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THE OFFICE OF THE ALTERNATE DEFENSE COUNSEL

FISCAL YEAR 2020-21 COMEBACK REQUEST

March 16th, 2020

Lindy Frolich, Director

Why OADC Needs a Programs Analyst:

Different Employees within the Agency currently perform the following tasks:

- Track new OADC and existing OADC attorney contractors to determine experience.
- Track court observations.
- Track social worker case assignments and outcomes
- Coordinate the attorney and investigator renewal process.
- Track training attendees.
- Run billing reports to identify anomalies or errors.

This is a very inefficient way to run an agency. A Programs Analyst could handle all these tasks in an efficient and coordinated manner, enabling the Agency to more efficiently monitor its nearly 900 independent contractors.

Summary of Initial Request:

The Office of the Alternate Defense Counsel (OADC) requested 1.0 FTE and \$97,006 General Fund to add a Programs Analyst, \$5,000 General Fund for an online analytics software program, and \$25,000 for office space buildout to accommodate the additional employee.

Joint Budget Committee Action:

The JBC staff did not approve this Decision Item.

Office of the Alternate Defense Counsel Comeback:

	OADC Request	JBC Staff Recommendation	Agency Comeback Request
Total	\$ 169,764	\$ 42,758	\$ 127,006
Programs Analyst	\$ 97,006	\$ -	\$ 97,006
Analytics Software	\$ 5,000	\$ -	\$ 5,000
Operating Adjustments	\$ 67,758	\$ 42,758	\$ 25,000

In FY20 the JBC approved two Programs Analyst type requests (totaling 3 FTE) of two Judicial Branch independent agencies, the Office of the Child’s Representative (OCR) and the Office of Respondent Parents’ Counsel (ORPC). In FY19, the Office of the State Auditor (OSA) completed a performance audit of the OCR. Among the **OSA’s key recommendations** was a recommendation to **“improve its policies and processes for evaluating, overseeing and managing contract attorney performances.”** The OADC has carefully reviewed the OCR audit and believes the OADC should also “improve its policies and processes for evaluating, overseeing and managing contract attorney performances.”

In FY19-20, JBC staff reviewed the similar requests mentioned above and in the Figure Setting document stated the following:

JBC STAFF ANALYSIS FY20 (ORPC): *“The Office states that this individual (Program Analyst) will increase the ORPC’s capability to perform essential oversight and evaluation functions. The ORPC points to the recently completed audit of the Office of the Child’s Representative, noting that ORPC functions are similar to those of the OCR. The ORPC believes it should strengthen its controls in areas similar to those where the audit found weaknesses at the OCR. JBC staff agrees with this assessment.”*

JBC STAFF ANALYSIS FY20 (OCR): *“The State Auditor’s performance audit criticized the OCR for deficient selection, monitoring, and renewal of its contract attorneys, insufficient oversight of the CASA (Court Appointed Special Advocate) program, and inadequate internal control over payments to contractors and procurement cards. This request responds to the selection, monitoring and renewal recommendation. Most of the selection and evaluation tasks that the OCR already performs are carried out by four Denver-based attorneys who are on its staff who are already working at full capacity. With this request, the OCR proposes to hire two non-attorneys (Programs and Compliance Analyst) and offload some of their current work onto the new employees, giving the new people tasks that involve few subjective judgements and require no knowledge of legal principals or practice. This will free the attorneys to devote more time and energy to selection and monitoring. Staff considers this a reasonable approach that costs less than adding attorneys.”*

Analysis:

Different Employees within the Agency currently do the following:

- Track new OADC and existing OADC attorney contractors to determine experience.
- Track court observations.
- Track social worker case assignments and outcomes
- Coordinate the attorney and investigator renewal process.
- Track training attendees.
- Run billing reports to identify anomalies or errors.

Assigning all these responsibilities to a single employee will allow the Agency to:

- **Increase analysis and auditing** of all program and financial aspects of the Agency to identify, train, and implement cost saving strategies for its contractors, leading to **additional cost savings to the State of Colorado.**
- Greatly improve **SMART Act** and **Long-Range Financial Plan** reporting requirements.
- Greatly **improve** the Agency's **policies** and **processes** for evaluating, overseeing, and managing contractor performance as **recommended** by **OSA's** FY19 Performance Audit.
- Better forecast caseload and expenditures for **more accurate Budget Requests**, resulting in **fewer supplemental requests** and emergency requests at year end.

Growth of the Agency:

The Agency has consistently grown in caseload, processed payments, and expenditures and anticipates that this trend will continue. This growth brings greater review, audit, and oversight responsibility to the Agency's limited staff.

