

Performance Plan

July 01, 2020



Office of the State Public Defender

MEGAN A. RING
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 provide 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 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) is a single purpose program that is devoted to providing 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 be denied their constitutional right to representation throughout the criminal proceedings. Attorneys 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. Courts appoint the OSPD when a person 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 handles cases at two different levels of the state court system – the trial court level and the appellate court level. The OSPD maintains 21 regional trial offices which cover the State's 22 judicial districts and 64 counties. *See the Trial Office Map on page 4.* 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 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, Megan A. Ring. The 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;
- 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 2020-21 projected caseload, the OSPD was appropriated \$ 108,256,486 and 925 FTE. This is comprised of approximately 557 attorneys; 174 investigators / legal assistants; 13 social workers; 136 administrative assistants and 45 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, at the same time our total caseloads have been increasing for several years they are also becoming increasingly more complex as reflected in an increase in both the number and severity of charges. A new and unanticipated development starting in 2020 is the disruption of daily activities due to the COVID-19 pandemic and the ensuing economic downturn. Prior economic downturns led to increased caseloads for the OSPD, as even more people qualify for OSPD representation in tough economic times. We will continue to monitor and assess the impact of the pandemic on the OSPD.

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

- 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.

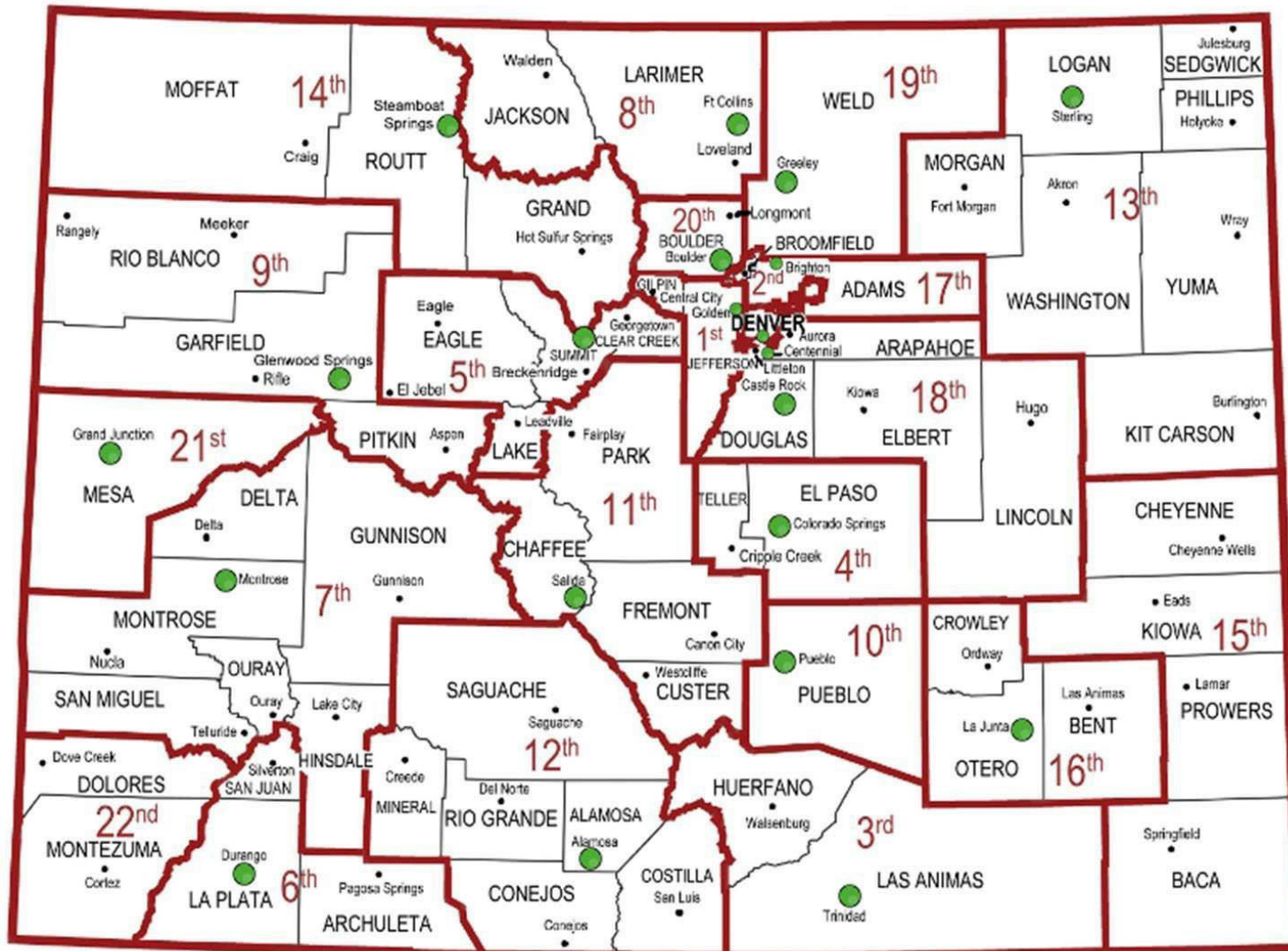
This changing environment presents a compounding challenge to the OSPD's need to achieve the staffing levels that are required to provide effective representation.

