

Long Range Financial Plan

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Office of the 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 21-22	FY 22-23	FY 23-24	FY 24-25	FY 25-26	FY 26-27	FY 27-28
		(actual)	(actual)	(projected)	(projected)	(projected)	(projected)	(projected)
MEASURE 1:	Target	136,144	135,034	139,085	143,258	147,556	151,982	151,982
Number of new trial court cases.	Actual	127,391	125,329					
MEASURE 2:	Target	175,221	184,968	190,517	196,233	202,120	208,184	208,184
Number of active trial court cases.	Actual	179,581	174,489					
MEASURE 3:	Target	100%	100%	100%	100%	100%	100%	100%
Percent of actual trial court attorney staff vs. total required for closed trial court cases.	Actual	79%	77%					
MEASURE 4:	Target	500	500	500	500	500	500	500
Number of attorney applications received.	Actual	410	507					
MEASURE 5:	Target	100%	100%	100%	100%	100%	100%	100%
Percent of actual total attorney staff vs. total required for closed trial court cases and appellate cases.	Actual	80%	76%					
MEASURE 6:	Target	12%	12%	12%	12%	12%	12%	12%
Annual rates of attrition:								
Attorneys	Actual	21%	18%					
Investigators	Actual	10%	8%					
Paralegals	Actual		9%					
Administrative Assistants	Actual	30%	19%					
Total All Employees	Actual	19%	16%					
MEASURE 7:	Target	70%	70%	70%	70%	70%	70%	70%
Percent of experienced, fully capable staff (journey level or higher):								
Attorneys	Actual	39%	40%					
Investigators	Actual	53%	52%					
Paralegals	Actual		21%					
Administrative Assistants	Actual	36%	30%					
Total All Employees	Actual	43%	39%					
MEASURE 8:	Target	100%	100%	100%	100%	100%	100%	100%
Percent compliance with minimum standards for total staffing requirements.	Actual	80%	77%					
MEASURE 9:	Target	12%	12%	12%	12%	12%	12%	12%
Maintain established standard percentages for reasonable staff supervision, management and development.	Actual	9%	10%					

		FY 21-22	FY 22-23	FY 23-24	FY 24-25	FY 25-26	FY 26-27	FY 27-28
		(actual)	(actual)	(projected)	(projected)	(projected)	(projected)	(projected)
MEASURE 10:								
Number of new appellate cases.	Target	450	480	495	510	525	541	541
	Actual	379	430					
MEASURE 11:								
Number of active appellate cases.	Target	1,627	1,629	1,596	1,590	1,596	1,613	1,613
	Actual	1,556	1,564					
MEASURE 12:								
Percent of actual appellate attorney staff vs. total required for appellate cases awaiting filing of initial brief.	Target	100%	100%	100%	100%	100%	100%	100%
	Actual	84%	60%					
MEASURE 13:								
Number of trial court cases closed.	Target	129,507	134,333	138,362	142,512	146,786	151,189	151,189
	Actual	130,421	130,856					
MEASURE 14:								
Days of training provided.	Target	132	193	267	266	266	266	266
	Actual	182	250					
MEASURE 15:								
Number of CLE credits provided to all attorneys.	Target	15	15	15	15	15	15	15
	Actual	14	29					
MEASURE 16:								
Hours of ethics training provided, focusing on Colorado criminal law.	Target	3	3	3	3	3	3	3
	Actual	2	4					
MEASURE 17:								
Number of administrative processes and organizational infrastructure evaluations performed.	Target	15	15	15	15	15	15	15
	Actual	15	15					
MEASURE 18:								
Number of appellate cases for which an Opening Brief has been filed.	Target	358	343	378	378	378	378	378
	Actual	310	222					
MEASURE 19:								
Number of backlogged appellate cases.	Target	271	324	324	336	360	395	395
	Actual	299	451					

SECTION 2: Financial Structure

Baseline Forecast: Budget Drivers for FY24-FY28

Appropriation	Baseline	Personal Services	Operational	Total
FY 2023-24	\$ 155,572,694			\$ 155,572,694
FY 2024-25	\$ 155,572,694			\$ 186,370,774
FY 2025-26	\$ 186,370,774	\$ 5,164,881	\$ 586,180	\$ 192,121,835
FY 2026-27	\$ 192,121,835	\$ 4,024,115	\$ 819,380	\$ 196,965,330
FY 2027-28	\$ 196,965,330	\$ 3,619,355	\$ 304,640	\$ 200,889,325

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-eight percent of our budget is spent on personal services, with the remaining twelve 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.

