

Performance Plan

July 01, 2018



Office of the State Public Defender

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Colorado State Public Defender

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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.

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

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 effective and efficient 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 this same year, the Colorado General Assembly passed the Colorado 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 1969, 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 and became an independent state agency in 1970.

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. Our clients are indigent people who face 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. 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 statute, 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 FY 2018-19 projected caseload, the OSPD was appropriated \$ 97,453,793 and 872 FTE. This is comprised of 526 attorneys; 174 investigators / legal assistants (including 9 social workers); 131 administrative assistants and 41 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
- the history and documentation associated with a case.

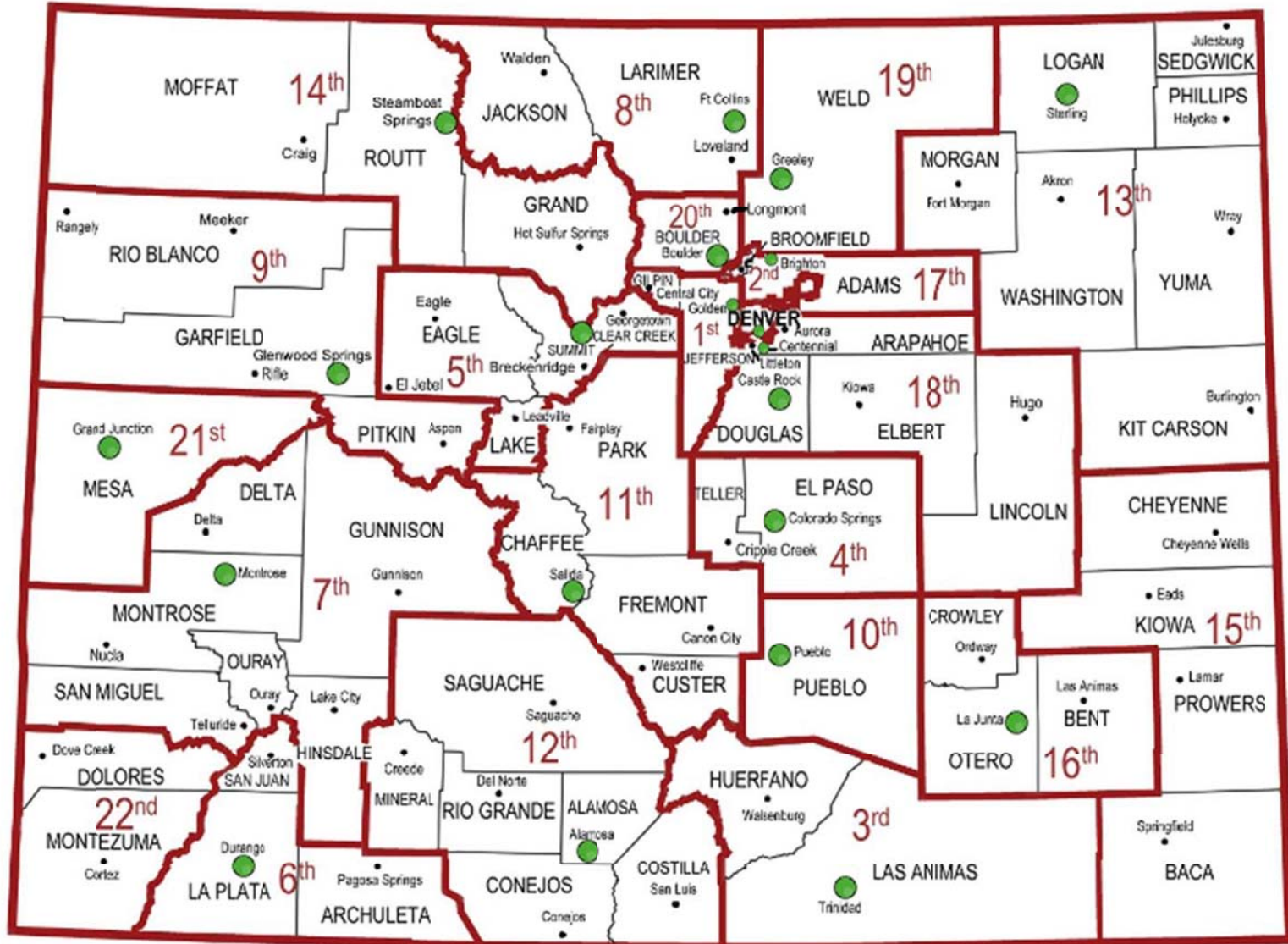
This changing environment presents a compounding challenge to The Office's need to achieve the staffing levels that are required to provide effective representation.

Constitutional, Statutory and other authority

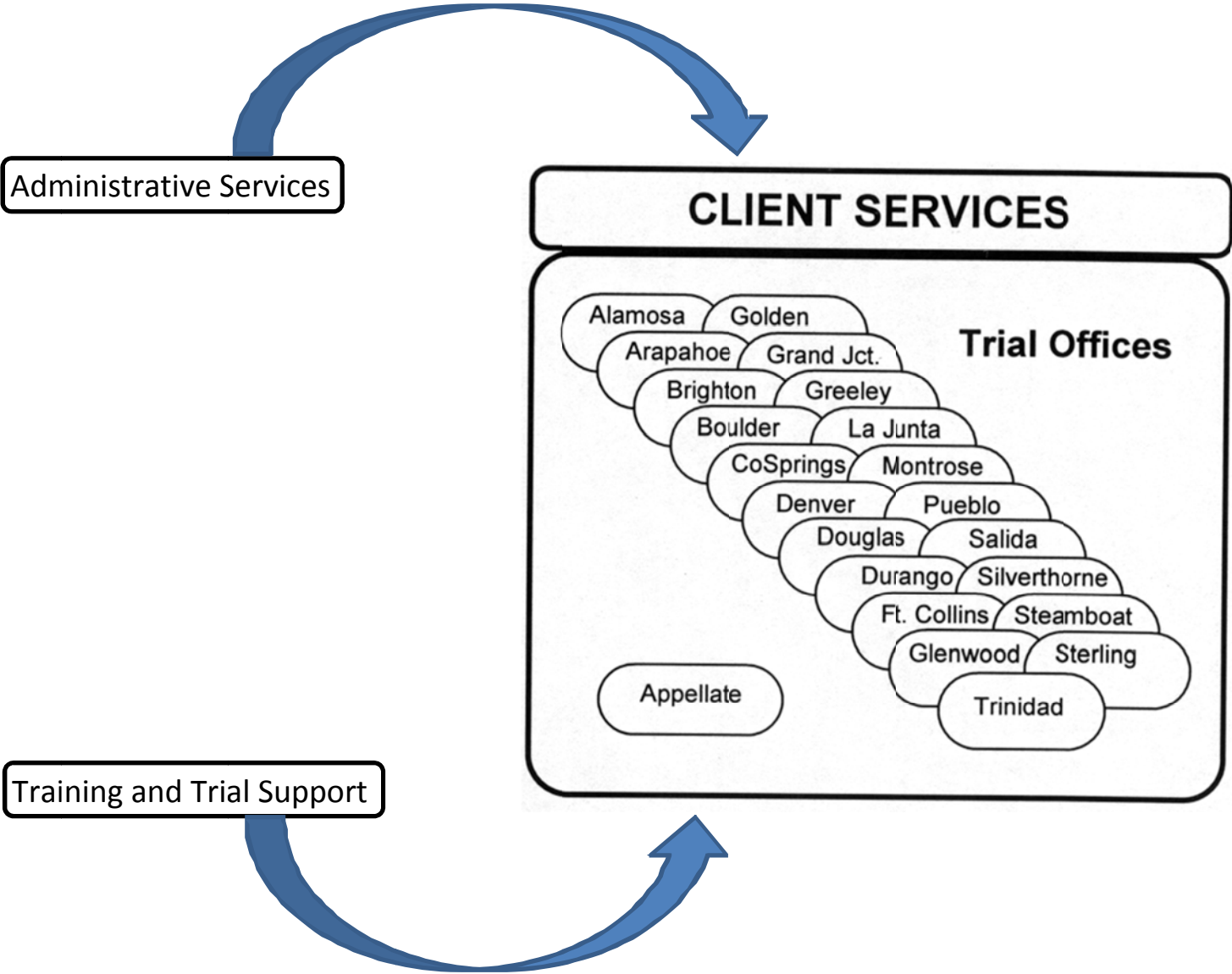
Constitutional, Statutory and other authority for the OSPD is established pursuant to:

