

Long Range Financial Plan

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Office of the State Public Defender

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Colorado State Public Defender

Table of Contents

SECTION 1: Introduction to the State Agency

Mission

Vision

Key Performance Goals

SECTION 2: Program and Goal Evaluation

Performance Measures

Performance Evaluation

SECTION 3: Financial Structure

Budget

SECTION 4: Financial Forecast

Baseline Forecast: Budget Drivers for FY22-FY26

Narrative: Agency Budget Drivers / Agency Environment

Scenario Evaluation: Downturn

Scenario Evaluation: Department-Specific Contingency

SECTION 5: Anticipated Funding Decreases

SECTION 1: Introduction to the State Agency

Mission

The mission of the Office of the State Public Defender (OSPD) is to defend and protect the rights, liberties, and dignity of those accused of crimes who cannot afford to retain counsel. We do so by providing constitutionally and statutorily mandated representation that is effective, zealous, inspired and compassionate.

OSPD Enabling Legislation:

The general assembly hereby declares that the state public defender at all times shall serve his clients independently of any political considerations or private interest, provide legal services to indigent persons accused of crime that are commensurate with those available to nonindigents, 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. 21-1-101(1).

Vision

It is the vision of the Office of the State Public Defender that every OSPD client served receives excellent legal representation through the delivery of high quality legal services and compassionate support from a team of dedicated Public Defenders.

Goals

1. to provide effective attorney services and advocacy in both the trial and appellate courts throughout the state of Colorado for indigent clients.
2. to hire and retain a sufficient number of quality staff to effectively manage the ever-increasing workload in each office in the state.
3. to provide a high quality and quantity of staff development, training, technology support and other resources to adapt our response to the constantly changing criminal legal system so that our advocacy and legal services are commensurate with those available for non-indigent persons as is required by our statute.

SECTION 2: Program and Goal Evaluation

The OSPD reports performance measures as part of the SMART Act, although projections have been expanded for purposes of this report.

Performance Measures

		FY 19-20	FY 20-21	FY 21-22	FY 22-23	FY 23-24	FY 24-25	FY 25-26
		(actual)	(actual)	(projected)	(projected)	(projected)	(projected)	(projected)
MEASURE 1:	Target	147,479	119,229	136,144	140,228	144,435	148,768	153,231
Number of new trial court cases.	Actual	124,586	113,453					
MEASURE 2:	Target	189,760	165,029	175,221	180,478	185,892	191,469	197,213
Number of active trial court cases.	Actual	168,512	159,292					
MEASURE 3:	Target	100%						
Percent of trial court attorney staff allocated vs. total required for closed trial court cases.	Actual	82%	80%					
MEASURE 4:	Target	500						
Number of attorney applications received.	Actual	524	500					
MEASURE 5:	Target	100%						
Percent of total attorney staff allocated vs. total required for closed trial court cases and appellate cases.	Actual	82%	81%					
MEASURE 6:	Target	12%						
Annual rates of attrition:								
Attorneys	Actual	12%	15%					
Investigators	Actual	7%	9%					
Administrative Assistants	Actual	22%	19%					
Total All Employees	Actual	12%	14%					
MEASURE 7:	Target	70%						
Percent of experienced, fully capable staff (journey level or higher):								
Attorneys	Actual	37%	39%					
Investigators	Actual	56%	57%					
Administrative Assistants	Actual	43%	41%					
Total All Employees	Actual	43%	45%					
MEASURE 8:	Target	100%						
Percent compliance with minimum standards for total staffing requirements.	Actual	83%	83%					
MEASURE 9:	Target	12%						
Maintain established standard percentages for reasonable staff supervision, management and development.	Actual	10%	10%					

