

# Performance Plan

July 01, 2021



**Office of the State Public Defender**

**MEGAN A. RING**  
**Colorado State Public Defender**

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**Performance Plan**

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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 2021-22 projected caseload, the OSPD was appropriated \$ 118,679,551 and 964.6 FTE. This is comprised of approximately 574 attorneys; 180 investigators / legal assistants; 21 social workers; 140 administrative assistants and 49 centralized management and support positions. See the Organizational 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, workload per case grew this year as a result of COVID, poverty related to economic hardship will cause more criminally-accused to qualify for our services, and the cases that we handle continue to become more complex requiring greater investment in IT infrastructure to understand and manage the technical nature of the discovery and facts of cases, training to develop expertise for staff, and additional work to navigate through serious, complex cases.

Additional factors have compounded these case growth trends. 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.

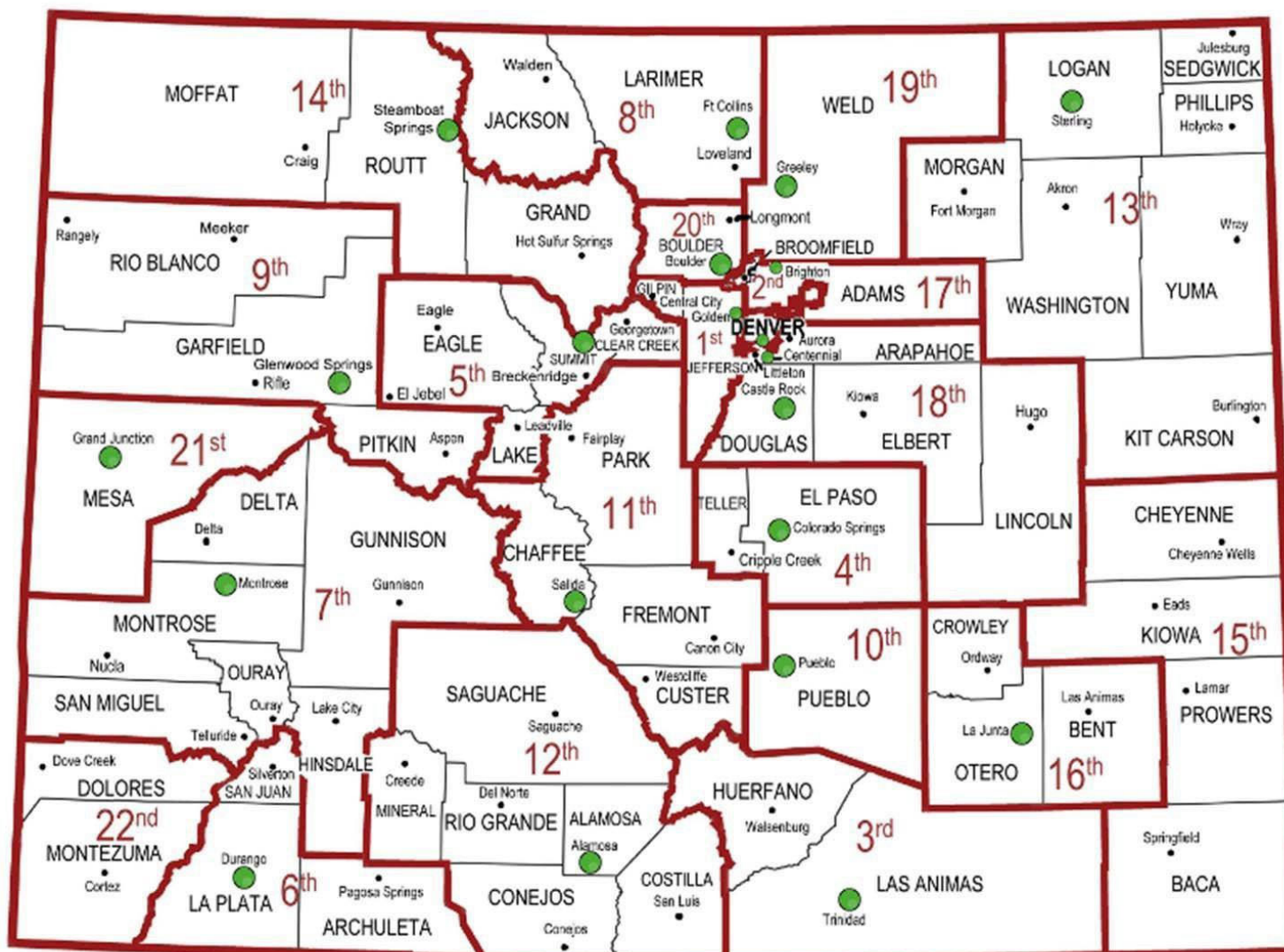
The most recent environmental change that our agency is now facing is the COVID-19 pandemic. Operating during the pandemic has caused unique challenges that are described in Appendix A.

### **Constitutional, Statutory and other authority**

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

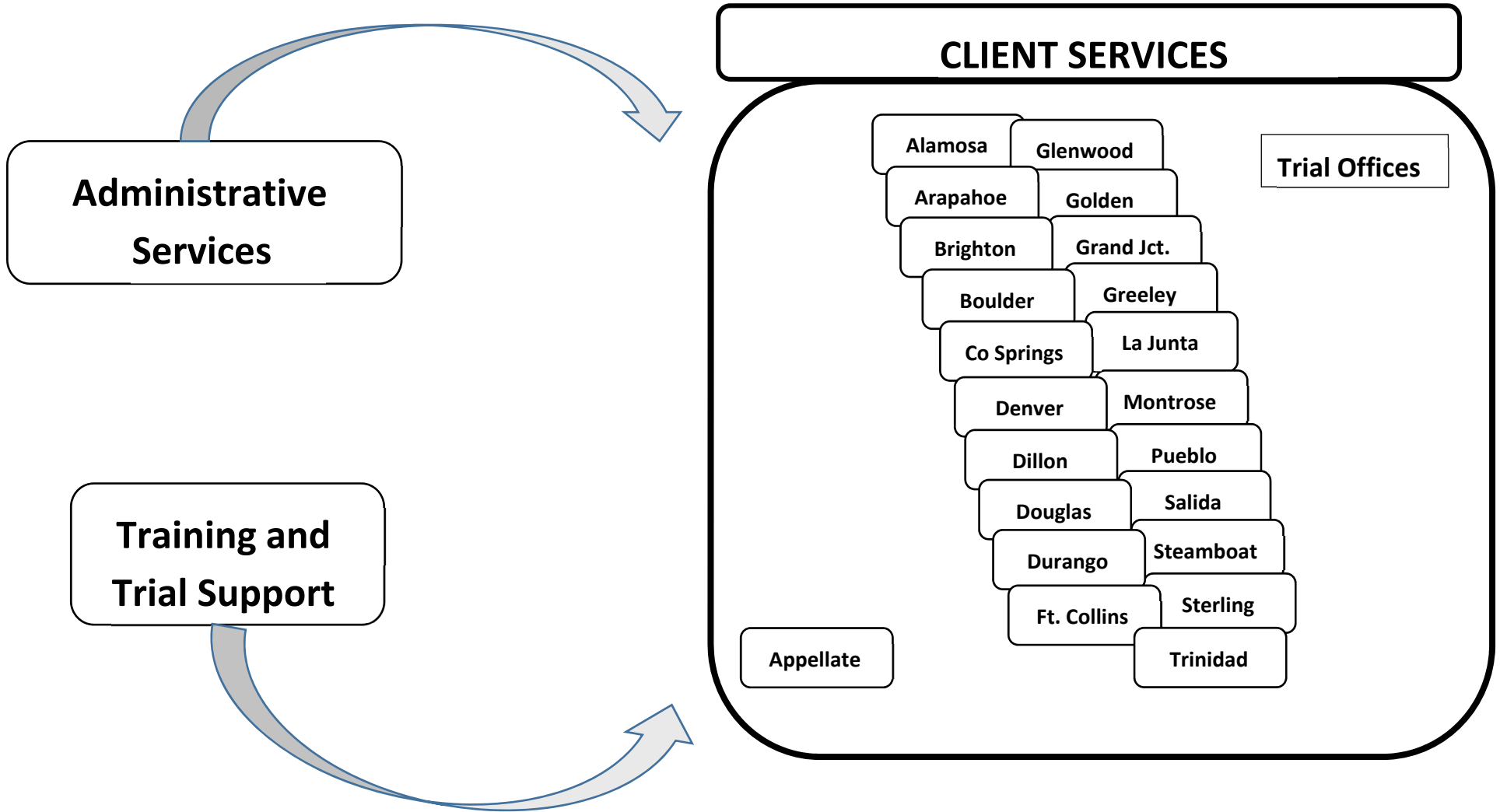
- U.S. CONSTITUTION AMEND. VI;
- COLO. CONST. Art. II, § 16;
- C.R.S. § 21-1-101 *et seq.*;
- Chief Justice Directive 04-04, as amended;
- ABA Standards for criminal justice and representation in capital cases;
- Colo. Rules of Professional Conduct (Colo. RPC);
- *Gideon v. Wainwright*, 372 U.S. 335 (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



The following chart illustrates the functional organizational structure of the OSPD.