Constitutional, Statutory and other authority

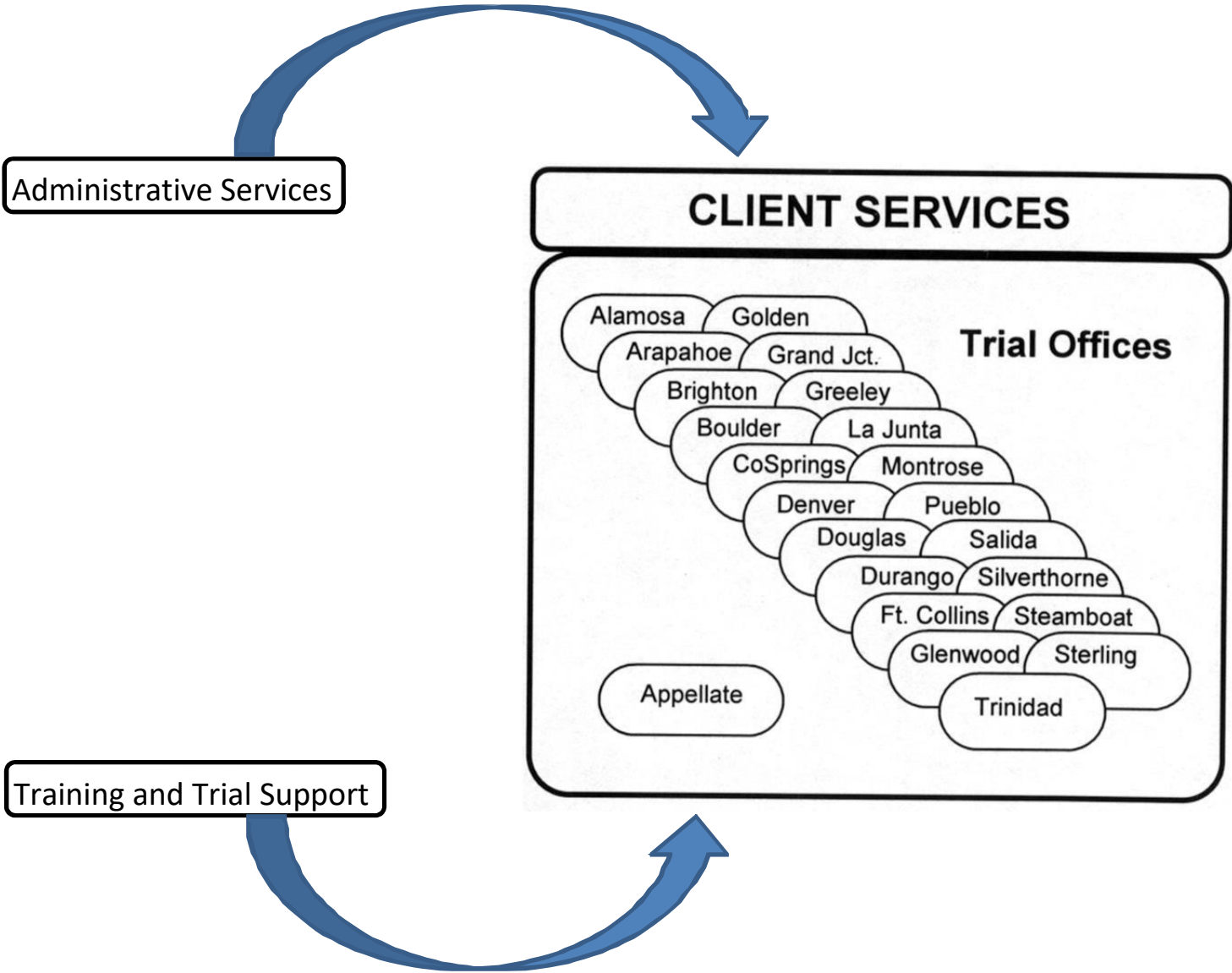
Constitutional, Statutory and other authority for the OSPD is established pursuant to:

- 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 and representation in capital cases;
- 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)

Trial Office Map



Functional Organization Chart



Office of the State Public Defender Organizational Chart

Megan A. Ring
State Public Defender

Karen Taylor
First Assistant
Public Defender

Lucienne Ohanian
Chief Deputy

Tina Fang
Chief Deputy

Karen Porter
Chief Financial Officer

Kyle Hughes
Chief Information Officer

REGIONAL TRIAL OFFICES

APPELLATE

Alamosa Trial Office
12th Judicial District

Regional Trial Office Chief
Jamie Keairns

Office Manager
Angelica Hart

Arapahoe Trial Office
18th Judicial District

Regional Trial Office Chief
James Karbach

Office Manager
Cheryl Healy

Boulder Trial Office
20th Judicial District

Regional Trial Office Chief
Nicole Collins

Office Manager
Elizabeth Cantor

Brighton Trial Office
17th Judicial District

Regional Trial Office Chief
Sarah Quinn

Office Manager
Sarah Petty

Colorado Springs Trial Office
4th Judicial District

Regional Trial Office Chief
Rosalie Roy

Office Manager
Norie Spooner

Denver Trial Office
2nd Judicial District

Regional Trial Office Chief
Demetria Trujillo

Office Manager
Claudia Duran

Dillon Trial Office
5th Judicial District

Regional Trial Office Chief
Thea Reiff

Office Manager
Meghan Layfield

Appellate Office

Appellate Division Chief
Jason Middleton

Office Manager
Jenée Bowden

Douglas Trial Office
18th Judicial District

Regional Trial Office Chief
Ara Ohanian

Office Manager
Amy Mendigorin

Durango Trial Office
6th & 22nd Judicial Districts

Regional Trial Office Chief
Justin Bogan

Office Manager
Brytanny Vetsch

Fort Collins Trial Office
8th Judicial District

Regional Trial Office Chief
Kathryn Hay

Office Manager
Karlee Gettman

Glenwood Springs Trial Office
9th Judicial District

Regional Trial Office Chief
Scott Troxell

Office Manager
Veronica Ulloa

Golden Trial Office
1st Judicial District

Regional Trial Office Chief
Mitchell Ahnstedt

Office Manager
Sara Bollig

Grand Junction Trial Office
21st Judicial District

Regional Trial Office Chief
Steve Colvin

Office Manager
Lorie Kerr

Greeley Trial Office
19th Judicial District

Regional Trial Office Chief
Michele Newell

Office Manager
Elena Sanchez

La Junta Trial Office
15 & 16th Judicial Districts

Regional Trial Office Chief
Raymond Torrez

Office Manager
Raquel Romero

Montrose Trial Office
7th Judicial District

Regional Trial Office Chief
Kori Zapletal

Office Manager
Val Barnica

Pueblo Trial Office
10th Judicial District

Regional Trial Office Chief
Albert Singleton

Office Manager
Marisa Herrera

Salida Trial Office
11th Judicial District

Regional Trial Office Chief
Daniel Zettler

Office Manager
Carol Matton

Steamboat Springs Trial Office
14th Judicial District

Regional Trial Office Chief
Sheryl Uhlmann

Office Manager
Erin Biggs

Sterling Trial Office
13th Judicial District

Regional Trial Office Chief
Brian Johnson

Office Manager
Mandy Scoular

Trinidad Trial Office
3rd Judicial District

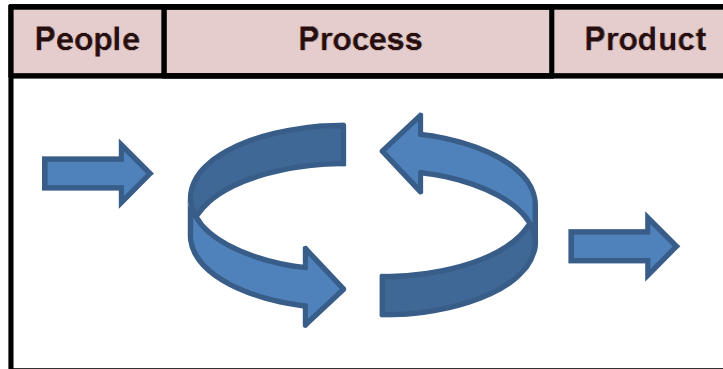
Regional Trial Office Chief
Patrick McCarville

