

**FISCAL YEAR 2025-26
ANSWERS TO QUESTIONS RAISED
BY JBC MEMBERS DURING FIGURE-
SETTING**

March 13, 2025

Lindy Frolich, Director

OADC provides this response to JBC members' questions regarding the OADC's request for increased funding for FY25-26. We have done our best to answer the questions asked and are prepared to address any other concerns on March 13, 2025.

1. Please provide a clear breakdown of why OADC needs nearly \$7,000,000 additional funding to pay contractors in FY25-26.

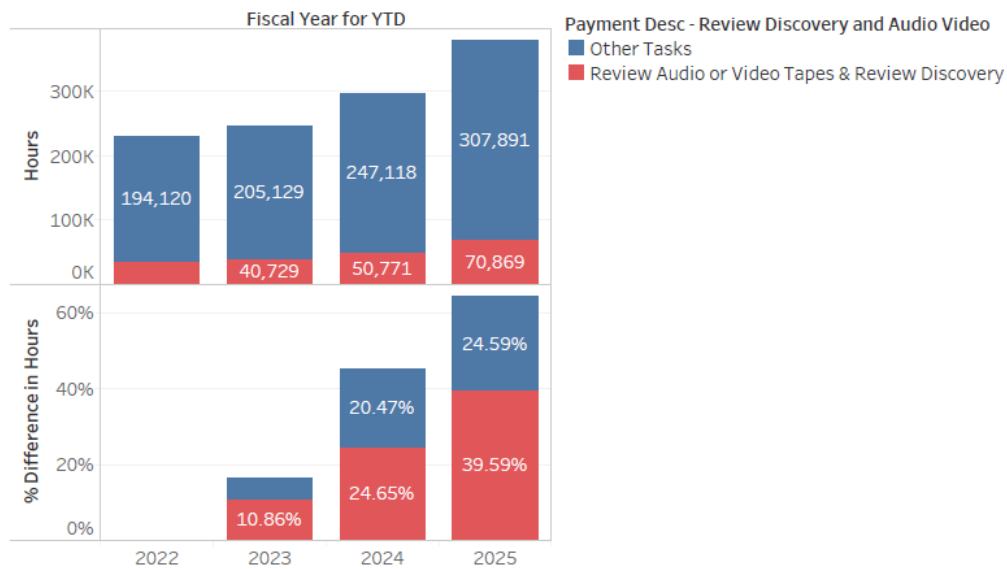
The following chart breaks down the additional funding request based on actual FY24 and FY25 numbers through January 31, 2025, with a comparison of years and the percent change per case classification. The bottom of this chart outlines the requested funding from both FY24-25 and FY25-26.

	FY24 Jul to Jan Cases	FY25 Jul to Jan Cases	% Change	FY24 Actual Cases	FY25 Estimated Cases	FY24 Avg Cost per Case Type	FY25 Estimated need	FY26 Estimated Cases	Avg Cost per Case (FY24)	Estimated need for FY26
F1	450	484	7.6%	566	609	\$ 17,646	\$ 10,742,257	655	\$ 17,646	\$ 11,553,895
F2	815	890	9.2%	1,121	1,224	\$ 9,111	\$ 11,153,317	1,337	\$ 9,111	\$ 12,179,696
F3	1,493	1,659	11.1%	2,178	2,420	\$ 3,518	\$ 8,514,130	2,689	\$ 3,518	\$ 9,460,778
F4	2,425	2,767	14.1%	3,708	4,231	\$ 2,036	\$ 8,614,199	4,828	\$ 2,036	\$ 9,829,068
F5	1,844	2,065	12.0%	2,828	3,167	\$ 1,451	\$ 4,595,216	3,546	\$ 1,451	\$ 5,145,944
F6	902	803	-11.0%	1,317	1,172	\$ 1,130	\$ 1,324,870	1,044	\$ 1,130	\$ 1,179,457
F-Unclassified	40	54	35.0%	71	96	\$ 861	\$ 82,527	129	\$ 861	\$ 111,411
DF1	528	678	28.4%	793	1,018	\$ 3,091	\$ 3,147,516	1,308	\$ 3,091	\$ 4,041,697
DF2	343	376	9.6%	518	568	\$ 1,818	\$ 1,032,327	622	\$ 1,818	\$ 1,131,647
DF3	175	183	4.6%	273	285	\$ 1,454	\$ 415,088	299	\$ 1,454	\$ 434,063
DF4	419	454	8.4%	677	734	\$ 1,018	\$ 746,755	795	\$ 1,018	\$ 809,133
DM1	605	864	42.8%	1,066	1,522	\$ 549	\$ 835,772	2,174	\$ 549	\$ 1,193,566
DM2	42	42	0.0%	71	71	\$ 472	\$ 33,512	71	\$ 472	\$ 33,512
M1	2,512	3,045	21.2%	4,136	5,014	\$ 781	\$ 3,915,608	6,077	\$ 781	\$ 4,746,428
M2	1,132	1,396	23.3%	1,931	2,381	\$ 686	\$ 1,633,599	2,937	\$ 686	\$ 2,014,579
M3	162	64	-60.5%	194	77	\$ 615	\$ 47,135	30	\$ 615	\$ 18,621
M-Unclassified	323	348	7.7%	531	572	\$ 686	\$ 392,460	616	\$ 686	\$ 422,836
PO1	334	465	39.2%	637	887	\$ 498	\$ 441,647	1,235	\$ 498	\$ 614,868
PO2	24	26	8.3%	40	43	\$ 382	\$ 16,553	47	\$ 382	\$ 17,933
Traffic	469	582	24.1%	787	977	\$ 477	\$ 465,847	1,212	\$ 477	\$ 578,087
Total	15,037	17,245	14.7%	23,443	27,068		\$ 58,150,337	31,651		\$ 65,517,221