# COLORADO STATE PUBLIC DEFENDER



**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*  
**Courtney McDonald**

**Boulder Trial Office**  
20th Judicial District

*Regional Trial Office Chief*  
**Nicole Collins**

*Office Manager*  
**Matthew Adame**

**Brighton Trial Office**  
17th Judicial District

*Regional Trial Office Chief*  
**Sarah Quinn**

*Office Manager*  
**Isidro Lopez**

**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*  
**Jenèe 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*  
**Lauren Vigil**

**Montrose Trial Office**  
7th Judicial District

*Regional Trial Office Chief*  
**Patrick Crane**

*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 Mattson**

**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**

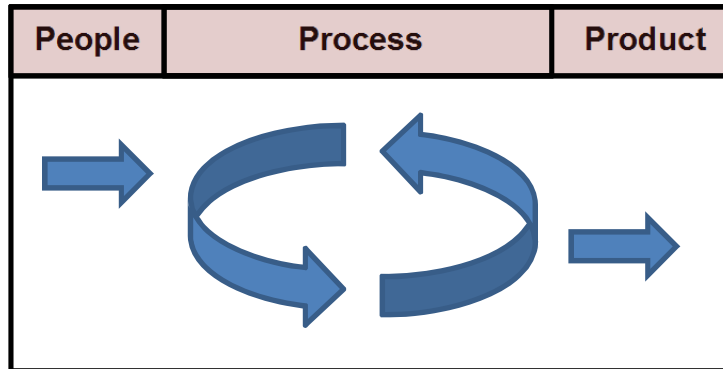
*Office Manager*  
**Juanita Gonzalez**



# 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.

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### 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

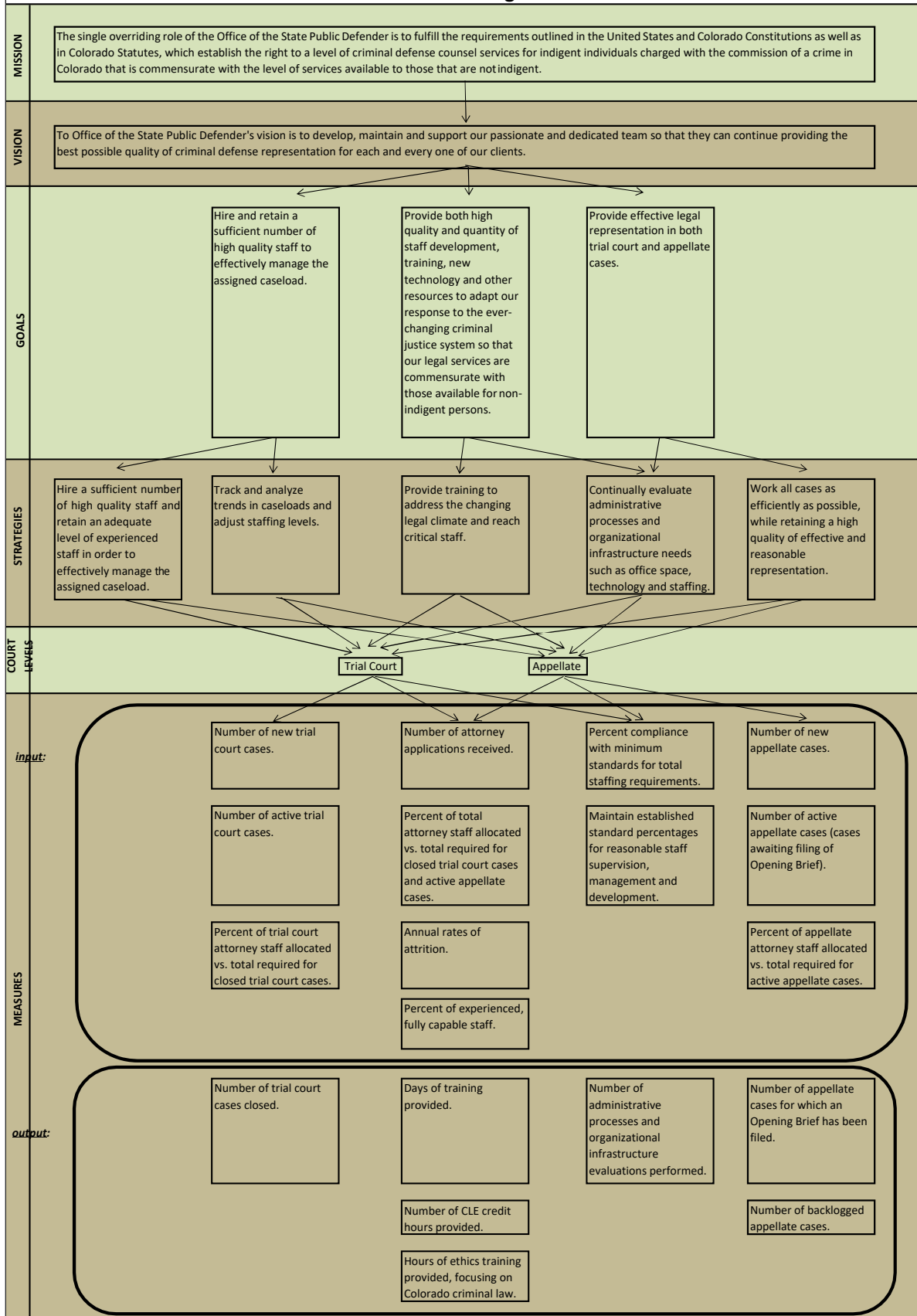
1. Number of new trial court cases.
2. Number of active trial court cases.
3. Percent of trial court attorney staff allocated vs. total required for closed trial court cases.
4. Number of attorney applications received.
5. Percent of total attorney staff allocated versus total required for closed trial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

