaluation of future needs regarding ongoing compliance. The budget request is based on a preliminary quote received from a vendor specializing in the required remediation.

The Act establishes remedies for any person suffering discrimination under the terms of the Act; plaintiffs may file suit against public entities such as the IEC and may seek remedies of \$3,500 per violation per plaintiff, in addition to attorney's fees. §§ 24-34-802(2)(a)(III), (3), 24-34-505.6(6)(b), C.R.S. Without adequate resources to comply with the Act, the IEC could face litigation and significant penalties.

As pertaining to the last budget cycle: the JBC approved an additional 0.5 FTE for the IEC, intended primarily to assist the IEC in its increasing volume of complaint investigations. The IEC announced the new position and received a limited number of applications. After the applicant interview and background check process, none of the applicants were deemed acceptable candidates.

As such, the IEC has re-announced the position, with a new closing date of Dec. 30. The IEC continues its plan to hire a candidate into this position and, as such, requests continued funding for same. If the applicant pool for a part-time position continues to be insufficient, the IEC may request funding for a full-time investigator position in order to find a qualified candidate.

## ADMIN SERVICES FOR INDEPENDENT AGENCIES

6. Please provide the Agency's perspective on creating an administrative services unit for independent agencies.

The IEC is not opposed to creating an administrative services unit (“ASU”) for independent agencies, provided that:

- (1) the same or an improved level of services can be maintained when compared to the services IEC currently receives from the State Court Administrator’s Office (“SCAO”);
- (2) there is adequate time to implement the change, including time to make mutually agreed amendments to the current MOU between the IEC and SCAO;
- (3) SCAO will continue to provide any services (under existing MOUs) that are not transferred to the ASU;
- (4) all independent agencies, including the IEC, have (a) an equal voice in the governance and operation of the ASU, and (b) equal access to the services provided by the ASU to the independent agencies;
- (5) any legislation creating an ASU for the independent agencies is clear that nothing in the creation or operation of the ASU (a) authorizes the ASU to interfere in the operations of the independent agencies, or (b) authorizes the independent agencies to interfere in the operations of the other independent agencies;
- (6) the ASU is adequately funded and resourced to provide the contemplated services, without using funding currently allocated to the independent agencies; and
- (7) Independent agencies continue to have access to all the resources now provided by SCAO, including but not limited to IT support, HR support, payroll processing, insurance and benefits support, worker’s compensation, compliance with the Americans with Disabilities Act, Family Medical Leave Act, other applicable laws, and contract procurement assistance.

JUDICIAL DEPARTMENT – OFFICE OF PUBLIC GUARDIANSHIP  
FY 2023-24 JOINT BUDGET COMMITTEE HEARING AGENDA

Thursday, December 15, 2022

Office of Public Guardianship

2:00 pm – 2:15 pm

ADMIN SERVICES FOR INDEPENDENT AGENCIES

1. Please provide the Agency's perspective on creating an administrative services unit for independent agencies. *The OPG is committed to efficiency of costs, maximizing the return of our work, and using our budget wisely. An administrative services unit would be beneficial for the OPG.*

