

Performance Plan

July 01, 2014



Office of the State Public Defender

DOUGLAS K. WILSON
Colorado State Public Defender

Table of Contents

Performance Plan

Strategic Component

Mission.....	1
Vision	1
History and Description	1
Trial Office Map	4
Functional Organizational Chart	5
Organizational Chart	6

Operational Component

Operational Processes	7
Goals, Strategies and Measures	7
Performance Evaluation.....	10
Performance Measures.....	19

STRATEGIC COMPONENT

MISSION

The single overriding role of the Office of the State Public Defender is to fulfill requirements outlined in the United States and Colorado Constitutions as well as in Colorado Statutes, which establish the right to a level of criminal defense counsel services for indigent individuals charged with the commission of a crime in Colorado that is commensurate with the level of services available to those that are not indigent.

VISION

The Office of the State Public Defender's vision is to develop, maintain and support our passionate and dedicated team so that they can continue providing the best possible quality of criminal defense representation for each and every one of our clients.

History

In 1963, the United States Supreme Court issued *Gideon v. Wainwright*, 372 U.S. 335 (1963), ensuring the right of the indigent accused to representation of counsel in criminal cases. During that same year, the Colorado General Assembly passed the Colorado Public Defender Act in response to the Supreme Court's decision in *Gideon*. This Act authorized Colorado counties to either establish a public defender's 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. These offices were located in Denver, Brighton, Pueblo and Durango.

In 1970, the State Legislature passed the Administrative Re-Organization 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 defendants. The Office of the State Public Defender was created in a bill carried by the late Senator Ralph Cole and became an independent state agency.

Description

The Office of the State Public Defender (OSPD) is a single purpose program that is devoted to providing reasonable and effective criminal defense representation to indigent persons charged with crimes except where there is a conflict of interest. They are indigent people who are faced with the possibility of incarceration who are unable to afford private counsel and without counsel would otherwise be denied their constitutional right to a fair trial. A critical element in meeting these requirements is the need to maintain the attorney-client relationship. Attorneys, investigators 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. The Court makes the appointment when a defendant qualifies for public defender services pursuant to applicable case law and Chief Justice Directives.

In order to fulfill our responsibility in criminal proceedings, our office operates as a single purpose program which works with cases heard at two different levels of the state court system – the trial court level and the appellate court level. The trial court offices maintain 21 regional trial offices which cover the State’s 22 judicial districts and 64 counties. *See the Trial Office Map on page 4.* The appellate office supports statewide indigent criminal cases heard at the Court of Appeals and the Supreme Court. The staff in these offices are entirely devoted to the processing of cases as assigned by the court. All administrative and support functions for these offices are handled centrally through the State Administrative Office in Denver. *See the OSPD Functional Organization Chart on page 5.*

The Public Defender System is directed at the state level by the Colorado State Public Defender, Douglas K. Wilson. A State Administrative Office provides centralized, state-wide administrative services and coordinates all office support functions to assist our regional trial offices and appellate division in providing services to clients. The administrative functions delivered by the State Administrative Office include:

- all program direction, analysis, and planning, including statistical compilation and development;
- workforce development, training, personnel policy, compensation analysis and practice development, and payroll and benefits coordination and administration;
- legislative affairs and statutory analysis;
- intragovernmental and intergovernmental affairs;
- budget analysis, development, allocation and management;
- financial management, analysis, tracking, transaction processing, procurement, and accounting;
- facilities planning, development, and lease negotiating;
- contracts and grants management; and
- development, distribution and maintenance of the agency’s computer information and telecommunication systems.

To support the OSPD in the representation of their cases, in FY2014-15, the OSPD was appropriated \$83,814,870 and FTE of approximately 779. This is comprised of 488 attorneys; 149 investigators, paralegals and social workers (including 8 social workers dedicated to juvenile work); 111 administrative assistants and 31 centralized management and support positions. *See the Organization Chart on page 6.*

Environmental Scan

While our primary function of providing criminal defense representation will not change, the criminal justice environment in which we operate is changing. For example, caseload continues to grow and the cases that we handle are becoming more complex. This is reflected in an increase in both the number and severity of charges.

Many other factors have compounded these case growth trends adding increasing complexity to the types of cases and the workload required to represent these cases. These changes compound existing workload conditions to make it more difficult and time consuming for attorneys to provide effective representation, including changes in the court such as:

- staffing,
- docket organization,
- the use of specialty courts,
- changes in prosecutorial practice and procedures;
- newly enacted criminal offenses;
- changes in classes of criminal offenses;
- changes in criminal penalties;
- changes to the time it takes to process a case;
- changes in the types, quality, complexity and quantity of evidence; and
- history and documentation associated with a case.

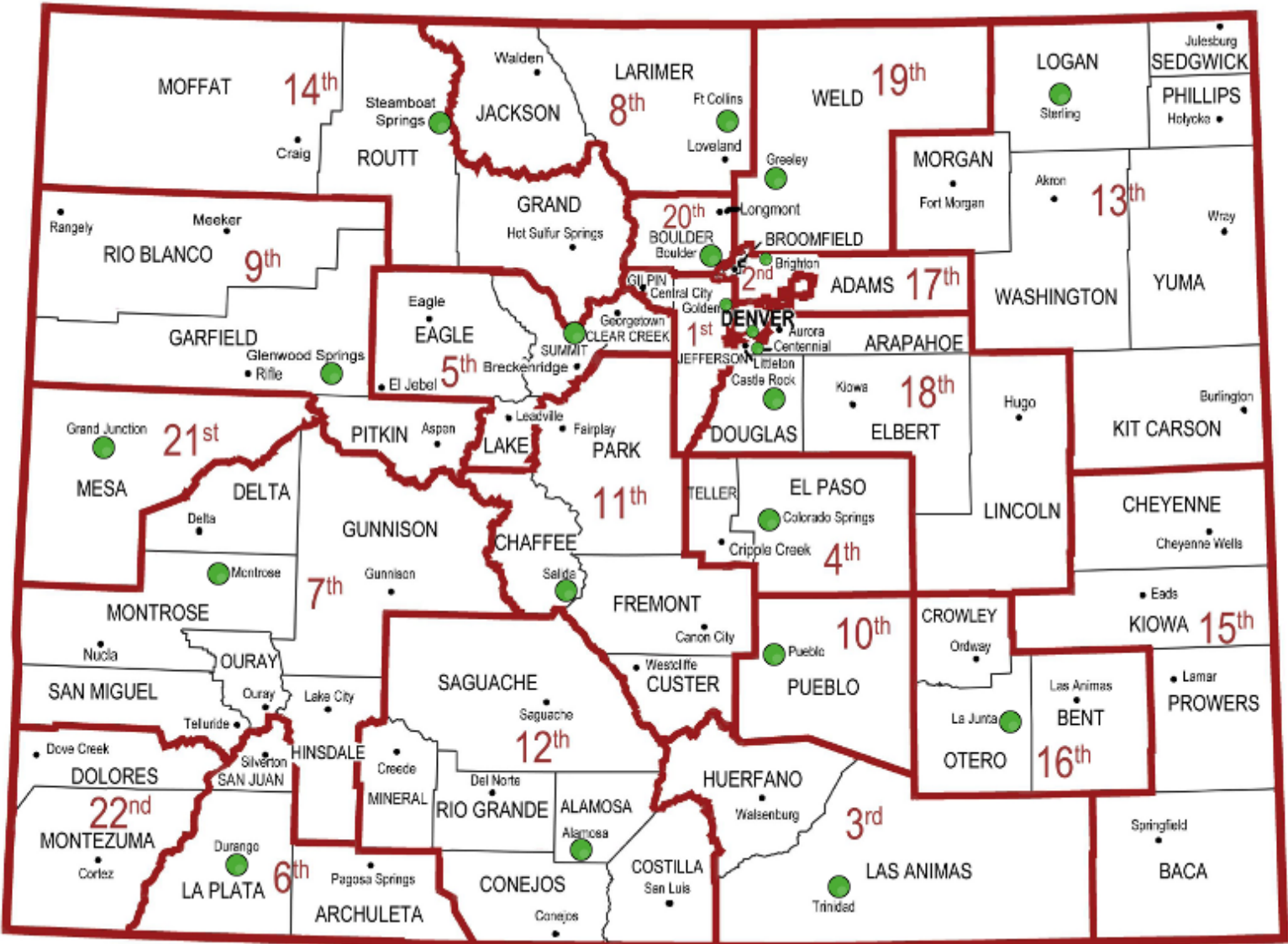
This changing environment presents a compounding challenge to The Office's need to achieve the staffing levels that are required to provide effective representation.