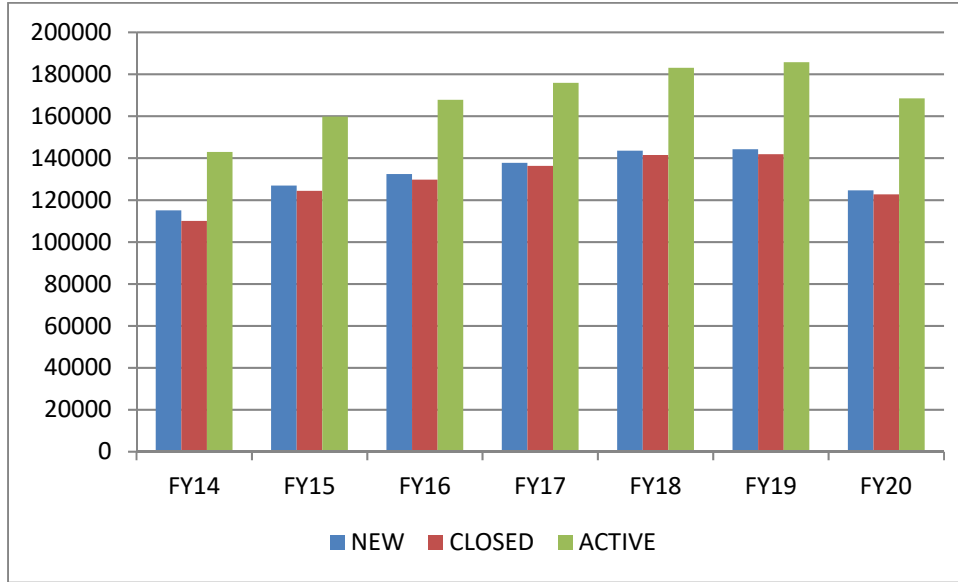


# Performance Evaluation

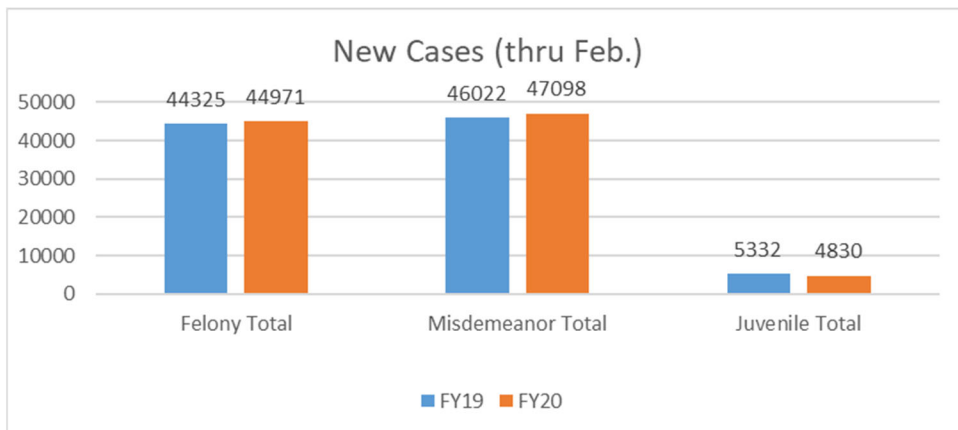
## REGIONAL TRIAL OFFICE CASELOAD

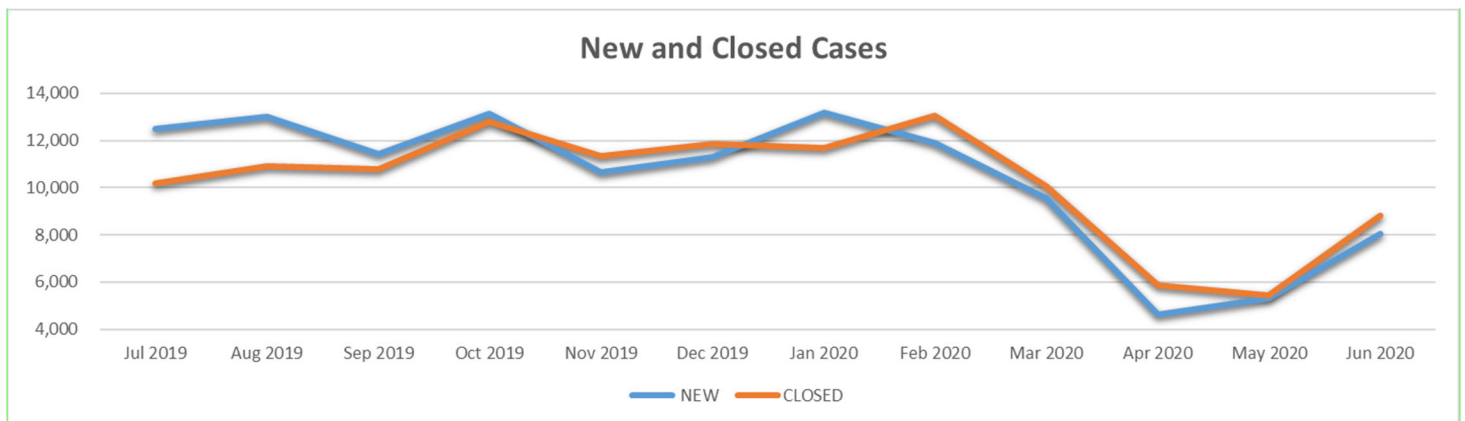
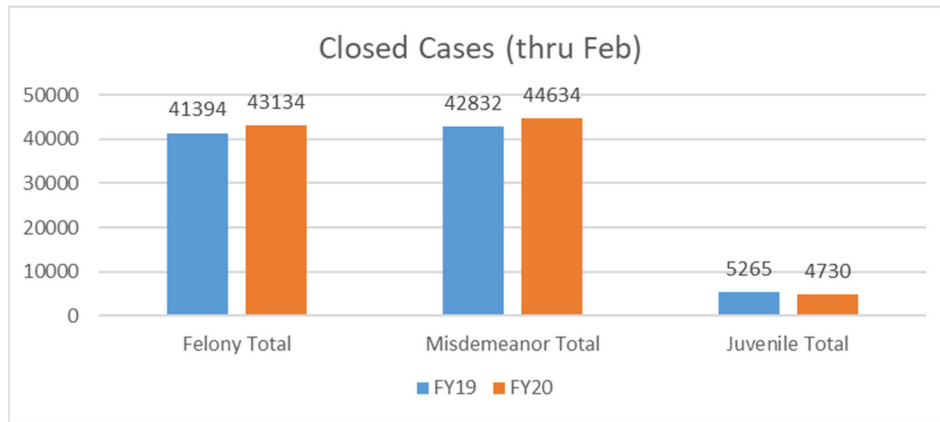
### OVERALL OSPD CASE TRENDS

**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 2019-20, the OSPD was appointed on 124,586 new cases, closed 122,712 cases and actively worked on 168,512 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.



As shown in the chart above, the total number of cases had been increasing every year though FY 2018-19. Through the first eight months of FY 2019-20, our totals were up in both our felony and misdemeanor cases. However, cases dropped in every area as a direct result of the COVID-19 pandemic.

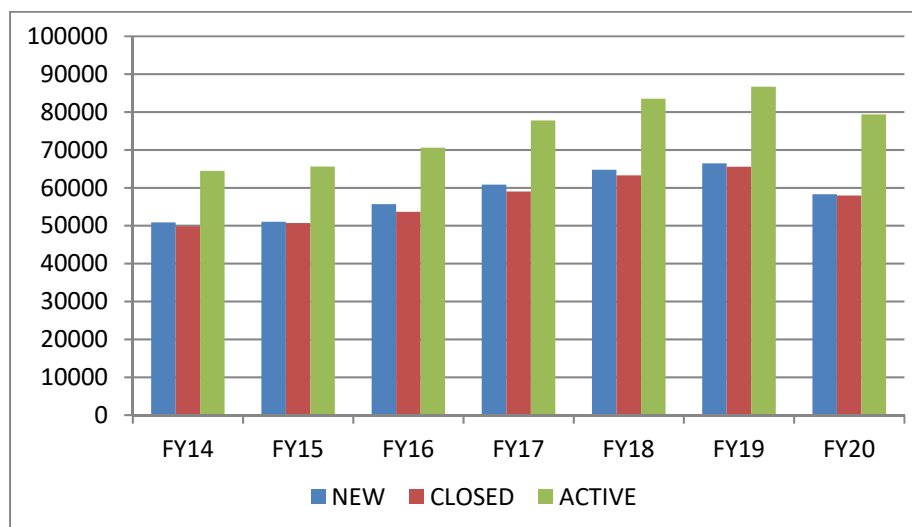




**Felony Cases.** In FY 2019-20, the OSPD had 79,374 active felony cases. Although this is below the prior year level of 86,668, this decrease occurred in the last 3 months of the fiscal year as a result of COVID-19. Prior to this, the OSPD had experienced significant increases each year, amounting to over a 50 percent increase since FY 2011-12. 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 47 percent of our trial cases, they require 66 percent of our trial FTE resources.

### Felony Case Trends



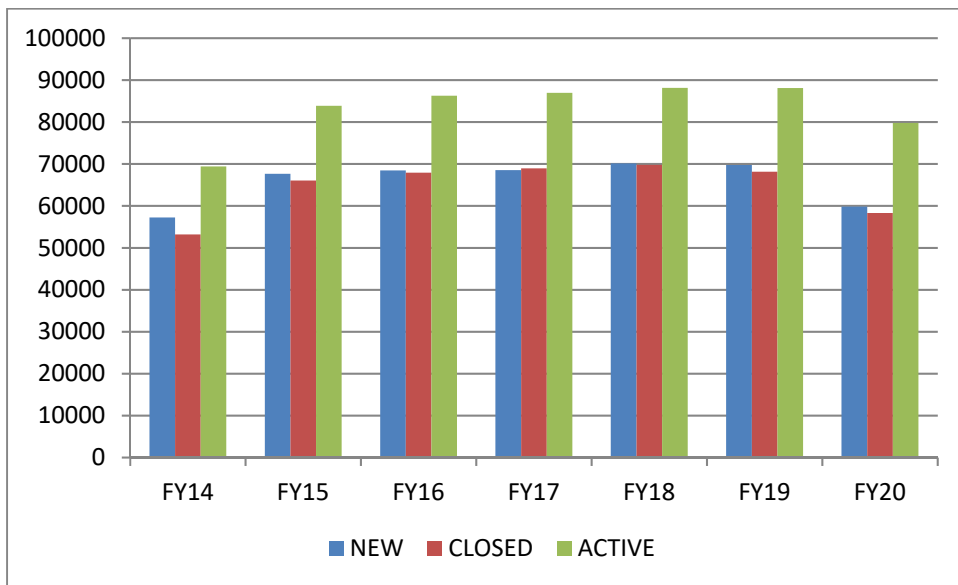
**Misdemeanor Cases.** Through FY 2012-13, misdemeanor case growth in each category of new, closed and active caseload was relatively predictable increasing by a rate of 6 to 7 percent per year.

In FY 2013-14 and FY 2014-15, the OSPD 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 defendants in misdemeanors, petty offenses and traffic offenses to first discuss plea negotiations with the prosecution prior to being assigned defense counsel. Over the course of those two years, the number of active misdemeanor cases surged to well over 80,000. Prior to *Rothgery*, the OSPD was handling roughly 50,000 cases per year. While some of this is due to normal case growth, the impact of *Rothgery* was definitely the driving force.

Misdemeanor caseloads seemed to have stabilized, with the OSPD handling 88,089 cases in FY 2018-19. Caseloads were consistent through the first eight months of FY 2019-20 but were similarly impacted by COVID and dropped in the final 3 months of the fiscal year resulting in 79,797 active cases in FY 2019-20.

Misdemeanor cases represent about 48 percent of our total cases and require about 24 percent of our trial FTE resources.

