

Performance Plan

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Office of the State Public Defender

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Colorado State Public Defender

Table of Contents

Performance Plan

Strategic Component

Mission.....	1
Vision.....	1
History and Description.....	1
Functional Organizational Chart	4

Operational Component/Processes

Operational Processes.....	5
Goals, Strategies and Measures	5
Performance Evaluation.....	8
Performance Measures.....	12

Strategic Component

Mission

The mission of the Office of the State Public Defender 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.

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.

Statutory Authority

Statutory authority and Constitutional Authority form the basis of Office of State Public Defender's work.

C.R.S. § 21-1-101(1) demonstrates the need for the public defender to be **independent of political considerations, provide legal services to indigent people**, and states in part:

“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. § 21-1-103 mandates that the state public defender shall represent each indigent person who is arrested for or charged with a felony, a misdemeanor when the charged offense includes a possible jail sentence, juveniles upon whom a delinquency petition is filed or who are restrained by court order, process, or otherwise, person who are held in any institution against their will by process or otherwise for treatment of disease or disorder (meaning people who have been found not guilty by reason of insanity) when the person applies for a public defender or when appointed by the court.

History

In 1963, the United States Supreme Court decided *Gideon v. Wainwright*, 372 U.S. 335 (1963), ensuring the indigent accused the right to representation of counsel in criminal cases. That same year, the Colorado General Assembly passed the Colorado Defender Act in response to the *Gideon* decision. This Act authorized Colorado counties to either establish a public defender office or remain under the previous ad hoc system of appointing counsel for indigent citizens accused of criminal offenses. Four county public defender offices were established under the Act

in Denver, Brighton, Pueblo and Durango.

In 1969, the State Legislature passed the Administrative Reorganization Act. Pursuant to this act, the State began to oversee the court system, which assumed responsibility for the appointment and funding of counsel for indigent people. The Office of the State Public Defender was created by statute and became an independent state agency in 1970.

Description

The Office of the State Public Defender (OSPD) devotes itself to providing effective criminal defense representation to indigent persons charged with crimes. Our clients are people who, faced with the possibility of incarceration, are unable to afford private counsel and without counsel would otherwise be denied their constitutional right to representation throughout the criminal proceedings. Attorneys, investigators, social workers, paralegals and legal support staff are necessary to provide effective representation of counsel as mandated by the federal and state constitutions, Colorado Revised Statutes, Colorado Court Rules, American Bar Association standards, and the Colorado Rules of Professional Conduct. The OSPD system is the most efficient means of meeting these requirements.

The OSPD is an independent agency within the Judicial Branch of Colorado state government. Judges appoint the OSPD when a client qualifies for public defender services pursuant to statute, applicable case law and Chief Justice Directives. Megan A. Ring is the current Colorado State Public Defender and was appointed in 2018.

OSPD represents clients handling cases at the trial court level and the appellate court level. The OSPD maintains 21 regional trial offices which cover Colorado's 22 judicial districts and 64 counties. The OSPD appellate office handles statewide indigent criminal cases heard at the Court of Appeals and the Supreme Court. The staff in these offices are entirely devoted to representing clients in cases as assigned by the courts. System-wide administrative and support functions for these offices are handled centrally through the State Administrative Office in Denver.

The State Administrative Office houses the leadership team for the system. OSPD's mission and performance expectations are guided and monitored by this leadership team. The office coordinates all support functions to assist our regional trial offices and the Appellate Division in providing competent and zealous legal services to our clients. The administrative functions delivered by the administrative office include:

- Program direction, analysis and planning, including statistical compilation and development.
- Workforce development, training personnel, policy, compensation analysis, and practice development.
- Providing guidance to trial office teams in complex cases, and statewide litigation strategies.
- Facilitating and fostering a culture of DEIB in all offices throughout the state.
- Providing and identifying resources to support employees in enhancing long-term sustainability and job satisfaction.
- Payroll and benefits coordination and administration.
- Legislative affairs and statutory analysis.

- Intergovernmental and intragovernmental affairs.
- Budget analysis, development, allocation and management.
- Financial management, analysis tracking, transaction processing, procurement and accounting.
- Facilities, planning development and lease negotiation.
- Contracts and grants management.
- IT support and development.
- Development, distribution and maintenance of the agency's computer information and telecommunications systems.
- Human Resources.