- 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).

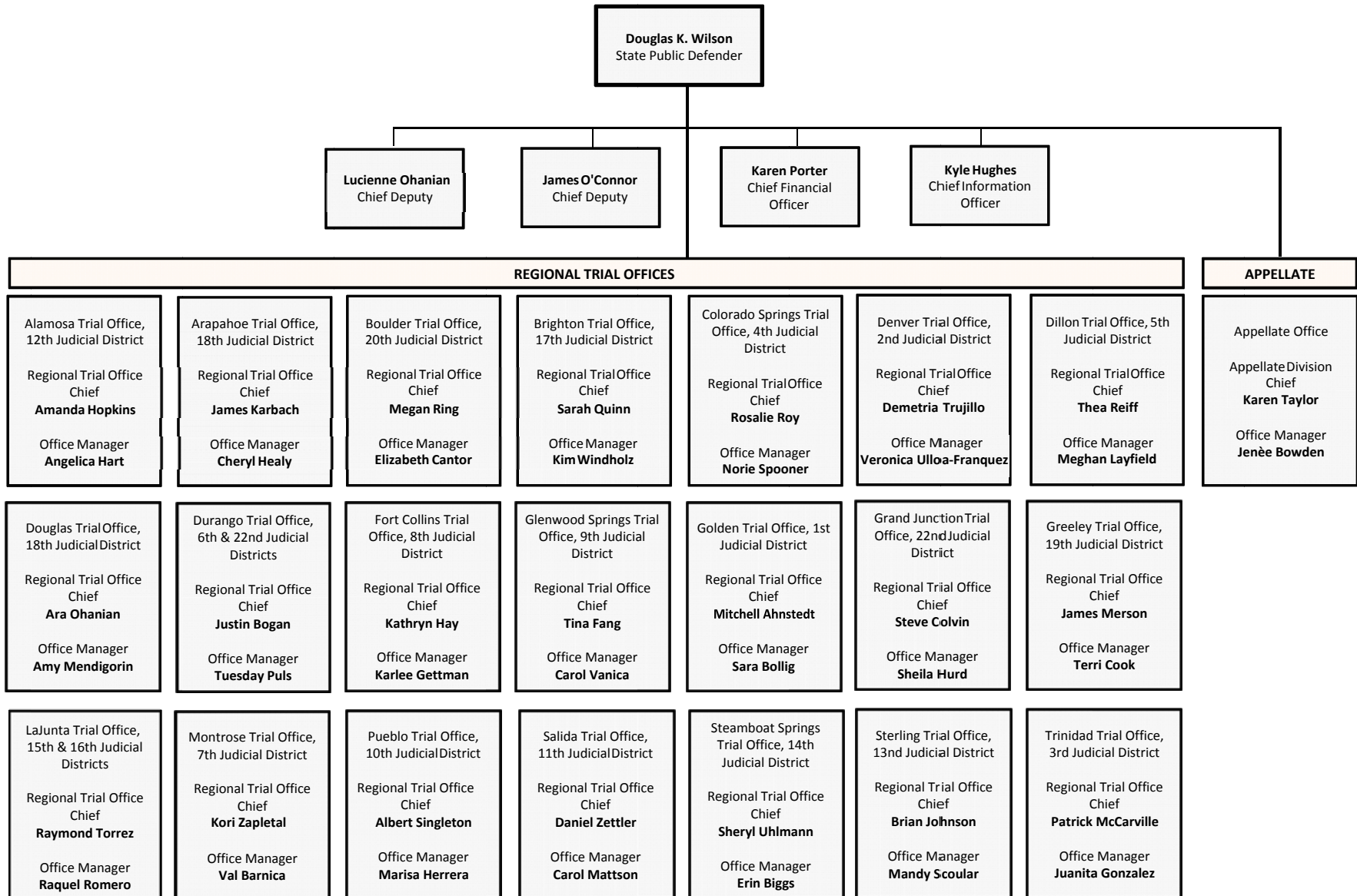
Trial Office Map



Functional Organization Chart



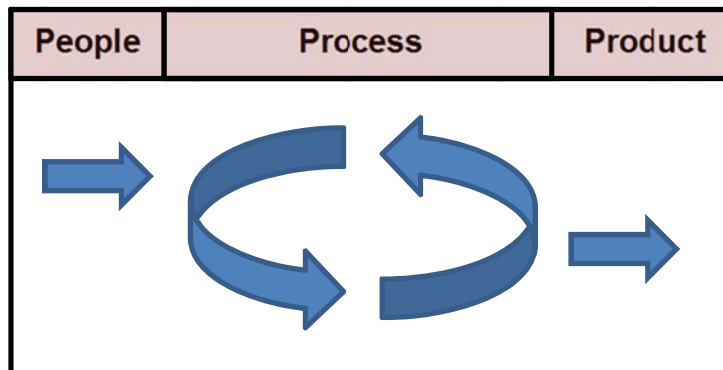
Office of the State Public Defender Organizational Chart



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 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