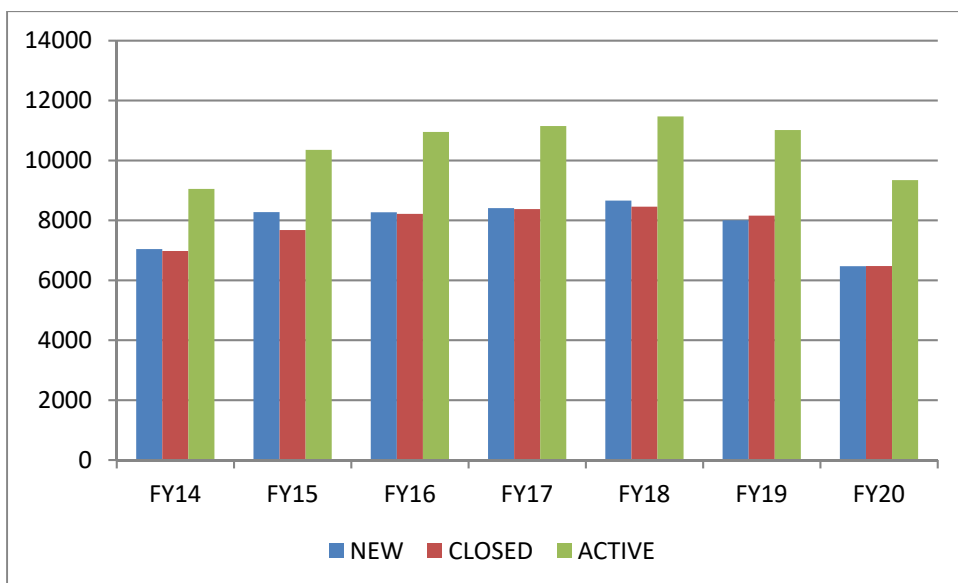
### Misdemeanor Case Trends



**Juvenile Cases.** Since FY 2014-15, the OSPD has experienced an increase in its juvenile caseload, due to legislation. H.B. 14-1032 (commonly known as the *Juvenile Defense* bill) 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 intentionally makes it more difficult for juveniles 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 11,015 in FY 2018-19.

In FY 2019-20, the OSPD saw a decrease in the number of active cases handled, down to 9,341, again, as a result of COVID-19. Juvenile cases represent about 5 percent of our total cases and require about 4 percent of our trial FTE resources.

### Juvenile Case Trends



## OSPD Trial Office - New Cases

FY17-FY20

CASE TYPE	FY17 New	FY18 New	FY19 New	FY20 New	FY20 % Total Cases
Felony 1	190	157	182	189	0.2%
Felony 2	348	377	319	339	0.3%
Sex Assault Felony 2, 3, 4, 5 or 6	1,779	1,682	1,782	1,603	1.3%
Felony 3 or 4 (COV)	3,144	3,620	3,558	3,381	2.7%
Felony 3 or 4 (non-COV)	9,050	9,360	9,834	9,184	7.4%
Felony 5 or 6	12,631	13,342	14,104	12,885	10.3%
DUI Felony 4	801	741	787	703	0.6%
Drug Felony 1, 2, 3 or 4	10,681	11,873	12,980	9,876	7.9%
<b>Subtotal Felony Trial &amp; Pre Trial</b>	<b>38,624</b>	<b>41,152</b>	<b>43,546</b>	<b>38,160</b>	<b>30.6%</b>
Misc. Proceedings	5,224	5,374	5,285	4,589	3.7%
Revocations	16,952	18,225	17,590	15,516	12.5%
Appeals	32	19	47	42	0.0%
Partial Service:	-	-	-	-	0.0%
<b>Subtotal Felony Other Proceedings</b>	<b>22,208</b>	<b>23,618</b>	<b>22,922</b>	<b>20,147</b>	<b>16.2%</b>
<b>Total Felony</b>	<b>60,832</b>	<b>64,770</b>	<b>66,468</b>	<b>58,307</b>	<b>46.8%</b>
Misdemeanor Sex Offense	640	755	656	658	0.5%
Misdemeanor 1	16,085	16,008	16,412	15,049	12.1%
Misdemeanor 2 or 3	12,892	13,249	13,740	11,941	9.6%
Misdemeanor DUI	6,122	6,756	6,606	5,814	4.7%
Misdemeanor Traffic/Other	13,566	13,178	13,077	10,472	8.4%
<b>Subtotal Misdemeanor Trial &amp; Pre Trial</b>	<b>49,305</b>	<b>49,946</b>	<b>50,491</b>	<b>43,934</b>	<b>35.3%</b>
Misc. Proceedings	2,793	3,347	2,654	2,509	2.0%
Revocations	16,216	16,624	16,394	13,207	10.6%
Appeals	225	208	211	163	0.1%
Partial Service:	-	-	-	-	0.0%
<b>Subtotal Misdemeanor Other Proceedings</b>	<b>19,234</b>	<b>20,179</b>	<b>19,259</b>	<b>15,879</b>	<b>12.7%</b>
<b>Total Misdemeanor</b>	<b>68,539</b>	<b>70,125</b>	<b>69,750</b>	<b>59,813</b>	<b>48.0%</b>
Juvenile Sex Offense	287	342	328	299	0.2%
Juvenile Felony	2,263	2,285	2,438	2,088	1.7%
Juvenile Misdemeanor	2,534	2,518	2,564	2,165	1.7%
<b>Subtotal Juvenile Trial &amp; Pre Trial</b>	<b>5,084</b>	<b>5,145</b>	<b>5,330</b>	<b>4,552</b>	<b>3.7%</b>
Misc. Proceedings	985	1,258	638	525	0.4%
Revocations	2,317	2,222	2,014	1,385	1.1%
Appeals	20	32	19	4	0.0%
Partial Service:	-	-	-	-	0.0%
<b>Subtotal Juvenile Other Proceedings</b>	<b>3,322</b>	<b>3,512</b>	<b>2,671</b>	<b>1,914</b>	<b>1.5%</b>
<b>Total Juvenile</b>	<b>8,406</b>	<b>8,657</b>	<b>8,001</b>	<b>6,466</b>	<b>5.2%</b>
<b>Summary</b>					
<b>Total Trial and Pretrial</b>	<b>93,013</b>	<b>96,242</b>	<b>99,367</b>	<b>86,646</b>	<b>69.5%</b>
Total Misc. Proceedings	9,002	9,926	8,577	7,623	6.1%
Total Probation Revocations	35,485	37,115	35,998	30,108	24.2%
Total Appeals	277	269	277	209	0.2%
<b>Total Other Proceedings</b>	<b>44,764</b>	<b>47,310</b>	<b>44,852</b>	<b>37,940</b>	<b>30.5%</b>
<b>Grand Total</b>	<b>137,777</b>	<b>143,552</b>	<b>144,219</b>	<b>124,586</b>	<b>100.0%</b>