FY25 Long Bill Amount	\$ 52,822,744	FY25 Projected	\$ 58,150,337	Projected includes FY25 Add-on
FY25 Supplemental	\$ 2,792,679	FY26 Amendment	\$ 7,366,884	
FY25 Add-On	\$ 2,534,914	Nov 1st Request	\$ 3,725,022	
	\$ 58,150,337		\$ 3,641,862	Increase from Nov 1 Req for FY26

As outlined in the OADC FY25-26 Budget Request, one of the significant drivers of increased costs has been the increase in time necessary for contractors to review the audio and video files and other material provided by the prosecution through the discovery process. As the chart below demonstrates, review of audio and video materials increased nearly 40% thus far this fiscal year, while review of the other materials increased nearly 25% during that same time frame. This is in addition to a significant increase during FY23-24.

Hours in FY22 to FY25 - Review
Discovery and Review Audio and
Video through Jan

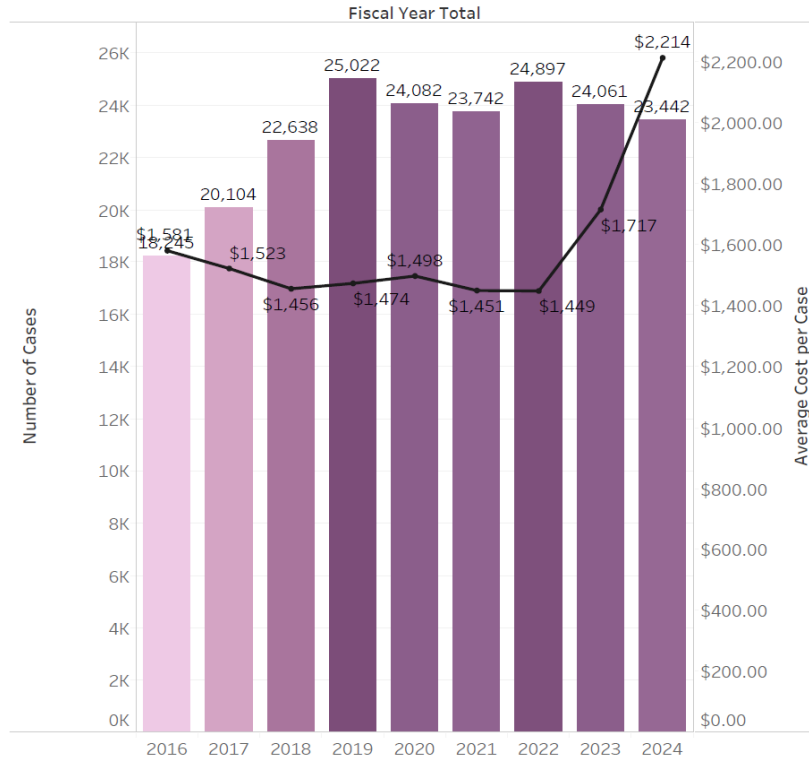


2. Caseload data and trend analysis.

- The OADC’s caseload is not controlled by the OADC. As the first chart below indicates, the number of cases the OADC contractors are appointed to handle fluctuates from year to year. This same chart also demonstrates how successful the OADC had been in driving down the cost of cases until recently, primarily due to encouraging attorneys to use other contractor types to do casework that does not require a lawyer, at a lower cost. The graph demonstrates the same data in a different format.
- The third chart indicates the significant increase in cases from July 1, 2023, through January 31, 2024, compared to that same time period from this year. The OADC has no reason to believe that this increase in caseload will not continue, now that the significant impact from the COVID years is no longer at play.