		FY 19-20	FY 20-21	FY 21-22	FY 22-23	FY 23-24	FY 24-25	FY 25-26
		(actual)	(actual)	(projected)	(projected)	(projected)	(projected)	(projected)
MEASURE 10:	Target	574	524	450	535	552	568	585
Number of new appellate cases.	Actual	514	256					
MEASURE 11:	Target	1,938	1,870	1,627	1,704	1,726	1,761	1,808
Number of active appellate cases.	Actual	1,878	1,602					
MEASURE 12:	Target	100%						
Percent of appellate attorney staff allocated vs. total required for appellate cases awaiting filing of initial brief.	Actual	81%	85%					
MEASURE 13:	Target	145,337	105,353	129,507	133,392	137,394	141,516	145,761
Number of trial court cases closed.	Actual	122,712	107,099					
MEASURE 14:	Target	144	132	132	132	132	132	132
Days of training provided.	Actual	144	69					
MEASURE 15:	Target	15						
Number of CLE credits provided to all attorneys.	Actual	21	12					
MEASURE 16:	Target	3						
Hours of ethics training provided, focusing on Colorado criminal law.	Actual	6	2.2					
MEASURE 17:	Target	15						
Number of administrative processes and organizational infrastructure evaluations performed.	Actual	12	15					
MEASURE 18:	Target	447	447	358	394	394	394	394
Number of appellate cases for which an Opening Brief has been filed.	Actual	454	433					
MEASURE 19:	Target	592	490	271	283	307	343	392
Number of backlogged appellate cases.	Actual	530	287					

SECTION 3: Financial Structure

The OSPD functions as a single program devoted to providing effective criminal defense representation. Our funding received over the past five years is as follows.

Appropriation	General Fund	General Fund Exempt	Cash Funds	Reappropriated Funds	Federal Funds	Total
FY 2017-18	\$ 89,573,459	\$ -	\$ 150,000	\$ -	\$ -	\$ 89,723,459
FY 2018-19	\$ 97,248,793	\$ -	\$ 205,000	\$ -	\$ -	\$ 97,453,793
FY 2019-20	\$ 107,337,414	\$ -	\$ 55,000	\$ -	\$ -	\$ 107,392,414
FY 2020-21	\$ 108,116,486	\$ -	\$ 140,000	\$ -	\$ -	\$ 108,256,486
FY 2021-22	\$ 118,749,447	\$ -	\$ 155,000	\$ -	\$ -	\$ 118,904,447

We do not have any capital construction projects or ongoing debt obligations.

SECTION 4: Financial Forecast

Baseline Forecast: Budget Drivers for FY22-FY26

Appropriation	Baseline	Caseload Growth	Operational	Total
FY 2021-22	\$ 118,904,447			\$ 118,904,447
FY 2022-23	\$ 134,695,857			\$ 134,695,857
FY 2023-24	\$ 134,695,857	\$ 3,340,516	\$ 89,105	\$ 138,125,478
FY 2024-25	\$ 138,125,478	\$ 2,451,889	\$ 91,969	\$ 140,669,336
FY 2025-26	\$ 140,669,336	\$ 2,446,896	\$ 94,927	\$ 143,211,159

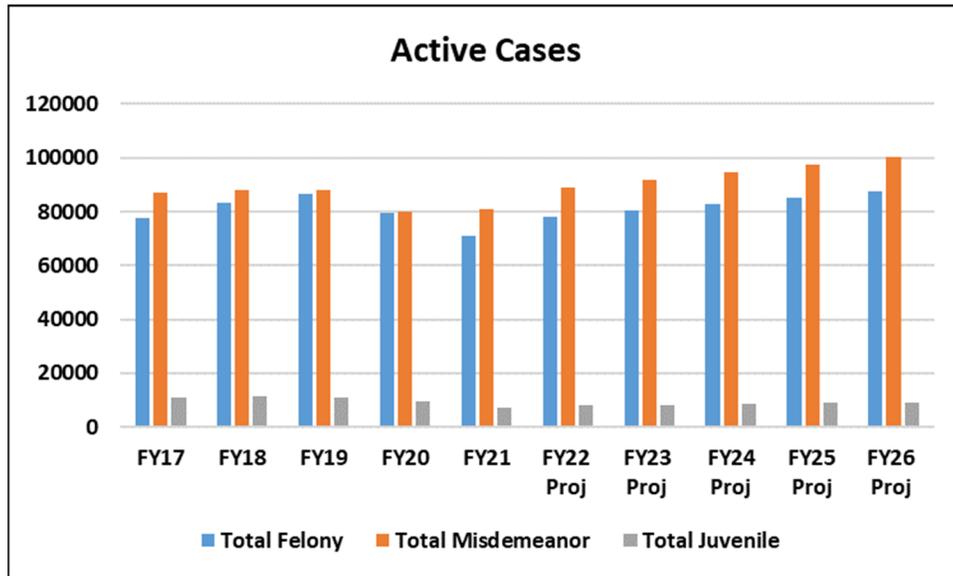
Narrative: Agency Budget Drivers/Agency Environment

The OSPD functions as a single program devoted to providing criminal defense representation to indigent persons charged with crimes where incarceration is a possibility, except where there is a conflict of interest. Courts appoint the OSPD when a person qualifies for public defender services pursuant to statute, applicable case law and Chief Justice Directives.