## OSPD Trial Office - Closed Cases

FY17-FY20

CASE TYPE	2017 Closed	FY18 Closed	FY19 Closed	FY20 Closed	FY20 % Total Cases
Felony 1	74	97	109	106	0.1%
Felony 2	155	190	182	139	0.1%
Sex Assault Felony 2, 3, 4, 5 or 6	1,333	1,411	1,336	1,278	1.0%
Felony 3 or 4 (COV)	2,203	2,790	2,822	2,597	2.1%
Felony 3 or 4 (non-COV)	6,797	6,795	7,366	6,448	5.3%
Felony 5 or 6	9,716	10,194	10,920	9,517	7.8%
DUI Felony 4	564	645	606	511	0.4%
Drug Felony 1, 2, 3 or 4	7,953	8,836	9,644	8,017	6.5%
<b>Subtotal Felony Trial &amp; PreTrial</b>	<b>28,795</b>	<b>30,958</b>	<b>32,985</b>	<b>28,613</b>	<b>23.3%</b>
Misc. Proceedings	4,935	5,410	5,229	4,795	3.9%
Revocations	16,876	18,017	17,479	15,152	12.3%
Appeals	31	32	34	45	0.0%
Partial Service:	8,375	8,868	9,855	9,348	7.6%
<b>Subtotal Felony Other Proceedings</b>	<b>30,217</b>	<b>32,327</b>	<b>32,597</b>	<b>29,340</b>	<b>23.9%</b>
<b>Total Felony</b>	<b>59,012</b>	<b>63,285</b>	<b>65,582</b>	<b>57,953</b>	<b>47.2%</b>
Misdemeanor Sex Offense	535	577	547	524	0.4%
Misdemeanor 1	13,431	13,334	12,954	11,405	9.3%
Misdemeanor 2 or 3	10,667	10,834	11,041	9,319	7.6%
Misdemeanor DUI	5,318	5,677	5,180	4,414	3.6%
Misdemeanor Traffic/Other	11,957	11,284	10,705	8,737	7.1%
<b>Subtotal Misdemeanor Trial &amp; PreTrial</b>	<b>41,908</b>	<b>41,706</b>	<b>40,427</b>	<b>34,399</b>	<b>28.0%</b>
Misc. Proceedings	2,768	3,111	2,780	2,610	2.1%
Revocations	16,073	16,646	16,214	12,978	10.6%
Appeals	186	206	206	199	0.2%
Partial Service:	8,000	8,103	8,512	8,102	6.6%
<b>Subtotal Misdemeanor Other Proceedings</b>	<b>27,027</b>	<b>28,066</b>	<b>27,712</b>	<b>23,889</b>	<b>19.5%</b>
<b>Total Misdemeanor</b>	<b>68,935</b>	<b>69,772</b>	<b>68,139</b>	<b>58,288</b>	<b>47.5%</b>
Juvenile Sex Offense	256	263	298	232	0.2%
Juvenile Felony	1,628	1,593	1,619	1,328	1.1%
Juvenile Misdemeanor	2,028	1,968	1,949	1,593	1.3%
<b>Subtotal Juvenile Trial &amp; PreTrial</b>	<b>3,912</b>	<b>3,824</b>	<b>3,866</b>	<b>3,153</b>	<b>2.6%</b>
Misc. Proceedings	926	1,235	701	639	0.5%
Revocations	2,326	2,251	2,060	1,438	1.2%
Appeals	12	25	34	8	0.0%
Partial Service:	1,198	1,119	1,494	1,233	1.0%
<b>Subtotal Juvenile Other Proceedings</b>	<b>4,462</b>	<b>4,630</b>	<b>4,289</b>	<b>3,318</b>	<b>2.7%</b>
<b>Total Juvenile</b>	<b>8,374</b>	<b>8,454</b>	<b>8,155</b>	<b>6,471</b>	<b>5.3%</b>
<b>Summary</b>					
<b>Total Trial/Pretrial</b>	<b>74,615</b>	<b>76,488</b>	<b>77,278</b>	<b>66,165</b>	<b>53.9%</b>
Total Misc. Proceedings	8,629	9,756	8,710	8,044	6.6%
Total Revocations	35,275	36,914	35,753	29,568	24.1%
Total Appeals	229	263	274	252	0.2%
Total Partial Service	17,573	18,090	19,861	18,683	15.2%
<b>Other Proceedings total</b>	<b>61,706</b>	<b>65,023</b>	<b>64,598</b>	<b>56,547</b>	<b>46.1%</b>
<b>GRAND TOTAL</b>	<b>136,321</b>	<b>141,511</b>	<b>141,876</b>	<b>122,712</b>	<b>100.0%</b>

## OSPD Trial Office - Active Cases

FY17-FY20

CASE TYPE	FY17 Active	FY18 Active	FY19 Active	FY20 Active	FY20 % Total Cases
Felony 1	242	279	287	296	0.2%
Felony 2	362	425	368	376	0.2%
Sex Assault Felony 2, 3, 4, 5 or 6	2,390	2,415	2,457	2,386	1.4%
Felony 3 or 4 (COV)	3,654	4,447	4,577	4,427	2.6%
Felony 3 or 4 (non-COV)	9,912	10,251	10,760	10,280	6.1%
Felony 5 or 6	13,773	14,700	15,527	14,624	8.7%
DUI Felony 4	990	1,018	1,015	963	0.6%
Drug Felony 1, 2, 3 or 4	10,970	12,221	13,336	10,871	6.5%
<b>Subtotal Felony Trial &amp; PreTrial</b>	<b>42,293</b>	<b>45,756</b>	<b>48,327</b>	<b>44,223</b>	<b>26.2%</b>
Misc. Proceedings	6,468	6,881	6,745	6,092	3.6%
Revocations	20,585	21,936	21,539	19,591	11.6%
Appeals	56	53	64	72	0.0%
Partial Service:	8,375	8,868	9,993	9,396	5.6%
<b>Subtotal Felony Other Proceedings</b>	<b>35,484</b>	<b>37,738</b>	<b>38,341</b>	<b>35,151</b>	<b>20.9%</b>
<b>Total Felony</b>	<b>77,777</b>	<b>83,494</b>	<b>86,668</b>	<b>79,374</b>	<b>47.1%</b>
Misdemeanor Sex Offense	855	925	908	913	0.5%
Misdemeanor 1	18,090	17,899	18,082	17,417	10.3%
Misdemeanor 2 or 3	13,795	14,137	14,682	13,427	8.0%
Misdemeanor DUI	7,805	8,251	7,838	7,373	4.4%
Misdemeanor Traffic/Other	15,605	14,830	14,662	12,546	7.4%
<b>Subtotal Misdemeanor Trial &amp; PreTrial</b>	<b>56,150</b>	<b>56,042</b>	<b>56,172</b>	<b>51,676</b>	<b>30.7%</b>
Misc. Proceedings	3,461	4,057	3,578	3,299	2.0%
Revocations	18,947	19,502	19,267	16,283	9.7%
Appeals	392	413	419	382	0.2%
Partial Service:	8,000	8,103	8,653	8,157	4.8%
<b>Subtotal Misdemeanor Other Proceedings</b>	<b>30,800</b>	<b>32,075</b>	<b>31,917</b>	<b>28,121</b>	<b>16.7%</b>
<b>Total Misdemeanor</b>	<b>86,950</b>	<b>88,117</b>	<b>88,089</b>	<b>79,797</b>	<b>47.4%</b>
Juvenile Sex Offense	475	527	537	481	0.3%
Juvenile Felony	2,410	2,457	2,474	2,316	1.4%
Juvenile Misdemeanor	2,935	2,979	2,935	2,632	1.6%
<b>Subtotal Juvenile Trial &amp; PreTrial</b>	<b>5,820</b>	<b>5,963</b>	<b>5,946</b>	<b>5,429</b>	<b>3.2%</b>
Misc. Proceedings	1,185	1,513	911	737	0.4%
Revocations	2,916	2,826	2,594	1,918	1.1%
Appeals	27	48	42	12	0.0%
Partial Service:	1,198	1,119	1,522	1,245	0.7%
<b>Subtotal Juvenile Other Proceedings</b>	<b>5,326</b>	<b>5,506</b>	<b>5,069</b>	<b>3,912</b>	<b>2.3%</b>
<b>Total Juvenile</b>	<b>11,146</b>	<b>11,469</b>	<b>11,015</b>	<b>9,341</b>	<b>5.5%</b>
<b>Summary</b>					
<b>Total Trial and Pretrial</b>	<b>104,263</b>	<b>107,761</b>	<b>110,445</b>	<b>101,328</b>	<b>59.5%</b>
Total Misc. Proceedings	11,114	12,451	11,234	10,128	6.0%
Total Probation Revocations	42,448	44,264	43,400	37,792	23.4%
Total Appeals	475	514	525	466	0.3%
Total Partial Service	17,573	18,090	20,168	18,798	10.9%
<b>Total Other Proceedings</b>	<b>71,610</b>	<b>75,319</b>	<b>75,327</b>	<b>67,184</b>	<b>40.5%</b>
<b>GRAND TOTAL</b>	<b>175,873</b>	<b>183,080</b>	<b>185,772</b>	<b>168,512</b>	<b>100.0%</b>

## REGIONAL TRIAL OFFICE CASELOAD

### 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.

OSPD Cases Closed							
Trial and Pretrial & Other Proceedings							
	FY14	FY15	FY16	FY17	FY18	FY19	FY20
<b>Total Closed Cases</b>	110,044	124,416	129,764	136,321	141,511	141,876	122,712
<b>Trial and Pretrial</b>	55,883	66,413	71,226	74,615	76,488	77,278	66,165
<b>Portion of Total Cases</b>	50.8%	53.4%	54.9%	54.7%	54.1%	54.5%	53.9%
<b>Other Proceedings</b>	54,161	58,003	58,538	61,706	65,023	64,598	56,547
<b>Portion of Total Cases</b>	49.2%	46.6%	45.1%	45.3%	45.9%	45.5%	46.1%

## REGIONAL TRIAL OFFICE CASELOAD

### OTHER PROCEEDINGS TRENDS

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 defendant 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 52.3 percent of the total in FY 2019-20.

Other Proceedings	FY20	% of Total
Misc Proceedings	8,044	14.2%
Revocations	29,568	52.3%
Appeals	252	0.4%
Partial Services	18,683	33.0%
<b>Total Other Proceedings</b>	<b>56,547</b>	<b>100.0%</b>

### 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 stats are shown separately below and are not included in the Other Proceedings.