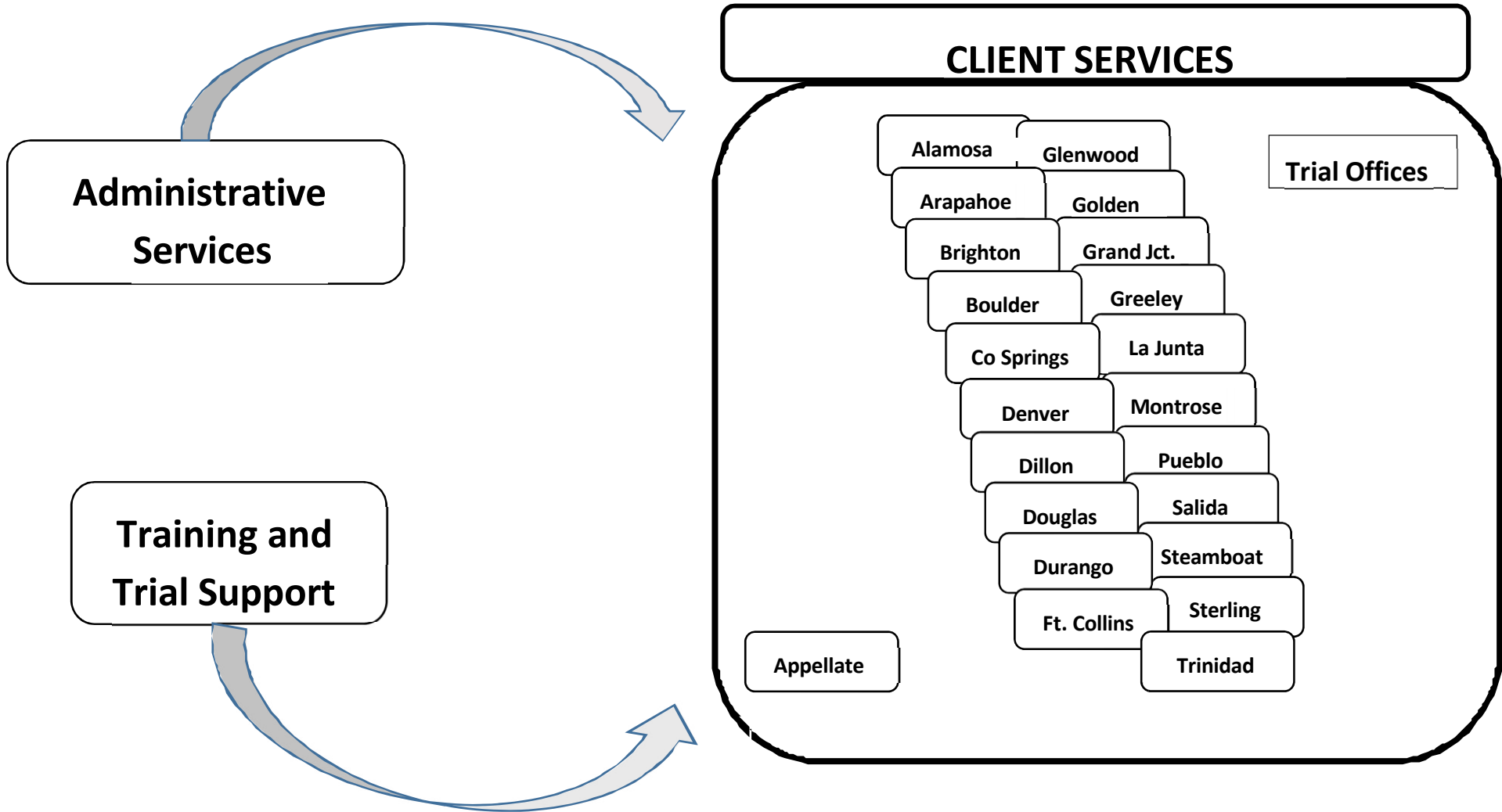
To support the OSPD in the representation of their FY 2024-25 projected caseload, the OSPD was appropriated \$178,273,311 and approximately 1177 FTE. This is comprised of approximately 621 attorneys; 176 investigators, 117 paralegals; 33 social workers; 160 administrative assistants and 70 centralized management and support positions.