Because our mission is to provide legal representation to the poor in criminal cases, we are a service-oriented agency. Eighty-five percent of our budget is spent on personal services, with the remaining fifteen percent supporting mandated and operational costs. Accordingly, any changes to our personal services budget, such as those made through legislative action on common policies and for new legislation, have a tremendous effect on our overall appropriation.

In addition, our personal services budget is driven by attorney FTE need because of workload associated with the increase in the agency's caseload. Prior to the pandemic, the number of cases handled by the OSPD steadily grew with significant increases seen in its felony cases. Although the total number of cases dropped over the past 15 months, this is no longer the case. As we emerge from the pandemic, the number of cases (primarily both the higher-level felony and misdemeanor cases) we are handling are returning to pre-COVID levels and are projected to continue upward as shown in the charts below. Felony cases require the greatest attorney effort, time and dedication of

resources and this had been the primary factor driving our projections and budget requests.



A major driver in OSPD's Budget Request for FY 2022-23 is the proliferation of electronic records and digital media storage and security needs, which is impacting the workload, storage costs, and business strategies across all industries. The criminal legal system is no exception. The increased need for storage capabilities and the ability for OSPD to manage the incredible growth in the amount and type of discovery materials in our cases requires skilled staff who can process, organize, and review the information to help the attorney on the casework effectively and efficiently.

Scenario Evaluation: Downturn

Any reduction in funding will have direct effects on staffing. The statutory function of the OSPD is to "provide legal services to indigent persons accused of crime 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."

In order to comply with our constitutional and statutory mandates, the OSPD must have resources and staffing levels to meet the requirements of providing effective representation. If the OSPD is not adequately funded, caseloads will exceed both our internal standards and national standards relating to the number of cases an attorney can effectively handle without impairing quality or breaching professional obligations. The Guidelines for Legal Defense Systems in the United States, developed under a grant from the U.S. Department of Justice, provide that public defender systems should establish maximum caseloads for individual attorneys and that such standards reflect national standards and take into consideration objective statistical data and factors related to local practice.

The Office of Attorney Regulation states an attorney is not competent to provide effective representation if their caseload is too high. There are serious implications to overly high caseloads per attorney, including that the attorney may be subject to disciplinary action for accepting more cases than can be competently handled. In addition, overly high caseloads may result in rulings of ineffective representation for Public Defender clients. When a Public Defender is found ineffective, conflict counsel is appointed and the case essentially starts over. If a finding were made that public defender's caseloads were too high and, therefore, they were not providing effective assistance

counsel, this would result in significant costs to the state and an increase in the number of cases processed in our system.

Scenario Evaluation: Department-Specific Contingency

Current projections show our attorney staffing level falling from 86 percent this year to 77 percent over the next five years without any additional staffing. This current and growing staffing deficit presents a threat to the Public Defender’s ability to ethically, responsibly and effectively meet its constitutionally and statutorily mandated mission. In addition, the instability of the current economic climate presents additional challenges. Historically, such economic conditions negatively affect income levels, thereby increasing the number of people who qualify for our services. If this forecast holds true, the number of cases and workload requirements will rise at an even faster rate than currently projected.

Closed Cases					
Projected FY22 - FY26					
Case Type	FY22 Proj. Cases	FY23 Proj. Cases	FY24 Proj. Cases	FY25 Proj. Cases	FY26 Proj. Cases
Total Felony	57,332	59,052	60,823	62,648	64,528
Total Misdemeanor	65,828	67,802	69,836	71,932	74,090
Total Juvenile	6,348	6,538	6,735	6,937	7,145
Grand Total	129,507	133,394	137,394	141,518	145,763
FTE Need	610	628	645	664	683
Current Staffing Level	526	526	526	526	526
(Shortage)/Overage	(84)	(83)	(100)	(119)	(137)
% Staffed	86%	84%	82%	79%	77%

SECTION 5: Anticipated Funding Decreases

The OSPD does not receive any funding from federal funds and/or gifts or donations.