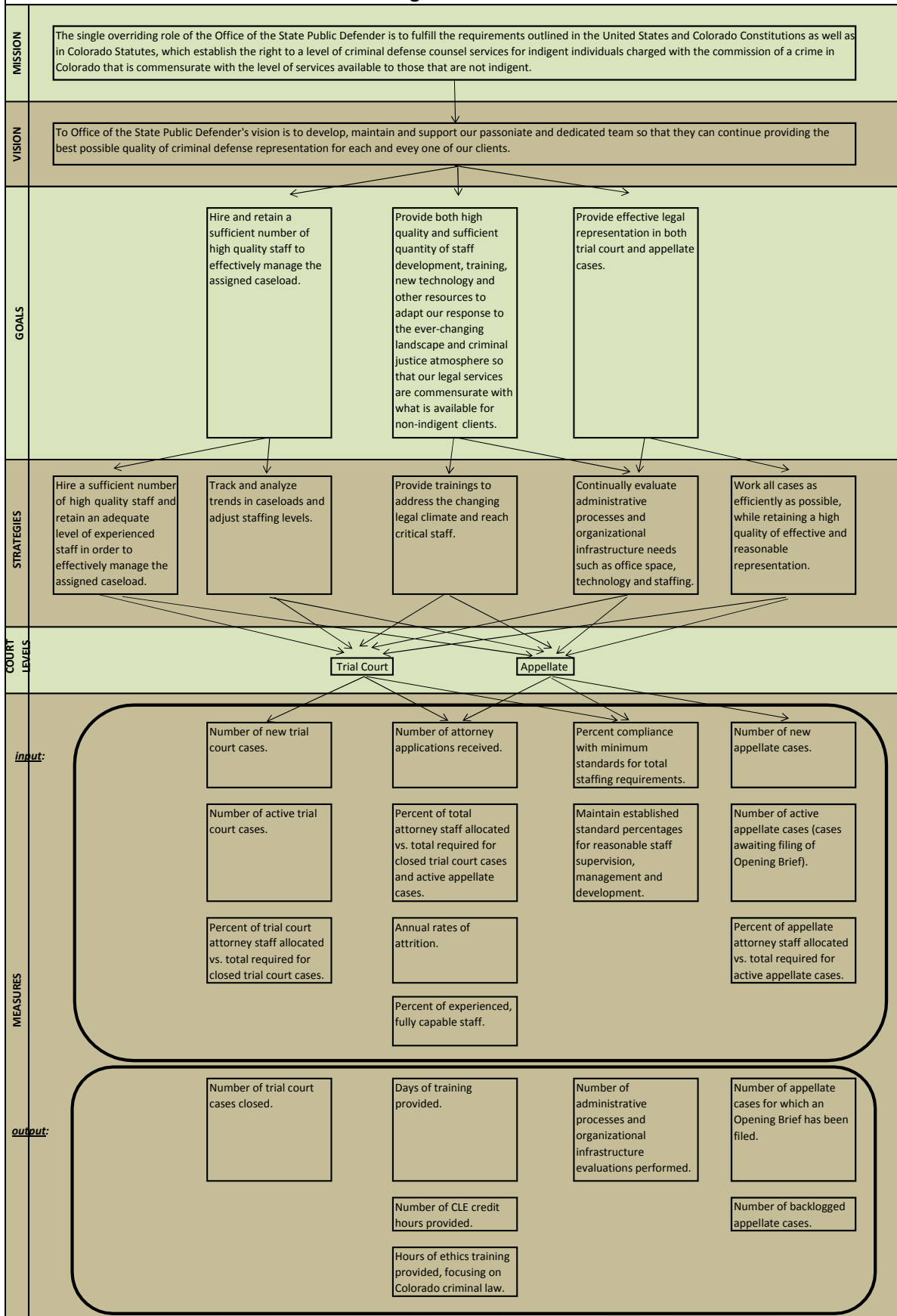
1. Number of new trial court cases.
2. Number of active trial court cases.
3. Percent of trial court attorney staff allocated vs. total required for closed trial court cases.
4. Number of attorney applications received.
5. Percent of total attorney staff allocated versus total required for closed trial 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

REGIONAL TRIAL OFFICE CASELOAD

OVERALL OSPD CASE TRENDS

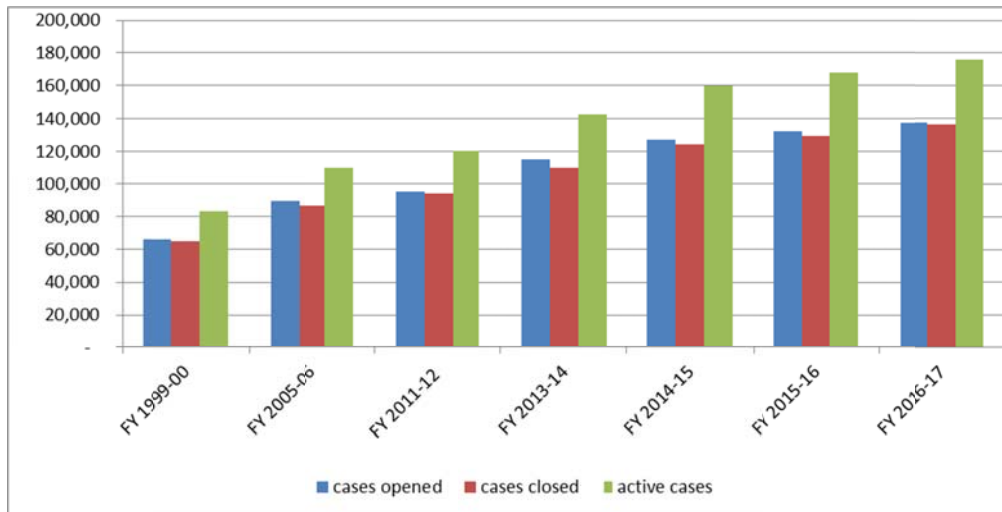
Total Cases. The OSPD tracks and monitors its caseload in three separate categories, opened cases, closed cases and active cases. Since FY 1999-00 the OSPD has tracked its annual Caseload Rate of Growth (CRG) which had been growing steadily in the early years reaching peaks around 5 percent in FY 2005-06. Up until FY2012-13, it had stabilized at nearly 3.2 percent. In FY 2016-17 the overall CRG has now increased to an average of 4.6 percent within the 3 categories.

Up until FY 2015-16, the OSPD had experienced a significant increase in its misdemeanor caseload primarily due to legislation enacted on January 1, 2014. H.B. 13-1210 (commonly known as the *Rothgery* bill) amended CRS 16-7-301(4)(a), striking the section of law requiring defendants in misdemeanors, petty offenses and traffic offenses to first discuss plea negotiations with the prosecution prior to being assigned defense counsel. The number of these cases leveled off a bit in FY 2016-17.