Constitutional, Statutory and Other Authority

Constitutional, statutory and other authority for the OSPD system and its work is established pursuant to:

- U.S. Const. amend. VI;
- Colo. Const. art. II, § 16;
- C.R.S. §§ 21-1-101 to 21-1-107;
- Chief Justice Directive 04-04;
- ABA Criminal Justice Standards;
- Colo. Rules of Professional Conduct (Colo. RPC);
- *Gideon v. Wainwright*, 372 U.S. 335 (1963);
- *Alabama v. Shelton*, 535 U.S. 654 (2002);
- *Rothgery v. Gillespie County*, 554 U.S. 191 (2008);
- *Nikander v. District Court*, 711 P.2d 1260 (Colo. 1986);
- *Allen v. People*, 157 Colo. 582, 404 P.2d 266 (1965);
- *In Re Gault*, 387 U.S. 1 (1967); and
- *Powell v. Alabama*, 287 U.S. 45 (1932)
- *Rothgery v. Gillespie County, Tex.* 554 U.S. (191) (2008).

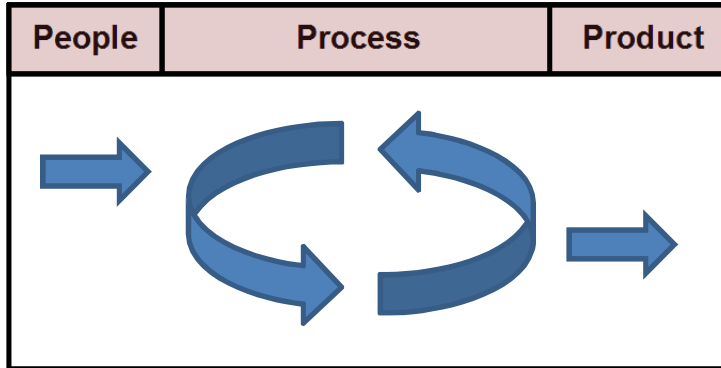
COLORADO STATE PUBLIC DEFENDER



Operational Component/Processes

Goals, Strategies and Measures

In order to achieve our mission of providing high-quality, effective criminal defense representation for each of our clients, the OSPD ensures that our goals, strategies and measures support our people, our process and the end product of client representation.



To this end, we have developed three overarching goals, five strategies and nineteen measures, all focused on improving service to our clients. We continue to analyze and further refine the concepts included in this document throughout the year using a variety of methods.

Our goals, strategies and measures all tie directly to our vision and our mission. Furthermore, as part of our organizational infrastructure planning, these components are continually reviewed and further refined.

Goals:

1. Provide high quality attorney services and advocacy in both the trial and appellate courts throughout Colorado for indigent clients.
2. Hire and retain enough quality staff to effectively manage the ever- increasing workload in each office in the state.
3. Provide enough opportunity for excellent staff development, training, technology support and other resources to adapt our response to the constantly changing criminal legal system and ensure our advocacy is commensurate with those available for non-indigent people as required by our statute.

Strategies:

4. Hire a sufficient number of skilled and committed staff and keep an adequate level of experienced staff to effectively manage the assigned caseload.
5. Track and analyze trends in caseloads and adjust staffing levels.
6. Provide training to address the changing legal climate.
7. Continually evaluate administrative processes and organizational infrastructure needs such as office space, technology, and staffing.
8. Work all cases as efficiently as possible, while keeping a high quality of effective and reasonable representation.