Constitutional, Statutory and other authority

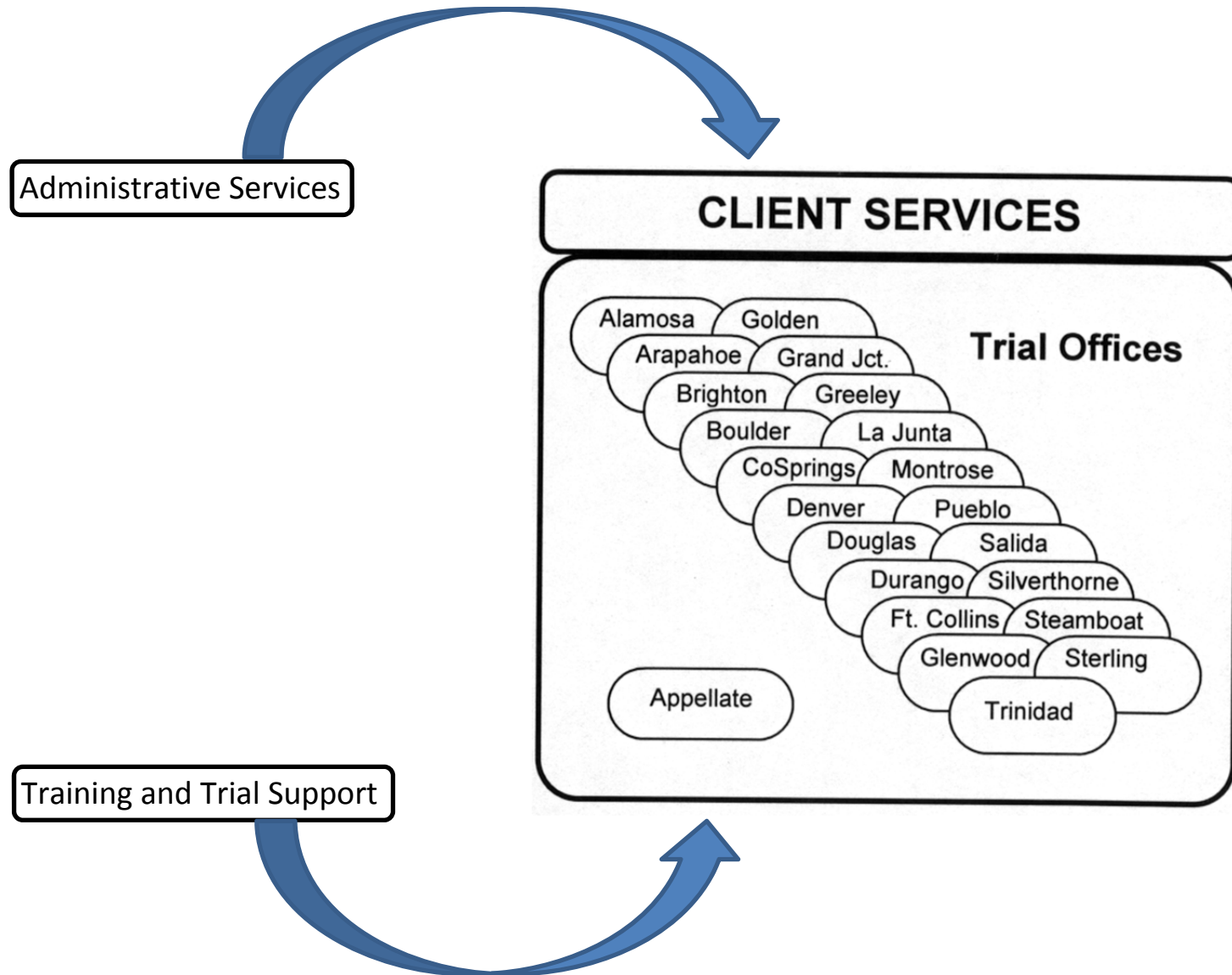
Constitutional, Statutory and other authority for the OSPD is established pursuant to:

- U.S. CONSTITUTION AMEND. VI;
- COLO. CONST. Art. II, § 16;
- C.R.S. § 21-1-101 *et seq.*;
- Chief Justice Directive 04-04, as amended;
- ABA STANDARDS FOR CRIMINAL JUSTICE;
- 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;
- *Nikander v. District Court*, 711 P.2d 1260 (Colo. 1986);
- *Allen v. People*, 157 Colo. 582, 404 P.2d 266 (1965); and
- *In Re Gault*, 387 U.S. 1 (1967).