Office Manager
Juanita Gonzalez

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

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 training to address the changing legal climate.
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

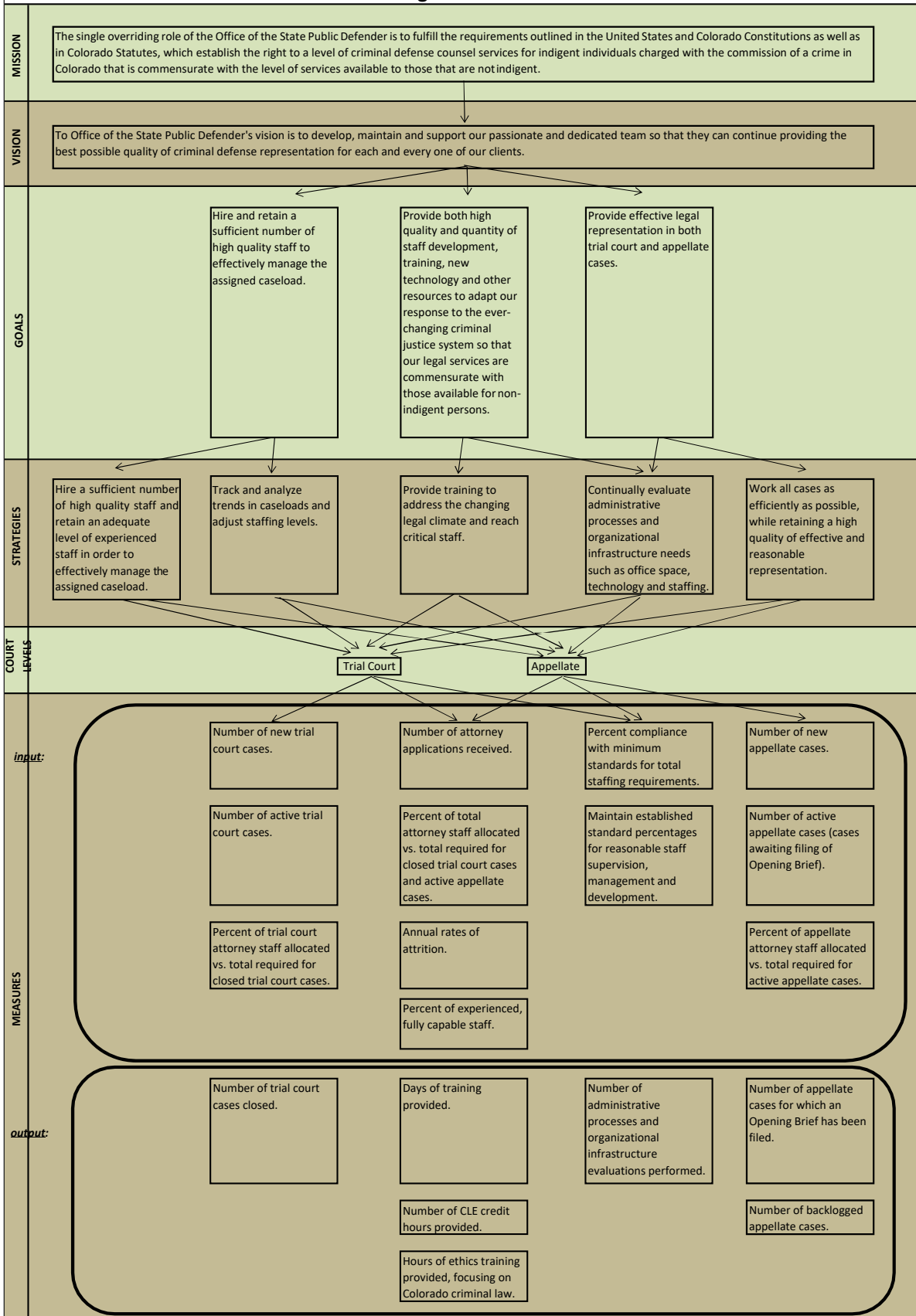
1. Number of new trial court cases.
2. Number of active trial court cases.
3. Percent of trial court attorney staff allocated vs. total required for closed trial court cases.
4. Number of attorney applications received.
5. Percent of total attorney staff allocated versus total required for closed trial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

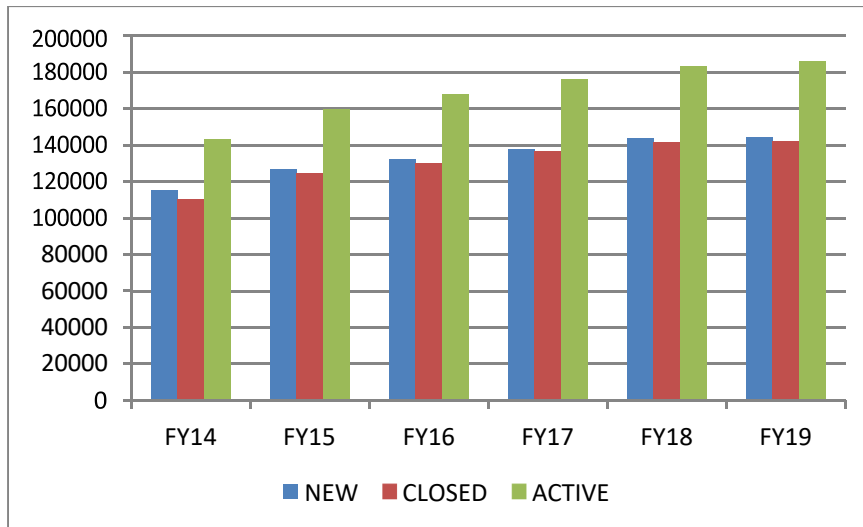


Performance Evaluation

REGIONAL TRIAL OFFICE CASELOAD

OVERALL OSPD CASE TRENDS

Total Cases. The Office of the State Public Defender (OSPD) tracks and monitors its caseload in three separate categories: New Cases, Closed Cases and Active Cases. In FY 2018-19, the OSPD was appointed on 144,219 new cases, closed 141,876 cases and actively worked on 185,772 cases. Active caseload incorporates all cases in which the OSPD is actively representing clients in a given year: the total new cases, plus the remaining unfinished cases from prior years and therefore carried forward into the current year.