Measures:

Input

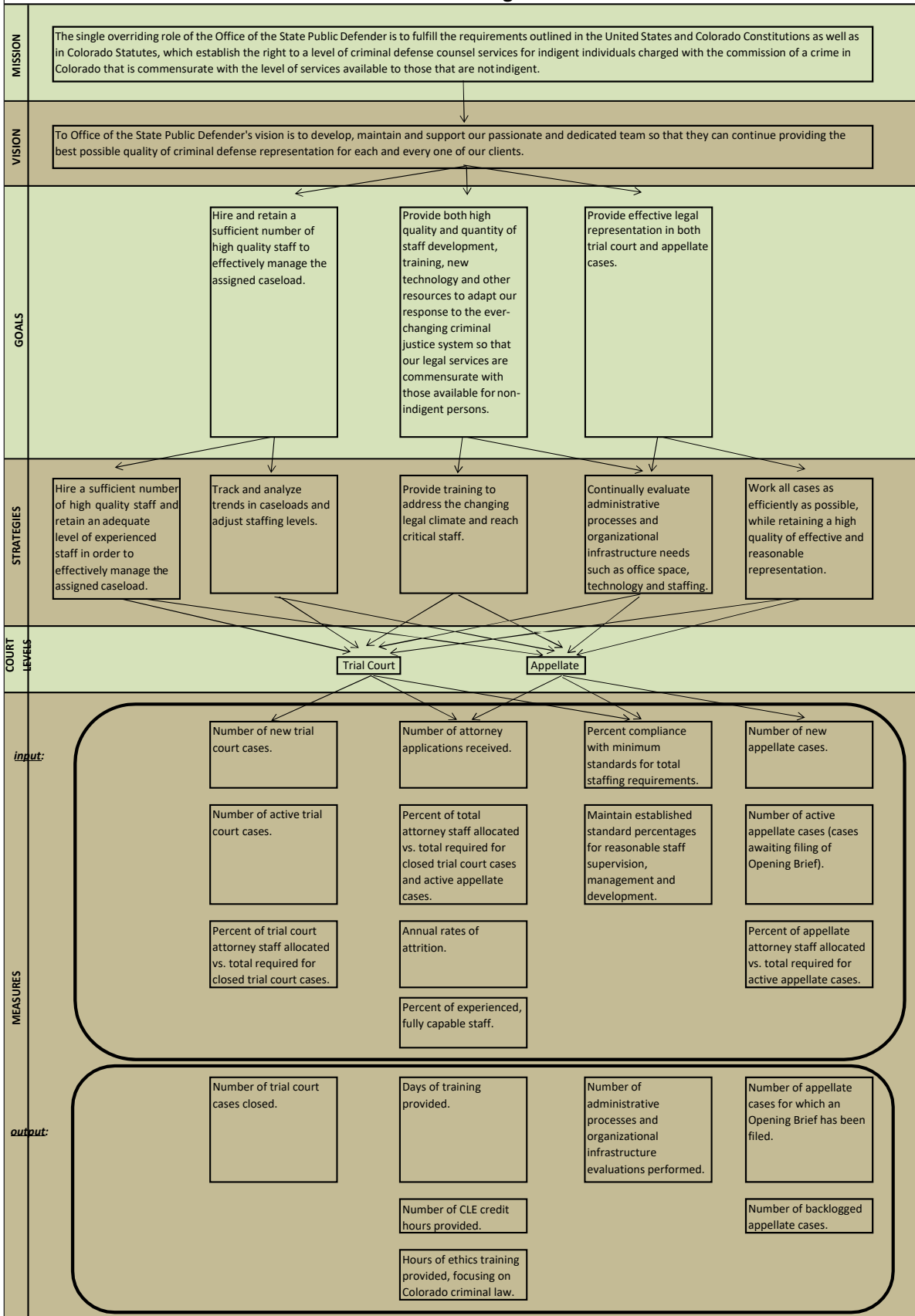
1. Number of new trial court cases.
2. Number of active trial court cases.
3. Percent of trial court attorney staff allocated vs. total required for closed trial court cases.
4. Number of attorney applications received.
5. Percent of total attorney staff allocated versus total required for closed trial court cases and active appellate cases.
6. Annual rates of attrition.
7. Percent of experienced, fully capable staff.
8. Percent compliance with minimum standards for total staffing requirements.
9. Established standard percentages for reasonable staff supervision, management and development.
10. Number of new appellate cases.
11. Number of active appellate cases (cases awaiting filing of Opening Brief).
12. Percent of appellate attorney staff allocated vs. total required for active appellate cases.