Beginning in FY 2014-15, the OSPD experienced an increase in its juvenile caseload, again due to recent legislation. H.B. 14-1032 (commonly known as the *Juvenile Defense* bill) now requires the OSPD to be present at detention hearings, allows the court to appoint the OSPD when the parents refuse to provide counsel, allows the court to appoint the OSPD when the court deems it to be in the best interest of the child, and further specifies the conditions under which a juvenile can waive counsel.

Although the misdemeanor and juvenile caseloads have begun to level off, the OSPD has experienced a significant increase in its felony caseload in the past few years and as a result overall caseload continues to increase.

Overall Case Trends



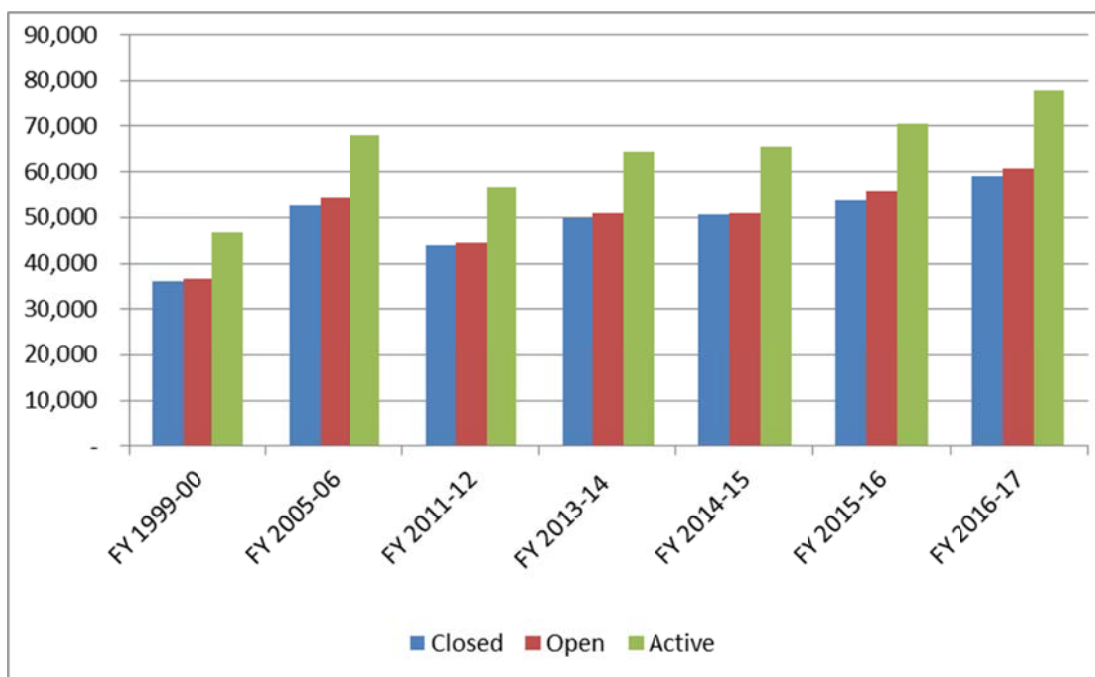
CASE TYPE TRENDS

Felony Cases. In FY 2016-17 the OSPD had 77,777 active felony cases, an increase of approximately 12 percent over the prior year. The felony case growth had peaked in FY 2005-06 when the OSPD handled 67,886 cases and had been steadily decreasing through FY 2011-12 down to 56,631. However, since then, the OSPD has experienced almost a 37 percent increase in its active felony cases. The Judicial Department District Courts are also reporting significant increases with a statewide 12.5 percent increases in felony filings in each of the past 2 years.

Felony cases, primarily the trial/pre-trial cases, require the greatest attorney effort, time and dedication of resources. They cost the State the most money, and increasingly draw Public Defender resources away from misdemeanor and juvenile defendant cases.

Felony cases make up approximately 43 percent of our cases yet require over 63 percent of our trial FTE resources.

Felony Case Trends

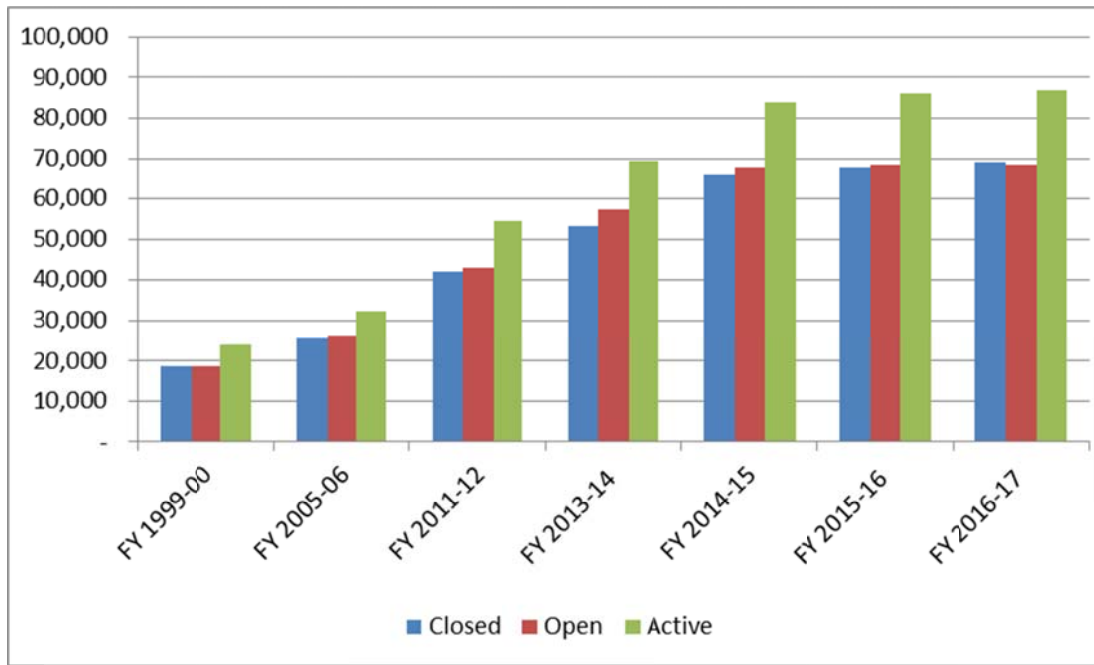


Misdemeanor Cases. Misdemeanor case growth in each category of opened, closed and active caseload continued at a relatively predictable rate of 6 percent to 7 percent annual CRG through FY 2012-13, as the OSPD handled 56,625 cases.