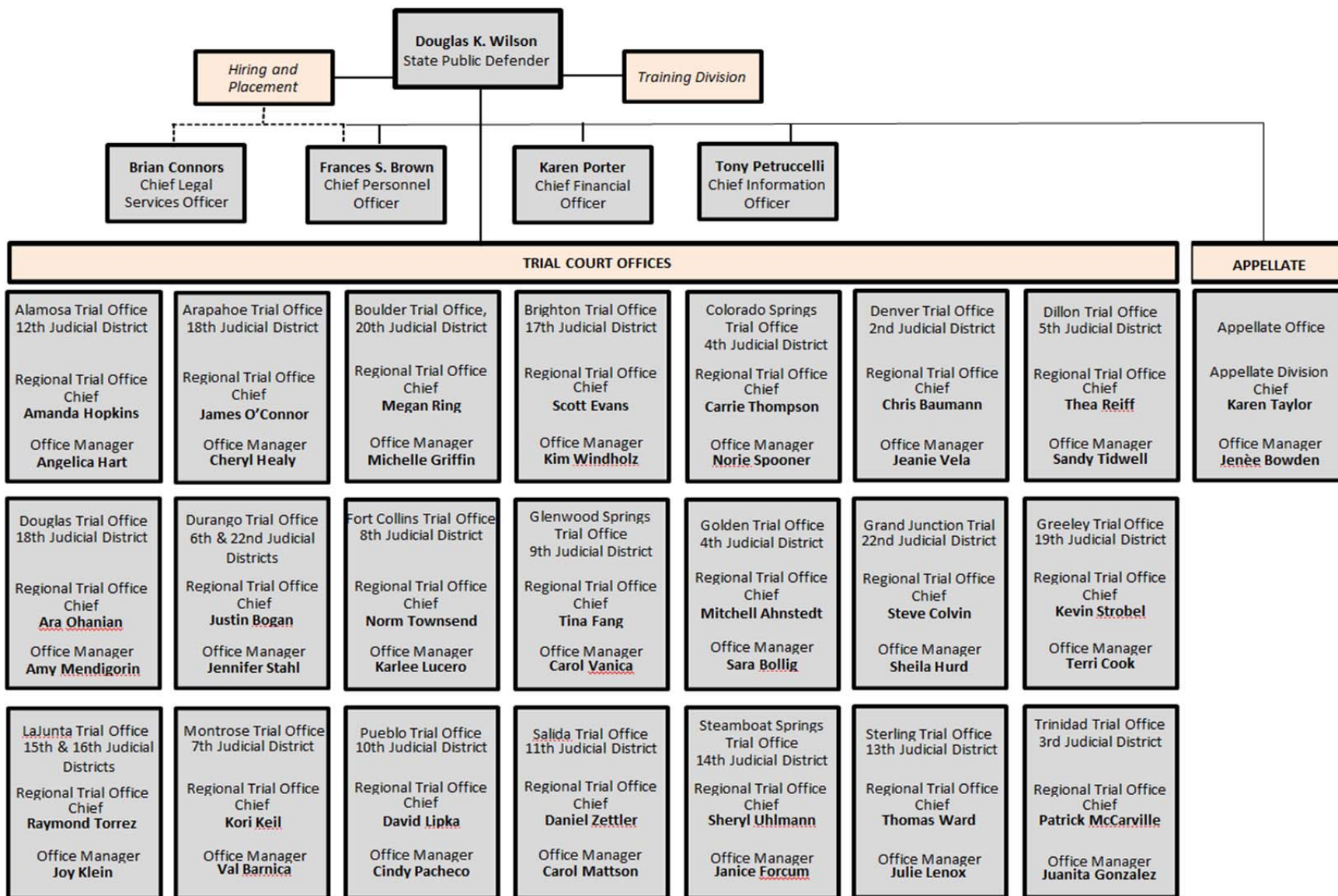
Trial Office Map



Functional Organization Chart



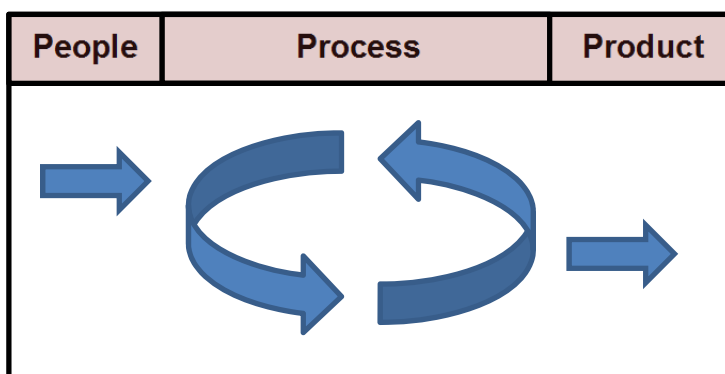
Organization Chart



OPERATIONAL COMPONENT

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 ensured that our goals, strategies and measures addressed our people, our process and our product.



To this end, we have developed three overarching goals, five strategies and nineteen measures, all focused on improving service to our customers. We continue to analyze and further refine the concepts included in this document throughout the year using a variety of platforms, topics such as juvenile defense, performance ratings, attrition and office staffing.

Although we have multiple connections among our goals, strategies and measures, they all tie directly to our vision and our mission. Furthermore, as part of our organizational infrastructure planning, these components are continually being reviewed and further refined.

Goals:

1. Hire and retain a sufficient number of high quality staff to effectively manage the assigned caseload.
2. Provide both high quality and sufficient quantity of staff development, training, new technology and other resources to adapt our response to the ever-changing landscape and criminal justice atmosphere so that our legal services are commensurate with what is available for non-indigent clients.
3. Provide effective legal representation in both trial court and appellate cases.

Strategies:

1. Hire a sufficient number of high quality staff and retain an adequate level of experienced staff in order to effectively manage the assigned caseload.

2. Track and analyze trends in caseloads and adjust staffing levels.
3. Provide trainings to address the changing legal climate and reach critical staff.
4. Continually evaluate administrative processes and organizational infrastructure needs such as office space, technology and staffing.
5. Work all cases as efficiently as possible, while retaining a high quality of effective and reasonable representation.

Measures:

Input

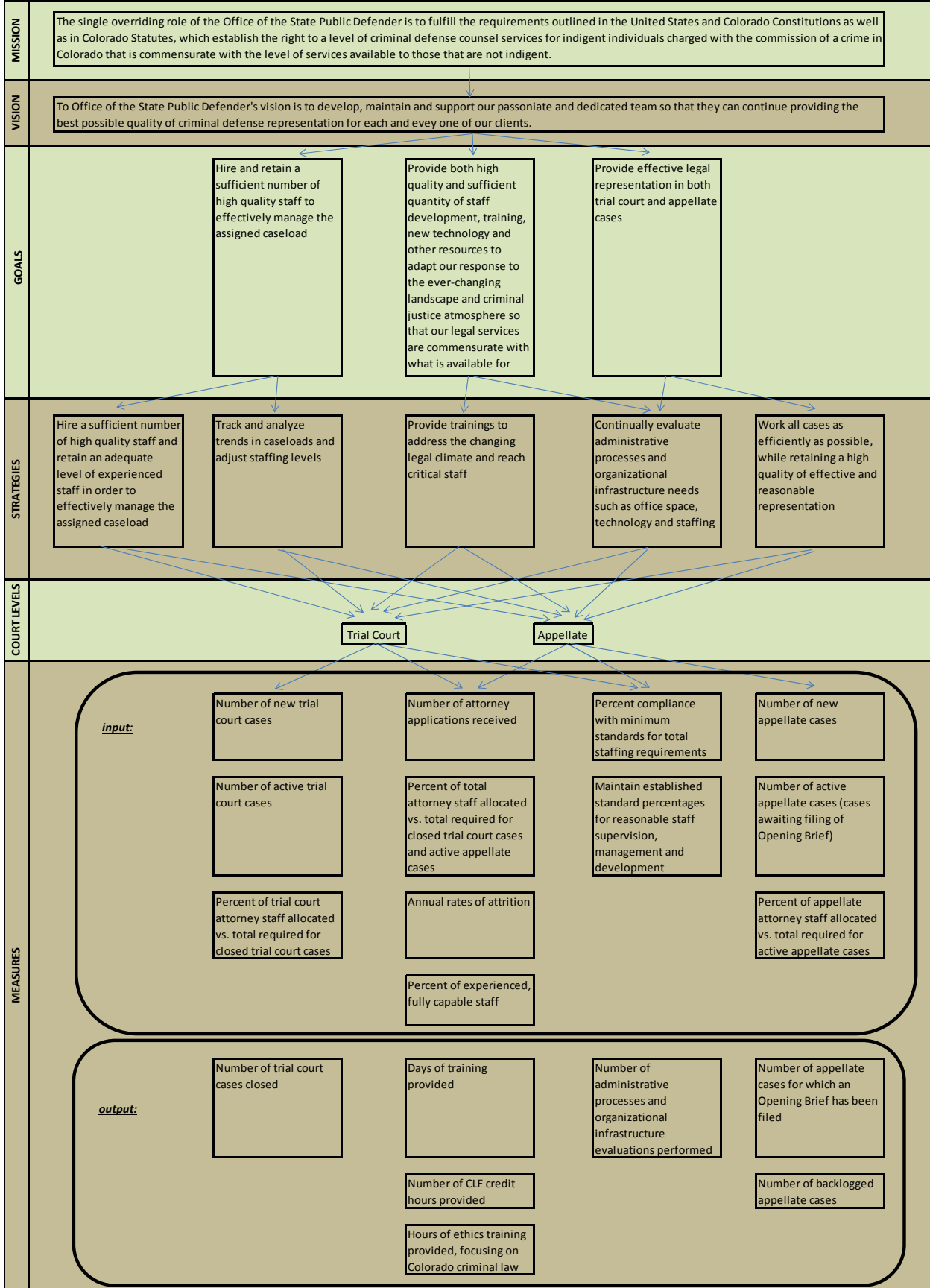
1. Number of new trial court cases.
2. Number of active trial court cases.
3. Percent of trial court attorney staff allocated vs. total required for closed trial court cases.
4. Number of attorney applications received.
5. Percent of total attorney staff allocated versus total required for closed trial 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. Maintain 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. Hours of ethics training provided, focusing 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 our Performance Planning Structure on page 9.*

