

#### Annual Report to the Joint Judiciary Committee

#### Pursuantto

HB 13-1299 (SMART Act)
HB 14-1032 (Juvenile Defense)
SB19-223 (Competency Bill)

Darren Cantor – Deputy Director Stacie Nelson Colling, Youth Defense Coordinator Erin Campbell, Training & Evaluation Coordinator

- The OADC was established pursuant to §21-2-101, C.R.S. (SB96-205)
- It began operating January 1, 1997. The OADC is responsible for providing legal representation in cases involving conflict-of-interest for the State Public Defender's office
- At that time, it had 2.3 FTE and an annual budget of

\$4,065,101





#### The Team (38 FTE)

STACIE **NELSON** COLLING Youth Defense Coordinator

Social Worker Coordinator





CLAIRE SCHMIDT POLINI Social Worker Outreach Coordinator



FSW Greater Colorado Fellow



FSW Inclusivity Fellow



**BONNIE STEWART** Appeals and Post-Conviction Coordinator



SYDNEY ORWIG Executive Staff Assistant



LINDY FROLICH **Executive Director** 

NUNEZ Chief Operations Officer



JUANISE CORNELL People & EDI Advocate



WENDY BARKEY Senior Office Manager



Appointment Specialist







ALISA MARTINSON Billing & Accounting Technician





**ERIN CAMPBELL** 

**BRITTANY** VALLEJO-MOORE Financial Analyst



Training and Evaluation Coordinator



DARREN CANTOR Deputy Director





JULIO JOURDANE

Coordinator

Municipal Court Innovations

MARIA CONSUELOS Municipal

Administrative

Support Specialist

JONATHAN ROSEN Legal Resources/Technology Coordinator





**MARLEY FRAZIER** Inclusivity Fellowship



Inclusivity Fellowship





RICHARD PEREZ



MESA JETTON Greater Colorado Fellowship



ALEJANDRO ALVARADO Greater Colorado Fellowship Page 4 of 58









#### **Postconviction Unit**



LINDY FROLICH Executive Director



LYNN NOESNER
Postconviction Unit Director



#### **HIRING PENDING/IN PROCESS**

- Two Investigators
- One Forensic Social Worker
- One Paralegal









**Cathlin Sanders**Postconviction Unit Attorney





Elyse Maranjian
Postconviction Unit Attorney





Denver, Colorado
Started August 2023



Northeastern Region, Colorado

Started October 2023







Glenwood Springs, Colorado Roaring Fork Valley

Starting October 2024



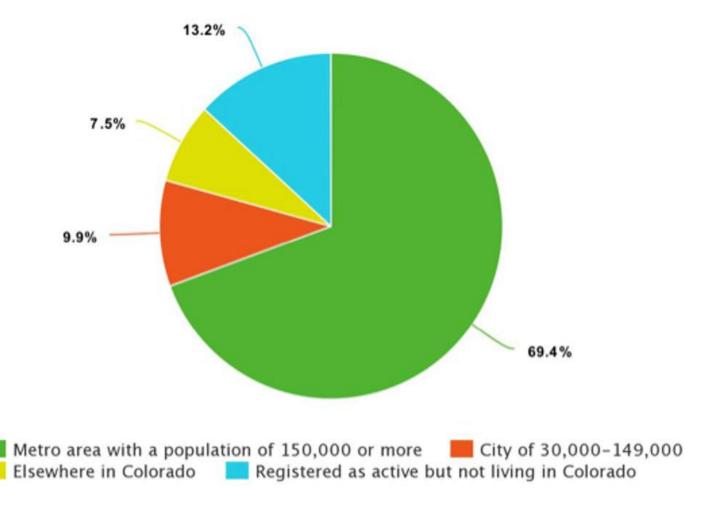


Postconviction and Trial Work
Potential Start Date 10.2024



#### Durango/Cortez, Colorado OR Mesa County, Colorado

Potential Start Date 10.2024



#### Colorado's Legal Deserts- areas with fewer than one attorney for every 1,000 people.

Less than 1 % of CO attorneys have addresses in rural legal deserts

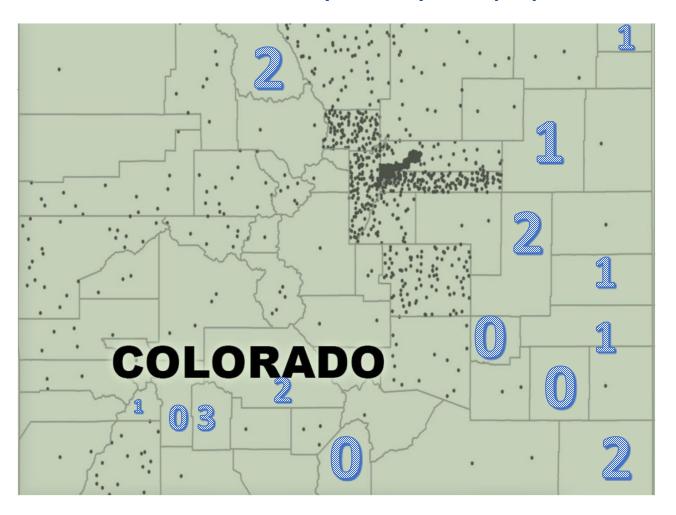
60% of Colorado's counties have less than 25 attorneys

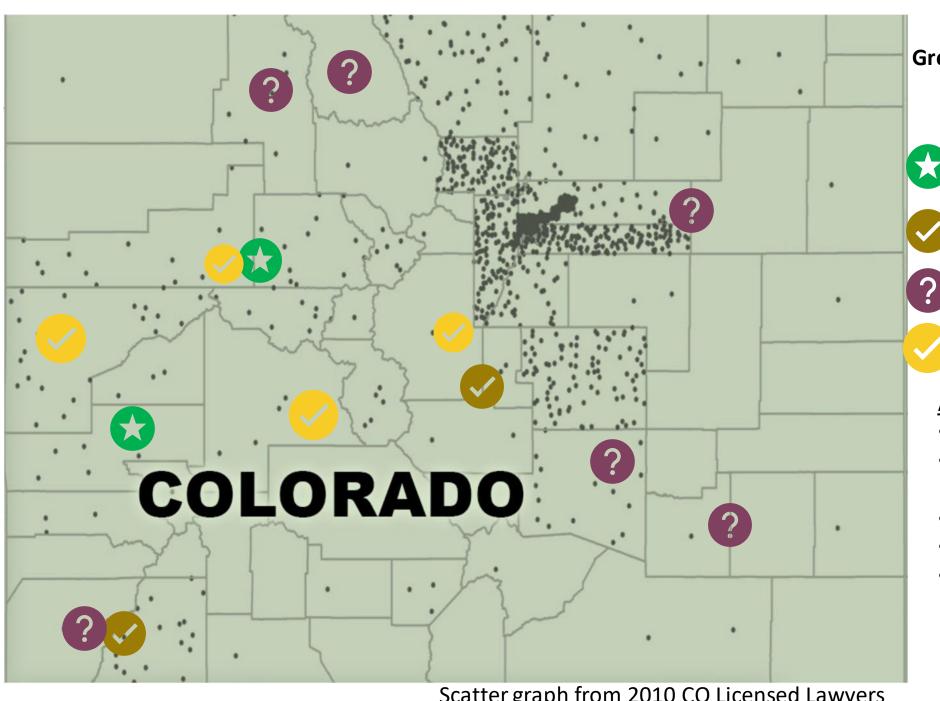
261,000 Colorado residents live in legal deserts

Counties w/o lawyers:
Bent, Costilla, Crowley, and
Hinsdale

Counties w/ 1: Washington, Sedgwick, Kiowa, Cheyanne, San Juan

Counties w/ 2-3: Lincoln, Saguache, Baca, Jackson, Minera





Scatter graph from 2010 CO Licensed Lawyers

#### Fall 2023:

**Greater Colorado Applicants and Recruitment Success by Geographic locations:** 



- Future Fellow w/ added FTE
- Potential OADC Contractor
- **Applicants**

#### **Applicant Statistics**

- 20 Total Applicants
- 4 wanting to return to their hometown
- 14+ Law Schools
- 14 CO Regions
- All areas of criminal practice, including youth defense, postconviction, appellate