FTE Position	FY14	FY15	FY16	FY17	FY18	FY19	FY20 est	FY21 est
Total FTE	8.4	9.1	10.9	11.0	12.0	15.9	16.0	18.7
Cases	15,085	16,680	18,244	20,103	22,638	25,022	26,430	29,214
% change	26.98%	10.57%	9.38%	10.19%	12.61%	10.53%	5.63%	10.53%
Payments	52,900	58,911	64,997	72,753	98,891	121,981	150,462	185,594
% change	33.12%	11.36%	10.33%	11.93%	35.93%	23.35%	23.35%	23.35%
Expenditures	\$25,555,788	\$30,359,184	\$31,556,315	\$32,935,253	\$35,387,940	\$39,698,287	\$48,139,361	\$55,077,627
% change	24.68%	18.80%	3.94%	4.37%	7.45%	12.18%	21.26%	14.41%

State savings due to OADC efficiencies:

In FY19 the OADC **saved** the State of Colorado more than **\$5.5 million** in General Fund by identifying and utilizing cost saving strategies.

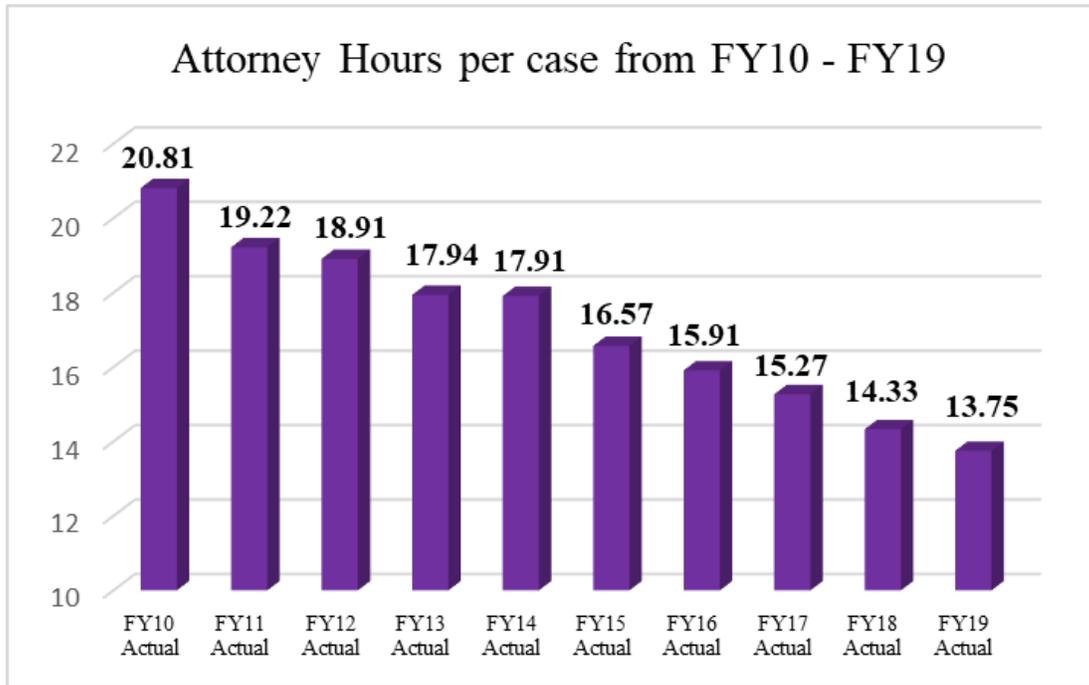
Contain Case Costs		FY10 Actual	FY11 Actual	FY12 Actual	FY13 Actual	FY14 Actual	FY15 Actual	FY16 Actual	FY17 Actual	FY18 Actuals	FY19 Actuals	FY10 to FY19 % change
Average Cost per Case	Target	na	\$1,581	\$1,523	\$1,523	-13.1%						
	Actual	\$1,697	\$1,620	\$1,641	\$1,593	\$1,596	\$1,722	\$1,581	\$1,523	\$1,456	\$1,474	
	% change		-4.5%	1.3%	-2.9%	0.2%	7.9%	-8.2%	-3.7%	-4.4%		

(\$1,697 - \$1,474) = \$223 x 25,022* = \$5,579,906

*25,022 are the total actual cases for FY19

This cost-savings has been driven primarily by a **steady** decrease in the agency’s total number of attorney hours per case from 20.81 in FY10 to 13.75 in FY19, representing a 34% decrease.

Contain Case Costs		FY10 Actual	FY11 Actual	FY12 Actual	FY13 Actual	FY14 Actual	FY15 Actual	FY16 Actual	FY17 Actual	FY18 Actual	FY19 Actual
Contain the total number of Attorney hours per case. Includes all case type hours.	Actual	20.81	19.22	18.91	17.94	17.91	16.57	15.91	15.27	14.33	13.75
	<i>% change</i>		-7.64%	-1.61%	-5.13%	-0.17%	-7.48%	-3.98%	-4.02%	-6.16%	-4.05%



Without the Agency’s continual work to adopt cost saving measures, the Agency would not have been able to control these hours and costs. A fulltime **Program Analyst** will allow the Agency to **explore** and **identify** additional cost-saving measures.

The overall budget request approved by the JBC for the OADC in FY2020-21 is \$55,032,495. This Budget Request Comeback is \$127,006 or **less** than **0.2%** of the total budget approved by the JBC.

OFFICE OF THE CHILD'S REPRESENTATIVE



FY 2020-21 Budget

Comeback Request

March 16, 2020

Chris Henderson, Executive Director

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Summary of Initial Request

The OCR requested **\$53,230 (R3 Common Compensation Plan)** to increase the salaries of **eleven (11)** positions to continue implementation of the common compensation plan it developed with the Office of Respondent Parents' Counsel (ORPC) and the Office of the Alternate Defense Counsel (OADC).

