

Long Range Financial Plan

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Office of the State Public Defender

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Colorado State Public Defender

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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.

Performance Measures

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

Performance Measures

		FY 20-21	FY 21-22	FY 22-23	FY 23-24	FY 24-25	FY 25-26	FY 26-27
		(actual)	(actual)	(projected)	(projected)	(projected)	(projected)	(projected)
MEASURE 1:	Target	119,229	136,144	135,034	139,085	143,258	147,556	151,982
Number of new trial court cases.	Actual	113,453	127,391					
MEASURE 2:	Target	165,029	175,221	184,968	190,517	196,233	202,120	208,184
Number of active trial court cases.	Actual	159,292	179,581					
MEASURE 3:	Target	100%						
Percent of trial court attorney staff allocated vs. total required for closed trial court cases.	Actual	80%	79%					
MEASURE 4:	Target	500						
Number of attorney applications received.	Actual	500	410					
MEASURE 5:	Target	100%						
Percent of total attorney staff allocated vs. total required for closed trial court cases and appellate cases.	Actual	81%	80%					
MEASURE 6:	Target	12%						
Annual rates of attrition:								
Attorneys	Actual	15%	21%					
Investigators	Actual	9%	10%					
Administrative Assistants	Actual	19%	30%					
Total All Employees	Actual	14%	19%					
MEASURE 7:	Target	70%						
Percent of experienced, fully capable staff (journey level or higher):								
Attorneys	Actual	39%	39%					
Investigators	Actual	57%	53%					
Administrative Assistants	Actual	41%	36%					
Total All Employees	Actual	45%	43%					
MEASURE 8:	Target	100%						
Percent compliance with minimum standards for total staffing requirements.	Actual	83%	80%					
MEASURE 9:	Target	12%						
Maintain established standard percentages for reasonable staff supervision, management and development.	Actual	10%	9%					
MEASURE 10:	Target	524	450	480	495	510	525	541
Number of new appellate cases.	Actual	256	379					

		FY 20-21	FY 21-22	FY 22-23	FY 23-24	FY 24-25	FY 25-26	FY 26-27
		(actual)	(actual)	(projected)	(projected)	(projected)	(projected)	(projected)
MEASURE 11:	Target	1,870	1,627	1,629	1,596	1,590	1,596	1,613
Number of active appellate cases.	Actual	1,602	1,556					
MEASURE 12:	Target	100%						
Percent of appellate attorney staff allocated vs. total required for appellate cases awaiting filing of initial brief.	Actual	85%	84%					
MEASURE 13:	Target	105,353	129,507	134,333	138,362	142,512	146,786	151,189
Number of trial court cases closed.	Actual	107,099	130,421					
MEASURE 14:	Target	132	132	193	193	193	193	193
Days of training provided.	Actual	69	182					
MEASURE 15:	Target	15						
Number of CLE credits provided to all attorneys.	Actual	12	14					
MEASURE 16:	Target	3						
Hours of ethics training provided, focusing on Colorado criminal law.	Actual	2.2	2					
MEASURE 17:	Target	15						
Number of administrative processes and organizational infrastructure evaluations performed.	Actual	15	15					
MEASURE 18:	Target	447	358	343	378	378	378	378
Number of appellate cases for which an Opening Brief has been filed.	Actual	433	310					
MEASURE 19:	Target	490	271	324	324	336	360	395
Number of backlogged appellate cases.	Actual	287	299					