#### **FELLOWSHIP HIRING TIMELINE**

Process for recruitment, and hiring entry-level fellowship positions in law school





# FY2024 – 2025 Decision Items (DIs) Summary

- DI 1 Non-Attorney Team Member Hourly Rate Increase \$ 549,708
- DI 2 Contractor Process Coordinator (1 FTE) \$ 141,986
- DI 3 Operating & Training Increases \$ 162,000
- DI 4 Compensation Plan Placeholder \$ 728,850

- **DI 5** Fellowships Salary Range Alignments \$ 0
- **DI 6 Fellows (2 FTE) \$ 0**

## FY24-2025 – DI #2: Contractor Process Coordinator (1 FTE) \$ 141,986

#### The Team (38 FTE)

NELSON COLLING Youth Defense Coordinator

**BONNIE STEWART** Appeals and Post-Conviction Coordinator



SYDNEY ORWIG Executive Staff Assistant



NUNEZ Chief Operations Officer



JUANISE CORNELL People & EDI Advocate



**WENDY BARKEY** Senior Office Manager



Appointment Specialist





CLAIRE SCHMIDT POLINI Social Worker Outreach Coordinator



**BRITTANY** VALLEJO-MOORE Financial Analyst



LINDY FROLICH **Executive Director** 



SCOTT MARKOWITZ IT Coordinator



ALISA MARTINSON Billing & Accounting Technician



DARREN CANTOR



Deputy Director



JONATHAN ROSEN Legal Resources/Technology Coordinator



KIM WALKER

Billing Administrator

KRISTIN LADD Attorney Development Coordinator



**MARLEY FRAZIER** Inclusivity Fellowship



Inclusivity Fellowship



ALEJANDRO ALVARADO Greater Colorado Fellowship Page 17 of 58



FSW Greater Colorado Fellow



FSW Inclusivity Fellow



LORI COWAN Technology & Training Specialist



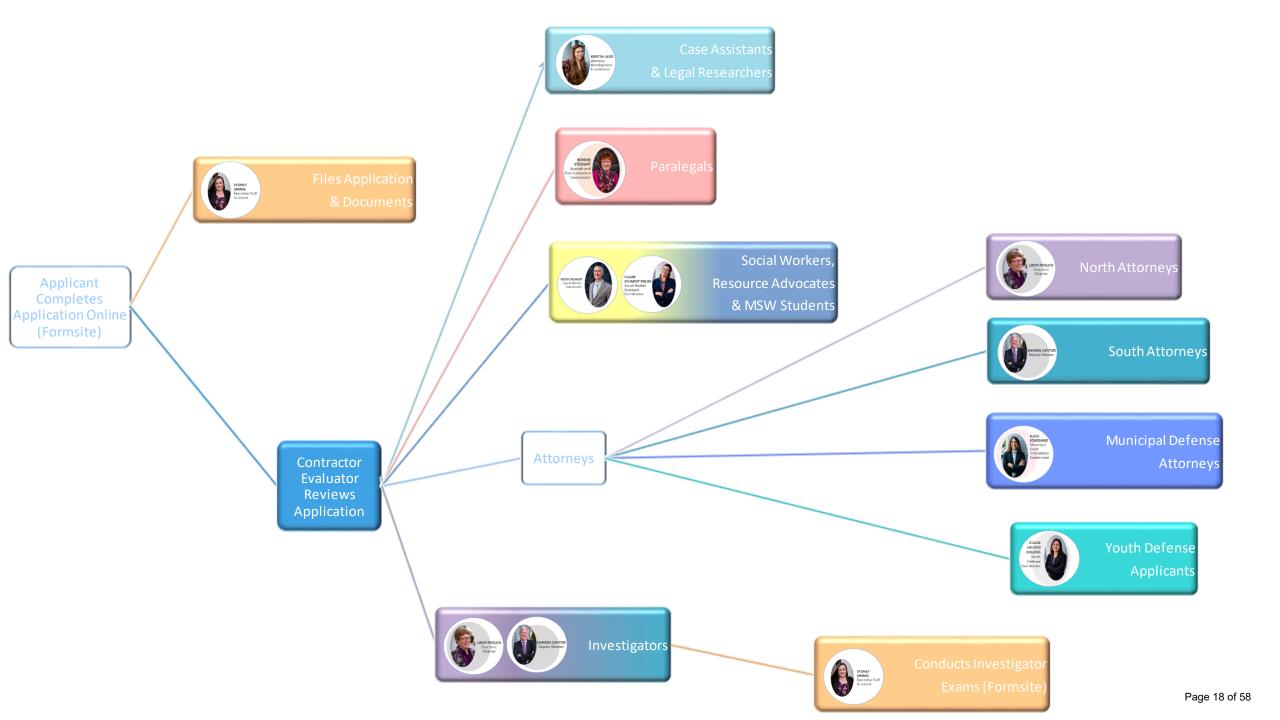
In Progress Holistic Defense Coordinator