Since the *Rothgery* bill did not take effect until January 1, 2014, the increase in the number of active misdemeanor cases for FY 2013-14 included just six months, yet by the end of FY 2014-15 the OSPD experienced the full impact. In FY 2014-15 the number of active misdemeanor cases surged to 83,869, and in FY 2015-16 the number of active cases continued its upward trend to 86,280. While some of this is attributed to normal case growth, the impact of *Rothgery* is definitely the driving force. Misdemeanor caseload is now beginning to level off with the OSPD handling 86,950 cases in FY 2016-17.

Misdemeanor cases represent about 50 percent of our total cases yet only require about 28 percent of our trial FTE resources.

Misdemeanor Case Trends

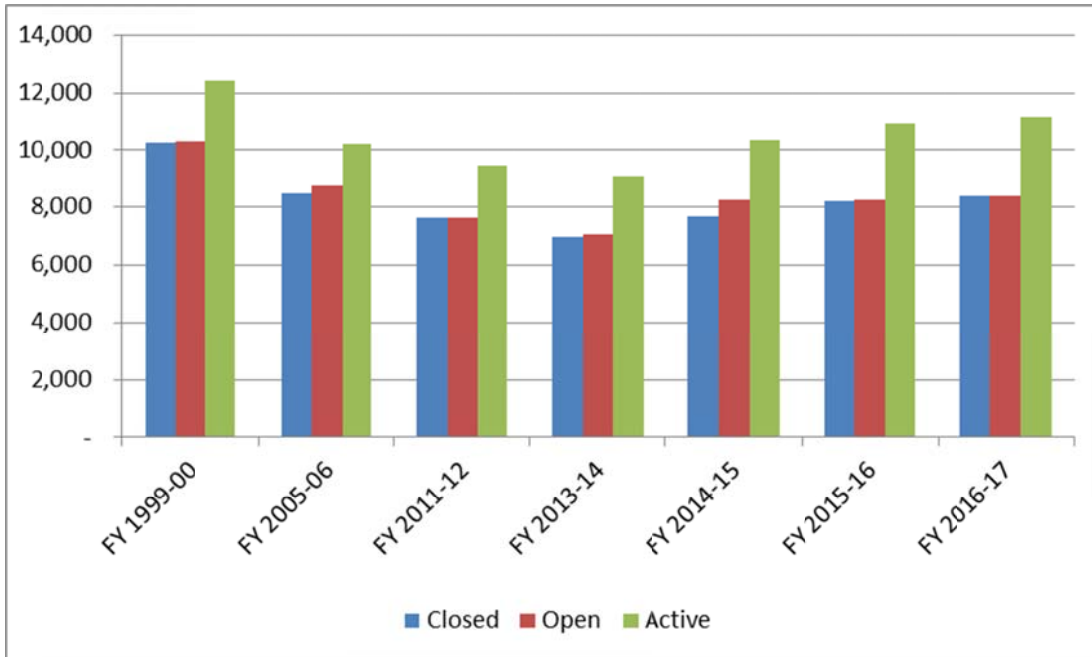


Juvenile Cases. Since FY 1999-00, juvenile cases had continued to gradually decline. However, this decline has slowed since FY 2004-05, falling from a decline of about 4 percent annual CRG through FY 2004-05 to a decline of nearly 2.7 percent annual CRG through FY 2013-14. Active juvenile cases handled by the OSPD dropped slightly from 9,090 in FY 2012-13 to 9,050 in FY 2013-14, a 0.4 percent decrease.

Although the juvenile caseload had dropped for almost a decade, the impact of H.B. 14-1032, the *Juvenile Defense* bill, has turned this around. Since November 1, 2014 when this legislation went into effect, the number of active juvenile cases rose from 9,050 in FY 2013-14 to 11,146 in FY 2016-17, a 23 percent increase over the past 3 years.

Juvenile cases represent about 6 percent of our total cases and require about 5 percent of our trial FTE resources.

Juvenile Case Trends



OPENED CASE TRENDS

Cases Opened. Opened cases are the Public Defender’s share of total cases filed in the courts state wide. In FY 2016-17 the OSPD was appointed on 137,777 new cases. The CRG for opened cases since FY 1999-00 was 3.2 percent through FY 2012-13 and now has risen to 4.7 percent. The CRG for misdemeanor cases alone at 8.5 percent identifies where the biggest increase is and is the direct result of the *Rothgery* bill.

The table below details the total cases opened by case class in our base year (FY 1999-00) and for FY 2011-12 to FY 2016-17.

OSPD Trial Office New Cases Opened

FY00 & FY12-FY17

SUMMARY OF OSPD OPENED CASES	2000 Open	2012 Open	2013 Open	2014 Open	2015 Open	2016 Open	2017 Open	2017% of Total Cases	CRG in Cases 2000- 2017
Felony 1	107	94	129	129	82	140	190		
Felony 2	709	422	484	591	792	977	1,141		
Sex Assaults (F2-F4)	956	745	923	926	901	808	844		
Sex Assaults (F5-F6)**	-	-	-	521	508	465	457		
Felony 3	5,216	5,509	6,109	5,338	4,670	4,763	4,846		
Felony 4	9,020	8,848	9,186	9,003	8,027	8,818	10,191		
Felony 5	3,892	4,202	4,475	4,682	5,531	6,435	7,094		
Felony 6	2,137	6,486	7,275	8,876	10,420	12,058	13,861		
Subtotal Felony Trial & PreTrial	22,037	26,306	28,581	30,066	30,931	34,464	38,624	28.0%	3.4%
Misc. Proceedings	14,682	7,870	7,488	9,282	8,269	7,909	8,146		
Revocation of Probation		10,173	10,892	11,395	11,754	13,260	14,018		
Appeals	22	29	52	41	45	39	32		
Original Proceedings	2	18	7	59	29	12	12		
Subtotal Felony Other Proceedings	14,706	18,090	18,439	20,777	20,097	21,220	22,208	16.1%	2.5%
Total Felony	36,743	44,396	47,020	50,843	51,028	55,684	60,832	44.2%	3.0%
Misdemeanor 1	3,332	10,881	10,945	13,570	16,038	16,342	16,237		
Sex Assault (M1-M3)	550	454	493	529	644	576	485		
Misdemeanor 2	2,804	4,417	4,388	4,538	5,093	4,836	5,082		
Misdemeanor 3/Traffic/PO	8,139	17,030	16,902	22,404	27,859	28,220	27,501		
Subtotal Misd Trial & PreTrial	14,825	32,782	32,728	41,041	49,634	49,974	49,305	35.8%	7.3%
Misc. Proceedings	3,763	2,602	2,703	5,133	4,972	4,298	4,455		
Revocation of Probation		7,526	8,716	10,859	12,817	13,932	14,544		
Appeals	37	141	143	169	206	216	225		
Original Proceedings	1	22	9	22	15	17	10		
Subtotal Misd Other Proceedings	3,801	10,291	11,571	16,183	18,010	18,463	19,234	14.0%	10.0%
Total Misdemeanor	18,626	43,073	44,299	57,224	67,644	68,437	68,539	49.7%	8.0%
Juvenile Felony	3,071	1,953	1,662	1,777	2,224	2,426	2,480		
Juvenile Misdemeanor	2,653	2,223	2,080	1,931	2,747	2,734	2,604		
Subtotal Juv Trial & PreTrial	5,724	4,176	3,742	3,708	4,971	5,160	5,084	3.7%	-0.7%
Misc. Proceedings	4,585	764	963	1,143	1,027	947	1,349		
Revocation of Probation		2,686	2,487	2,159	2,263	2,138	1,950		
Appeals	11	14	19	11	11	18	20		
Original Proceedings	-	-	7	19	3	4	3		
Subtotal Juv Other Proceedings	4,596	3,464	3,476	3,332	3,304	3,107	3,322	2.4%	-1.9%
Total Juvenile	10,320	7,640	7,218	7,040	8,275	8,267	8,406	6.1%	-1.2%
Total Trial/Pretrial	42,586	63,264	65,051	74,815	85,536	89,598	93,013	67.5%	4.7%
Total Misc. Proceedings	8,475	11,236	11,154	15,558	14,268	13,154	13,950		
Total Probation Revocations	14,555	20,385	22,095	24,413	26,834	29,330	30,512		
Total Appeals	70	184	214	221	262	273	277		
Total Original Proceedings	3	40	23	100	47	33	25		
Total Partial Service	-	-	-	-	-	-	-		
Total Other Proceedings	23,103	31,845	33,486	40,292	41,411	42,790	44,764	32.5%	4.0%
Total All Cases and Other Proceedings	65,689	95,109	98,537	115,107	126,947	132,388	137,777	100.0%	4.5%