	FY14	FY15	FY16	FY17	FY18	FY19	FY20	FY21	FY22	FY23	FY24
Caseload	15,085	16,680	18,244	20,103	22,638	25,022	24,085	23,746	24,897	24,061	23,443
% change		10.6%	9.4%	10.2%	12.6%	10.5%	-3.7%	-1.4%	4.8%	-3.4%	-2.6%
Average Cost	\$1,599	\$1,722	\$1,581	\$1,523	\$1,456	\$1,474	\$1,498	\$1,451	\$1,449	\$1,717	\$2,214
% change		7.7%	-8.2%	-3.7%	-4.4%	1.2%	1.6%	-3.2%	-0.1%	18.5%	29.0%

Case Count and Average Cost per Case



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F1	450	484	7.6%
F2	815	890	9.2%
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3. Cost containment measures – could more paralegals or support staff be used in place of attorney time?

The OADC analyzes its total annual expenditures and average cost per case monthly and strives to find innovative and effective strategies to control these costs. The OADC is dedicated to the practice of holistic representation, 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 advocacy for OADC clients but also reduces costs.

As mentioned elsewhere, there has been a marked increase in digital media and other material provided in discovery. This has significantly increased the time it takes contractors to review discovery. Because the constitution requires that defense teams review every item of discovery, this cost cannot be avoided. However, as mentioned above, the use of multi-disciplinary teams has allowed the cost of some discovery review to be shifted when possible to lower-cost contractors.

The agency has strived hard to promote the use of non-attorney contractors over the past few years, not just by using paralegals, but even less expensive contractors that are categorized as case assistants. As the following chart indicates – although attorney hours have gone up, paralegal hours, legal researchers, social workers, and case assistant hours have risen at a much higher percentage.

Hours & Travel Time	2021	2022	2022 % Change	2023	2023 % Change	2024	2024 % Change	2025	2025 % Change	# Change FY21 to FY25	% Change FY21 to FY25
Attorney Hours	134,921	127,868	-5.2%	129,730	1.5%	148,003	14.1%	180,729	22.1%	45,809	34.0%
Paralegal / Legal Assistant Hours	25,291	24,833	-1.8%	25,634	3.2%	33,671	31.4%	41,749	24.0%	16,458	65.1%
Investigator Hours	31,288	29,536	-5.6%	29,551	0.1%	33,754	14.2%	40,101	18.8%	8,813	28.2%
Legal Researcher Hours	4,749	3,862	-18.7%	5,623	45.6%	9,255	64.6%	13,975	51.0%	9,225	194.3%
Resource Advocate Hours	-	9	100.0%	749	8503.4%	205	-72.6%	1,870	812.7%	1,870	100.0%
FSW / FCA Hours	15,793	14,942	-5.4%	18,240	22.1%	22,968	25.9%	26,528	15.5%	10,735	68.0%
Case Assistant Hours	1,970	2,642	34.1%	3,812	44.3%	8,046	111.1%	15,799	96.3%	13,829	701.9%

The OADC is exploring three AI platforms as a next step toward hopefully reducing the cost of reviewing all these materials. This exploration is still in its early stages but anecdotally it appears that once the reliability and trust in them can be documented, they should save a considerable amount of time and cost. We have approximately 16 contractors testing the effectiveness of these platforms on 22 cases. We anticipate that, eventually, these platforms will reduce the need to pay contractors for initial organization and indexing of the materials, resulting in significant savings.

One attorney advised that the use of one of these AI platforms saved hours of having a paralegal manually organize the discovery for use by the attorney at trial. (This task can cost up to tens of thousands of dollars given the time it can take an individual to download everything, unzip the files, organize them, and create something the team can use to find and use everything in that file.) It also allowed for searches of the voluminous discovery as needed both in preparation and during trial. The attorney estimated that during trial preparation and the trial itself, the platform saved significant paralegal and attorney time.

Another attorney described that we had previously paid roughly \$30,000 for a paralegal to organize the case, but he was finding the resulting material did not provide what he needed. He was able to use the AI platform (which was not available at the time the paralegal did the work) to do exactly that and found it provided him the access to the information he needed.

4. Attorney rates and structure – could we negotiate lower rates.

Below is a chart showing the present hourly rate for contractor types.