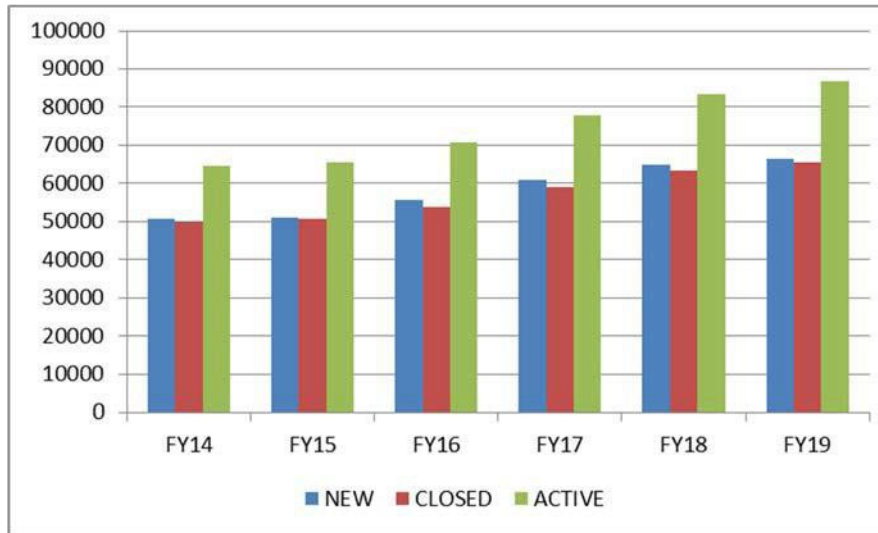


Although our total number of cases has continued to increase, of even more importance is where the increases are occurring. The misdemeanor and juvenile caseloads have begun to level off over the past few years while, at the same time, the OSPD has experienced a significant increase in its felony caseload. These felony cases require the most resources.

Felony Cases. In FY 2018-19, the OSPD had 86,668 active felony cases, an increase of approximately 3.8 percent over the prior year. The felony case growth had previously 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, over the past few years, the OSPD has experienced significant increases each year, amounting to a 53 percent increase in its active felony cases since FY 2011-12. The Judicial Department District Courts are also reporting significant increases and over the same timeframe have experienced approximately a 58 percent increase in their felony filings. Felony cases, primarily the Trial and Pre-trial cases, require the greatest attorney effort, time and dedication of resources.

Given their seriousness and complexity, although felony cases make up approximately 46 percent of our trial cases, they require 66 percent of our trial FTE resources.

Felony Case Trends

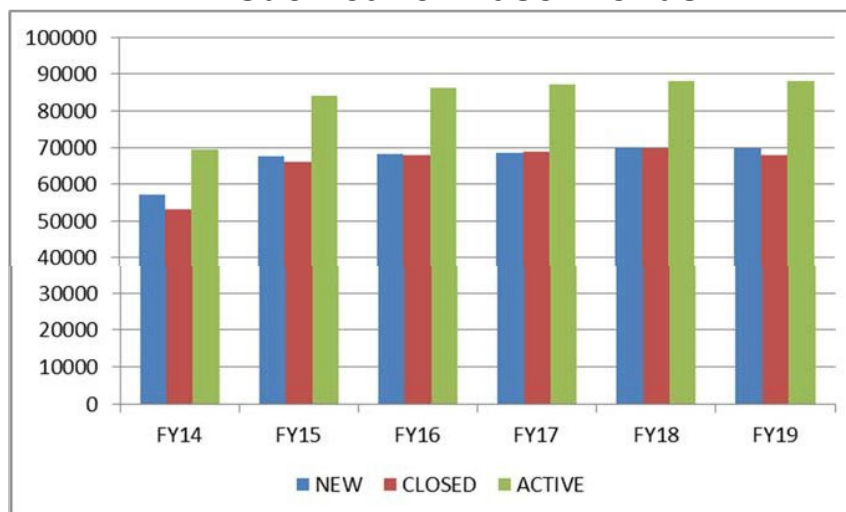


Misdemeanor Cases. Misdemeanor case growth in each category of new, closed and active caseload continued at a relatively predictable rate of 6 percent to 7 percent annual Case Rate Growth (CRG) through FY 2012-13, as the OSPD handled 56,625 cases.

From FY 2013-14 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 C.R.S. 16-7-301(4)(a), striking the section of law requiring people accused in misdemeanors, petty offenses and traffic offenses to first discuss plea negotiations with the prosecution prior to being assigned defense counsel. 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 an upward trend to 86,280. While some of this is due to normal case growth, the impact of *Rothgery* was definitely the driving force. Misdemeanor caseload has now stabilized, with the OSPD handling 88,089 cases in FY 2018-19.

Misdemeanor cases represent about 48 percent of our total cases and require about 25 percent of our trial FTE resources.

Misdemeanor Case Trends

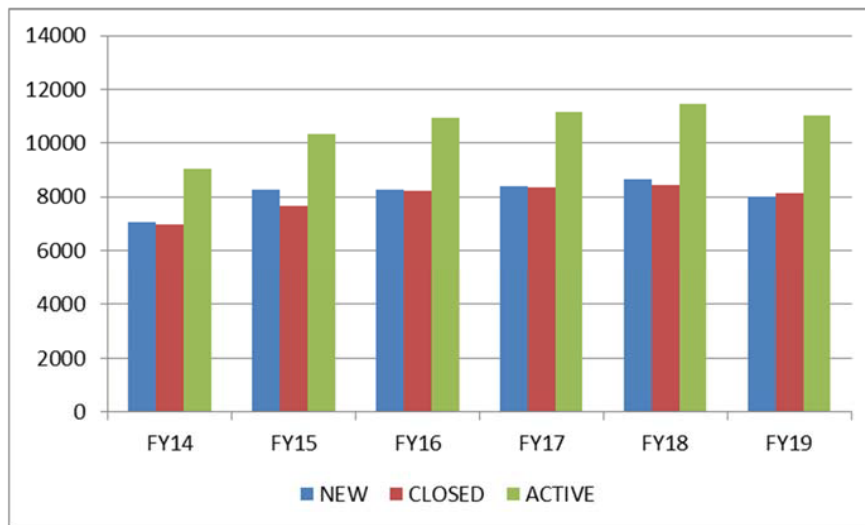


Juvenile Cases. Since FY 1999-00, juvenile cases had continued to gradually decline. However, this decline has slowed since FY 2004-05, falling from a decline of about 4 percent annual CRG through FY 2004-05 to a decline of nearly 2.7 percent annual CRG through FY 2013-14. Active juvenile cases handled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

Since FY 2014-15, the OSPD has 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 makes it more difficult to waive counsel. 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 11,467 in FY 2017-18, and dropped slightly to 11,015 in FY 2018-19, a nearly 22 percent increase over the past 5 years.