** Starting in 2014, F5 and F6 sex assaults are broken out from the F5 and F6 categories.

CLOSED CASE TRENDS

Closed Cases. In FY 2016-17 the Office closed 136,321 cases, a 5.1 percent increase over last years' 129,764 cases. Closed cases grew rapidly through FY 2005-06 and had stabilized up until FY 2012-13. The closed cases CRG since FY 1999-00 up to this point had been 3.2 percent. As of FY 2016-17, the CRG since FY 1999-00 has now increased to 4.5 percent.

The table below details the total cases closed by case class in our base year (FY 1999-00) and for FY 2011-12 to FY 2016-17.

OSPД Trial Office Cases Closed Cases									
FY00 & FY12-FY17									
SUMMARY OF OSPД CLOSED CASES	2000 Closed	2012 Closed	2013 Closed	2014 Closed	2015 Closed	2016 Closed	2017 Closed	2017 % of Total Cases	CRG in Cases Since 2000
Felony 1	60	79	91	80	69	79	74		
Felony 2	360	286	243	256	328	487	604		
Sex Assaults (F2-F4)	521	667	724	655	663	542	364		
Sex Assaults (F5-F6) **	-	-	-	483	449	422	476		
Felony 3	3,652	3,901	4,167	4,137	3,620	3,532	3,651		
Felony 4	6,814	6,744	6,857	6,768	6,443	6,279	7,388		
Felony 5	3,039	3,271	3,598	3,461	4,046	4,845	5,341		
Felony 6	2,280	5,114	5,895	6,349	7,965	9,417	10,897		
Subtotal Felony Trial & PreTrial	16,726	20,062	21,575	22,189	23,583	25,603	28,795	21.1%	3.2%
Misc. Proceedings	14,344	7,863	7,480	9,240	8,407	7,887	7,848		
Probation Revocations		10,024	10,716	11,211	11,687	12,760	13,948		
Appeals	16	31	41	49	40	39	31		
Original Proceedings	-	11	10	45	39	11	15		
Partial Service	4,913	5,903	6,464	7,136	6,954	7,345	8,375		
Subtotal Felony Other Proceedings	19,273	23,832	24,711	27,681	27,127	28,042	30,217	22.2%	2.7%
Total Felony	35,999	43,894	46,286	49,870	50,710	53,645	59,012	43.3%	3.0%
Misdemeanor 1	2,713	9,119	9,541	10,100	12,677	13,219	13,541		
Sex Assault (M1)	422	384	428	456	474	484	423		
Misdemeanor 2	2,233	5,954	6,240	3,733	4,129	4,069	4,122		
Misdemeanor 3/Traffic/PO	7,176	12,279	12,212	16,526	22,064	23,840	23,822		
Subtotal Misd Trial & PreTrial	12,544	27,736	28,421	30,815	39,344	41,612	41,908	30.7%	7.4%
Misc. Proceedings	3,713	2,575	2,684	4,846	4,971	4,154	4,443		
Probation Revocations		7,256	8,629	10,422	12,697	13,758	14,386		
Appeals	24	134	132	157	173	209	186		
Original Proceedings	1	21	7	23	15	14	12		
Partial Service	2,253	4,426	4,601	6,934	8,831	8,157	8,000		
Subtotal Misd Other Proceedings	5,991	14,412	16,053	22,382	26,687	26,292	27,027	19.8%	9.3%
Total Misdemeanor	18,535	42,148	44,474	53,197	66,031	67,904	68,935	50.6%	8.0%
Juvenile Felony	2,310	1,349	1,384	1,262	1,490	1,761	1,832		
Juvenile Misdemeanor	2,244	1,844	1,766	1,617	1,996	2,250	2,080		
Subtotal Juv Trial and PreTrial	4,554	3,193	3,150	2,879	3,486	4,011	3,912	2.9%	-0.9%
Misc. Proceedings	4,519	791	736	1,163	909	912	1,292		
Probation Revocations		2,737	2,421	2,147	2,272	2,220	1,957		
Appeals	10	17	17	13	10	21	12		
Original Proceedings	-	7	8	31	3	4	3		
Partial Service	1,162	905	780	744	995	1,047	1,198		
Subtotal Juv Other Proceedings	5,691	4,457	3,962	4,098	4,189	4,204	4,462	3.3%	-1.4%
Total Juvenile	10,245	7,650	7,112	6,977	7,675	8,215	8,374	6.1%	-1.2%
Total Trial/Pretrial	33,824	50,991	53,146	55,883	66,413	71,226	74,615	54.7%	4.8%
Total Misc. Proceedings	22,576	11,229	10,900	15,249	14,287	12,953	13,583		
Total Prob Revocations	-	20,017	21,766	23,780	26,656	28,738	30,291		
Total Appeals	50	182	190	219	223	269	229		
Total Original Proceedings	1	39	25	99	57	29	30		
Total Partial Service	8,328	11,234	11,845	14,814	16,780	16,549	17,573		
Total Other Proceedings	30,955	42,701	44,726	54,161	58,003	58,538	61,706	45.3%	4.1%
Total All Cases and Other Proceedings	64,779	93,692	97,872	110,044	124,416	129,764	136,321	100.0%	4.5%

** Starting in 2014, F5 and F6 sex assaults are broken out from the F5 and F6 categories.

ACTIVE CASE TRENDS

Active Cases. Active caseload incorporates all cases that are actively represented in a given year: the total new opened cases received in a year, plus the remaining unfinished cases opened in the previous year that have not yet been completed and closed and therefore are carried into the new year as existing workload and caseload. In FY 2016-17 the OSPD carried 175,873 active cases, an increase of nearly 5 percent over the prior years' 167,814 cases.