Performance Planning Structure



Performance Evaluation

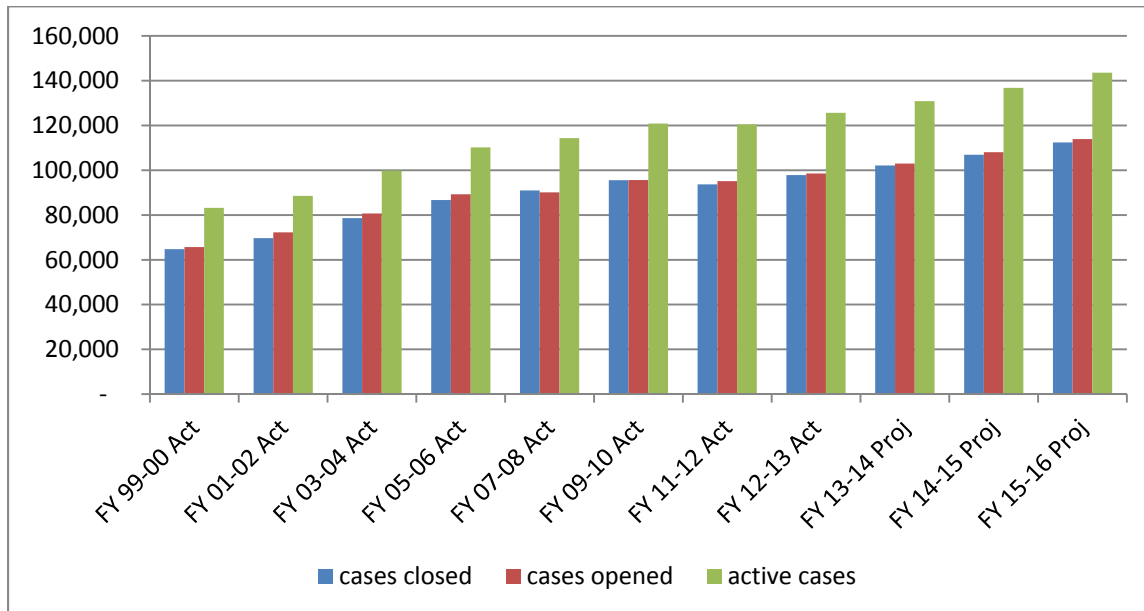
Caseload Trends - REGIONAL TRIAL OFFICE CASELOAD

OVERALL OSPD CASE TRENDS

General Total Cases. The Office tracks and monitors its caseload in three separate categories, New Opened Cases, Closed Cases and Active Cases. In FY 2012-13 the Office experienced an overall increase over FY 2011-12 in each category of approximately 4 percent. Since FY 1999-00 the Office has tracked its annual Caseload Rate of Growth (CRG) which had been growing steadily in the early years reaching peaks around 5 percent in FY2005-06. Since then, it has stabilized at nearly 3.2 percent. However, last year's 4 percent increase, if sustained, would increase our resource requirements in future years and should be monitored closely.

Meanwhile, workload associated with cases maintained growth of 4.1 percent CRG annually through FY 2012-13. This variance between higher workload growth rate as compared to the lower growth rate of actual number of cases is evidence of the increasing complexity of the Public Defender's caseload as a result of changes in the greater criminal justice system. Such change increases the drain on existing staff resources by compounding the workload associated with an annually increasing number of cases.

Caseload Trends & Projection



General Felony Cases. In FY 2012-13 the Office handled 59,891 felony cases, an increase of 5.8% over the prior year. However, more alarming is the increase that occurred in the number of Trial/Pre-Trial cases which rose by 6.7 percent. This is a

significant increase as compared to the annual CRG which was showing a stabilization of 1.9 percent since FY 1999-00. Compounding the drain on our current resources are the three announced and/or potential capital punishment cases that the Office is handling.

Felony cases require the greatest attorney effort and dedication of resources and time, cost the State the most money, and increasingly draw Public Defender resources away from Misdemeanor and Juvenile defendant cases. Many changes to criminal law since 2000 have resulted in a push to raise what were formerly Misdemeanor offenses to the Felony level and to increase the class and penalty of felony offenses, as well as to treat Juvenile Felony cases as Adult Felony cases. Recently, legislation has reduced some felony drug and theft offenses to misdemeanors. The impact of this change is not yet known.

Meanwhile, the workload associated with these cases continues to surpass the rate of case growth now at about 3 percent annual CRG through FY 2012-13. This variance between significant workload growth as compared to the relatively slower growth of actual number of cases is evidence of the increasing complexity of this portion of the caseload as a result of changes in the greater criminal justice system and law.

General Misdemeanor Cases. Misdemeanor case growth in each category of Opened, Closed and Active caseload continued at a relatively predictable rate through about FY 2005-06, hovering around 5 to 6 percent annual CRG. This past year the Office handled 56,625 cases which is a 4.1 percent increase from FY 2010-12 increasing the annual CRG since FY 1999-00 to just under 7 percent.

Similarly, the workload associated with these cases maintained annual growth of nearly 9.5 percent through FY 2012-13. Like felony cases, the comparable growth of the number of these cases and the workload associated with them is evidence of increasing complexity of this portion of Public Defender caseload as a result of changes in the greater criminal justice system and law. Also, similarly, such changes increase the drain on existing staff resources. As resources are increasingly drawn to growing Felony case numbers, Felony workload and complexity of Felony cases, this competing growth of Misdemeanor cases and workload becomes increasingly challenging to effectively represent.

Legislation was recently enacted that went into effect January 1, 2014 and will increase the Misdemeanor caseload for the Office by an estimated 40%. The full impact won't be known until actual data can be collected and analyzed.

General Juvenile Cases. Since FY 1999-00, Juvenile cases have continued to gradually decline. However, this decline has slowed since FY 2004-05, falling from about -4 percent annual CRG through FY 2004-05 to nearly -2.5 percent annual CRG through FY 2012-13. Juvenile cases handled by the Office dropped from 9,474 in FY 2011-12 to 9,090 in FY 2102-13, a 4 percent decrease.