Juvenile cases represent about 6 percent of our total cases and require about 4 percent of our trial FTE resources.

Juvenile Case Trends



OSPD Trial Office - New Cases

FY14 - FY19

CASE TYPE	FY14 New	FY15 New	FY16 New	FY17 New	FY18 New	FY19 New	FY19 % Total Cases	5 year % change
Felony 1				190	157	182	0.1%	
Felony 2				348	377	319	0.2%	
Sex Assault Felony 2, 3, 4, 5 or 6				1,779	982	1,782	1.2%	
Felony 3 or 4 (COV)				3,144	2,003	3,558	2.5%	
Felony 3 or 4 (non-COV)				9,050	11,426	9,834	6.8%	
Felony 5 or 6				12,631	13,585	14,104	9.8%	
DUI Felony 4				801	741	787	0.5%	
Drug Felony 1, 2, 3 or 4				10,681	11,880	12,980	9.0%	
Subtotal Felony Trial & PreTrial	30,066	30,931	34,464	38,624	41,151	43,546	30.2%	45%
Misc. Proceedings				5,224	5,375	5,285	3.7%	
Revocations				16,952	18,225	17,590	12.2%	
Appeals				32	19	47	0.0%	
Partial Service:				-	-	-	0.0%	
Subtotal Felony Other Proceedings	20,777	20,097	21,220	22,208	23,619	22,922	15.9%	10%
Total Felony	50,843	51,028	55,684	60,832	64,770	66,468	46.1%	31%
Misdemeanor Sex Offense				640	431	656	0.5%	
Misdemeanor 1				16,085	16,325	16,412	11.4%	
Misdemeanor 2 or 3				12,892	13,252	13,740	9.5%	
Misdemeanor DUI				6,122	6,759	6,606	4.6%	
Misdemeanor Traffic/Other				13,566	13,179	13,077	9.1%	
Subtotal Misdemeanor Trial & PreTrial	41,041	49,634	49,974	49,305	49,946	50,491	35.0%	23%
Misc. Proceedings				2,793	3,347	2,654	1.8%	
Revocations				16,216	16,624	16,394	11.4%	
Appeals				225	208	211	0.1%	
Partial Service:				-	-	-	0.0%	
Subtotal Misdemeanor Other Proceedings	16,183	18,010	18,463	19,234	20,179	19,259	13.4%	19%
Total Misdemeanor	57,224	67,644	68,437	68,539	70,125	69,750	48.4%	22%
Juvenile Sex Offense				287	187	328	0.2%	
Juvenile Felony				2,263	2,398	2,438	1.7%	
Juvenile Misdemeanor				2,534	2,560	2,564	1.8%	
Subtotal Juvenile Trial & PreTrial	3,708	4,971	5,160	5,084	5,145	5,330	3.7%	44%
Misc. Proceedings				985	1,258	638	0.4%	
Revocations				2,317	2,222	2,014	1.4%	
Appeals				20	32	19	0.0%	
Partial Service:				-	-	-	0.0%	
Subtotal Juvenile Other Proceedings	3,332	3,304	3,107	3,322	3,512	2,671	1.9%	-20%
Total Juvenile	7,040	8,275	8,267	8,406	8,657	8,001	5.5%	14%
Summary								
Total Trial and Pretrial	74,815	85,536	89,598	93,013	96,242	99,367	68.9%	32.8%
Total Misc. Proceedings				9,002	9,980	8,577	5.9%	
Total Revocations				35,485	37,071	35,998	25.0%	
Total Appeals				277	259	277	0.2%	
Total Partial Service				-	-	-	0.0%	
Total Other Proceedings	40,292	41,411	42,790	44,764	47,310	44,852	31.1%	11.3%
Grand Total	115,107	126,947	132,388	137,777	143,552	144,219	100.0%	25%

Note: In FY 2016-17 the OSPD implemented revised case type classifications that were the result of the updated workload study and are identified in the table above. Summary totals are provided for the prior years.

OSPD Trial Office - Closed Cases

FY14 - FY19

CASE TYPE	FY14 Closed	FY15 Closed	FY16 Closed	FY17 Closed	FY18 Closed	FY19 Closed	FY19 % Total Cases	5 year % change
Felony 1				74	97	109	0.1%	
Felony 2				155	190	182	0.1%	
Sex Assault Felony 2, 3, 4, 5 or 6				1,333	1,279	1,336	0.9%	
Felony 3 or 4 (COV)				2,203	2,288	2,822	2.0%	
Felony 3 or 4 (non-COV)				6,797	7,355	7,366	5.2%	
Felony 5 or 6				9,716	10,267	10,920	7.7%	
DUI Felony 4				564	645	606	0.4%	
Drug Felony 1, 2, 3 or 4				7,953	8,837	9,644	6.8%	
Subtotal Felony Trial & PreTrial	22,196	23,583	25,603	28,795	30,958	32,985	23.2%	48.6%
Misc. Proceedings				4,935	5,410	5,229	3.7%	
Revocations				16,876	18,017	17,479	12.3%	
Appeals				31	32	34	0.0%	
Partial Service:				8,375	8,868	9,855	6.9%	
Subtotal Felony Other Proceedings	27,681	27,127	28,042	30,217	32,327	32,597	23.0%	17.8%
Total Felony	49,877	50,710	53,645	59,012	63,285	65,582	46.2%	31.5%
Misdemeanor Sex Offense				535	482	547	0.4%	
Misdemeanor 1				13,431	13,424	12,954	9.1%	
Misdemeanor 2 or 3				10,667	10,836	11,041	7.8%	
Misdemeanor DUI				5,318	5,680	5,180	3.7%	
Misdemeanor Traffic/Other				11,957	11,284	10,705	7.5%	
Subtotal Misdemeanor Trial & PreTrial	30,815	39,344	41,612	41,908	41,706	40,427	28.5%	31.2%
Misc. Proceedings				2,768	3,111	2,780	2.0%	
Revocations				16,073	16,646	16,214	11.4%	
Appeals				186	206	206	0.1%	
Partial Service:				8,000	8,103	8,512	6.0%	
Subtotal Misdemeanor Other Proceedings	22,382	26,687	26,292	27,027	28,066	27,712	19.5%	23.8%
Total Misdemeanor	53,197	66,031	67,904	68,935	69,772	68,139	48.0%	28.1%
Juvenile Sex Offense				256	243	298	0.2%	
Juvenile Felony				1,628	1,606	1,619	1.1%	
Juvenile Misdemeanor				2,028	1,975	1,949	1.4%	
Subtotal Juvenile Trial & PreTrial	2,879	3,486	4,011	3,912	3,824	3,866	2.7%	34.3%
Misc. Proceedings				926	1,235	701	0.5%	
Revocations				2,326	2,251	2,060	1.5%	
Appeals				12	25	34	0.0%	
Partial Service:				1,198	1,119	1,494	1.1%	
Subtotal Juvenile Other Proceedings	4,098	4,189	4,204	4,462	4,630	4,289	3.0%	4.7%
Total Juvenile	6,977	7,675	8,215	8,374	8,454	8,155	5.7%	16.9%
Summary								
Total Trial and Pretrial	55,890	66,413	71,226	74,615	76,488	77,278	54.5%	38.3%
Total Misc. Proceedings				8,629	9,756	8,710	6.1%	
Total Revocations				35,275	36,914	35,753	25.2%	
Total Appeals				229	263	274	0.2%	
Total Partial Service				17,573	18,090	19,861	14.0%	
Total Other Proceedings	54,161	58,003	58,538	61,706	65,023	64,598	45.5%	19.3%
Grand Total	110,051	124,416	129,764	136,321	141,511	141,876	100.0%	28.9%