COMMON QUESTIONS FOR DISCUSSION AT DEPARTMENT HEARINGS

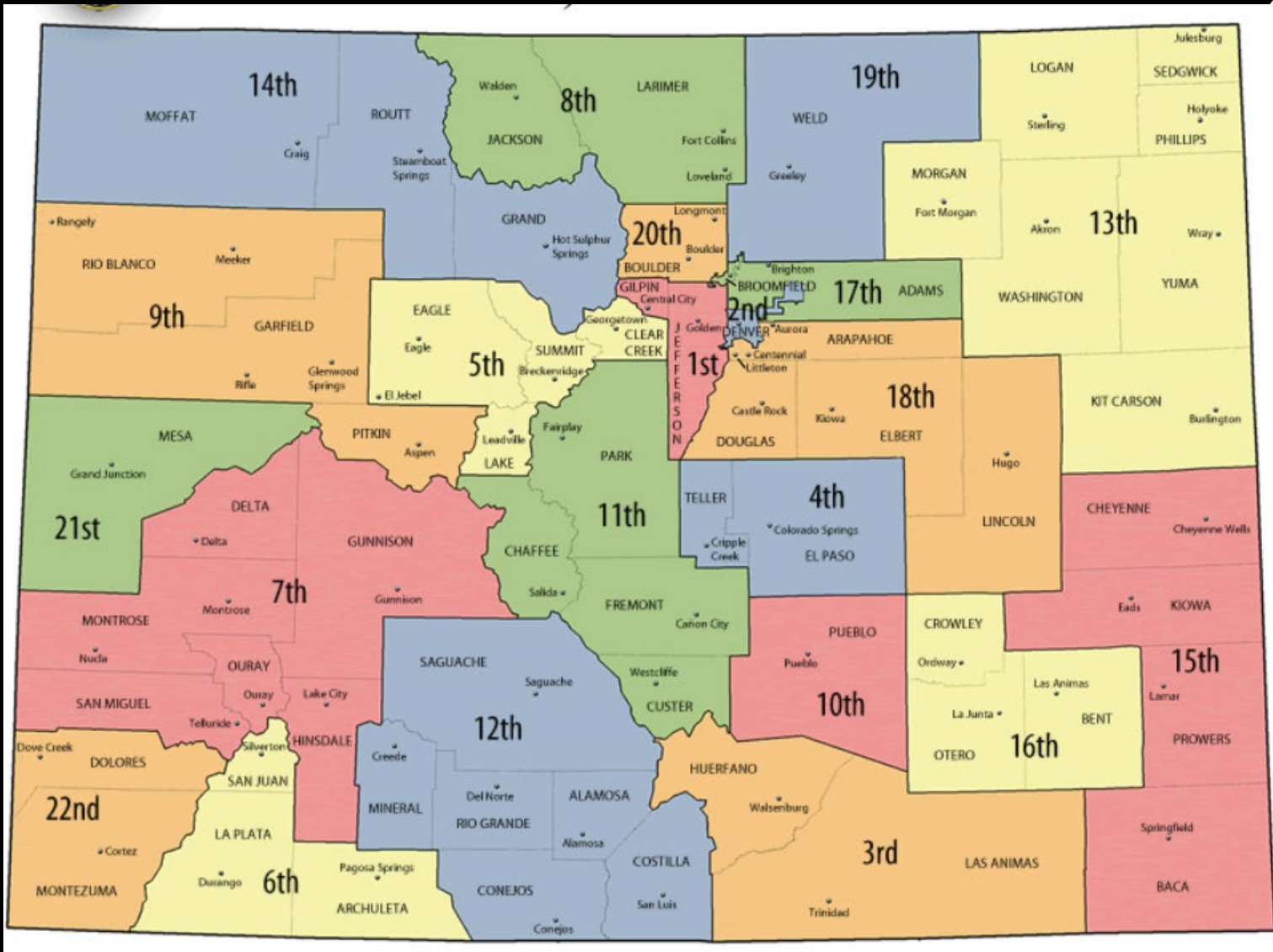
2. Please provide a description, calculation, and the assumptions for the fiscal impact of implementing the provisions of the Partnership Agreement, including but not limited to changes in annual leave accrual, holiday pay, and paid family and medical leave. If your department includes employees who are exempt from the Partnership Agreement, please indicate whether or not you intend to implement similar benefit changes as those required for covered employees. Please provide a breakdown of the fiscal impact of implementing the provisions of the Partnership Agreement for: a) employees who are subject to the Agreement, and b) employees who are exempt from the Agreement. *The OPG will examine these changes and will determine in cooperation with the Judicial Department as to what is implemented.*
3. Please describe the implementation plan for new programs added to the Department from one-time stimulus funds (such as the CARES Act, ARPA, and one-time General Fund), as well as any challenges or delays to program implementation. *The OPG received one-time General Funds in 2019 from Probate fees to fund the Department. The OPG has not received any other type of funds.*

4. Please identify how many rules you have promulgated in the past year (FY 2021-22). With respect to these rules, have you done any cost-benefit analyses pursuant to Section 24-4-103 (2.5), C.R.S., regulatory analyses pursuant to Section 24-4-103 (4.5), C.R.S., or any other similar analysis? Have you conducted a cost-benefit analysis of the Department's rules as a whole? If so, please provide an overview of each analysis. *Not applicable as the OPG did not promulgate any rules in the past year.*
  
5. How many temporary FTE has the Department been appropriated funding in each of the following fiscal years: FY 2019-20, FY 2020-21, FY 2021-22, and FY 2022-23? For how many of the temporary FTE was the appropriation made in the Long Bill? In other legislation? Please indicate the amount of funding that was appropriated. What is the department's strategy related to ensuring the short term nature of these positions? Does the department intend to make the positions permanent in the future? *Not applicable as the OPG was not appropriated temporary FTE in any of the stated fiscal years.*

Abstract geometric lines in black on a white background, forming various overlapping polygons and shapes.