Advisement/Bond Hearings and Juvenile Detention Hearings	FY16	FY17	FY18	FY19	FY20
Advisement/Bond, Felony	29,315	35,904	38,567	42,169	37,719
Advisement/Bond, Misdemeanor	31,173	33,818	35,462	34,658	30,720
Juvenile Detention Hearings	3,973	4,006	3,625	3,338	2,069

## REGIONAL TRIAL OFFICE CASELOAD

### 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 defendants deciding to go *pro se*.

OSPД Trial Office Withdrawal's								
FY14-FY20								
	FY14	FY15	FY16	FY17	FY18	FY19	FY20	Avg FY14-FY20
<b>New Opened Cases</b>	<b>115,107</b>	<b>126,947</b>	<b>132,388</b>	<b>137,777</b>	<b>143,552</b>	<b>144,219</b>	<b>124,586</b>	
Conflicts								
Co-Defendant	3,835	4,245	4,298	4,637	4,386	4,853	4,006	
Witness	3,077	3,624	4,323	4,604	5,112	5,664	5,676	
Other	549	668	720	913	1,074	1,465	1,519	
<b>Total</b>	<b>7,461</b>	<b>8,537</b>	<b>9,341</b>	<b>10,154</b>	<b>10,572</b>	<b>11,982</b>	<b>11,201</b>	
% of New Cases	6.5%	6.7%	7.1%	7.4%	7.4%	8.3%	9.0%	7.5%
Non-Conflicts								
Private Counsel	2,646	2,762	2,636	2,553	2,447	2,645	2,454	
Pro Se	332	537	540	482	491	502	378	
Other	590	702	889	963	960	1,076	859	
<b>Total</b>	<b>3,568</b>	<b>4,001</b>	<b>4,065</b>	<b>3,998</b>	<b>3,898</b>	<b>4,223</b>	<b>3,691</b>	
% of New Cases	3.1%	3.2%	3.1%	2.9%	2.7%	2.9%	3.0%	3.0%
<b>Total</b>	<b>11,029</b>	<b>12,538</b>	<b>13,406</b>	<b>14,152</b>	<b>14,470</b>	<b>16,205</b>	<b>14,892</b>	
% of New Cases	9.6%	9.9%	10.1%	10.3%	10.1%	11.2%	12.0%	10.4%

**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 to 9 percent this past year.

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%
FY20	118120	10123	8.6%	6466	1078	16.7%	124586	11201	9.0%

## 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 1,870 cases in FY 2020-21, of which 1,054 are in phase one and 816 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 524 new cases, along with 530 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	514	454	133	587	530	368	162	-73	816	1878
FY 21 Est.	524	447	117	564	490	368	122	-40	813	1870
FY 22 Est.	530	447	118	565	454	368	87	-35	810	1833
FY 23 Est.	535	447	119	566	423	368	55	-32	807	1799
FY 24 Est.	540	447	120	568	395	368	28	-27	805	1770

#### Phase One:

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. In FY 2018-19 this number jumped back up where the Division had a backlog of 603 cases which was the result of multiple factors. Over the past year, the Division has been back to nearly full staffing levels and have worked hard to lower this backlog to 530 cases.

The plan is to continue to reduce this backlog yet keeping in mind that various factors as experienced in prior years could rise up and hinder this process, such as an increase

in the number of appeals assigned to the Division as a result of the prior years' significant increase in felony filings at the trial level, an increase in the record size of the case, and attrition and loss of experienced attorney's. In addition, we acknowledge the volatility in our caseload as a result of the current COVID-10 pandemic. We expect appellate cases to follow the same general trend as what we're seeing in the trial courts, that of a temporarily decrease in the number of new cases, returning to pre-COVID levels in FY 2021-22.

Phase Two:

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 816 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.

<b>Briefs, Pleadings &amp; Arguments (Phase 2)</b>	
Reply Briefs	362
Petition for Rehearing	96
Cert Petitions	266
35B Filed	76
Oral Arguments	93

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 245 cases, handled roughly 110 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 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23
		(actual)	(actual)	(projected)	(projected)	(projected)
<b>MEASURE 1:</b>	<b>Target</b>	<b>148,664</b>	<b>147,479</b>	<b>119,229</b>	<b>144,906</b>	<b>146,867</b>
Number of new trial court cases.	Actual	144,219	124,586			
<b>MEASURE 2:</b>	<b>Target</b>	<b>189,075</b>	<b>189,760</b>	<b>165,029</b>	<b>204,583</b>	<b>205,461</b>
Number of active trial court cases.	Actual	185,762	168,512			
<b>MEASURE 3:</b>	<b>Target</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>
Percent of trial court attorney staff allocated vs. total required for closed trial court cases.	Actual	81%	82%			
<b>MEASURE 4:</b>	<b>Target</b>	<b>485</b>	<b>500</b>	<b>500</b>	<b>500</b>	<b>500</b>
Number of attorney applications received.	Actual	520	524			
<b>MEASURE 5:</b>	<b>Target</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>
Percent of total attorney staff allocated vs. total required for closed trial court cases and appellate cases.	Actual	81%	82%			
<b>MEASURE 6:</b>	<b>Target</b>	<b>12%</b>	<b>12%</b>	<b>12%</b>	<b>12%</b>	<b>12%</b>
Annual rates of attrition:						
Attorneys	Actual	18%	12%			
Investigators	Actual	7%	7%			
Administrative Assistants	Actual	26%	22%			
Total All Employees	Actual	17%	12%			
<b>MEASURE 7:</b>	<b>Target</b>	<b>70%</b>	<b>70%</b>	<b>70%</b>	<b>70%</b>	<b>70%</b>
Percent of experienced, fully capable staff (journey level or higher):						
Attorneys	Actual	39%	37%			
Investigators	Actual	52%	56%			
Administrative Assistants	Actual	46%	43%			
Total All Employees	Actual	44%	43%			
<b>MEASURE 8:</b>	<b>Target</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>
Percent compliance with minimum standards for total staffing requirements.	Actual	82%	83%			
<b>MEASURE 9:</b>	<b>Target</b>	<b>12%</b>	<b>12%</b>	<b>12%</b>	<b>12%</b>	<b>12%</b>
Maintain established standard percentages for reasonable staff supervision, management and development.	Actual	9%	10%			



		FY 18-19 (actual)	FY 19-20 (actual)	FY 20-21 (projected)	FY 21-22 (projected)	FY 22-23 (projected)
<b>MEASURE 10:</b>	<b>Target</b>	<b>528</b>	<b>574</b>	<b>524</b>	<b>530</b>	<b>535</b>
Number of new appellate cases.	Actual	563	514			
<b>MEASURE 11:</b>	<b>Target</b>	<b>1,887</b>	<b>1,938</b>	<b>1,870</b>	<b>1,833</b>	<b>1,799</b>
Number of active appellate cases.	Actual	1,922	1,878			
<b>MEASURE 12:</b>	<b>Target</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>
Percent of appellate attorney staff allocated vs. total required for appellate cases awaiting filing of initial brief.	Actual	82%	81%			
<b>MEASURE 13:</b>	<b>Target</b>	<b>145,909</b>	<b>145,337</b>	<b>105,353</b>	<b>145,989</b>	<b>148,332</b>
Number of trial court cases closed.	Actual	141,876	122,712			
<b>MEASURE 14:</b>	<b>Target</b>	<b>133</b>	<b>144</b>	<b>132</b>	<b>132</b>	<b>132</b>
Days of training provided.	Actual	179	144			
<b>MEASURE 15:</b>	<b>Target</b>	<b>15</b>	<b>15</b>	<b>15</b>	<b>15</b>	<b>15</b>
Number of CLE credits provided to all attorneys.	Actual	16	21			
<b>MEASURE 16:</b>	<b>Target</b>	<b>3</b>	<b>3</b>	<b>3</b>	<b>3</b>	<b>3</b>
Hours of ethics training provided, focusing on Colorado criminal law.	Actual	3	6			
<b>MEASURE 17:</b>	<b>Target</b>	<b>15</b>	<b>15</b>	<b>15</b>	<b>15</b>	<b>15</b>
Number of administrative processes and organizational infrastructure evaluations performed.	Actual	15	12			
<b>MEASURE 18:</b>	<b>Target</b>	<b>451</b>	<b>447</b>	<b>447</b>	<b>447</b>	<b>447</b>
Number of appellate cases for which an Opening Brief has been filed.	Actual	381	454			
<b>MEASURE 19:</b>	<b>Target</b>	<b>486</b>	<b>592</b>	<b>490</b>	<b>454</b>	<b>423</b>
Number of backlogged appellate cases.	Actual	603	530			