Attorney	\$105
FSW/FCA	\$66
Investigator	\$55
Paralegal	\$42
Case Assistant	\$26 - \$33
Legal Researchers	\$42 - \$105

As Representative Sirota correctly indicated at the hearing on March 11, 2025, at the recommendation of then budget analyst Alfredo Kemm, in 2023 the JBC ran a JBC bill that set the OADC, ORPC, and OCR's hourly attorney rate at \$100 per hour, to be increased \$5.00 every year until it had reached 75% of the CJA rate (the federal court-appointed attorney rate). The current CJA rate is \$175 per hour, as compared to the state rate of \$110 per hour for FY25-26. In the private sector lawyers charge far more than \$110 per hour. Representative Sirota also recalled the desperation that the three agencies described in their ability to obtain and maintain contractors without this hourly rate increase. That dire situation has not changed. Much like Medicaid providers – if the OADC (and the other court-appointed counsel agencies) cannot pay their attorneys an already very low rate, those attorneys will choose to discontinue this critical representation and opt for other types of employment or areas of law, reducing the already depleted pool of available counsel to meet the agencies' statutory and constitutional obligations.

STATEWIDE COST SAVINGS

Below is a chart detailing the cost of various adult and youth sentencing options.

Annual Cost of Adult Sentencing Options Per Offender FY23-24				
	1 yr of cost	3 yr of cost	5 yr of cost	25 yr of cost
Probation	\$2,086	\$6,258	\$10,430	\$52,150
Community Corrections	\$14,408	\$43,224	\$72,040	\$360,200
Parole *	\$8,387	\$25,161	\$41,935	\$209,675
Department of Corrections **	\$56,694	\$170,082	\$283,470	\$1,417,350
*Average of Parole and ISP Parole				
**State facilities only, does not include private prisons				
<i>Source: DOC: Office of Planning & Analysis; DCI: Office of Community Corrections; Probation: Division of Probation Services.</i>				

Annual Cost of Sentencing Options Per Juvenile FY23-24			
	1 yr of cost	3 yr of cost	5 yr of cost
Probation (FY21-22)	\$3,514	\$10,542	\$17,570
Juvenile Parole ***	\$16,531	\$49,593	\$82,655
Division of Youth Services (DYS)*** (FY18-19)	\$96,652	\$289,956	\$483,260
*The Juvenile Cost of Care can no longer be assessed pursuant to HB21-1315 (effective 07/06/21) *** <i>DYS and Juvenile Parole cost calculations have been discontinued, these figures are from FY18-19</i> <i>Source : DYS ; Probation Division of Probation Services</i>			

Using this information the following chart includes examples of actual savings achieved through the use of teams on particular cases. As this information demonstrates, although there is an up-front cost to the OADC, the backend savings to the Colorado taxpayer are significant. Not providing the funding to pay contractors for their work on cases is not only constitutionally impermissible, but an inability to pay contractors to work on cases will result in delays to case resolution, increased court backlogs, and potential constitutional challenges due to ineffective legal representation.

	Cost of 1 yr DOC	Possible Sentence (yrs)	Actual Sentence (yrs)	Potential Savings to the State
Client #1	\$56,694	48	3 probation	\$ 2,710,770
Client #2	\$56,694	6	2 probation	\$ 335,992
Client #3	\$56,694	30 min.	Case dismissed	\$ 1,700,820
Client #4	\$56,694	16	12	\$ 226,776
Client #5	\$56,694	24	2 YOS	\$ 1,247,268
Client #6	\$56,694	48	2 DYS	\$ 2,710,770
Client #7	\$56,694	44	30	\$ 793,716
Client #8	\$56,694	32	2 DYS	\$ 1,620,904
Client #9	\$56,694	40 min.	2 DYS	\$ 2,074,456

While recognizing this is an extremely difficult time for the State of Colorado, by depriving individuals of their constitutional right to court-appointed counsel and a speedy trial, there

is the risk of cases being dismissed or lengthy and expensive appellate and postconviction processes. This not only impacts those accused of crimes, but also victims who are looking for finality in their often-traumatic experiences, and a court system which will be left with an increased backlog. Finally, better outcomes for clients generally results in less likelihood that they will return to the system. Much like Senator Amabile and Representative Bird referenced during the JBC hearing on March 11, if the state can put money into the front end of providing services to individuals, it will create savings on the backend. Through holistic representation, the OADC is providing courts and prosecutors with the necessary information to provide clients with services rather than just incarcerating them at an enormous cost to the state.