# COLORADO OFFICE OF PUBLIC GUARDIANSHIP

JBC Hearing 12.15.2022



UNMET NEED

2,754 – 3,736 estimated number of individuals  
requiring public guardianship in Colorado

REFERRALS

288 total referrals to OPG

INITIAL COST  
SAVINGS DUE TO  
APPROPRIATE  
HOUSING

\$2,988,140

- 9 clients from CMHI Ft. Logan and Pueblo
- 15 from hospitals

OTHER COST  
SAVINGS

\$10,000 – pre-paid burial arrangements for  
10 clients

SNAPSHOT

EXPANSION  
DURING PILOT

Established a “Hold Status”

2 Denver County Guardian-Designees

EXPANSION  
DURING PILOT

2 Office of Behavioral Health/Momentum  
Guardian-Designees

EXPANSION  
DURING PILOT

7<sup>th</sup> Judicial District Guardian-Designee

16<sup>th</sup> Judicial District Guardian-Designee

INTANGIBLE  
COST SAVINGS

“It impressed me in many ways. They placed me in a home. They helped me get established in this place I'm living at. They helped me get established with shoes and clothes. I'm waiting for a winter jacket for my birthday, my own winter jacket. I have my own pair of shoes on. I got my own pants, my own shirts. Not at a grab bag. It's really from Amazon and they're really mine. I don't have to dig in grab bags or get second best or anything. I got my own clothes. Erin helped me with it. I'm impressed and thank her for it. She helped me a bunch.”—Sam—Client

SNAPSHOT



# JUDICIAL DEPARTMENT –COMMISSION ON JUDICIAL DISCIPLINE FY 2023-24 JOINT BUDGET COMMITTEE HEARING AGENDA

**Thursday, December 15, 2022**  
**9:00 am – 2:30 pm**

## COMMON QUESTIONS FOR DISCUSSION AT DEPARTMENT HEARINGS

Please describe the implementation plan for new programs added to the Department from one-time stimulus funds (such as the CARES Act, ARPA, and one-time General Fund), as well as any challenges or delays to program implementation.

As part of SB22-201, the Commission and the Office of Judicial Discipline were budgeted a limited amount of funds through the General Fund for Information Technology set up, furniture purchases, etc. The Commission is using these funds as intended and to purchase hardware to support the implementation of an electronic case management system. The Commission also had to unexpectedly arrange for on-going IT support through an outside vendor (rather than through the Department as contemplated through § 13-5.3-103(3), C.R.S.). Challenges to this program implementation have included identifying vendors and verifying the terms of contracts. The Commission has found cost savings in implementing this electronic case management system by working directly with the software provider. In addition, through a referral by Legislative Staff, the Commission is implementing a new website with significant cost savings through the State Internet Portal Authority (SIPA).

Please identify how many rules you have promulgated in the past year (FY 2021-22). With respect to these rules, have you done any cost-benefit analyses pursuant to Section 24-4-103 (2.5), C.R.S., regulatory analyses pursuant to Section 24-4-103 (4.5), C.R.S., or any other similar analysis? Have you conducted a cost-benefit analysis of the Department's rules as a whole? If so, please provide an overview of each analysis.

The authority to promulgate rules is a current issue in the discussion of pending legislation. Under Colo. Const. Art. VI, § 23(3)(h): "The supreme court shall by rule provide for procedures before the commission on judicial discipline, the masters, and the supreme court." Colo. RJD 11 further provides authority for the Commission to petition the Colorado Supreme Court to amend the Rules of Judicial Discipline "as may be necessary to implement the Commission's Constitutional mandate." Under Colo. RJD 4(f), "The Commission may adopt administrative policies, procedural rules, or forms for its internal operation or proceedings that do not conflict with the provisions of these Rules." Enacted through SB 22-201, § 13-5.3-107, C.R.S. now requires the supreme court to provide the Commission with reasonable notice of proposed rule changes, to negotiate differences over these proposed changes in good faith, and to adopt any changed rules through a public notice and comment process. It is in this context that the Commission is requesting funding to consult with nationally recognized organizations to propose overall revisions to the Colorado Rules of Judicial Discipline. As part of the Colorado Supreme Court's pending proposal to add a rule governing the court's own recusal, the Commission has responded with its own proposal. Other than presenting this proposal and raising objections, however, the Commission has not promulgated any rules in the past year. Because of the structure currently provided through Colo. Const. Art. VI, § 23(3)(h), the Committee's questions above are generally inapplicable to the Commission.

How many temporary FTE has the Department been appropriated funding in each of the following fiscal years: FY 2019-20, FY 2020-21, FY 2021-22, and FY 2022-23? For how many of the temporary FTE was the appropriation made in the Long Bill? In other legislation? Please indicate the amount of funding that was appropriated. What is the department's strategy related to ensuring the short term nature of these positions? Does the department intend to make the positions permanent in the future?