Output

13. Number of trial court cases closed.
14. Days of training provided.
15. Number of CLE credit hours provided.
16. Ethics training hours provided, focus on Colorado criminal law.
17. Number of administrative processes and organizational infrastructure evaluations performed.
18. Number of appellate cases for which an Opening Brief has been filed.
19. Number of backlogged appellate cases.

To see a pictorial representation of the relationships among our mission, vision, goals, strategies and measures, see *Performance Planning Structure* on page 9.

Performance Planning Structure



Performance Evaluation

OSPD Trial Office - New & Closed Cases						
CASE TYPE	FY22 New Cases	FY23 New Cases	FY23 % New Cases	FY22 Closed Cases	FY23 Closed Cases	FY23 % Closed Cases
Felony 1	204	205	0.2%	203	197	0.2%
Felony 2	419	528	0.4%	413	511	0.4%
Sex Assault Felony 2, 3, 4, 5 or 6	1,251	1,369	1.1%	1,737	1,155	0.9%
Felony 3 or 4 (COV)	3,249	3,237	2.6%	4,278	2,785	2.1%
Felony 3 or 4 (non-COV)	9,066	8,358	6.7%	8,110	9,702	7.4%
Felony 5 or 6	16,593	14,434	11.5%	16,783	15,945	12.2%
DUI Felony 4	660	692	0.6%	704	699	0.5%
Drug Felony 1, 2, 3 or 4	4,162	4,800	3.8%	4,360	4,695	3.6%
Felony Cases	35,604	33,623	26.8%	36,588	35,689	27.3%
Misc. Proceedings	2,966	2,880	2.3%	3,149	2,951	2.3%
Revocations	15,103	15,366	12.3%	15,172	16,003	12.2%
Appeals	43	53	0.0%	54	46	0.0%
Felony Other Proceedings	18,112	18,299	14.6%	18,375	19,000	14.5%
Total Felony	53,716	51,922	41.4%	54,963	54,689	41.8%
Misdemeanor Sex Offense	539	704	0.6%	735	561	0.4%
Misdemeanor 1	19,249	18,776	15.0%	21,065	18,923	14.5%
Misdemeanor 2 or 3	16,716	17,539	14.0%	16,304	18,337	14.0%
Misdemeanor DUI	4,251	5,980	4.8%	5,751	4,662	3.6%
Misdemeanor Traffic/Other	14,648	11,123	8.9%	13,376	13,948	10.7%
Misdemeanor Cases	55,403	54,122	43.2%	57,231	56,431	43.1%
Misc. Proceedings	1,248	980	0.8%	1,340	996	0.8%
Revocations	12,317	13,245	10.6%	12,461	13,701	10.5%
Appeals	93	99	0.1%	106	90	0.1%
Misdemeanor Other Proceedings	13,658	14,324	11.4%	13,907	14,787	11.3%
Total Misdemeanor	69,061	68,446	54.6%	71,138	71,218	54.4%
Juvenile Sex Offense	236	194	0.2%	244	210	0.2%
Juvenile Felony	1,510	1,750	1.4%	1,374	1,742	1.3%
Juvenile Misdemeanor	1,773	1,920	1.5%	1,553	1,909	1.5%
Juvenile Cases	3,519	3,864	3.1%	3,171	3,861	3.0%
Misc. Proceedings	165	175	0.1%	174	157	0.1%
Revocations	921	921	0.7%	965	928	0.7%
Appeals	9	1	0.0%	10	3	0.0%
Juvenile Other Proceedings	1,095	1,097	0.9%	1,149	1,088	0.8%
Total Juvenile	4,614	4,961	4.0%	4,320	4,949	3.8%
Summary						
Total Cases	94,526	91,609	73.1%	96,990	95,981	73.3%
Total Misc. Proceedings	4,379	4,035	3.2%	4,663	4,104	3.1%
Total Revocations	28,341	29,532	23.6%	28,598	30,632	23.4%
Total Appeals	145	153	0.1%	170	139	0.1%
Total Other Proceedings	32,865	33,720	26.9%	33,431	34,875	26.7%
Grand Total Cases	127,391	125,329	100.0%	130,421	130,856	100.0%