Note: In FY 2016-17 the OSPD implemented revised case type classifications that were the result of the updated workload study and are identified in the table above. Summary totals are provided for the prior years.

OSPD Trial Office - Active Cases

FY14 - FY19

CASE TYPE	FY14 Active	FY15 Active	FY16 Active	FY17 Active	FY18 Active	FY19 Active	FY19 % Total Cases	5 year % change
Felony 1				242	278	287	0.2%	
Felony 2				362	421	368	0.2%	
Sex Assault Felony 2, 3, 4, 5 or 6				2,390	1,761	2,457	1.3%	
Felony 3 or 4 (COV)				3,654	2,931	4,577	2.5%	
Felony 3 or 4 (non-COV)				9,912	12,133	10,760	5.8%	
Felony 5 or 6				13,773	14,885	15,527	8.4%	
DUI Felony 4				990	1,015	1,015	0.5%	
Drug Felony 1, 2, 3 or 4				10,970	12,187	13,336	7.2%	
Subtotal Felony Trial & PreTrial	32,199	34,054	37,424	42,293	45,611	48,327	26.0%	50.1%
Misc. Proceedings				6,468	6,881	6,745	3.6%	
Revocations				20,585	21,936	21,539	11.6%	
Appeals				56	53	64	0.0%	
Partial Service:				8,375	9,013	9,993	5.4%	
Subtotal Felony Other Proceedings	32,251	31,540	33,163	35,484	37,883	38,341	20.6%	18.9%
Total Felony	64,450	65,594	70,587	77,777	83,494	86,668	46.7%	34.5%
Misdemeanor Sex Offense				855	630	908	0.5%	
Misdemeanor 1				18,090	18,139	18,082	9.7%	
Misdemeanor 2 or 3				13,795	14,110	14,682	7.9%	
Misdemeanor DUI				7,805	8,227	7,838	4.2%	
Misdemeanor Traffic/Other				15,605	14,806	14,662	7.9%	
Subtotal Misdemeanor Trial & PreTrial	43,837	53,902	56,091	56,150	55,912	56,172	30.2%	28.1%
Misc. Proceedings				3,461	4,057	3,578	1.9%	
Revocations				18,947	19,502	19,267	10.4%	
Appeals				392	413	419	0.2%	
Partial Service:				8,000	8,233	8,653	4.7%	
Subtotal Misdemeanor Other Proceedings	25,570	29,967	30,189	30,800	32,205	31,917	17.2%	24.8%
Total Misdemeanor	69,407	83,869	86,280	86,950	88,117	88,089	47.4%	26.9%
Juvenile Sex Offense				475	387	537	0.3%	
Juvenile Felony				2,410	2,548	2,474	1.3%	
Juvenile Misdemeanor				2,935	3,007	2,935	1.6%	
Subtotal Juvenile Trial & PreTrial	4,195	5,299	5,898	5,820	5,942	5,946	3.2%	41.7%
Misc. Proceedings				1,185	1,513	911	0.5%	
Revocations				2,916	2,824	2,594	1.4%	
Appeals				27	48	42	0.0%	
Partial Service:				1,198	1,140	1,522	0.8%	
Subtotal Juvenile Other Proceedings	4,855	5,052	5,049	5,326	5,525	5,069	2.7%	4.4%
Total Juvenile	9,050	10,351	10,947	11,146	11,467	11,015	5.9%	21.7%
Summary								
Total Trial and Pretrial	80,231	93,255	99,413	104,263	107,465	110,445	59.5%	37.7%
Total Misc. Proceedings				11,114	12,451	11,234	6.0%	
Total Revocations				42,448	44,262	43,400	23.4%	
Total Appeals				475	514	525	0.3%	
Total Partial Service				17,573	18,386	20,168	10.9%	
Total Other Proceedings	62,676	66,559	68,401	71,610	75,613	75,327	40.5%	20.2%
GRAND TOTAL	142,907	159,814	167,814	175,873	183,078	185,772	100.0%	30.0%

Note: In FY 2016-17 the OSPD implemented revised case type classifications that were the result of the updated workload study and are identified in the table above. Summary totals are provided for the prior years.

TRIAL AND PRETRIAL CASE TRENDS

Trial and Pretrial closings reflect cases that are brought to a final disposition. The increase in Trial and Pretrial closings is the primary factor that drives attorney staffing needs, since these cases account for the greatest draw on attorney resources and time.

The office has participated in several workload studies over the years to determine the appropriate case weights for the various types of cases in order to determine its staffing needs. The OSPD case weights are applied to Trial and Pretrial cases, as well as to revocations, which make up a large portion of the Other Proceedings. The weights take into account the time associated with all Other Proceedings. Assuming that the proportionate share of Trial and Pretrial versus Other Proceedings caseloads remain relatively constant through time, these weights will remain accurate. As seen on the chart below, this has been the case with the Trial and Pretrial averaging at 54 percent of the total cases and 46 percent for the Other Proceedings.

The annual CRG for Trial and Pretrial cases closed had grown at a rate of 3.5 percent through FY 2012-13. As of the end of FY 2018-19, the five year CRG has now increased to 6.7 percent.