The table below details the total active cases by case class in our base year (FY 1999-00) and for FY 2011-12 to FY 2016-17.

OSPD Trial Office Active Cases									
FY00 & FY12-17									
SUMMARY OF OSPD ACTIVE CASES	2000 Active	2012 Active	2013 Active	2014 Active	2015 Active	2016 Active	2017 Active	2017 % of Total Cases	CRG in Cases 2000- 2017
Felony 1	135	170	189	189	170	195	242		
Felony 2	598	447	465	517	666	916	1,005		
Sex Assaults (F2-F4)	808	1,302	1,279	1,241	1,250	1,067	1,724		
Sex Assaults (F5-F6)**	-		-	684	658	618	805		
Felony 3	4,998	5,584	6,052	5,839	5,223	5,236	5,225		
Felony 4	9,473	9,515	9,811	9,839	9,197	9,556	10,933		
Felony 5	4,092	4,610	4,904	4,905	5,889	6,988	7,684		
Felony 6	2,823	6,973	7,806	8,985	11,001	12,848	14,675		
Subtotal Felony Trial & PreTrial	22,927	28,601	30,506	32,199	34,054	37,424	42,293	24.0%	3.7%
Misc. Proceedings	17,760	9,601	9,275	11,040	10,080	9,583	9,848		
Probation Revocation		12,300	13,175	13,848	14,372	15,927	17,189		
Appeals	26	51	74	72	68	65	56		
Original Proceedings	1	19	12	61	42	15	16		
Partial Service	6,153	6,059	6,849	7,230	6,978	7,573	8,375		
Subtotal Felony Other Proceedings	23,940	28,030	29,385	32,251	31,540	33,163	35,484	20.2%	2.3%
Total Felony	46,867	56,631	59,891	64,450	65,594	70,587	77,777	44.2%	3.0%
Misdemeanor 1	3,619	12,323	12,590	14,251	17,236	17,985	18,064		
Sex Assault (M1-M3)	567	643	650	684	761	759	854		
Misdemeanor 2	2,937	7,933	8,057	4,928	5,363	5,208	5,423		
Misdemeanor 3/Traffic/PO	8,995	16,756	16,477	23,974	30,542	32,139	31,809		
Subtotal Misd Trial & PreTrial	16,118	37,655	37,774	43,837	53,902	56,091	56,150	31.9%	7.6%
Misc. Proceedings	4,409	3,122	3,253	5,689	5,815	5,133	5,431		
Probation Revocation		8,806	10,278	12,507	14,922	16,173	16,964		
Appeals	50	232	241	283	334	376	392		
Original Proceedings	1	22	11	26	16	18	13		
Partial Service	3,362	4,556	5,068	7,065	8,880	8,489	8,000		
Subtotal Misd Other Proceedings	7,822	16,738	18,851	25,570	29,967	30,189	30,800		
Total Misdemeanor	23,940	54,393	56,625	69,407	83,869	86,280	86,950	49.4%	7.9%
Juvenile Felony	2,928	1,924	1,893	1,907	2,317	2,687	2,770		
Juvenile Misdemeanor	2,752	2,439	2,431	2,288	2,982	3,211	3,050		
Subtotal Juv Trial & PreTrial	5,680	4,363	4,324	4,195	5,299	5,898	5,820	3.3%	0.1%
Misc. Proceedings	5,362	966	948	1,356	1,211	1,214	1,627		
Probation Revocation		3,187	2,945	2,688	2,815	2,716	2,471		
Appeals	17	27	28	22	20	28	27		
Original Proceedings	-	9	8	36	5	5	3		
Partial Service	1,346	922	837	753	1,001	1,086	1,198		
Subtotal Juv Other Proceedings	6,725	5,111	4,766	4,855	5,052	5,049	5,326	3.0%	-1.4%
Total Juvenile	12,405	9,474	9,090	9,050	10,351	10,947	11,146	6.3%	-0.6%
Total Trial/Pretrial	44,725	70,619	72,604	80,231	93,255	99,413	104,263	59.3%	5.1%
Total Misc. Proceedings	10,131	13,689	13,476	18,085	17,106	15,930	16,906		
Total Probation Revocations	17,400	24,293	26,398	29,043	32,109	34,816	36,624		
Total Appeals	93	310	343	377	422	469	475		
Total Original Proceedings	2	50	31	123	63	38	32		
Total Partial Service	10,861	11,537	12,754	15,048	16,859	17,148	17,573		
Total Other Proceedings	38,487	49,879	53,002	62,676	66,559	68,401	71,610	40.7%	3.7%
Total All Cases and Other Proceedings		120,498	125,606	142,907	159,814	167,814	175,873	100.0%	4.5%

** Starting in 2014, F5 and F6 sex assaults are broken out from the F5 and F6 categories.

APPELLATE DIVISION CASELOAD

APPELLATE CASE TRENDS

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 and from all indigent clients throughout the state, regardless of who may have represented them in prior court proceedings (e.g. Court Appointed Counsel, Alternate Defense Counsel and private attorneys). The Division is expected to carry 1,122 cases this year (FY 2017-18), including an estimated 535 new cases and 587 backlog cases carried over from previous years. This 1,122 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 entire appellate process. The Division estimates there are currently 879 cases at various stages within this process and the work involved extends well into subsequent years.

Since FY 1999-00, the total of new appellate cases had grown steadily before peaking in FY 2008-09, leveling off for a few years and even dropping in recent years. However, we project that new appellate cases will again start to rise as the filing of appeals typically lag a couple years behind the trends experienced in the OSPD's overall felony case filings. The OSPD felony case growth peaked in FY 2005-06, decreased through FY 2011-12 and over the last 5 years the OSPD's closed felony trial/pre-trial caseload has grown significantly. In FY 2011-12 the office closed 20,062 cases compared to the 28,795 cases closed in FY 2016-17, over a 43 percent increase. Just this past year alone, the office saw a 12.5 percent increase which mirrors the increase the courts have reported in their felony filings in each of the past two years.