OSPD Trial Office - Active & Outstanding Cases

CASE TYPE	FY22 Active Cases	FY23 Active Cases	FY23 % Active Cases	FY22 O/S Cases	FY23 O/S Cases	FY23 % O/S Cases
Felony 1	435	437	0.3%	232	240	0.6%
Felony 2	718	833	0.5%	305	322	0.7%
Sex Assault Felony 2, 3, 4, 5 or 6	2,462	1,638	0.9%	725	939	2.2%
Felony 3 or 4 (COV)	5,421	4,380	2.5%	1,143	1,595	3.7%
Felony 3 or 4 (non-COV)	13,447	13,695	7.8%	5,337	3,993	9.2%
Felony 5 or 6	23,462	21,569	12.4%	6,679	5,168	11.8%
DUI Felony 4	1,120	1,108	0.6%	416	409	0.9%
Drug Felony 1, 2, 3 or 4	6,131	6,571	3.8%	1,771	1,876	4.3%
Felony Cases	53,196	50,231	28.8%	16,608	14,542	33.3%
Misc. Proceedings	4,135	3,866	2.2%	986	915	2.1%
Revocations	20,211	20,405	11.7%	5,039	4,402	10.1%
Appeals	77	76	0.0%	23	30	0.1%
Felony Other Proceedings	24,423	24,347	14.0%	6,048	5,347	12.3%
Total Felony	77,619	74,578	42.7%	22,656	19,889	45.6%
Misdemeanor Sex Offense	962	697	0.4%	227	370	0.8%
Misdemeanor 1	27,413	25,356	14.5%	6,348	6,201	14.2%
Misdemeanor 2 or 3	21,831	23,068	13.2%	5,527	4,729	10.8%
Misdemeanor DUI	7,615	7,844	4.5%	1,864	3,182	7.3%
Misdemeanor Traffic/Other	19,714	17,461	10.0%	6,338	3,513	8.1%
Misdemeanor Cases	77,535	74,426	42.7%	20,304	17,995	41.2%
Misc. Proceedings	1,572	1,212	0.7%	232	216	0.5%
Revocations	15,955	16,739	9.6%	3,494	3,038	7.0%
Appeals	193	186	0.1%	87	96	0.2%
Misdemeanor Other Proceedings	17,720	18,137	10.4%	3,813	3,350	7.7%
Total Misdemeanor	95,255	92,563	53.0%	24,117	21,345	48.9%
Juvenile Sex Offense	453	402	0.2%	209	193	0.4%
Juvenile Felony	2,228	2,605	1.5%	854	862	2.0%
Juvenile Misdemeanor	2,464	2,831	1.6%	911	922	2.1%
Juvenile Cases	5,145	5,838	3.3%	1,974	1,977	4.5%
Misc. Proceedings	230	231	0.1%	56	74	0.2%
Revocations	1,317	1,273	0.7%	352	345	0.8%
Appeals	15	6	0.0%	5	3	0.0%
Juvenile Other Proceedings	1,562	1,510	0.9%	413	422	1.0%
Total Juvenile	6,707	7,348	4.2%	2,387	2,399	5.5%
Summary						
Total Cases	135,876	130,495	74.8%	38,886	34,514	79.1%
Total Misc. Proceedings	5,937	5,309	3.0%	1,274	1,205	2.8%
Total Revocations	37,483	38,417	22.0%	8,885	7,785	17.8%
Total Appeals	285	268	0.2%	115	129	0.3%
Total Other Proceedings	43,705	43,994	25.2%	10,274	9,119	20.9%
Grand Total Cases	179,581	174,489	100.0%	49,160	43,633	100.0%

OSPD Trials (Jury & Court)		
	FY22 Trials	FY23 Trials
Felony		
F1	42	35
F2	28	23
F2-F6 Sex	31	42
F3-F4 COV	23	43
F3-F4 Non COV	89	88
F5-F6	90	67
DUI Felony 4	14	25
Drug Felony	14	18
Felony Total	331	341
Misdemeanor		
Misd Sex	11	22
M1	136	213
M2-M3	79	88
Misd DUI	142	234
Traffic/Other	79	75
Misdemeanor Total	447	632
Juvenile		
Juv Sex	6	7
Felony	4	10
Misdemeanor	10	11
Juvenile Total	20	28
Grand Total	798	1001