OSPD Cases Closed								
Trial and Pretrial & Other Proceedings								
	FY00	FY14	FY15	FY16	FY17	FY18	FY19	5 year CRG
Total Closed Cases	64,779	110,044	124,416	129,764	136,321	141,511	141,876	5.2%
Trial and Pretrial	33,824	55,883	66,413	71,226	74,615	76,488	77,278	6.7%
Portion of Total Cases	52.2%	50.8%	53.4%	54.9%	54.7%	54.1%	54.5%	
Other Proceedings	30,955	54,161	58,003	58,538	61,706	65,023	64,598	3.6%
Portion of Total Cases	47.8%	49.2%	46.6%	45.1%	45.3%	45.9%	45.5%	

OTHER PROCEEDINGS TRENDS

Overall Other Proceedings had grown at a rate of about 2.9 percent annually through FY 2012-13. In FY 2018-19, it increased to 3.9 percent. The Other Proceedings category includes all revocations, Rule 35(b) sentence reconsiderations, Rule 35(c) hearings, extradition matters, and other miscellaneous proceedings. Other Proceedings may also include appeals and original proceedings handled by a regional office. The partial service category refers to cases that are not brought to a final disposition. These include conflicts of interest, other withdrawals because a client retained private counsel or went *pro se*, and situations where a client fails to appear. In order to be opened and subsequently counted as a partial service closing there must be client contact and a specific action taken with respect to the client. Revocations constitute the biggest percent Other Proceedings, representing 55.3 percent of the total in FY 2018- 19.

Other Proceedings	FY19	% of Total
Misc Proceedings	8,710	13.5%
Revocations	35,753	55.3%
Appeals	274	0.4%
Partial Services	19,861	30.7%
Total Other Proceedings	64,598	100.0%

MISCELLANEOUS HEARINGS

As a result of H.B. 13-1210, the *Rothgery* bill, and H.B. 14-1032, the *Juvenile Defense* bill, OSPD began tracking the number of both felony and misdemeanor advisement/bond hearings along with juvenile detention hearings. These statistics are shown separately below and are not included in the Other Proceedings.

Advisement/Bond Hearings and Juvenile Detention Hearings	FY16	FY17	FY18	FY19	FY20 projected
Advisement/Bond, Felony	29,315	35,904	38,567	42,169	44,026
Advisement/Bond, Misdemeanor	31,173	33,818	35,462	34,658	34,896
Juvenile Detention Hearings	3,973	4,006	3,625	3,338	3,370

CASE WITHDRAWAL TRENDS

Partial services includes cases in which the OSPD requests to withdraw from a case due to a conflict of interest and for non-conflict reasons, such as private counsel entering or clients deciding to go *pro se*. Over the past five years, the withdrawal rate has increased from 9.5 percent to 11.2 percent.

OSPD Trial Office Withdrawal's							
FY14-FY19							
	FY14	FY15	FY16	FY17	FY18	FY19	5 year average
New Opened Cases	115,107	126,947	132,388	137,777	143,552	144,219	
Conflicts							
Co-Defendant	3,835	4,245	4,298	4,637	4,386	4,853	
Witness	3,077	3,624	4,323	4,604	5,112	5,664	
Other	549	668	720	913	1,074	1,465	
Total	7,461	8,537	9,341	10,154	10,572	11,982	
% of New Cases	6.5%	6.7%	7.1%	7.4%	7.4%	8.3%	7.2%
Non-Conflicts							
Private Counsel	2,646	2,762	2,636	2,553	2,447	2,645	
Pro Se	332	537	540	482	491	502	
Other	490	702	832	963	960	1,076	
Total	3,468	4,001	4,008	3,998	3,898	4,223	
% of New Cases	3.0%	3.2%	3.0%	2.9%	2.7%	2.9%	3.0%
Total	10,929	12,538	13,349	14,152	14,470	16,205	
% of New Cases	9.5%	9.9%	10.1%	10.3%	10.1%	11.2%	10.2%

Conflict Withdrawals. A “conflict of interest” occurs in situations where the Office represents a codefendant or a person who is a witness in the case, or other circumstances as identified in the Colorado Rules of Professional Conduct. The withdrawal rate due to a conflict has increased from 7.4 percent in FY 2017-18 to 8.3 percent in FY 2018-19. The primary reason for the increase is due to the conflicts we have experienced this past year in our juvenile cases, which increased to over 16 percent.

Year	Adult			Juvenile			Total		
	New Cases	Conflicts	% of new	New Cases	Conflicts	% of new	Total New	Conflicts	% of new
FY14	108067	6801	6.3%	7040	660	9.4%	115107	7461	6.5%
FY15	118672	7693	6.5%	8275	844	10.2%	126947	8537	6.7%
FY16	124121	8466	6.8%	8267	875	10.6%	132388	9341	7.1%
FY17	129371	9129	7.1%	8406	1025	12.2%	137777	10154	7.4%
FY18	134895	9601	7.1%	8657	971	11.2%	143552	10572	7.4%
FY19	136218	10650	7.8%	8001	1332	16.6%	144219	11982	8.3%

APPELLATE DIVISION CASELOAD

APPELLATE CASE TRENDS

Appellate Cases. The Office of the State Public Defender maintains a centralized Appellate Division (the Division) that represents indigent clients in felony appeals from every jurisdiction in 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 handle a total of 1,938 cases in FY 2019-20, of which 1,177 are in phase one and 761 are in phase two.

- Phase one is where an initial OSPD brief has not yet been filed and is the phase during which the most resources are required. We estimate the Division will see 574 new cases, along with 603 backlog cases carried over from previous years.
- Phase two is the continuation of the case through the appeals process, which can take several years to complete.

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	Change in Excess	Cases Phase 2 (after OB filed)	Total Active Felony Cases
FY 14	573	367	127	495	749	279	470	114	1000	2341
FY 15	533	422	122	544	738	363	375	-95	985	2282
FY 16	511	486	141	627	622	359	263	-112	1049	2234
FY 17	525	459	101	560	587	351	236	-27	879	2196
FY 18	523	421	150	571	539	351	188	-48	820	1989
FY 19	563	381	118	499	603	368	235	47	761	1922
FY 20 Est.	574	447	138	585	592	368	224	-11	728	1938
FY 21 Est.	586	447	141	588	590	368	222	-2	725	1906
FY 22 Est.	592	447	142	589	592	368	224	2	722	1907
FY 23 Est.	598	447	144	591	599	368	231	7	720	1912
FY 24 Est.	603	447	145	592	610	368	242	11	717	1922

In FY 2013-14, the number of backlog cases (those awaiting an initial brief) peaked at 749, the highest ever experienced, exceeding the NLADA standard caseload for the division by 470 cases. The following year, the Division requested and received additional FTEs and funding to help lower this number and had been successful in doing so, dropping to 539 cases as of FY 2017-18, which was the lowest level in over a decade. However, the Division is now facing a backlog of 603 cases, which exceeds the NLADA acceptable standard by 235 cases. The previous downward trend experienced through FY 2017-18 has slowed due to a number of factors.