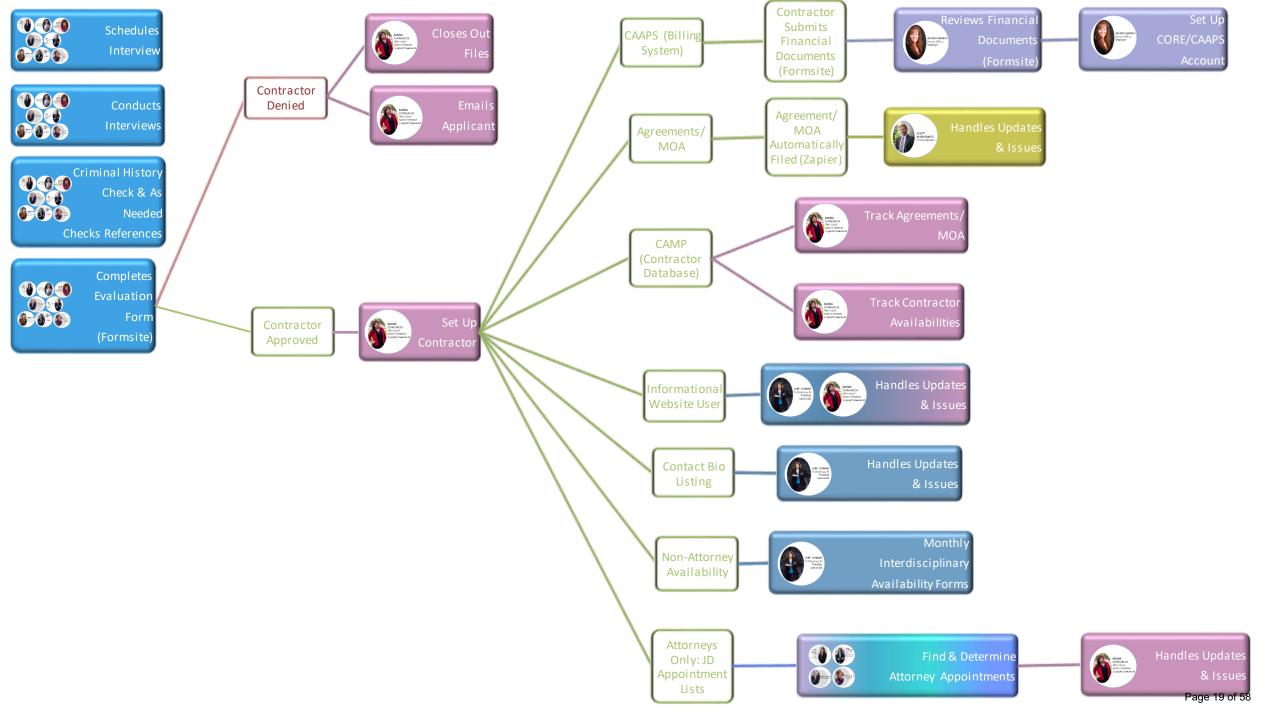


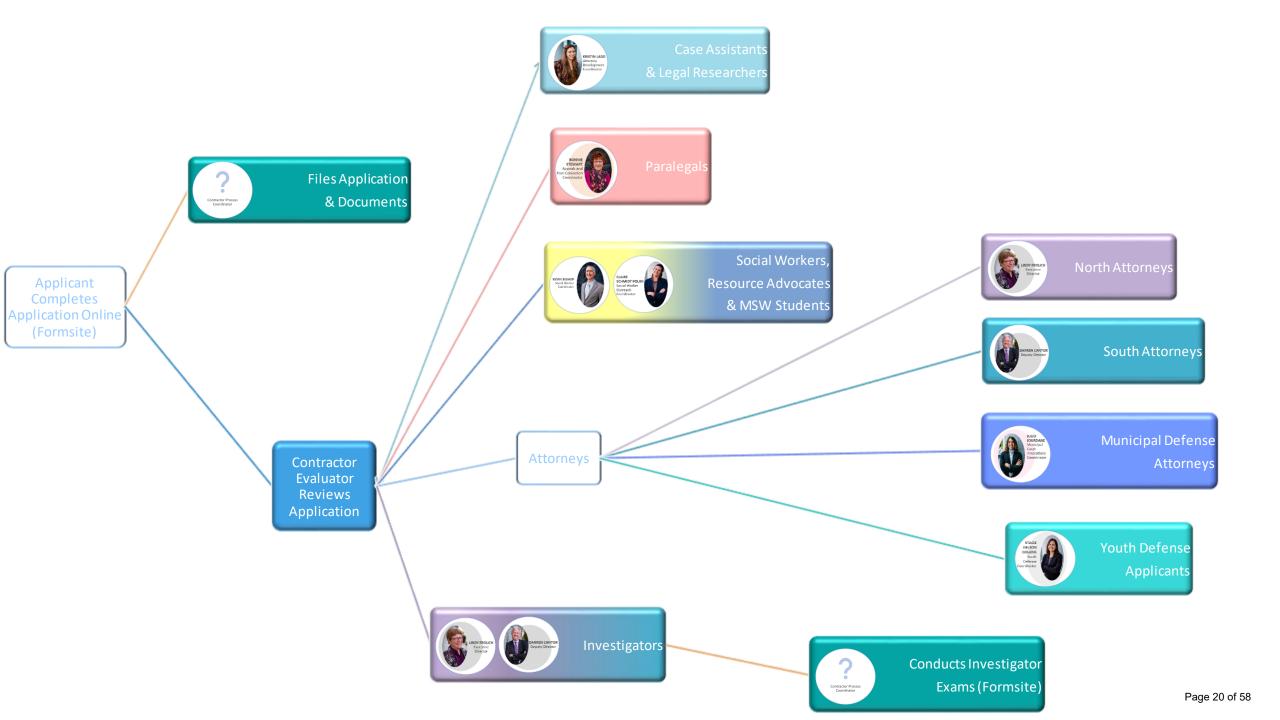
JULIO JOURDANE Municipal Court Innovations Coordinator

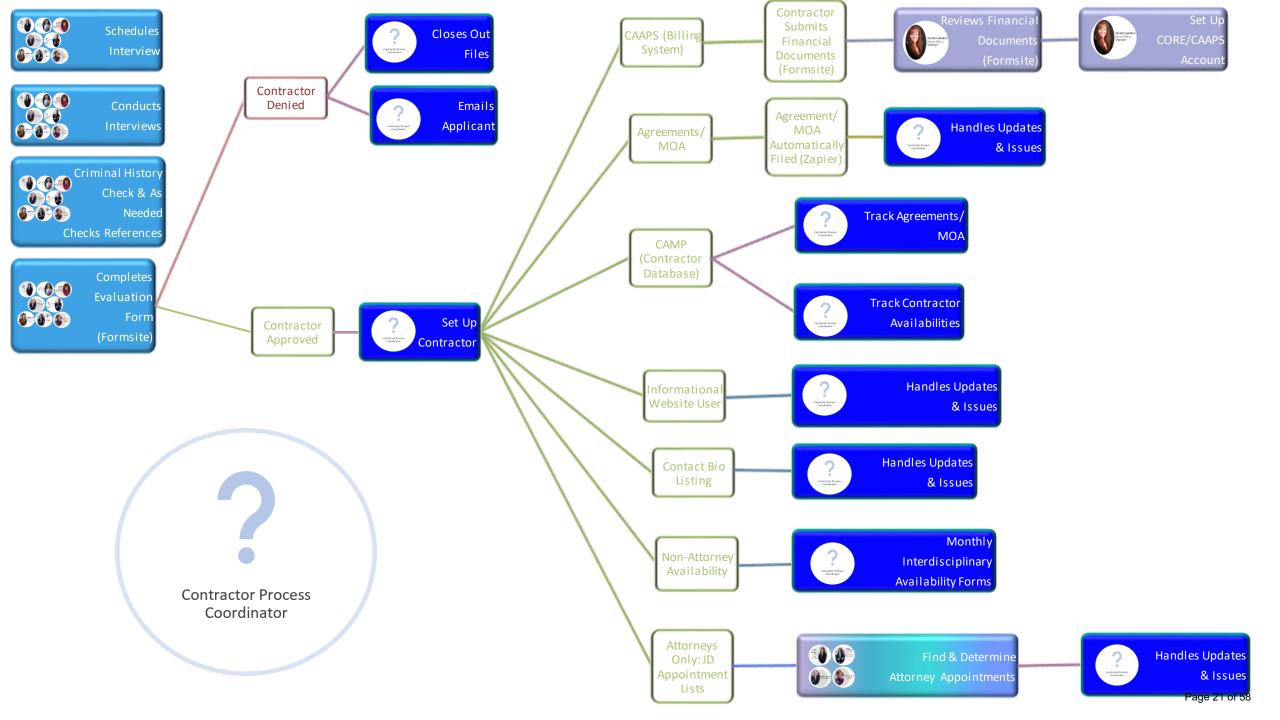












Filing Automation

Zapier

Contractor Application & Evaluation Form





Integrated Interview Scheduling

Calendly & Formsite



Talent LMS & Loom

Create contractor onboarding & billing tutorial videos









Contractor
Onboarding
Tutorial Videos

OneDrive & Zapier

Update Contractor
Contact Information &
notify court staff.









Appointment Lists
Update &
Notification
Automation

CONTINUE TO IMPROVE PROCESS

#### OTHER CONTRACTOR-RELATED PROCESSES

Goal to further advocate
& support OADC
contractors that
represent indigent
clients.

#### **Court Mock Trials Coordination**

Streamline communication methods & process to request a mock trial, find contractors for trial, & schedule trial through the use of Formsite & Zapier.



## Yearly Contractor Renewal Coordination

Organize, track & continue to streamline contractor renewal process through use of Formsite,

SharePoint & Zapier.







COLLING





## Streamline Attorney Appointments Process

Collaborate with team to create an assignment process for COCCA/complex cases, 48-hour bond hearings, and attorney appointments in areas that have limited availability.