Meanwhile, the growth of the workload associated with Juvenile cases has continually risen - despite the rate of decline in cases. Like Felony and Misdemeanor cases, the

comparable growth of the number of these cases and the workload associated with them is evidence of increasing complexity of this portion of Public Defender caseload as a result of changes in the greater criminal justice system and law. Also, similarly, such change increases the drain on existing staff resources. As resources are increasingly drawn to growing Adult case numbers, Adult workload and complexity of Adult cases, this competing growth of Juvenile case workload becomes increasingly challenging to effectively represent.

OPENED CASE (“FILINGS”) TRENDS

Total Cases Opened. Opened cases are the Public Defender’s share of total cases filed in the courts state wide. In FY 2012-13 the Office was appointed on 98,537 new cases which was an increase of 3.6 percent over FY 2011-12. The CRG for Opened Cases since FY 1999-00 is 3.2% which shows a slight increase from last year’s 3.1%. The CRG for the required workload also increased slightly from last year, going from 1.9% to 2.1%.

The table on the following page details the total cases opened by case class from FY 1999-00 through FY 2012-13 and projected forward with cumulative growth rate since FY 1999-00, annual CRG for cases since FY 1999-00, CRG for workload since FY 1999-00, and net trial attorney FTE required for caseload.

FTE requirements information is provided in this table for comparison purposes only, since the OSPD only uses actual and projected Closed case data to measure workload requirements associated with its annual budget requests and resource needs. Since the Public Defender relinquishes approximately ten percent of its total Opened cases annually due to withdrawals (both conflict and non-conflict), the FTE requirements contained here are inflated. However, as the Public Defender experiences a long-term decline in the number of Opened cases from which it is withdrawn each year, the gap between the workload requirements outlined in this Open Case table will continue to align more closely with the Closed case table resources (shown in the next section), **as** each case that is not given up to withdrawals will result in an increase to cases closed and closed cases workload.

**OSPD Trial Office Cases Opened By Case Class with Attorney FTE Requirements
FY 1999-00 to FY 2018-19 Projected**

SUMMARY OF OSPD OPENED CASES	Av. Equivt Cases per Yr/FTE 2013	Cum Change in Cases Since 2000	CRG in Cases Since 2000	CRG in Workload Since 2000	2019 Proj	2019 Res. Alloc.	2018 Proj	2018 Res. Alloc.	2017 Proj	2017 Res. Alloc.	2016 Proj	2016 Res. Alloc.	2015 Proj	2015 Res. Alloc.	2014 Proj	2014 Res. Alloc.	2013 Open	2013 Res. Alloc.	2012 Open	2012 Res. Alloc.	2000 Open	2000 OSPD Res. Alloc Rqt
Felony 1	4.8	-11.2%	-0.9%	0.7%	98	20.3	97	20.1	97	20.0	96	19.9	96	19.8	95	19.7	95	19.7	69	14.2	107	17.8
Felony 2	32.3	-59.7%	-6.7%	-6.9%	220	6.8	228	7.1	238	7.4	248	7.7	259	8.0	272	8.4	286	8.9	241	7.5	709	22.4
Sex Assaults (F2-F4)	31.3	-21.9%	-1.9%	-1.7%	689	22.1	697	22.4	706	22.7	715	22.9	725	23.2	736	23.6	747	23.9	745	23.8	956	29.7
Felony 3	97.8	-14.2%	-1.2%	-0.5%	4,242	43.3	4,277	43.7	4,313	44.1	4,351	44.5	4,390	44.9	4,431	45.3	4,474	45.7	4,052	41.4	5,216	49.0
Felony 4	150.8	-20.2%	-1.7%	0.4%	6,677	44.3	6,753	44.8	6,833	45.3	6,918	45.9	7,007	46.5	7,101	47.1	7,200	47.7	6,983	46.3	9,020	45.1
Felony 5	150.9	-6.0%	-0.5%	1.7%	3,608	23.9	3,614	23.9	3,621	24.0	3,629	24.0	3,637	24.1	3,647	24.2	3,657	24.2	3,488	23.1	3,892	19.5
Felony 6	235.1	186.4%	8.4%	12.5%	11,167	47.5	10,038	42.7	9,047	38.5	8,176	34.8	7,406	31.5	6,725	28.6	6,121	26.0	5,496	23.4	2,137	5.6
Subtotal Felony Trial & PreTrial	115.1	2.5%	0.2%	0.3%	26,701	208.3	25,705	204.7	24,855	201.9	24,133	199.6	23,521	198.0	23,008	196.8	22,580	196.1	21,074	179.7	22,037	189.1
Misc. Proceedings		-8.1%	-0.6%	0.0%	13,708	-	13,631	-	13,571	-	13,527	-	13,499	-	13,487	-	13,490	-	13,102	-	14,682	-
Revocation of Probation	926.8				14,151	15.2	13,522	14.6	12,931	13.9	12,375	13.3	11,851	12.8	11,357	12.3	10,892	11.8	10,173	11.0	-	-
Appeals		136.4%	6.8%	0.0%	88	-	79	-	72	-	66	-	61	-	56	-	52	-	29	-	22	-
Original Proceedings		200.0%	8.8%	0.0%	13	-	11	-	10	-	9	-	8	-	7	-	6	-	18	-	2	-
Partial Service		-100.0%	0.0%	0.0%	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Subtotal Other Proceedings		66.2%	4.0%	21.6%	27,960	15.2	27,244	14.6	26,584	13.9	25,977	13.3	25,419	12.8	24,907	12.3	24,440	11.8	23,322	11.0	14,706	-
Total Felony	226.2	28.0%	1.9%	0.7%	54,661	223.5	52,949	219.3	51,439	215.8	50,109	213.0	48,940	210.8	47,915	209.1	47,020	207.9	44,396	190.6	36,743	189.1
Misdemeanor 1	175.5	189.3%	8.5%	9.6%	16,970	96.7	15,383	87.7	13,967	79.6	12,702	72.4	11,569	65.9	10,553	60.1	9,641	54.9	9,631	55.2	3,332	16.7
Sex Assault (M1)	169.0	15.2%	1.1%	2.0%	584	3.5	550	3.3	521	3.1	496	2.9	474	2.8	455	2.7	439	2.6	447	2.7	381	2.0
Sex Assault (M2)	176.0	-92.3%	-17.9%	-17.5%	6	0.0	7	0.0	8	0.0	9	0.0	10	0.1	11	0.1	13	0.1	16	0.1	169	0.9
Misdemeanor 2	320.8	124.0%	6.4%	8.8%	11,089	34.7	9,973	31.4	9,013	28.2	8,183	25.5	7,461	23.3	6,833	21.3	6,282	19.6	6,362	20.1	2,804	6.6
Misdemeanor 3/Traffic/PO	310.4	54.6%	3.4%	5.9%	17,655	57.0	16,562	53.2	15,585	50.2	14,710	47.4	13,925	44.9	13,220	42.6	12,585	40.5	12,989	41.5	8,139	19.2
Misdemeanor Trial & PreTrial	246.0	95.3%	5.3%	7.6%	46,304	191.9	42,475	175.6	39,093	161.1	36,098	148.3	33,439	136.9	31,072	126.8	28,960	117.7	29,445	119.5	14,825	45.4
Misc. Proceedings		72.0%	4.3%	0.0%	9,353	-	8,742	-	8,192	-	7,695	-	7,247	-	6,840	-	6,471	-	5,946	-	3,763	-
Revocation of Probation	945.8				20,303	21.4	17,469	18.5	15,088	15.9	13,081	13.8	11,383	12.0	9,943	10.5	8,716	9.2	7,526	8.0	-	-
Appeals		286.5%	11.0%	0.0%	301	-	264	-	232	-	205	-	181	-	161	-	143	-	141	-	37	-
Original Proceedings		800.0%	18.4%	0.0%	22	-	19	-	16	-	14	-	12	-	10	-	9	-	15	-	1	-
Partial Service		-100.0%	0.0%	0.0%	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Subtotal Other Proceedings		303.6%	11.3%	19.6%	29,978	21.4	26,494	18.5	23,528	15.9	20,995	13.8	18,823	12.0	16,954	10.5	15,339	9.2	13,628	8.0	3,801	-
Total Misdemeanor	349.0	137.8%	6.9%	8.2%	76,282	213.4	68,968	194.1	62,621	177.1	57,093	162.1	52,262	149.0	48,026	137.3	44,299	126.9	43,073	127.4	18,626	45.4
Juvenile Felony	195.6	-56.2%	-6.1%	-4.6%	945	4.8	1,001	5.1	1,060	5.4	1,124	5.7	1,193	6.1	1,267	6.5	1,346	6.9	1,470	7.5	3,071	12.7
Juvenile Misdemeanor	195.6	-31.0%	-2.8%	-1.2%	1,692	8.6	1,709	8.7	1,728	8.8	1,749	8.9	1,774	9.1	1,801	9.2	1,831	9.4	1,889	9.7	2,653	11.0
Juvenile Trial & PreTrial	195.6	-44.5%	-4.4%	-2.9%	2,637	13.4	2,709	13.8	2,788	14.2	2,873	14.7	2,966	15.2	3,067	15.7	3,177	16.2	3,359	17.2	5,724	23.7
Misc. Proceedings		-66.7%	-8.1%	0.0%	1,062	-	1,121	-	1,186	-	1,259	-	1,339	-	1,429	-	1,528	-	1,581	-	4,585	-
Revocation of Probation	926.7				2,590	2.8	2,560	2.8	2,535	2.7	2,516	2.7	2,501	2.7	2,492	2.7	2,487	2.7	2,686	2.9	-	-
Appeals		72.7%	4.3%	0.0%	30	-	27	-	25	-	24	-	22	-	20	-	19	-	14	-	11	-
Original Proceedings		600.0%	17.3%	0.0%	16	-	14	-	12	-	11	-	9	-	8	-	7	-	-	-	-	-
Partial Service		-100.0%	0.0%	0.0%	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Subtotal Other Proceedings		-12.1%	-1.0%	10.6%	3,698	2.8	3,722	2.8	3,759	2.7	3,808	2.7	3,872	2.7	3,949	2.7	4,041	2.7	4,281	2.9	4,596	-
Total Juvenile	381.4	-30.1%	-2.7%	-1.7%	6,335	16.2	6,431	16.6	6,547	17.0	6,682	17.4	6,838	17.9	7,016	18.4	7,218	18.9	7,640	20.1	10,320	23.7
Supervision/Management Standard		-100.0%	0.0%	1.9%	41.4	-	39.4	-	37.7	-	36.3	-	35.0	-	33.9	-	33.0	-	31.6	-	25.8	-
Other Proceedings total		89.7%	5.0%		61,636	-	57,460	-	53,871	-	50,780	-	48,113	-	45,810	-	43,820	-	41,231	-	23,103	-
Total Trial/Pretrial	150.7	28.5%	1.9%	1.9%	75,642	455.0	70,889	433.6	66,736	415.0	63,104	398.9	59,927	385.1	57,147	373.2	54,717	363.1	53,878	348.0	42,586	284.0
Total Misc. Proceedings		153.6%	7.4%	0.0%	24,123	17.7	23,494	17.2	22,949	16.5	22,481	16.5	22,085	16.2	21,756	16.2	21,489	16.2	20,629	16.2	8,475	8.475
Total Probation Revocations	849.3	51.8%	3.3%	4.8%	37,045	43.4	33,551	39.4	30,554	35.9	27,971	32.9	25,736	30.3	23,792	28.0	22,095	26.0	20,385	24.0	14,555	14.1
Total Appeals		205.7%	9.0%	-100.0%	418	-	371	-	330	-	294	-	264	-	237	-	214	-	184	-	70	0.1
Total Original Proceedings		633.3%	16.6%	-100.0%	51	-	44	-	38	-	33	-	29	-	25	-	22	-	33	-	3	0.0
Total Partial Service		-100.0%	0.0%	0.0%	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total All	253.2	50.0%	3.2%	2.1%	137,279	498.5	128,349	472.9	120,607	450.8	113,884	431.8	108,040	415.3	102,957	401.2	98,537	389.1	95,109	372.0	65,689	298.1