SECTION 2: Financial Structure

Baseline Forecast: Budget Drivers for FY23-FY27

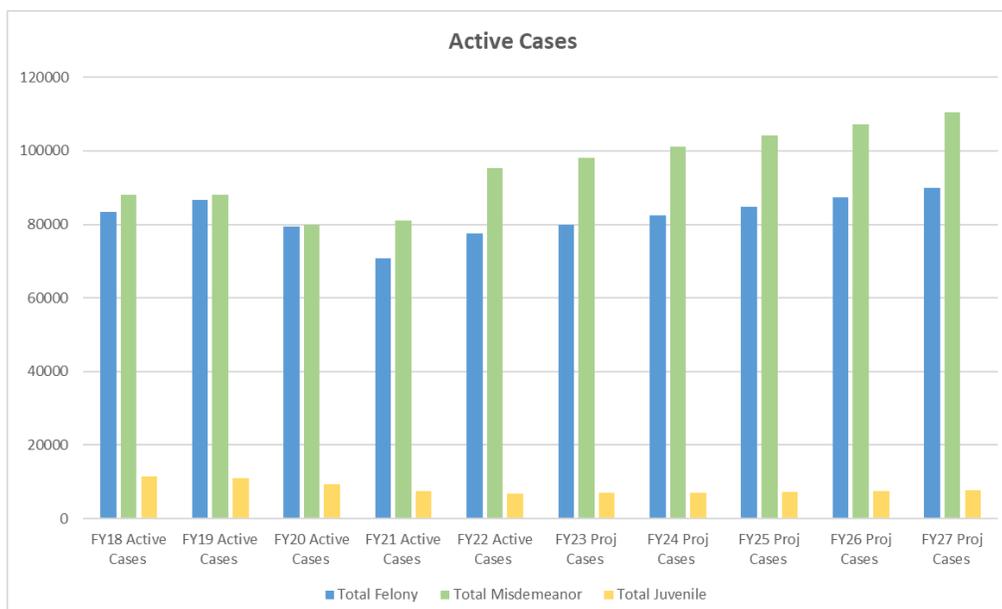
Appropriation	Baseline	Caseload Growth	Operational	Total
FY 2022-23	\$ 130,103,751			\$ 130,103,751
FY 2023-24	\$ 152,111,474			\$ 152,111,474
FY 2024-25	\$ 152,111,474	\$ 4,122,442	\$ 101,015	\$ 156,334,931
FY 2025-26	\$ 156,334,931	\$ 3,076,362	\$ 89,407	\$ 159,500,700
FY 2026-27	\$ 159,500,700	\$ 3,307,415	\$ 92,279	\$ 162,900,394

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 COVID pandemic, this is no longer the case. As we have emerged 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.



The major driver in OSPD’s Budget Request for FY 2023-24 is OSPD salary survey, conducted by an independent compensation firm, Logic Compensation Group, to close a significant gap in salaries between the OSPD and the public sector market in Colorado. To put the OSPD in a more competitive position with its counterparts throughout the state. OSPD’s request will keep the agency a viable option for employment, and we expect it will slow the attrition rate among developing and experienced staff. Over the course of several years, the OSPD will regain overall experience to the benefit of clients and employees.

Scenario Evaluation: Department-Specific Contingency

Current projections show our attorney staffing level falling from 82 percent this year to 75 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 FY23-FY27					
Case Type	FY23 Projected Cases	FY24 Projected Cases	FY25 Projected Cases	FY26 Projected Cases	FY27 Projected Cases
Total Felony	56,612	58,310	60,060	61,861	63,717
Total Misdemeanor	73,272	75,470	77,734	80,066	82,468
Total Juvenile	4,449	4,581	4,718	4,859	5,004
Grand Total	134,333	138,362	142,512	146,786	151,189
FTE Need	640	646	664	683	703
Current Staffing Level	526	526	526	526	526
% Staffed	82%	81%	79%	77%	75%

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 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.”

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.

IT Capital Funds & Projects

The OSPD was appropriated IT Capital Construction funding in FY2022-23 for Public Defense in the Digital Age project will allow the OSPD to keep up with the growing data storage demands and allow public defenders to continue providing necessary representation for their clients.

<i>Department Capital and IT Capital</i>		
	<i>Total Funds</i>	<i>IT Projects</i>
<i>FY 2021-22</i>	\$ -	\$ -
<i>FY 2021-23</i>	\$ 4,110,754	\$ 4,110,754
<i>FY 2021-24</i>	\$ -	\$ -
<i>FY 2021-25</i>	\$ -	\$ -
<i>FY 2021-26</i>	\$ -	\$ -

Ongoing Debt Obligations

The OSPD has no ongoing debt obligations.

SECTION 3: Federal Funds

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