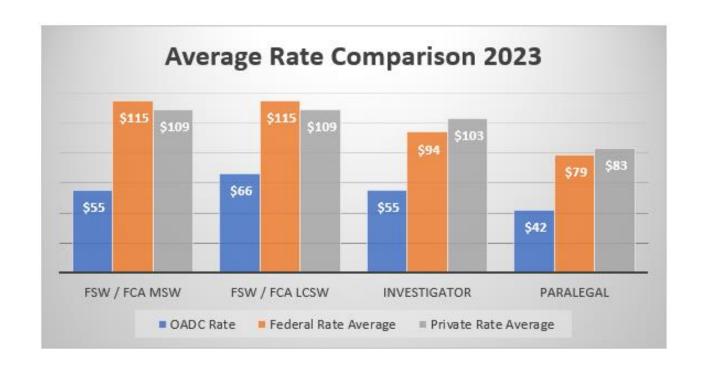








# FY24-2025 - DI #1: Non-Attorney Team Member Hourly Rate Increase \$ 549,708



### **SMART Act (HB 13-1299)**

Agency Objectives and Performance Measures

## Performance Measure A:

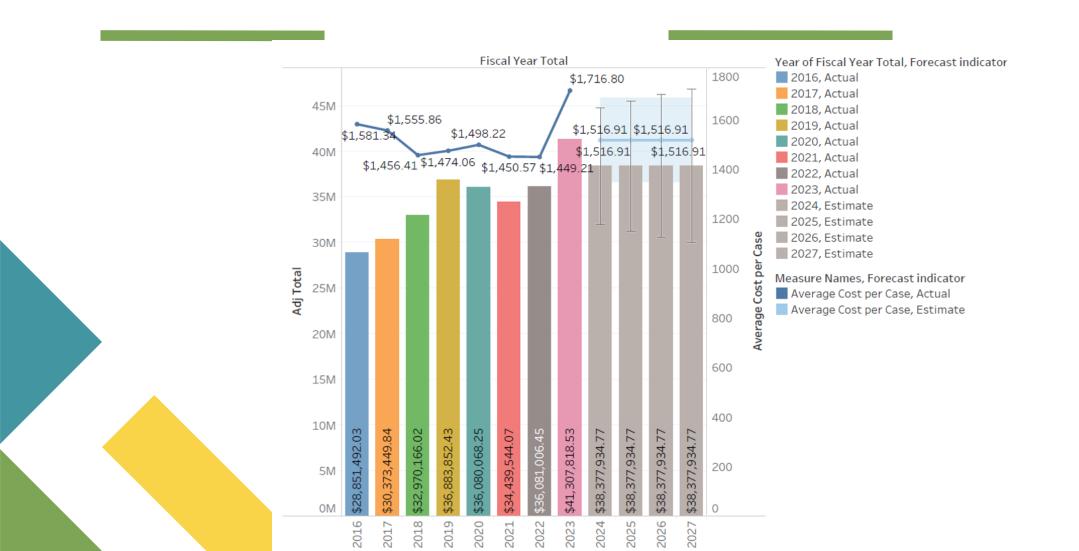
Contain Case Costs

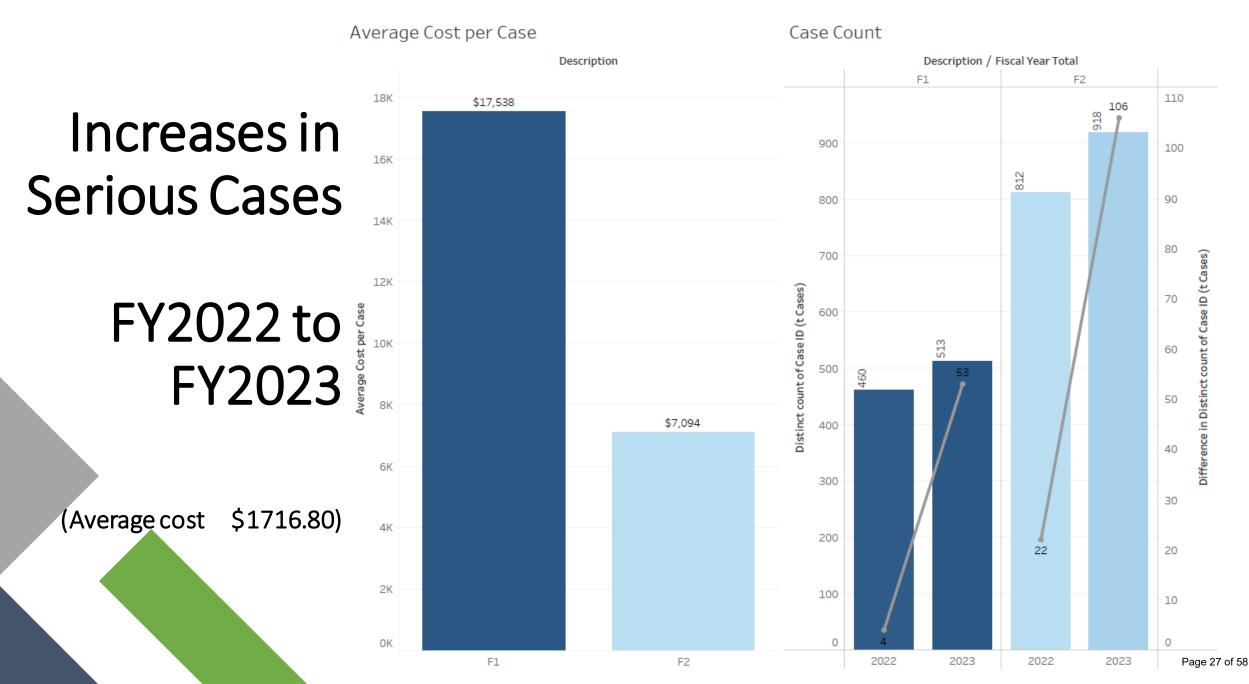
#### Performance Measure B:

Providing Multidisciplinary Legal Teams for OADC clients

For historical and projected data please see Appendix A: Agency Objectives and Performance Measures.

## Performance Measure A: Contain Case Costs





# Performance Measure B: Providing Multidisciplinary Legal Teams



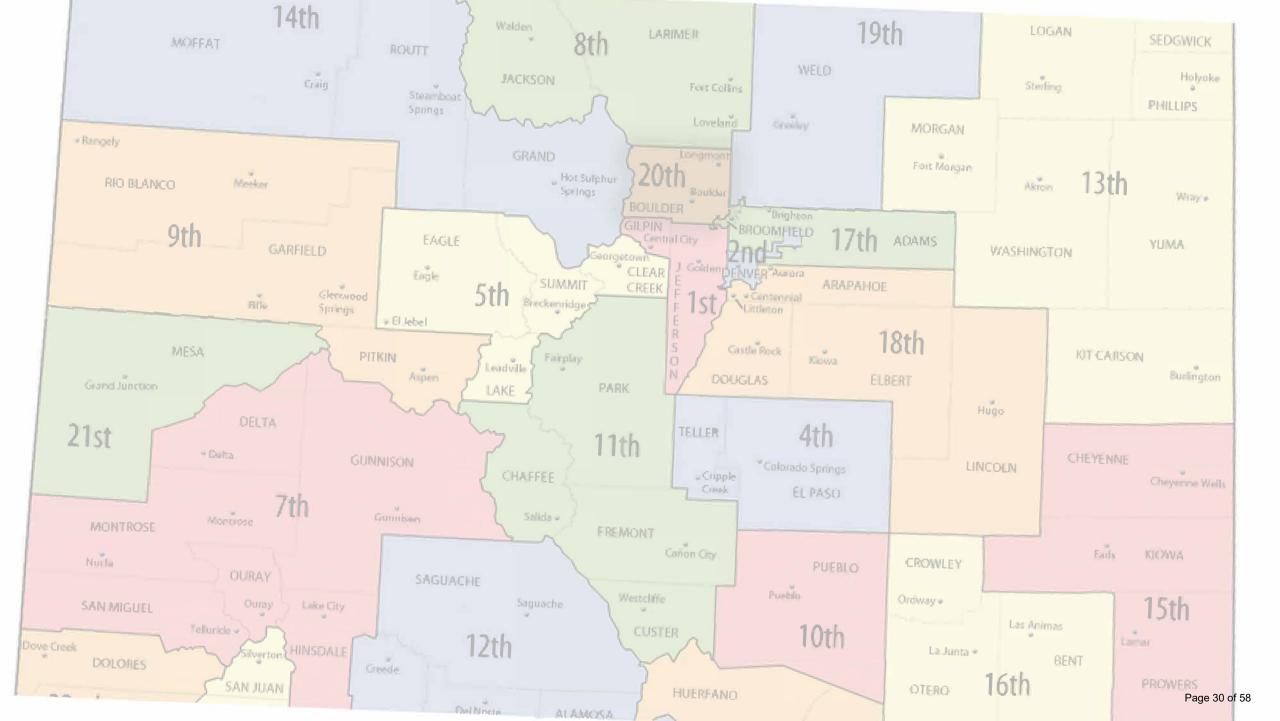


## Thank you

Questions?