In FY 2013-14 the number of backlog cases (those awaiting an opening brief) peaked at 749. The following year, the Division received additional FTE and funding to help lower this number. Over the past three years, the Division has been able to reduce this backlog to 587, yet it still exceeds the NLADA acceptable standards by 236 cases at the end of FY 2016-17. Although the Division has reduced its backlog cases, this downward trend will be interrupted if there's a surge in the number of new appeals filed as mentioned above. In addition, reductions may also be hampered due to the substantial increase in the record length for each case, which has doubled in recent years. This has a direct impact on the time and resources required to prepare an opening brief.

The Division also received two additional FTE and funding in FY 2014-15 to assist and centralize the appellate process for both county court and juvenile appeals. This past year these FTE consulted or worked on over 250 cases, handled roughly 100 queries from juvenile attorneys in the trial offices, and held numerous statewide trainings enabling trial offices to achieve improved administrative efficiencies as well as increased representational effectiveness.

OSPD Appellate Division Cases FY 1999-00 to FY 2021-22

FISCAL YEAR	Total Atty FTE	Mgmt, Super. & Complex Litigation Case FTE	County Appeals FTE	County Appeals	Felony Appeals FTE	New Felony Cases	Briefs Filed by PD	Cases Resolved Other Ways	Total Cases Closed	Cases awaiting filing of initial brief	Standard Caseload per NLADA	'Backlog' Cases in excess of NLADA standards	Change in Backlog in Excess	Cases Phase 2 (after OB filed)	Total Active Felony Cases
FY 00	25.00	**	n/a	n/a	25.00	487			387	369	325	44	100	69	825
FY 08	29.00	**	n/a	n/a	29.00	606	465	121	586	611	373	238	20	637	1834
FY 09	31.75	**	n/a	n/a	31.75	627	450	205*	655	583	331	252	14	591	1804
FY 10	31.75	**	n/a	n/a	31.75	602	427	124	551	634	331	303	51	599	1784
FY 11	34.75	**	n/a	n/a	34.75	575	415	142	557	652	331	321	18	631	1840
FY 12	34.75	**	n/a	n/a	34.75	589	460	133	593	648	331	317	-4	698	1939
FY 13	34.75	1.0	n/a	n/a	33.75	585	427	135	562	671	315	356	39	848	1931
FY 14	35.75	4.0	n/a	n/a	31.75	573	367	127	495	749	279	470	114	1000	2341
FY 15	47.25	4.0	2.0	177	41.25	533	422	122	544	738	363	375	-95	985	2282
FY 16	47.25	3.0	2.0	221	42.25	511	486	141	627	622	359	263	-112	1049	2234
FY 17	47.25	4.0	2.0	250	41.25	525	459	101	560	587	351	236	-27	879	2196
FY 18 Est.	47.25	4.0	2.0	250	41.25	535	468	123	591	531	351	181	-56	888	2001
FY 19 Est.	47.25	4.0	2.0	250	41.25	545	468	125	593	483	351	132	-48	888	1964
FY 20 Est.	47.25	4.0	2.0	250	41.25	555	468	127	595	443	351	92	-40	888	1926
FY 21 Est.	47.25	4.0	2.0	250	41.25	565	468	130	598	410	351	59	-33	888	1896
FY 22 Est.	47.25	4.0	2.0	250	41.25	565	468	130	598	377	351	27	-33	888	1863

* Includes 80 briefs filed by contracted attorneys

** Mgmt & Complex Case FTE included with Felony FTE

Performance

		FY 15-16 (actual)	FY 16-17 (actual)	FY 17-18 (projected)	FY 18-19 (projected)	FY 19-20 (projected)
MEASURE 1:	Target	132,500	137,652	141,907	146,179	151,289
Number of new trial court cases.	Actual	132,388	137,777			
MEASURE 2:	Target	166,589	173,612	181,112	186,532	193,040
Number of active trial court cases.	Actual	167,814	175,873			
MEASURE 3:	Target	100%	100%	100%	100%	100%
Percent of trial court attorney staff allocated vs. total required for closed trial court cases.	Actual	88.1%	83.4			
MEASURE 4:	Target	480	500	475	475	475
Number of attorney applications received.	Actual	489	483			
MEASURE 5:	Target	100%	100%	100%	100%	100%
Percent of total attorney staff allocated vs. total required for closed trial court cases and appellate cases.	Actual	87.2%	83.4%			
MEASURE 6:	Target	12%	12%	12%	12%	12%
Annual rates of attrition:						
Attorneys	Actual	12%	14%			
Investigators	Actual	6%	12%			
Administrative Assistants	Actual	18%	17%			
Total All Employees	Actual	11%	13%			
MEASURE 7:	Target	70%	70%	70%	70%	70%
Percent of experienced, fully capable staff (journey level or higher):						
Attorneys	Actual	45%	46%			
Investigators	Actual	54%	55%			
Legal Assistants	Actual	42%	48%			
Total All Employees	Actual	47%	49%			
MEASURE 8:	Target	100%	100%	100%	100%	100%
Percent compliance with minimum standards for total staffing requirements	Actual	82.1%	81.8%			
MEASURE 9:	Target	12%	12%	10%	10%	10%
Maintain established standard percentages for reasonable staff supervision, management and development	Actual	8.3%	8.2%			
MEASURE 10:	Target	576	558	535	545	555
Number of new appellate cases.	Actual	511	525			

		FY 15-16 (actual)	FY 16-17 (actual)	FY 17-18 (projected)	FY 18-19 (projected)	FY 19-20 (projected)	
MEASURE 11:		Target	2,299	2,229	2,001	1,964	1,926
Number of active appellate cases.		Actual	2,234	2,196			
MEASURE 12:		Target	100%	100%	100%	100%	100%
Percent of appellate attorney staff allocated vs. total required for appellate cases awaiting filing of initial brief.		Actual	79.7%	83.2%			
MEASURE 13:		Target	129,805	134,266	140,395	144,609	149,643
Number of trial court cases closed.		Actual	129,764	136,321			
MEASURE 14:		Target	106	130	168	168	168
Days of training provided.		Actual	140	179			
MEASURE 15:		Target	15	15	15	15	15
Number of CLE credits provided to all attorneys.		Actual	15	15			
MEASURE 16:		Target	3	3	3	3	3
Hours of ethics training provided, focusing on Colorado criminal law.		Actual	3	3			
MEASURE 17:		Target	15	15	15	15	15
Number of administrative processes and organizational infrastructure evaluations performed.		Actual	14	14			
MEASURE 18:		Target	502	486	468	468	468
Number of appellate cases for which an Opening Brief has been filed.		Actual	486	459			
MEASURE 19:		Target	681	563	531	483	443
Number of backlogged appellate cases.		Actual	622	587			