FTE requirements information is provided here for comparison purposes only, since the OSPD only uses Closed case data to measure its workload requirements associated with its annual budget requests and resource needs. Caseload projections as a result of HB 13-1210 have been excluded until additional data can be collected.

CLOSED (“TERMINATED”) CASE TRENDS

Total Closed Cases. In FY 2012-13 the Office closed 97,872 cases, a 4.5 percent increase over last years’ 93,692 cases. Closed Cases grew rapidly through FY 2005-06 and have since stabilized at an annual CRG that is double the Colorado general population growth rate. The Closed Cases CRG since FY 1999-00 is 3.2 percent which shows a slight increase from last year’s 3.1%. Meanwhile, workload associated with cases has maintained growth of 4.1 percent annually since FY 1999-00.

The table on the following page details the total cases closed by case class from FY 1999-00 through FY 2012-13 and projected forward with cumulative growth rate since FY 1999-00, estimated CRG for cases since FY1999-00, and CRG for workload since FY 1999-00. This table also includes trial attorney FTE required (Resource Allocation Requirement) for each caseload by year. It is this Closed case FTE data that the Public Defender uses to estimate its current and projected staffing resource needs.

OSPD Trial Office Cases Closed By Case Class with Attorney FTE Requirements FY 1999-00 to FY 2018-19 Projected