**Darren Cantor, Deputy Director** 

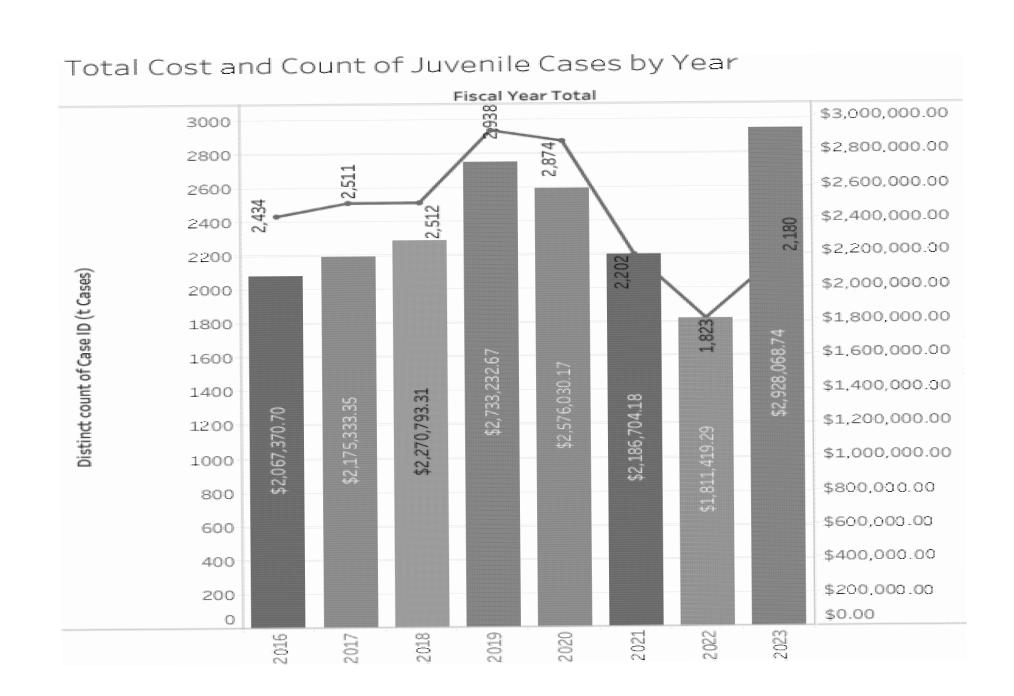
darren@coloradoadc.com

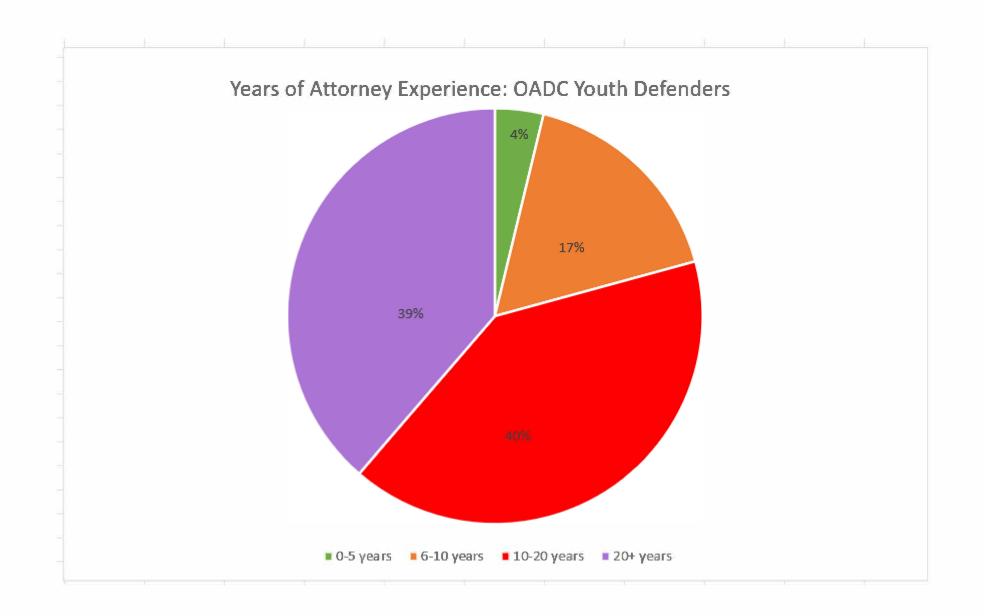


## Stacie Nelson Colling Youth Defense Coordinator

#### HB 14-1032 (Juvenile Defense)

- §21-2-104 C.R.S. Duties of alternate defense counsel and contract attorneys.
- (3) Pursuant to <u>section 2-7-203, C.R.S</u>., the office of alternate defense counsel shall report annually to the judiciary committees of the house of representatives and senate, or to any successor committees, information concerning:
- (a) The number of juvenile delinquency cases for which counsel from the office is appointed;
- (b) The number of juvenile cases that involve a conflict of interest;
- (c) The process of selecting, training, and supporting attorneys who represent children in juvenile delinquency court;
- (d) The average length of time attorneys are assigned to juvenile court; and
- (e) The outcome of efforts to reduce juvenile court rotations and increase opportunities for promotional advancement in salaries for attorneys in juvenile court.