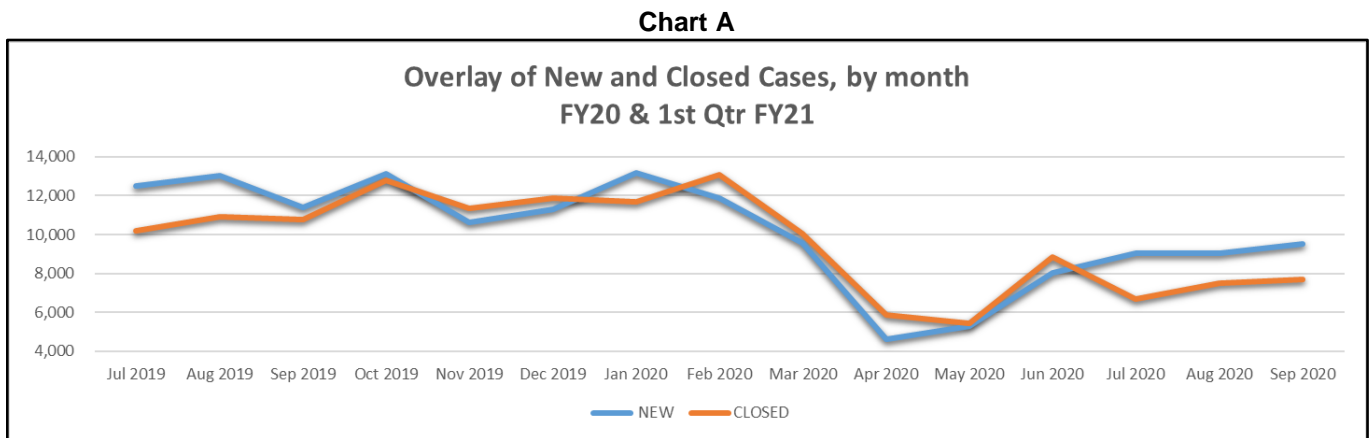
## Appendix A

# **COVID-19 Impact**

The COVID-19 pandemic and the Stay-At-Home orders forced the Office of the State Public Defender (OSPD) to quickly react to a world where much of the work of representing clients became virtual. In a very short period of time, the agency took several steps to adapt, including:

- Providing all employees with laptops to be able to conduct work from home, as many of our administrative staff previously had desk-top computers;
- Increasing VPN capability from approximately 50 employees per day to nearly 900 users per day;
- Reconfiguring phone systems to allow for remote access and usage;
- Implementing the different remote court solutions such as Webex and Lifesize for our employees;
- Implementing capabilities for remote client applications;
- Providing laptops and iPads for our in-custody clients to review discovery;
- Acquiring Webex licenses to allow in-custody clients to communicate via video; and
- Acquiring Zoom licenses to enable remote staff meetings and trainings, including conducting our annual training conference in an entirely virtual format.

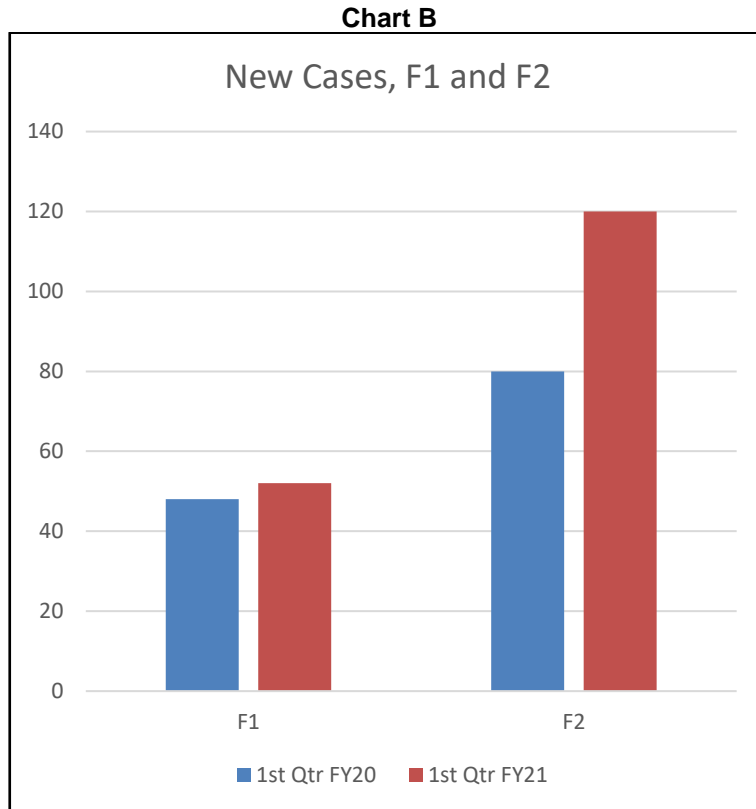
As the pandemic accelerated, the number of new OSPD cases dropped significantly in the spring. By the fourth quarter of FY 2019-20, the decline had reached approximately 50 percent. The number of cases has started to rebound, however. This change is shown in **Chart A** below.



Our staff have observed several reasons for the initial decline and subsequent rebound in new cases.

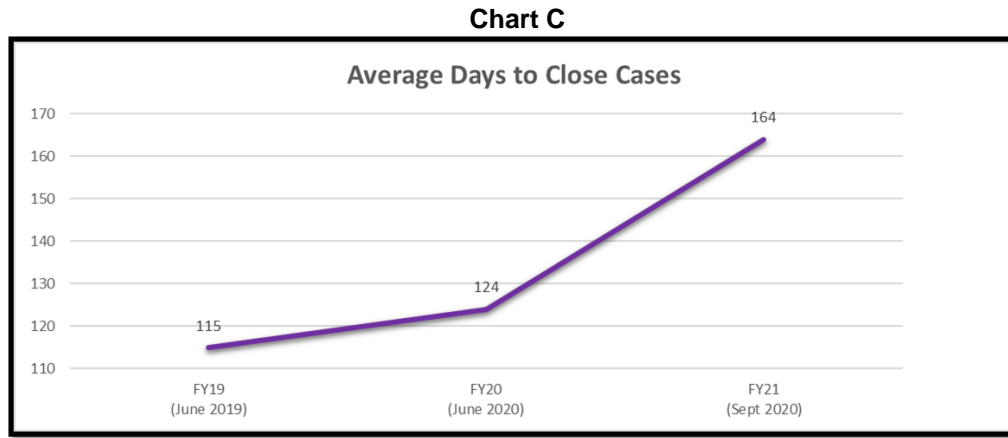
- Initially, some courts granted a significant number of personal recognizance bonds. Because more people were on these bonds at first advisement, our numbers dipped. Now, many of these cases which were set out for a few months are starting to move forward again. As people have court dates scheduled, they apply for our services so our numbers are going back up.
- While there was a temporary lull in filings when COVID hit, they are picking back as agencies have adapted to new filing, summons and arrest procedures.
- While Denver Police were initially not arresting people for certain low-level felonies and misdemeanors early in the pandemic, they have resumed this practice.

In addition to the number of cases currently increasing from the lowest pandemic levels, some offices have experienced a substantial increase in their higher level felony cases (violent crime). A comparison of these cases in the first quarter of FY 2020-21 to the first quarter of last year is in **Chart B** below. While caseloads are down in other categories, class one and two felonies have increased by 8 percent and 50 percent, respectively. These serious felonies require the greatest attorney effort, time and resources. As our Denver Office, reported, “[o]ur office has a record number of active homicide cases and our COV [crime of violence] cases have increased. We are all carrying more life-in-prison cases than ever before and these types of cases require substantially more work and time.”



New Cases			
Case Type	1st Qtr FY20	1st Qtr FY21	% Chg
F1	48	52	8%
F2	80	120	50%

Since the pandemic, the number of closed cases has declined and cases are taking substantially longer to resolve. Although our new and closed case numbers dropped in FY 2019-20, **Chart C** shows we have experienced a dramatic 43 percent increase in the average days it takes to close a case when compared to FY 2018-19. This percentage is even more significant because COVID-19 only began affecting our averages during the last few months of the fiscal year.



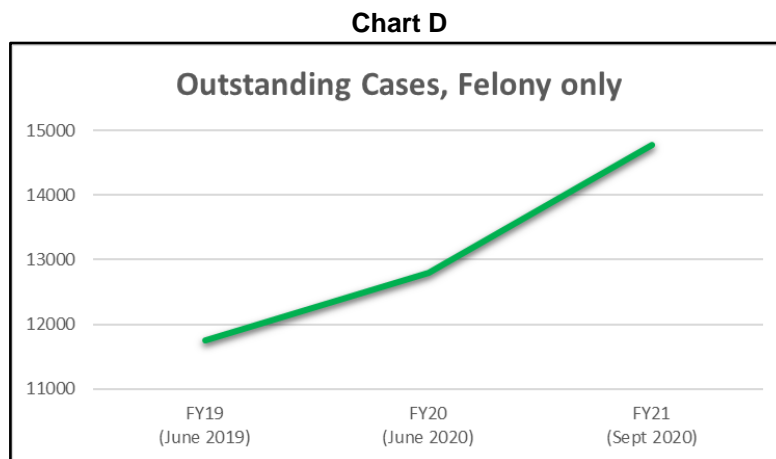
As a direct result of the pandemic, cases take longer to resolve, as many tasks take additional time. Our attorneys have shared many challenges they face related to COVID-19:

- We spend a lot of time telling people how to apply and how to attend court electronically.
- The applications process has proven especially difficult. We have a large population of not simply indigent clients but clients with no home and no access to phones or computers – making virtual applications almost impossible for this clientele. We have had to shift our administrative workloads to try and accommodate the number of potential clients calling in to try and apply.
- The legwork required for a normal docket has increased because everything has to be reviewed and signed by clients ahead of time.
- Virtual interviews, meetings and dockets are frequently beset by technological delays and glitches from all sides, which causes time to slide unproductively away. Additionally, the very nature of these communications is less productive and more time consuming – it just takes longer to get things done in this format.
- While some jails have been very cooperative, others have made it very difficult for us to have adequate, confidential communication with our clients.
- When we have clients in other facilities, such as the DOC, it can be extremely difficult to talk to them, if we are able to talk to them at all. We spend a great amount of time trying to figure out these meetings and often still do not get to speak with them.
- We currently spend a lot more time trying to track down clients to speak with them and figure out how to get them discovery to review. This is especially complicated with large electronic files like body-cam video.
- In rural and poor jurisdictions it is work just being able to contact our clients. Most don't have access to email (believe it or not). A majority have lost their phones because of a loss of work. And there has definitely been an increase in the homeless population due to COVID. Mail is often the only way to make contact with clients.