SUMMARY OF OSPD CASES CLOSED	Av. Equivalent Cases Per Year/FTE 2013	Cum Change in Cases Since 2000	12 Yr CRG in Cases	CRG in Workload Since 2000	2019 Proj	2019 Res. Alloc. Rqt	2018 Proj	2018 Res. Alloc. Rqt	2017 Proj	2017 Res. Alloc.	2016 Proj	2016 Res. Alloc.	2015 Proj	2015 Res. Alloc.	2014 Proj	2014 Res. Alloc. Rqt	2013 Closed	2013 Res. Alloc. Rqt	2012 Closed	2012 Res. Alloc. Rqt	2000 Closed	2000 CSPD Res. Alloc Rqt
Felony 1	4.9	51.7%	3.3%	4.1%	125	25	118	24	112	23	106	22	100	21	96	20	91	19	79	16	60	11
Felony 2	32.3	-32.5%	-3.0%	-2.7%	262	8	256	8	251	8	247	8	244	8	243	8	243	8	286	9	360	11
Sex Assaults (F2-F4)	31.2	39.0%	2.6%	2.1%	905	29	869	28	835	27	804	26	775	25	749	24	724	23	667	21	521	18
Felony 3	97.9	14.1%	1.0%	1.5%	4,516	46	4,452	45	4,390	45	4,331	44	4,274	44	4,220	43	4,167	43	3,901	40	3,652	35
Felony 4	150.8	0.6%	0.0%	1.8%	7,084	47	7,038	47	6,994	46	6,955	46	6,919	46	6,886	46	6,857	45	6,744	45	6,814	36
Felony 5	150.9	18.4%	1.3%	2.8%	3,961	26	3,895	26	3,831	25	3,769	25	3,710	25	3,653	24	3,598	24	3,271	22	3,039	17
Felony 6	235.1	158.6%	7.6%	13.7%	10,599	45	9,523	40	8,591	37	7,778	33	7,068	30	6,445	27	5,895	25	5,114	22	2,280	15
Subtotal Felony Trial & PreTrial	115.8	29.0%	2.0%	2.7%	27,452	227	26,150	218	25,003	211	23,990	204	23,091	197	22,291	191	21,575	186	20,062	175	16,726	132
Misc. Proceedings		-47.9%	-4.9%	0.0%	5,867		6,095		6,338		6,597		6,872		7,166		7,480		7,863		14,344	
Probation Revocations	926.0				12,335	13.3	12,032	13.0	11,744	12.7	11,468	12.4	11,205	12.1	10,955	11.8	10,716	11.6	10,024	10.8		
Appeals		156.3%	7.5%	0.0%	77		69		62		56		50		45		41		31		16	
Original Proceedings		900.0%	20.3%	0.0%	22		19		17		15		13		11		10		11			
Partial Service		31.6%	2.1%	0.0%	7,505		7,314		7,130		6,953		6,783		6,620		6,464		5,903		4,913	
Felony Other Proceedings		28.2%	1.9%	21.5%	25,807	13	25,529	13	25,290	13	25,088	12	24,924	12	24,798	12	24,711	12	23,832	11	19,273	
Total Felony	233.9	28.6%	2.0%	3.1%	53,259	241	51,679	231	50,293	223	49,078	216	48,015	209	47,089	203	46,286	198	43,894	185	35,999	132
Misdemeanor 1	174.9	251.7%	10.2%	10.5%	18,441	105	16,455	94	14,708	84	13,168	75	11,809	67	10,606	61	9,541	55	9,119	52	2,713	15
Sex Assault (M1)	169.1	32.3%	2.2%	2.9%	540	3	514	3	490	3	468	3	448	3	430	3	414	2	376	2	313	2
Sex Assault (M2)	180.6	-87.2%	-14.6%	-19.1%	9	0	9	0	10	0	11	0	12	0	13	0	14	0	8	0	109	1
Misdemeanor 2	318.4	179.4%	8.2%	10.0%	11,927	38	10,607	33	9,469	30	8,486	27	7,632	24	6,889	22	6,240	20	5,954	19	2,233	6
Misdemeanor 3/Traffic/PO	310.7	70.2%	4.2%	7.4%	17,744	57	16,565	53	15,505	50	14,552	47	13,692	44	12,915	42	12,212	39	12,279	39	7,176	16
Misdemeanor Trial & PreTrial	245.0	126.6%	6.5%	8.7%	48,661	203	44,150	184	40,182	167	36,684	152	33,593	138	30,854	126	28,421	116	27,736	112	12,544	39
Misc. Proceedings		-27.7%	-2.5%	0.0%	2,598		2,597		2,602		2,614		2,631		2,654		2,684		2,575		3,713	
Probation Revocations	945.3				15,801	16.7	14,195	15.0	12,786	13.5	11,546	12.2	10,452	11.1	9,486	10.0	8,629	9.1	7,256	7.7		
Appeals		450.0%	14.0%	0.0%	344		291		247		211		180		154		132		134		24	
Original Proceedings		600.0%	16.1%	0.0%	15		13		11		10		9		8		7		21		1	
Partial Service		104.2%	5.6%	0.0%	6,956		6,470		6,026		5,621		5,250		4,911		4,601		4,426		2,253	
Misdemeanor Other Proceedings		168.0%	7.9%	19.5%	25,713	17	23,566	15	21,673	14	20,001	12	18,522	11	17,213	10	16,053	9	14,412	8	5,991	-
Total Misdemeanor	355.5	139.9%	7.0%	9.4%	74,374	220	67,716	199	61,855	180	56,685	164	52,115	149	48,066	136	44,474	125	42,148	120	18,535	39
Juvenile Felony	196.4	-40.1%	-3.9%	-1.9%	1,146	6	1,180	6	1,216	6	1,255	6	1,295	7	1,338	7	1,384	7	1,349	7	2,310	9
Juvenile Misdemeanor	196.4	-21.3%	-1.8%	0.9%	1,766	9	1,758	9	1,753	9	1,751	9	1,753	9	1,758	9	1,766	9	1,844	9	2,244	8
Juvenile Trial & PreTrial	196.4	-30.8%	-2.8%	-0.5%	2,912	15	2,938	15	2,969	15	3,006	15	3,048	16	3,096	16	3,150	16	3,193	16	4,554	17
Misc. Proceedings		-83.7%	-13.0%	0.0%	404		442		485		535		592		659		736		791		4,519	
Probation Revocations	926.4				2,340	2.5	2,331	2.5	2,333	2.5	2,343	2.5	2,362	2.5	2,388	2.6	2,421	2.6	2,737	3.0		
Appeals		70.0%	4.2%	0.0%	23		22		21		20		19		18		17		17		10	
Original Proceedings		700.0%	18.4%	0.0%	20		17		15		12		11		9		8		7			
Partial Service		-32.9%	-3.0%	0.0%	723		728		735		743		754		766		780		905		1,162	
Juvenile Other Proceedings		-30.4%	-2.7%	10.4%	3,509	3	3,539	3	3,587	3	3,653	3	3,737	3	3,840	3	3,962	3	4,457	3	5,691	-
Total Juvenile	381.2	-30.6%	-2.8%	0.7%	6,421	17	6,477	17	6,556	18	6,659	18	6,786	18	6,936	18	7,112	19	7,650	19	10,245	17
Supervision/Management		-100.0%	0.0%	4.1%		47.8		44.8		42.1		39.8		37.7		35.8		34.2		32.4		20.2
Other Proceedings total		44.5%	2.9%		55,029		52,635		50,550		48,742		47,183		45,851		44,726		42,701		30,955	
Total Trial/Pretrial	150.8	57.1%	3.5%	4.1%	79,205	493.0	73,237	461.9	68,155	434.4	63,681	410.1	59,733	388.6	56,241	369.5	53,146	352.5	50,991	335.4	33,824	208.7
Total Misc. Proceedings		31.2%	2.1%	0.0%	8,868		9,133		9,425		9,745		10,095		10,479		10,900		11,229		8,308	
Total Prob Revocations	933.6	52.6%	3.3%	4.1%	30,477	32.6	28,559	30.5	26,862	28.7	25,357	27.1	24,019	25.7	22,828	24.4	21,766	23.3	20,017	21.4	14,268	13.8
Total Appeals		280.0%	10.8%	0.0%	444		382		330		286		248		217		190		182		50	
Total Original Proceedings		2400.0%	28.1%	0.0%	57		49		43		37		33		29		25		39		1	
Total Partial Service		42.2%	2.7%	0.0%	15,184		14,511		13,890		13,317		12,787		12,298		11,845		11,234		8,328	
Total All	260.4	51.1%	3.2%	4.1%	134,054	525.5	125,872	492.4	118,705	463.1	112,423	437.3	106,916	414.3	102,091	393.9	97,872	375.8	93,692	356.8	64,779	222.5

Caseload projections as a result of HB 13-1210 have been excluded until additional data can be collected.