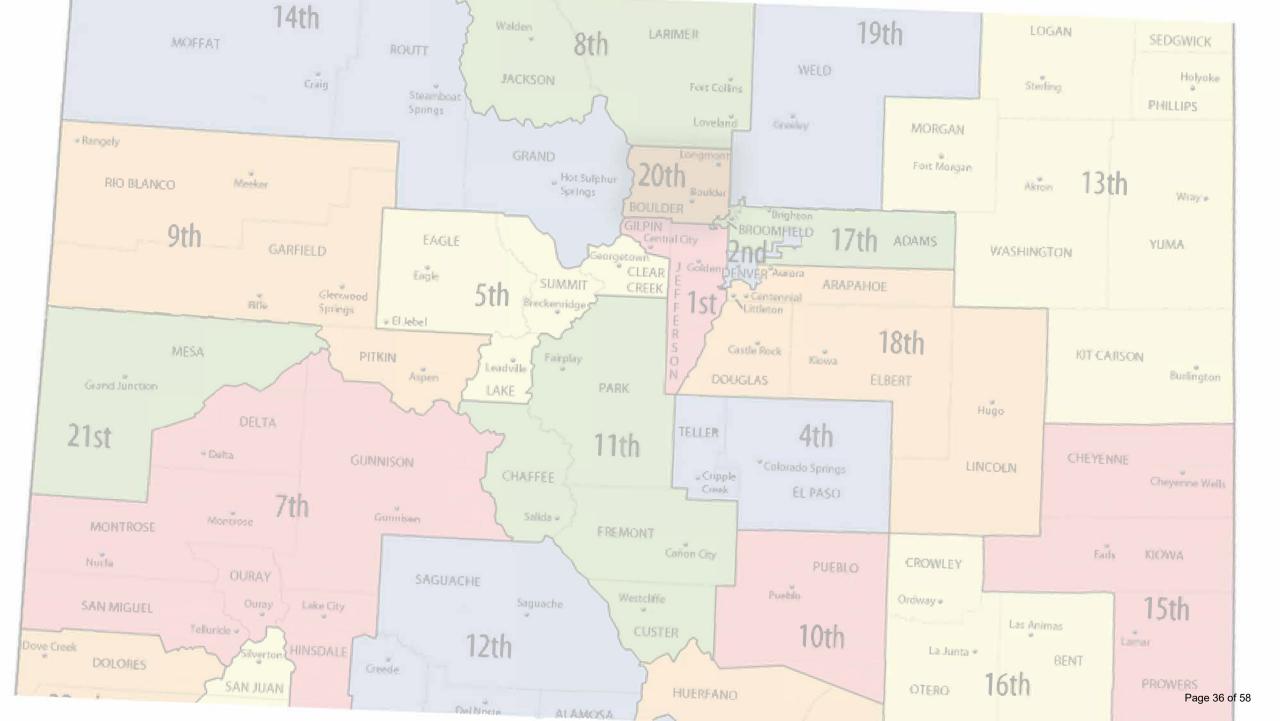
## **QUESTIONS?**

## **Stacie Nelson Colling**

**Youth Defense Coordinator** 

stacie@coloradoadc.com | (720) 994-2853





# Erin Campbell Evaluation & Training Coordinator

# SB 19-223 (Competency Bill)

- §21-2-104 C.R.S. Duties of alternate defense counsel and contract attorneys.
- (3) Pursuant to <u>section 2-7-203, C.R.S</u>., "the office of alternate defense counsel shall report annually to the judiciary committees of the house of representatives and senate, or to any successor committees, information concerning:
- (f) The process of training employees and contractors concerning determinations of competency to proceed for juveniles and adults, competency evaluation reports, services to restore competency, and certification proceedings governed by Article 65 of Title 27.

### Fall/Winter 2019 Competency Trainings

- 1. Understanding the Complexities of Competency Cases and the Juvenile Perspective (4 CLEs)
- 2. Changes to Competency Services in CO & Updates in the Law (2 CLEs)

- Statutory changes and law updates
- Adults vs. Juveniles
- Competency and restoration services
- Defense teams working together holistic approach

# **Spring, 2020**

### **Statewide Comprehensive Competency Trainings**

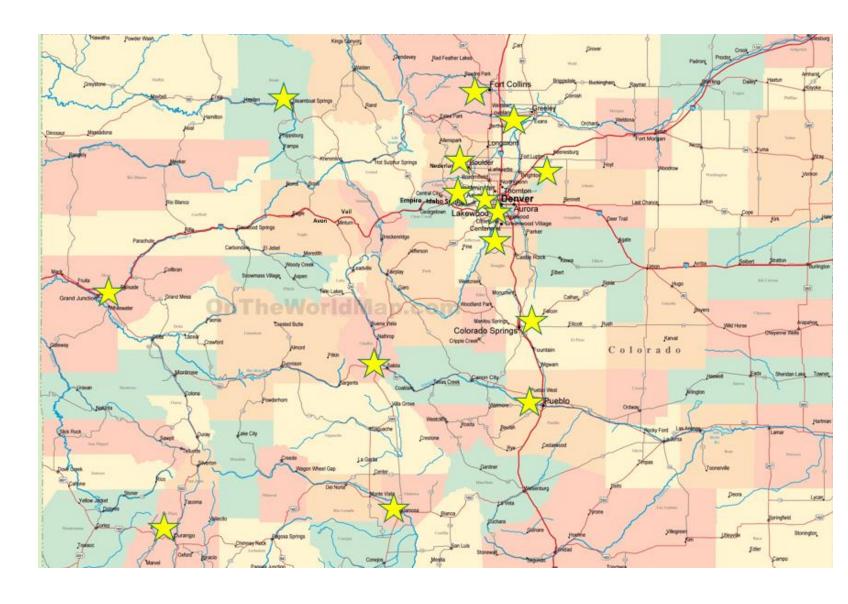
Co-sponsored with the CO Public Defender's Office

- In-person/Webinar/Recording/Home Study CLE
- Each training was 4 hours of instruction time (5 CLE credits each) and widely attended

### **Road Show of Trainings**

# **Comprehensive Competency Trainings**

15 Stops



# Advanced Level Competency Trainings

# Two "Advanced Series" Competency Trainings

(determined by feedback from Competency Road Shows)

- The Civil Mental Health System for Criminal Defense Teams, 2 CLEs
- Navigating Ethical Issues When Representing Clients with Mental Illness, 2 CLEs

# Goals of these training

- educate on changes of competency statute and services
- practical, relevant, client-centered, promote holistic defense
- accessible to all contractors
- access to resources

# Feedback from evaluations

"Great presentation of a very technical and complicated area of the law by an extremely knowledgeable presenter! A+"

"Very informative, engaging presentation – high impact, very beneficial to my practice."

"This was one of the most interesting and helpful CLEs that I have ever been to."



### **UPDATES...**

- Using these trainings as onboarding resource for new contractors
- Information still relevant and will be kept in the training portal indefinitely
- Notify contractors about these trainings in our quarterly newsletter
- One-time funding and competency laws have not changed

# **QUESTIONS?**

# **Erin Campbell**

**Evaluation and Training Coordinator** 

erin@coloradoadc.com | (720) 994-2843



# **CONTACTS**Office of the Alternate Defense Counsel

Lindy Frolich – Director lindy@coloradoadc.com | (720) 994-2845

**Darren Cantor** – Deputy Director darren@coloradoadc.com | (720) 994-2855

**Stacie Nelson Colling** – Youth Defense Coordinator <a href="mailto:stacie@coloradoadc.com">stacie@coloradoadc.com</a> | (720) 994-2853

**Erin Campbell** – Evaluation and Training Coordinator <a href="mailto:erin@coloradoadc.com">erin@coloradoadc.com</a> | (720) 994-2843

# Alternate Defense Ounsel

### **Annual Report to the Joint Judiciary Committee**

Pursuant to
HB 13-1299 (SMART Act)
HB 14-1032 (Juvenile Defense)
SB19-223 (Competency Bill)

January 12, 2024

Darren Cantor, Deputy Director Stacie Nelson Colling, Youth Defense Coordinator Erin Campbell, Evaluation and Training Coordinator

### The Office of the Alternate Defense Counsel

### **Background**

The United States and Colorado Constitutions provide every accused person with the right to legal representation by counsel in criminal prosecutions. <u>U.S. Const., amend. VI</u>; <u>Colo. Const., art. II,</u> <u>§16</u>. This constitutional right means that counsel will be provided at state expense for indigent persons in all cases in which incarceration is a possible penalty.

The Office of the Alternate Defense Counsel (OADC) was established pursuant to <u>C.R.S. § 21-2-101</u>, <u>et seq.</u> as an independent governmental Agency of the State of Colorado Judicial Branch. The OADC is funded to provide legal representation for indigent persons in criminal and juvenile delinquency cases in which the Office of the State Public Defender (OSPD) has an ethical conflict of interest.

### **Statutory Mandate/Directive**

The Office of the Alternate Defense Counsel is mandated by statute to "provide to indigent persons accused of crimes, *legal services that are commensurate with those available to non-indigents,* and conduct the office in accordance with the Colorado Rules of Professional Conduct and with the American Bar Association Standards relating to the administration of criminal justice, the defense function." C.R.S. § 21-2-101(1) (emphasis added).

### **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. OADC advocates for every client's inherent worth and dignity by centering the client's lived 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. Statistical data and experiences support that 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.

The total FY 2024-25 budget request for the Office of the Alternate Defense Counsel is \$60,944,810 and 40.7 FTE.