First, the number of new appellate cases assigned to the Division increased last year by nearly 8 percent. Since FY 2008-09, the number of new appellate cases had leveled off and even dropped in recent years. Last year it was projected that new cases would start rising again since appeal filings typically lag a couple of years behind the trends in statewide felony case filings. Over the past five years, the OSPD's regional trial offices have experienced a 50 percent increase in the number of felony filings. Thus, for the first time in several years, the number of new appellate cases assigned to the Division increased.

Second, the length of appellate records continues to grow. The increase in the average record length of an appellate case has a direct impact on the time and resources required to prepare an opening brief. In FY 1999-00, the average record size per case was approximately 650-700 pages. In FY

2018-19, the average record size has now doubled, with an average over 1,400 pages.

Third, the Division lost several experienced attorneys this past year and, as a result, positions were vacant for a period of time and then filled with inexperienced staff who required additional training resources from more experienced attorneys. Supervising attorneys, who frequently handle some of the most difficult appeals, handled fewer cases of their own while focusing on training new attorneys. There is also a delay between when a new attorney begins work in the Division and when they are able to consistently file briefs due to initial training demands. Thus, during the initial training period, the output of both the supervisor and the new attorney is significantly reduced.

Finally, after an opening brief is filed, the case remains active as it progresses through the appellate process and the work involved extends well into subsequent years. During this second phase, numerous briefs, pleadings and oral arguments (see table below) are completed in accordance with appellate court deadlines, some of which require an attorney to work on things other than opening briefs. For example, court deadlines for briefs and petitions in the Colorado Supreme Court often must take precedence over briefs due in the Colorado Court of Appeals. As a result, appellate attorneys frequently pause work on briefs in the Court of Appeals in order to prioritize filings with the Supreme Court. While this may incur some delay in the filing of opening briefs in the Court of Appeals, it has also had the effect of more timely reduction of the cases pending in the second phase of the appeal. The Division estimates there are currently 761 cases at various stages within this process (phase two), which is a significant reduction from the 1,049 cases in phase two the Division was handling just three years ago. This reduction is a clear indication of the shift of resources that has taken place, which has had an impact on the Division's ability to reduce the backlog.

Briefs, Pleadings & Arguments (Phase 2)	
Reply Briefs	393
Petition for Rehearing	68
Petitions for Writ of Certiorari	296
35B Filed	113
Oral Arguments	90
Brief in Opposition	65
Reply to Brief in Opposition	7

In addition to processing felony appeals statewide, the Division also assists in the appellate process for both county court and juvenile appeals. This past year, staff consulted or worked on over 268 cases, handled roughly 150 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.

Performance Measures

		FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23	FY 23-24
		(actual)	(actual)	(projected)	(projected)	(projected)	(projected)	(projected)
MEASURE 1:	Target	141,907	148,664	147,479	150,852	154,342	157,955	161,635
Number of new trial court cases.	Actual	143,552	144,219					
MEASURE 2:	Target	181,112	189,075	189,760	194,419	199,249	204,258	209,453
Number of active trial court cases.	Actual	183,078	185,772					
MEASURE 3:	Target	100%	100%	100%	100%	100%	100%	100%
Percent of trial court attorney staff allocated vs. total required for closed trial court cases.	Actual	80%	81%					
MEASURE 4:	Target	475	485	500	500	500	500	500
Number of attorney applications received.	Actual	521	520					
MEASURE 5:	Target	100%	100%	100%	100%	100%	100%	100%
Percent of total attorney staff allocated vs. total required for closed trial court cases and appellate cases.	Actual	81%	81%					
MEASURE 6:	Target	12%	12%	12%	12%	12%	12%	12%
Annual rates of attrition:								
Attorneys	Actual	18%	18%					
Investigators	Actual	8%	7%					
Administrative Assistants	Actual	24%	26%					
Total All Employees	Actual	16%	17%					
MEASURE 7:	Target	70%	70%	70%	70%	70%	70%	70%
Percent of experienced, fully capable staff (journey level or higher):								
Attorneys	Actual	43%	39%					
Investigators	Actual	49%	52%					
Administrative Assistants	Actual	43%	46%					
Total All Employees	Actual	46%	44%					
MEASURE 8:	Target	100%	100%	100%	100%	100%	100%	100%
Percent compliance with minimum standards for total staffing requirements.	Actual	81%	82%					
MEASURE 9:	Target	12%	12%	12%	12%	12%	12%	12%
Maintain established standard percentages for reasonable staff supervision, management and development.	Actual	11%	9%					

		FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23	FY 23-24
		(actual)	(actual)	(projected)	(projected)	(projected)	(projected)	(projected)
MEASURE 10:	Target	535	528	574	586	592	598	603
Number of new appellate cases.	Actual	523	563					
MEASURE 11:	Target	2,001	1,887	1,938	1,906	1,907	1,912	1,922
Number of active appellate cases.	Actual	1,989	1,922					
MEASURE 12:	Target	100%	100%	100%	100%	100%	100%	100%
Percent of appellate attorney staff allocated vs. total required for appellate cases awaiting filing of initial brief.	Actual	85%	82%					
MEASURE 13:	Target	140,395	145,909	145,337	148,817	152,468	156,304	160,345
Number of trial court cases closed.	Actual	141,511	141,876					
MEASURE 14:	Target	130	133	144	144	144	144	144
Days of training provided.	Actual	135	179					
MEASURE 15:	Target	15	15	15	15	15	15	15
Number of CLE credits provided to all attorneys.	Actual	15	16					
MEASURE 16:	Target	3	3	3	3	3	3	3
Hours of ethics training provided, focusing on Colorado criminal law.	Actual	4	3					
MEASURE 17:	Target	15	15	15	15	15	15	15
Number of administrative processes and organizational infrastructure evaluations performed.	Actual	15	15					
MEASURE 18:	Target	468	451	447	447	447	447	447
Number of appellate cases for which an Opening Brief has been filed.	Actual	421	381					
MEASURE 19:	Target	531	486	592	590	592	599	599
Number of backlogged appellate cases.	Actual	539	603					