- When we were all in court there were many things that got hammered out in the courtroom. It was a time when client, victim, DA and we were all present. Client's sticking point may be "x" and we could go to the DA right there and discuss it. DA could then talk to victim and we could get the case hammered out in 20 minutes. Now, those 20 minutes can take up to 4 weeks of back and forth and trying to find people.

In addition, while jury trials have resumed in many jurisdictions, the number of trials that can proceed while operating with requirements of physical distancing and rising case counts has been significantly reduced. Thus, while new cases overall are lower than pre-pandemic, outstanding cases are rising as is the number of more serious cases. This is having a tremendous impact on the workload our attorneys face.

**Chart D** illustrates the effect statewide of the increase in outstanding felony cases, 26 percent in just the first three months of FY 2020-21, while **Chart E** includes all case types.

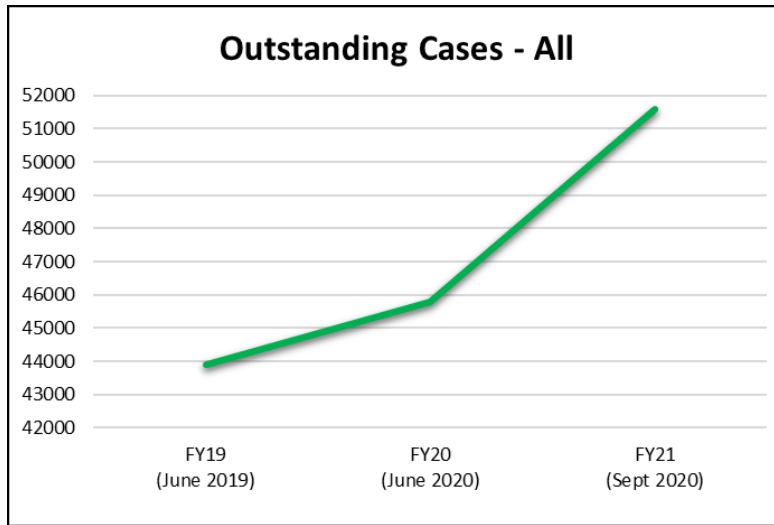


*(Trial and Pretrial cases, not including drug)*

Felony	Outstanding Felony			Percentage Increase		
	FY19 (June 2019)	FY20 (June 2020)	FY21 (Sept 2020)	% Inc FY19 to FY20	% inc FY20 to FY21	% inc FY19 to FY21
<b>Trial &amp; Pretrial</b>						
F1	179	190	211	6%	11%	18%
F2	188	237	271	26%	14%	44%
F2-F6 Sex	1,130	1,110	1,183	-2%	7%	5%
F3-F4 COV	1,719	1,832	2,116	7%	16%	23%
F3-F4 Non COV	3,461	3,844	4,299	11%	12%	24%
F5-F6	4,658	5,127	6,203	10%	21%	33%
DUI Felony 4	412	453	503	10%	11%	22%
<b>Total</b>	<b>11,747</b>	<b>12,793</b>	<b>14,786</b>	<b>9%</b>	<b>16%</b>	<b>26%</b>

*(Trial and Pretrial cases, not including drug)*

Chart E



Total Monthly Outstanding Cases - ALL data				Percentage Increase		
	FY19 (June 2019)	FY20 (June 2020)	FY21 (Sept 2020)	% Inc FY19 to FY20	% inc FY20 to FY21	% inc FY19 to FY21
<b>Felony</b>						
F1	179	190	211	6%	11%	18%
F2	188	237	271	26%	14%	44%
F2-F6 Sex	1130	1110	1183	-2%	7%	5%
F3-F4 COV	1719	1832	2116	7%	16%	23%
F3-F4 Non COV	3461	3844	4299	11%	12%	24%
F5-F6	4658	5127	6203	10%	21%	33%
DUI Felony 4	412	453	503	10%	11%	22%
Drug Felony 1,2,3,4	3734	2865	2584	-23%	-10%	-31%
<b>Trial &amp; Pretrial Total</b>	<b>15481</b>	<b>15658</b>	<b>17370</b>	<b>1%</b>	<b>11%</b>	<b>12%</b>
Misc Proceeding	1517	1297	1380	-15%	6%	-9%
Felony Revocation	4060	4440	5052	9%	14%	24%
Appeal	30	27	33	-10%	22%	10%
<b>Other Proceedings Total</b>	<b>5607</b>	<b>5764</b>	<b>6465</b>	<b>3%</b>	<b>12%</b>	<b>15%</b>
<b>Felony Total</b>	<b>21088</b>	<b>21422</b>	<b>23835</b>	<b>2%</b>	<b>11%</b>	<b>13%</b>
<b>Misdemeanor</b>						
Misd Sex	362	389	411	7%	6%	14%
M1	5174	6031	7486	17%	24%	45%
M2-M3	3685	4116	5081	12%	23%	38%
Misd DUI	2675	2971	3155	11%	6%	18%
Traffic/Other	3990	3825	4158	-4%	9%	4%
<b>Trial &amp; Pretrial Total</b>	<b>15886</b>	<b>17332</b>	<b>20291</b>	<b>9%</b>	<b>17%</b>	<b>28%</b>
Misc Proceeding	797	689	601	-14%	-13%	-25%
Misd Revocation	3053	3305	3795	8%	15%	24%
Appeal	213	183	147	-14%	-20%	-31%
<b>Other Proceedings Total</b>	<b>4063</b>	<b>4177</b>	<b>4543</b>	<b>3%</b>	<b>9%</b>	<b>12%</b>
<b>Misdemeanor Total</b>	<b>19949</b>	<b>21509</b>	<b>24834</b>	<b>8%</b>	<b>15%</b>	<b>24%</b>
<b>Juvenile</b>						
Juv Sex	239	249	248	4%	0%	4%
Felony	868	993	974	14%	-2%	12%
Misdemeanor	1001	1046	1054	4%	1%	5%
<b>Trial &amp; Pretrial Total</b>	<b>2108</b>	<b>2288</b>	<b>2276</b>	<b>9%</b>	<b>-1%</b>	<b>8%</b>
<b>Other Proceedings</b>						
Misc Proceeding	210	96	111	-54%	16%	-47%
Juv Revocation	534	481	532	-10%	11%	0%
Appeal	8	4	6	-50%	50%	-25%
<b>Juvenile Total</b>	<b>2860</b>	<b>2869</b>	<b>2925</b>	<b>0%</b>	<b>2%</b>	<b>2%</b>
<b>Grand Total</b>	<b>43897</b>	<b>45800</b>	<b>51594</b>	<b>4%</b>	<b>13%</b>	<b>18%</b>

For almost a quarter of a century, the OSPD has relied on workload standards derived from independently-developed workload studies to determine our staffing and resource needs. In the current, unprecedented pandemic, these metrics do not accurately capture the current workload of Public Defenders.

For example, carrying a larger number of more serious cases for a longer period of time contributes to the already existing high stress levels and time demands being made of our staff. Our staff are concerned for the health and safety of themselves, their co-workers, their families, and their clients and their families. Many of those suffering the most during the pandemic reflect our client base: poor communities and especially communities of color. As the pandemic has progressed, we have seen this toll impact our attorney attrition rate. Attorney attrition rates are up, which is not how attrition rates typically operate during an economic downturn when people do not leave stable employment. As we have reported in previous budget cycles, an increase in attrition rates compounds demands on remaining staff because the workload is redistributed to the remaining attorneys many of whom are less experienced.

To date, the Public Defender estimates that the costs directly associated with COVID-19 are approximately \$200,000. This amount includes \$160,000 for IT and communication-related costs, \$50,000 for workplace cleanings after employees tested positive or were diagnosed with COVID-19, and for PPE and miscellaneous supplies. This \$50,000 number might have been significantly higher if, early in the pandemic, adequate supplies of PPE had been more available to non-medical workers in the U.S. In the end, this amount reflects what our current budget was able to bear.

Indirect costs are unquantifiable. They include staff personally paying to upgrade their wireless systems so they are able to efficiently work from home, purchases of secondary cell phones for client communication, purchases of necessary PPE and general supplies.