ACTIVE CASE TRENDS

Total Active Cases. Active caseload incorporates all cases that are actively represented in a given year: the total new cases received in a year, plus the remaining unfinished cases opened in the previous year that have not yet completed and closed, and therefore are carried into the new year as existing workload and caseload. In FY 2012-13 the Office carried 125,606 Active Cases, an increase of 4.2 percent over the prior years' 120,496 cases.

The table on the next page details the total cases actively carried each year by case class from FY 1999-00 through FY 2012-13 and projected forward with cumulative growth rate since FY1999-00, estimated CRG for cases since FY 1999-00, and CRG for workload since FY 1999-00. This table also includes trial attorney FTE required for each caseload by year yet is provided for comparison purposes only. The workload for these active cases is not completed in one year, but overlaps years. It is closed case FTE data that the Public Defender uses to estimate its current and projected staffing resource needs.

The more meaningful data in this table is the number of cases represented by case type and case class, since it is this data that is used to develop the comparable national caseload standards and staffing requirements outlined by the American Bar Association (ABA). ABA standards apply caps to the total number of cases carried in a given year by an attorney (Active Cases), whereas OSPD FTE requirements are based upon weighted workload measurement of the time required to bring a case to full completion.

APPELLATE CASELOAD

APPELLATE CASE TRENDS

Overall Appellate Cases. The Office of the State Public Defender maintains a centralized Appellate Division (The Division) that represents Felony appeals from every jurisdiction in the state. The Division is expected to carry 1,268 cases this year (FY 2013-14), including 597 new cases and 671 backlog cases carried over from previous years. This 1,268 number represents those cases where an Opening Brief is expected to be filed and is the phase during which the most resources are required. After the brief is filed, the case remains active as it progresses through the appellate process. The Division estimates there are currently just under 1,500 cases at various stages within this process and the work involved extends well into subsequent years.

Since FY 1999-00, Total Appellate Cases have grown at an annual rate of 3.8 percent, equal to nearly three times the rate of population growth. Although the growth has leveled off in the past couple of years, the time and resources required to prepare an Opening Brief has increased due to the significant increase (100%) of the record length for each case. As a result, the backlog of cases that exceed the NLADA standards have grown from 44 cases in FY 1999-00 to 356 as of FY 2012-13. To address this backlog, a Decision Item was funded by the legislature in FY 2014-15 that will give us additional FTE and spending authority.

OSPD Appellate Division Caseload FY 1999-00 to FY 2018-19

	Total Atty FTE	New Cases	Briefs Filed by PD	Cases Resolved Other Ways	Total Cases Closed (OB has been filed)	Cases awaiting filing of initial brief	Standard Caseload per NLADA	'Backlog' Cases in excess of NLADA standards	Increase in Backlog
FY 00	25	487			387	369	325	44	100
FY 08	29	606	465	121	586	611	373	238	20
FY 09*	31.8	627	450	205	655	583	331	252	14
FY 10	31.8	602	427	124	551	634	331	303	51
FY 11	34.8	575	415	142	557	652	331	321	18
FY 12	34.8	589	460	133	593	648	331	317	-4
FY 13	34.8	585	427	135	562	671	315	356	39
FY 14 Est.	35.8	597	440	131	571	697	315	382	26
FY 15 Est.	35.8	597	440	131	571	723	315	408	26
FY 16 Est.	35.8	597	440	131	571	749	315	434	26
FY 17 Est.	35.8	597	440	131	571	775	315	460	26
FY 18 Est.	35.8	597	440	131	571	801	315	486	26
FY 19 Est.	35.8	597	440	131	571	827	315	512	26

Performance Measures:

		FY 12-13 (actual)	FY 13-14 (projected)	FY 14-15 (projected)	FY 15-16 (projected)	FY 16-17 (projected)
<i>Input Measures</i>						
MEASURE 1:	Target	97,507	112,447	127,627	134,191	141,758
Number of new trial court cases.	Actual	98,537				
MEASURE 2:	Target	125,381	140,320	156,382	163,904	172,500
Number of active trial court cases.	Actual	125,606				
MEASURE 3:	Target	100%	100%	100%	100%	100%
Percent of trial court attorney staff allocated vs. total required for closed trial court cases.	Actual	93.8%				
MEASURE 4:	Target	480	480	480	480	480
Number of attorney applications received.	Actual	713				
MEASURE 5:	Target	100%	100%	100%	100%	100%
Percent of total attorney staff allocated vs. total required for closed trial court cases and active appellate cases.	Actual	92.3%				

	FY 12-13 <i>(actual)</i>	FY 13-14 <i>(projected)</i>	FY 14-15 <i>(projected)</i>	FY 15-16 <i>(projected)</i>	FY 16-17 <i>(projected)</i>	
MEASURE 6:						
Annual rates of attrition:	Target	12%	12%	12%	12%	12%
Attorneys	Actual	11.6%				
Investigators	Actual	13.3%				
Administrative Assistants	Actual	20.8%				
Total All Employees	Actual	12.9%				
MEASURE 7:						
Percent of experienced, fully capable staff (journey level or higher):	Target	70%	70%	70%	70%	70%
Attorneys	Actual	42.3%				
Investigators	Actual	50.9%				
Legal Assistants	Actual	46.9%				
Total All Employees	Actual	46.6%				
MEASURE 8:						
Percent compliance with minimum standards for total staffing requirements	Target	100%	100%	100%	100%	100%
	Actual	82.7%				
MEASURE 9:						
Maintain established standard percentages for reasonable staff supervision, management and development	Target	10%	12%	12%	12%	12%
	Actual	9.8%				

		FY 12-13 (actual)	FY 13-14 (projected)	FY 14-15 (projected)	FY 15-16 (projected)	FY 16-17 (projected)
MEASURE 10:	Target	598	597	597	597	597
Number of new appellate cases.	Actual	585				
MEASURE 11:	Target	1,255	1,268	1196	1124	1052
Number of active appellate cases (cases awaiting filing of Opening Brief).	Actual	1,233				
MEASURE 12:	Target	100%	100%	100%	100%	100%
Percent of appellate attorney staff allocated vs. total required for active appellate cases.	Actual	78.9%				
<i>Output Measures:</i>						
MEASURE 13:	Target	97,527	121,449	146,958	154,531	163,292
Number of trial court cases closed.	Actual	97,872				
MEASURE 14:	Target	n/a (new measure)	137	106	104	104
Days of training provided.	Actual					
MEASURE 15:	Target	15	17	15	15	15
Number of CLE credits provided.	Actual	15				

		FY 12-13 (actual)	FY 13-14 (projected)	FY 14-15 (projected)	FY 15-16 (projected)	FY 16-17 (projected)
MEASURE 16:	Target	3	3	3	3	3
Hours of ethics training provided, focusing on Colorado criminal law.	Actual	3				
MEASURE 17:	Target		15	15	15	15
Number of administrative processes and organizational infrastructure evaluations performed.	Actual	n/a (new measure)				
MEASURE 18:	Target	584	571	669	669	669
Number of appellate cases for which an Opening Brief has been filed.	Actual	562				
MEASURE 19:	Target	671	697	624	552	480
Number of backlogged appellate cases.	Actual	671				