OSPД Trial Office - Active Cases			
FY22-FY23			
CASE TYPE	FY22 Active Cases	FY23 Active Cases	FY23 % Active
Felony 1	435	437	0.3%
Felony 2	718	833	0.5%
Sex Assault Felony 2, 3, 4, 5 or 6	2,462	1,638	0.9%
Felony 3 or 4 (COV)	5,421	4,380	2.5%
Felony 3 or 4 (non-COV)	13,447	13,695	7.8%
Felony 5 or 6	23,462	21,569	12.4%
DUI Felony 4	1,120	1,108	0.6%
Drug Felony 1, 2, 3 or 4	6,131	6,571	3.8%
Felony Cases	53,196	50,231	28.8%
Misc. Proceedings	4,135	3,866	2.2%
Revocations	20,211	20,405	11.7%
Appeals	77	76	0.0%
Felony Other Proceedings	24,423	24,347	14.0%
Total Felony	77,619	74,578	42.7%
Misdemeanor Sex Offense	962	697	0.4%
Misdemeanor 1	27,413	25,356	14.5%
Misdemeanor 2 or 3	21,831	23,068	13.2%
Misdemeanor DUI	7,615	7,844	4.5%
Misdemeanor Traffic/Other	19,714	17,461	10.0%
Misdemeanor Cases	77,535	74,426	42.7%
Misc. Proceedings	1,572	1,212	0.7%
Revocations	15,955	16,739	9.6%
Appeals	193	186	0.1%
Misdemeanor Other Proceedings	17,720	18,137	10.4%
Total Misdemeanor	95,255	92,563	53.0%
Juvenile Sex Offense	453	402	0.2%
Juvenile Felony	2,228	2,605	1.5%
Juvenile Misdemeanor	2,464	2,831	1.6%
Juvenile Cases	5,145	5,838	3.3%
Misc. Proceedings	230	231	0.1%
Revocations	1,317	1,273	0.7%
Appeals	15	6	0.0%
Juvenile Other Proceedings	1,562	1,510	0.9%
Total Juvenile	6,707	7,348	4.2%
Summary			
Total Cases	135,876	130,495	74.8%
Total Misc. Proceedings	5,937	5,309	3.0%
Total Revocations	37,483	38,417	22.0%
Total Appeals	285	268	0.2%
Total Other Proceedings	43,705	43,994	25.2%
Grand Total Active Cases	179,581	174,489	100.0%

Changes to the work of a public defender are the most significant factor that drives OSPD budget needs. Because no one case or client is the same, workload for the OSPD depends upon any number of complex and dynamic factors including overall number of cases, the complexity and stage of the cases, the experience level and practice style of the individual attorneys, the necessity of travel and coverage of multiple courthouses, the docketing practices of each judicial district and individual judges, and the negotiation practices of prosecutors. Changes in the criminal legal system have workload and budgetary consequences for the OSPD. The amount of information and complexity of criminal investigations increases the workload, even if the number of cases stays static. The prevalence of prosecutions of people living with mental illness, requiring specialized and time-consuming advocacy, create additional workload for attorney and social worker staff. Diffuse docketing practiced by judges and reliance upon magistrates means affects OSPD’s efficiency and, therefore, impacts its budget.

Finally, the OSPD budget is impacted by legal talent workforce limitations. While the OSPD seeks to identify creative ways to deliver legal services in accordance with its statutory mandate through reliance on support staff like administrative staff, investigators, social workers, and paralegals, ultimately the work of public defense must include attorneys. The legal job market is a small one that is further limited by a public interest practice-area focus. The work of a public defender is exceedingly challenging and specialized such that hiring practices for all job types must ensure staff are mission-driven and client-centered. Consequently, the OSPD is forced to be conservative in its attorney FTE requests to ensure it can recruit and hire for positions.

Scenario Evaluation: Department-Specific Contingency

Current projections show our attorney staffing level falling from 79 percent this year to 70 percent over the next five years without any additional staffing. This current and growing staffing deficit presents a threat to the OSPD’s ability to meet ethically, responsibly and effectively 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 FY24-FY28					
Case Type	FY24 Projected Cases	FY25 Projected Cases	FY26 Projected Cases	FY27 Projected Cases	FY28 Projected Cases
Total Felony	56,330	58,020	59,760	61,553	63,400
Total Misdemeanor	73,354	75,555	77,822	80,156	82,561
Total Juvenile	5,096	5,248	5,404	5,566	5,733
Grand Total	134,780	138,822	142,986	147,276	151,694
FTE Need	671	692	713	734	756
Current Allocated FTE	527	527	527	527	527
% Staffed	79%	76%	74%	72%	70%

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.

Economic downturn can have a direct impact on the OSPD’s workload in that more people will fall below the federal poverty line and therefore qualify for the OSPD’s services. Economic drivers of crime will cause more people who are unhoused or living with mental illness to be entangled in the criminal legal system, people who are overwhelmingly OSPD clients, and for whom the OSPD attorneys and social workers can offer few solutions.

IT Capital Funds & Projects

The OSPD was appropriated IT Capital Construction funding in FY2022-23 for its *Public Defense in the Digital Age* project that will enable the OSPD to keep up with the growing data storage demands and allow public defenders to continue providing necessary representation for their clients. The first year of this project was consumed by vendor identification, contracting, and customization. The project is moving forward as anticipated and a significant amount of the cost of the project will be used during this and next Fiscal Year as various OSPD sites “go live” with the new storage system.

<i>Department IT Capital</i>			
	<i>Total Appropriated</i>	<i>Expenditures</i>	<i>IT Capital Balance</i>
<i>FY 2022-23</i>	\$ 4,110,754	\$ 53,999	\$ 4,056,755
<i>FY 2023-24</i>		\$ -	\$ -
<i>FY 2024-25</i>		\$ -	\$ -
<i>FY 2025-26</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.