### FY 2023-24 Appropriation \$ 57,440,232

MINUS Across the Board (ATB) Adjustments – PY Annualization (\$125,040)

MINUS Capital Outlay Adjustments (\$113,390)

PLUS Salary Survey / Across the Board (ATB) Adjustments \$135,595

PLUS PY FTE Annualizations \$179,891

PLUS Common Policy Adjustments \$177,901

PLUS Transcriber Rate Increase Annualization \$54,000

PLUS SB23-277 - 5% Contractor Rate Increase - Attorneys Annualization \$1,719,623

### FY 2024-25 Base Request of \$ 59,468,812

PLUS DI 1 – Change Request – Non-Attorney Team Member Hourly Rate Increase \$ 549,708

PLUS DI 2 - Change Request - Contractor Process Coordinator (1 FTE) \$ 141,986

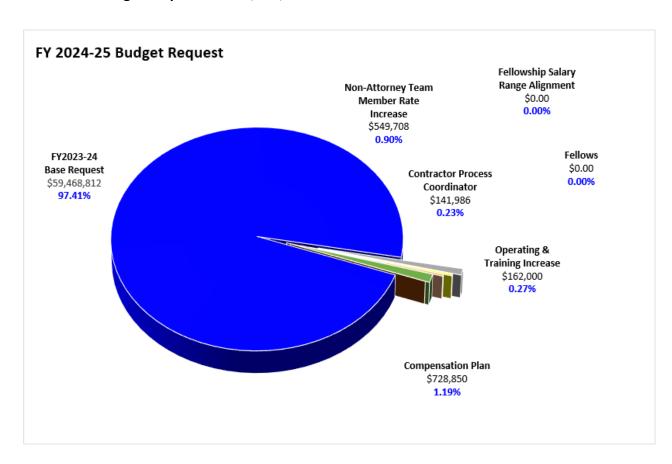
PLUS DI 3 – Change Request – Operating & Training Increases \$ 162,000

PLUS DI 4 – Change Request – Compensation Plan Placeholder \$ 728,850

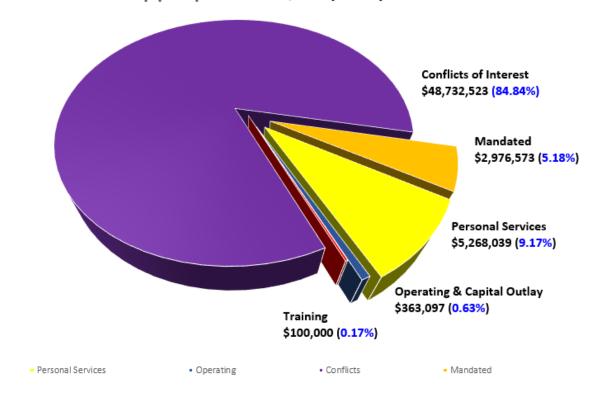
PLUS DI 5 – Change Request – Fellowships Salary Range Alignments \$ 0

PLUS DI 6 – Change Request – Fellows (2 FTE) \$ 0

### FY 2024-25 Budget Request of \$ 61,051,356



### FY2023-24 Total Appropriation \$ 57,440,232



## **SMART Act (HB 13-1299) Agency Objectives and Performance Measures**

- Performance Measure A: Contain Case Costs
- Performance Measure B: Providing Multidisciplinary Legal Teams for OADC clients

For historical and projected data please see **Appendix A: Agency Objectives and Performance Measures.** 

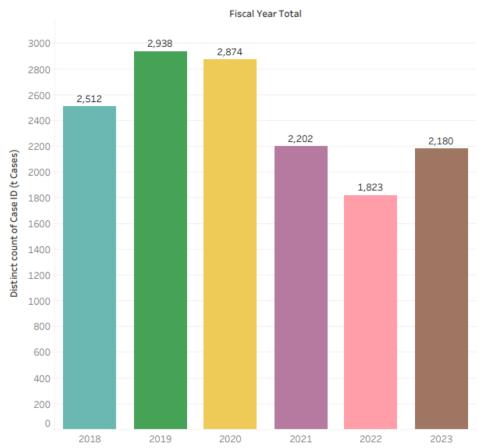
### HB 14-1032 (Youth Defense)

§ 21-2-104 C.R.S. Duties of alternate defense counsel and contract attorneys.

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

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





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

Each case involves a conflict of interest. An OADC contract attorney may only be appointed when the Office of the State Public Defender has declared a conflict of interest.

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

<u>Selection</u>: In 2017, OADC established a Youth Defense Division of attorneys who specialize in defending youth, and the agency is committed to only allowing attorneys who have the requisite knowledge, experience, and training to represent children.

Screening for the Youth Defense Division assesses an applicant's interest in youth defense, experience, command of relevant case law, statutes, policies, and standards, and understanding of social science research related to adolescent behavior and development. Applicants must demonstrate the ability to provide holistic defense to youth through multi-disciplinary teams. Further, applicants must demonstrate a commitment to best practices in youth defense, such as effective communication strategies, family and community engagement, and the importance of frequent and regular visits.

Youth in adult court are only assigned defenders with the experience and specific skills needed for defending youth in adult court. Attorneys interested in developing such expertise are encouraged to assist more experienced attorneys in these cases.

<u>Training</u>: The OADC co-sponsors an annual youth defense specific conference with other youth-serving agencies and offers additional youth defense specific training throughout the year. The OADC also co-sponsors, updates and edits the Colorado Juvenile Defense Manual, a comprehensive practice manual about to be released in its 6th edition. The OADC identifies training needs through communication with OADC contractors and other juvenile legal system stakeholders, changes in law and policy, and observations of attorneys' oral and written practice.

The Youth Defense Coordinator participates in various statewide initiatives involving multiple stakeholders from across the juvenile legal system. The Youth Defense Coordinator was an appointed member of Colorado's Juvenile Justice & Delinquency Prevention Advisory Council until term-limited in 2023; the Juvenile Justice Reform Committee until its sunset in 2022; the Colorado Youth Detention Continuum/Interstate Compact Advisory Board; the Bridges Program Statewide Steering Committee until the Bridges program became an independent agency in 2023; and the Colorado Restorative Justice Council. In addition, the Coordinator attends other stakeholder meetings as appropriate and when available, such as the community-based Colorado Youth Justice Collaborative, Sex Offender Management Board committee and subcommittee meetings, and youth justice-related Family First Prevention Services Act implementation committee meetings. This allows the OADC to be a conduit between system and community juvenile legal system participants and front-line youth defense teams.

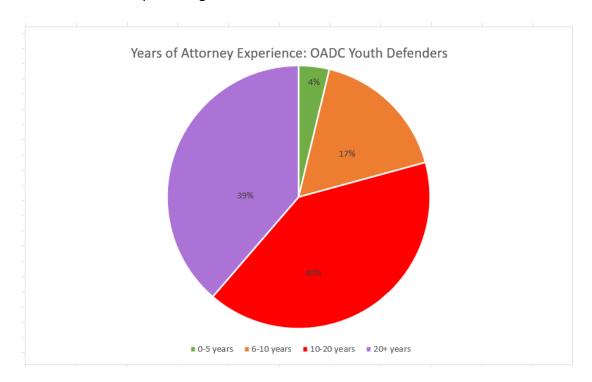
<u>Support</u>: The full-time Youth Defense Coordinator is available to consult and advise youth defense teams, and to connect contractors to resources. The OADC supports youth defenders in forming holistic defense teams by making available social workers, paralegals, education advocates, investigators, specialty area consultants, experts, legal researchers, case assistants and student interns. Further, the OADC provides access to

Westlaw and an e-library that includes youth defense-specific legal memos, briefs, motions and social science research.

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

The OADC recognizes that youth defense is a specialty practice distinct from adult defense. Therefore, there is no set length of time that one would stay in juvenile court. The OADC expects any attorney who commits to youth defense to do so long-term.

Currently, 96% of OADC's juvenile defenders have been practicing law for at least 6 years, and 79% have been practicing for at least 10.