Joint Budget Committee Action

JBC staff did not recommend approval of the request.

Office of the Child's Representative Comeback

During the FY2017-18 Budget process the Joint Budget Committee submitted common questions to state agencies, one of which focused on Judicial Branch salary adjustments and asked: *"How can the processes that are used to evaluate and approve salary adjustments for Judicial Branch employees be improved so that they are more consistent with the practices that are used by the State Personnel Director"*.

The branch responded by stating:

"...The Judicial Department and the independent agencies within the Judicial Branch recognize the concerns raised by the JBC and are committed to studying ways to collaborate in reviewing their compensation and classification programs. All agencies are committed to review the matter and have already begun meeting to help address the issues raised...."

In response to this request, OCR worked diligently with ORPC and OADC to develop and propose a common compensation plan in their FY 2019-20 Budget Requests. This process involved intensive review of every position in each agency and the benchmarking of each position to similar positions in the Judicial Department and the Executive Branch based on the similarity of job duties. To address significant turnover issues in its El Paso County GAL Office and to fairly compensate attorneys in that office, the OCR also sought to align positions at that office with similar positions at the Office of the State Public Defender (OSPD).

During the FY 2019-20 budget cycle, OCR was provided funding and approval to align many of its positions in accordance with the common compensation plan. However, rather than approving alignment of the El Paso County GAL office positions with the OSPD, the JBC awarded a 10% increase in salaries for all attorney positions at the office. This across-the-board increase did not bring certain positions to the minimum of the comparable OSPD range.

While JBC staff referenced three positions during Figure Setting, OCR’s Common Compensation Plan decision item covers **eleven (11)** positions. The following table explains the alignment sought for each of the 11 positions covered by this request:

	PERA,		
	Salary	Medicare, etc.	Total
SSP Coordinator	\$6,270	\$1,414	\$7,684
Entry-Level Attorney	\$660	\$150	\$810
Entry-Level Attorney	\$7,260	\$1,637	\$8,897
Entry-Level Attorney	\$3,078	\$695	\$3,773
Entry-Level Attorney	\$1,718	\$388	\$2,106
Entry-Level Attorney	\$1,718	\$388	\$2,106
Assist. Managing Atty.	\$4,444	\$1,004	\$5,448
Mid-Level Attorney	\$4,542	\$1,026	\$5,568
Director of Information Systems	\$4,108	\$927	\$5,035
Senior Caseworker	\$753	\$172	\$925
Training Director	\$8,878	\$2,000	\$10,878
Total	\$43,429	\$9,801	\$53,230

OCR engaged in the following analysis to determine its request for each position:

- El Paso County GAL Office Positions (entry and mid-level attorneys, assistant managing attorney, and senior caseworker):** The requests for each of these positions are necessary bring the salaries to the range minimums. Comparable OSPD positions informed the requested attorney range minimums; a comparable executive branch position informed the requested senior caseworker range minimum.
- Director of Information Systems:** The position to which OCR originally aligned its Information Systems Manager, ITS III, no longer exists in the Judicial Department. The OCR reviewed multiple judicial and executive branch positions and determined that the executive branch’s Data Management V position reflects the data management, supervisory, and information systems responsibilities of this position.
- Training Director:** As the OADC and ORPC training director positions also are staff attorney positions, they do not align with the OCR’s Training Coordinator Position. OCR’s Training Director has both an MSW and a JD degree, and this position singlehandedly develops and implements an ambitious training program covering ten (10) case types. The OCR considered multiple executive and judicial branch positions and decided that the Executive Branch Training Specialist V best reflects the decision-making responsibilities and the complexity of the position.

- **SSP Coordinator:** The JBC approved OCR's FY 2018-19 request to establish an SSP Coordinator. A year into the implementation of this newly created position, it became clear that the programming, oversight, analysis, and coordination demands of this position exceed those of a Judicial Program Analyst 2 and are better reflected in the duties and responsibilities of a Judicial Program Analyst 4.

The OCR takes pride in its lean administrative structure. It has consistently kept its central administrative office expenditures at a small percentage of its overall costs and strives to funnel all possible dollars into the direct representation of the extremely vulnerable children and youth its attorneys represent. It developed its FY 2020-21 Common Compensation Plan request with fidelity to these values and believes its request reflects the minimum amount necessary to compensate the highly skilled and specialized nature of each position.

The OCR first learned about JBC staff's concerns about the common compensation plan at the March 12, 2020 Figure Setting. The OCR understands that any new undertaking like the common compensation plan will present challenges and require adjustments, and the OCR remains committed to working with its analyst and the other impacted agencies to ensure a fiscally responsible implementation of the plan. However, OCR's FY 2020-21 Common Compensation Plan is essential to meeting its statutory obligations, and the OCR requests that the JBC approve this item.

Office of Respondent Parent's Counsel (ORPC) video comeback

<https://colordoorpc.org/joint-budget-committee-comeback/>