The Commission and Office first received legislative funding in FY 2022-23. As part of that budget, 4.0 FTE were approved. All of these FTE are permanent positions created in conjunction with SB 22-201 and with 100% of the funding being appropriated.

Please provide a description, calculation, and the assumptions for the fiscal impact of implementing the provisions of the Partnership Agreement, including but not limited to changes in annual leave accrual, holiday pay, and paid family and medical leave. If your department includes employees who are exempt from the Partnership Agreement, please indicate whether or not you intend to implement similar benefit changes as those required for covered employees. Please provide a breakdown of the fiscal impact of implementing the provisions of the Partnership Agreement for: a) employees who are subject to the Agreement, and b) employees who are exempt from the Agreement.

The Commission understands that these questions are generally inapplicable to the Judicial Department and, by extension, to the Commission.

## REQUESTS

*[Staff]* Please describe and explain the Agency's request items.

When the Office of Judicial Discipline was created earlier in 2022, the expectation was that it would have the same resources available to it as previously provided to the Commission through the Colorado Supreme Court's allocation of attorney registration fee funding and other support provided through the Colorado Supreme Court's Office of Attorney Regulation Counsel. The Commission's funding request for FY 2021-23 was based upon assumptions that the salary levels for its special counsel and office manager positions were equivalent to similar positions and the level of representation previously provided through the Office of Attorney Regulation Counsel. After receiving additional information, the Commission now recognizes that salary adjustments are necessary to reflect the gravity and nature of the work involved and to both recruit and retain qualified staff. The Commission's budget request reflects setting the salary for its special counsel as equivalent to that of a county court judge, which is also equivalent to the salaries paid to the Office of Attorney Regulation Counsel's senior staff attorneys. The adjustment requested for the Commission's office manager position makes it equivalent to the salary allocated for the Commission's investigator. Ultimately, the Commission is merely requesting the same resources that were previously provided to it through direct funding from the Colorado Supreme Court and resources shared by the Office of Attorney Regulation Counsel.

In addition to its core request for salary adjustments, the Commission has requested a \$25,000 appropriation to allow it to review and propose overall revisions to the Colorado Rules of Judicial Discipline, as recommended through consultation with a nationally recognized organization. Finally, the Commission has requested \$25,000 to continue its transition to independent IT services and infrastructure.

## ADMIN SERVICES FOR INDEPENDENT AGENCIES

*[Staff]* Please provide the Agency's perspective on creating an administrative services unit for independent agencies. Please provide additional context related to the Agency's need for administrative services support after June 30, 2023.

The Commission is supportive of the proposal for creating an independent administrative services unit to support the Commission as well as other independent agencies affiliated with the Judicial Department. Because of the Commission's critical role as a regulator of judicial conduct, independence from the judges and justices subject to its oversight is essential for the Commission to perform its Constitutional mandate.

The incomplete nature of the Commission's current independence and autonomy is evident through the yet to be fulfilled expectations of SB 22-201. § 13-5.3-103(3), C.R.S. recognizes that the Department and the Office of Attorney Regulation Counsel have concurrent obligations to provide the Commission with administrative support equivalent to that provided to the Colorado judicial performance commissions through June 30, 2023. Although a draft memorandum of understanding has been circulated, the Commission does not have a current agreement defining the support provided to it. Similarly, even though § 13-5.3-103(3), C.R.S. requires that the Judicial Department house the Commission in the Ralph L. Carr Judicial Center indefinitely, the Department has not yet presented the Commission with a lease or other agreement ensuring the stability of its current office location and access to other facilities. The Colorado Supreme Court has further announced a rule change to Colorado Rule of Civil Procedure 227 (effective December 1, 2022) that removes the Commission as a beneficiary of attorney registration fees (either directly or through assistance provided through the Office of Attorney Regulation Counsel).

Within this context, the Commission expects to submit a budget amendment requesting the addition of 4 FTE (an Accountant II, a HR Analyst II, an IT Support Tech I, and a Payroll Analyst). The cost of the budget amendment is estimated to be \$339,073. The Commission recognizes the absurdity of having to create an administrative staff that would be the same size as the Office of Judicial Discipline, itself. The creation of the proposed independent administrative services unit would address the same needs and allow support for other similarly situated agencies, including a prospective judicial discipline / human resources ombudsman office that is independent from the Judicial Department (as was proposed before the Interim Committee on Judicial Discipline).

Regardless of whether the Commission's administrative support occurs through a newly created administrative services unit or the funding of additional FTEs within the Commission itself, there is a need for a legislative provision requiring continuing administrative support through the Department until the unit or positions can be filled and operational.