OSPD Trial Office Conflicts		
	FY22	FY23
New Opened Cases	127,391	125,329
Conflicts		
Co-Defendant	3,553	4,944
Witness	7,368	6,784
Other	3,193	1,412
Total	14,114	13,140
<i>% of New Cases</i>	<i>11.1%</i>	<i>10.5%</i>

APPELLATE DIVISION

FISCAL YEAR	New Appeals	Briefs Filed by PD	Cases Resolved Other Ways	Appeals Closed in Phase 1	Cases awaiting filing of initial brief	Standard Caseload per NLADA	Cases in excess of NLADA standards	Cases Phase 2 (after OB filed)	Total Active Felony Cases
FY 14	573	367	127	495	749	279	470	1000	2341
FY 15	533	422	122	544	738	363	375	985	2282
FY 16	511	486	141	627	622	359	263	1049	2234
FY 17	525	459	101	560	587	351	236	879	2196
FY 18	523	421	150	571	539	351	188	820	1989
FY 19	563	381	118	499	603	368	235	761	1922
FY 20	514	454	133	587	530	368	162	816	1878
FY 21	256	433	66	499	287	308	0	890	1602
FY 22	379	310	57	367	299	273	26	835	1556
FY 23	430	222	56	278	451	215	236	657	1564
FY 24 Est.	514	422	114	536	429	279	150	679	1622
FY 25 Est.	529	422	117	539	419	293	126	700	1637
FY 26 Est.	545	422	121	543	421	307	114	722	1664
FY 27 Est.	561	422	125	546	436	307	130	743	1704
FY 28 Est.	578	422	128	550	465	307	158	765	1758

Performance Measures

		FY 21-22	FY 22-23	FY 23-24	FY 24-25	FY 25-26
		(actual)	(actual)	(projected)	(projected)	(projected)
MEASURE 1:	Target	136,144	135,034	139,085	143,258	147,556
Number of new trial court cases.	Actual	127,391	125,329			
MEASURE 2:	Target	175,221	184,968	190,517	196,233	202,120
Number of active trial court cases.	Actual	179,581	174,489			
MEASURE 3:	Target	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
Number of attorney applications received.	Actual	410	507			
MEASURE 5:	Target	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%
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%
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%
Percent compliance with minimum standards for total staffing requirements.	Actual	80%	77%			

		FY 21-22	FY 22-23	FY 23-24	FY 24-25	FY 25-26
		(actual)	(actual)	(projected)	(projected)	(projected)
MEASURE 9:	Target	12%	12%	12%	12%	12%
Maintain established standard percentages for reasonable staff supervision, management and development.	Actual	9%	10%			
MEASURE 10:	Target	450	480	495	510	525
Number of new appellate cases.	Actual	379	430			
MEASURE 11:	Target	1,627	1,629	1,596	1,590	1,596
Number of active appellate cases.	Actual	1,556	1,564			
MEASURE 12:	Target	100%	100%	100%	100%	100%
Percent of actual appellate attorney staff vs. total required for appellate cases awaiting filing of initial brief.	Actual	84%	60%			
MEASURE 13:	Target	129,507	134,333	138,362	142,512	146,786
Number of trial court cases closed.	Actual	130,421	130,856			
MEASURE 14:	Target	132	193	267	266	266
Days of training provided.	Actual	182	250			
MEASURE 15:	Target	15	15	15	15	15
Number of CLE credits provided to all attorneys.	Actual	14	29			
MEASURE 16:	Target	3	3	3	3	3
Hours of ethics training provided, focusing on Colorado criminal law.	Actual	2	4			
MEASURE 17:	Target	15	15	15	15	15
Number of administrative processes and organizational infrastructure evaluations performed.	Actual	15	15			
MEASURE 18:	Target	358	343	378	378	378
Number of appellate cases for which an Opening Brief has been filed.	Actual	310	222			
MEASURE 19:	Target	271	324	324	336	360
Number of backlogged appellate cases.	Actual	299	451			