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

The OADC does not use rotations, but rather contracts with attorneys it expects to continue representing youth in delinquency and adult court long term. The OADC is an independent contractor-based organization with a set hourly fee schedule and cannot increase the compensation of attorneys without legislative approval.

### SB 19-223 (Competency Bill)

§21-2-104 C.R.S. Duties of alternate defense counsel and contract attorneys.

- (3) Pursuant to section 2-7-203, C.R.S., the office of alternate defense counsel shall report annually to the judiciary committees of the house of representatives and senate, or to any successor committees, information concerning:
- (f) The process of training employees and contractors concerning determinations of competency to proceed for juveniles and adults, competency evaluation reports, services to restore competency, and certification proceedings governed by Article 65 of Title 27.

The Office of the Alternate Defense Counsel, in conjunction with the Colorado State Public Defender's office, developed a comprehensive competency training that was delivered, live, to fifteen locations throughout the state during the end of 2019, into 2020. To make this training accessible to all our contractors, it was also webcast from one location, and recorded so it would be available after the fact to those who were not able to attend in person or via webcast. The fifteenth training was delivered in March of 2020, just before the pandemic hit and this training has not been offered live since then. However, this training has been posted on our agency's online training portal and is readily available to all our contractors to view on-demand. This comprehensive competency training contained four hours of instruction and attorneys who attended received five Continuing Legal Education credits.

In addition to these fifteen statewide comprehensive competency trainings, our agency did two competency trainings in the fall of 2019 and two additional advanced level competency trainings in May and June of 2020. All of these competency trainings are also available for on-demand viewing and Home Study CLE credit on our agency's training website.

### **Appendix A**

# **Agency Objectives and Performance Measures**

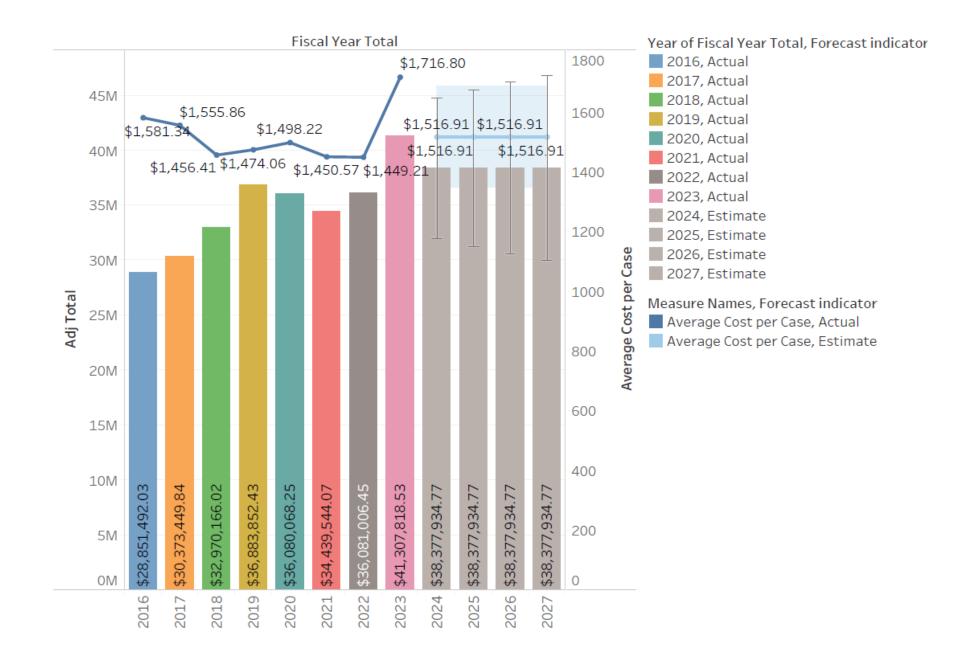
### **Objectives**

### **Performance Measure A: Contain Case Costs**

The OADC analyzes its total annual expenditures and average cost per case monthly and strives to find innovative and effective strategies to contain those costs. The below chart shows those amounts from FY16 to FY23 (as of June 30<sup>th</sup>, 2023) and its estimated numbers for FY24-27. The OADC is dedicated to the practice of holistic defense, which is driven by multi-disciplinary legal teams, not just individual lawyers. The OADC works diligently to encourage contractors to build holistic and diverse legal teams that incorporate social workers, investigators, paralegals, case assistants, and more. This practice not only provides stronger legal advocacy for OADC clients, but also reduces costs, since lawyers receive the highest hourly rate.

Due to the many factors that can affect both the Average Case Cost and Total Year-end Expenditures, it remains a struggle for the OADC to estimate these numbers accurately and consistently for future fiscal years. Some of the factors that contribute to this struggle include Hourly Contractor Rate Adjustments (which occurred in FY19, FY23, and are occurring again in annually until they reach 75% of the Federal Criminal Justice Act Rate), and year-end caseload and expenditure fluctuations. The Agency's current estimate for future average cost per case ranges from \$1,100 to \$1,700. As fiscal year expenditures move further beyond the pandemic's affected years of 2020-2021, the Agency anticipates its range of estimated average cost per case will narrow.

In evaluating the prior year's performance, we estimated in the FY23 Performance Plan that an average cost per case for FY23 would be \$1,461. The actual average cost for FY23 was higher, \$1,716.80, a difference of approximately \$255 per case. The Agency will continue to work towards containing its average cost per case and keep ancillary costs per case to a minimum.



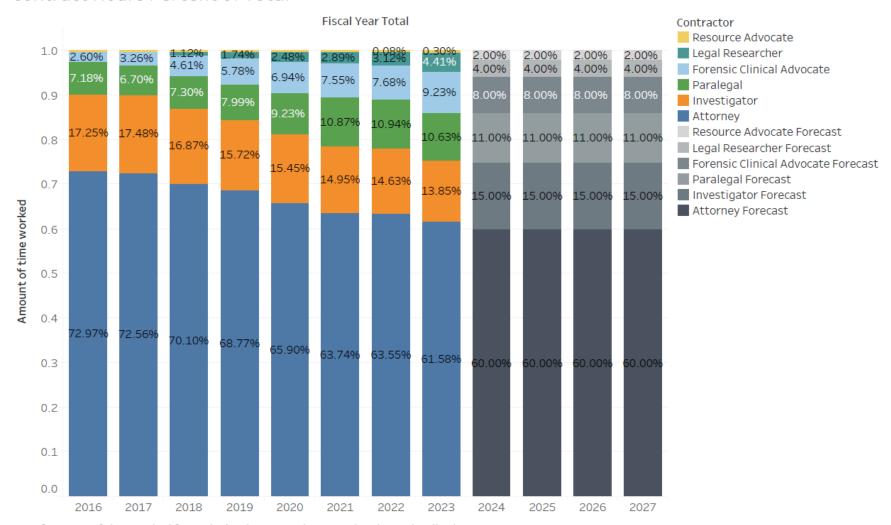
### Performance Measure B: Providing Multidisciplinary Legal Teams for OADC clients

The OADC is dedicated to the practice of holistic defense, and empowering contractors to build and maintain strong and supportive teams to best serve their clients.

The chart below shows the overall percentage of hours spent on an average OADC case by varying team members. For example, the proportion of attorney time dropped 11.41% from 72.97% in FY16 to 61.58% in FY23 and a reciprocating percentage increase in other contractor time. The OADC hopes to see these holistic teams continue to grow in the upcoming years.

In evaluating the prior year's performance, the Agency experienced adjustments across the board in its proportional percentages as estimated in the FY24 Performance Plan. The OADC estimated the FY23 proportion of Attorney time would drop to 60.0%, the actual percentage ended up being 61.58%. Another example was the FY23 proportion of Forensic Clinical Advocate total which was estimated to be 8.0% but ended up increasing to 9.23%. The Agency continues to succeed in providing multidisciplinary legal teams for OADC clients.

### Contract Hours Percent of Total



Sum of Amount of time worked for each Fiscal Year Total Year. Color shows details about Contractor.