



Office of the **Alternate
Defense
Counsel**

JUDICIAL BRANCH

FISCAL YEAR 2015-2016

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Annual Performance Report

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Each person accused of a crime has a constitutional right to be represented by counsel at each critical stage of the action against him or her. This right only has meaning if counsel is competent, effective, and zealous. This constitutional right applies not only to the wealthy in the United States, but also to the poor. ***The Office of the Alternate Defense Counsel (OADC) was created by the Colorado Legislature (C.R.S. § 21-2-101, et. seq) to provide state wide representation in criminal and juvenile delinquency cases when the Office of the State Public Defender (OSPD) has a conflict of interest and therefore cannot ethically represent the indigent defendant or juvenile.*** The OADC has become a nationally recognized model that other states look to when designing or improving their system for appointing counsel to represent indigent defendants and juveniles. Both the director and deputy director have been invited to other states to present the Colorado model for court-appointed counsel programs, and have worked with other states to initiate similar programs. The OADC continues to explore and implement strategies to control case costs while providing effective court-appointed counsel.

The Agency's 2014-2015 [Performance Plan](#) outlines some of the strategies the Agency utilizes to insure compliance with its constitutional and statutory mandate, and meet its goals and objectives. As can be seen in the Performance Measures outlined on pages 2 through 4 of this Report¹, the Agency continues to engage in and advance each of these strategies to insure compliance with the Agency's mission of providing indigent adults and juveniles charged with crimes the best legal representation possible.

One important way the OADC has curtailed per case costs is by encouraging attorneys to do "attorney work" while providing a wide array of support services to perform "non-attorney" work at a lower pay rate. For example, the OADC contracts with paralegals, researchers, investigators, social workers, and document managers who can assist the OADC contracting attorneys with their OADC cases. Not only do these people work at an hourly rate well below what the OADC pays attorneys, but they also bring a level of expertise to a specialized area of knowledge.

In addition the OADC encourages contractors to use current technology and digital communication methods to minimize costs. However, in today's world of complex communication and technology, the OADC is struggling to stay on top of the needs and demands of its contractors. As defendants and the public become more "connected", the Agency has become inundated with requests for both specific and general information. The Agency is exploring ways to meet the demands of ever growing electronic and digital communication, and to implement methods and procedures to manage the changing landscape in communications.

¹ A more detailed description of the Agency's Performance Measures can be seen in its [FY16-17](#) budget submission.

Contractor Rates

In the FY2014–2015 Budget Request the OADC submitted a Decision Item regarding a permanent increase to Contractor hourly rates by \$10. The Joint Budget Committee approved that Decision Item and OADC was appropriated an additional \$3,559,986 to accommodate for that rate increase.

Performance Measure A:		FY 14 Actual	FY 15 Actual	FY 16 Budget	FY 17 Request	FY 18 Goal
OADC average hourly Attorney Rates	Target	\$75	\$75	\$75	\$75	\$75
	Actual	\$65	\$75	\$75		

Containing Total Number Of Attorney Hours Per Case

The OADC analyzes the Attorney Hours per Case on a monthly basis and strives to find innovative and effective strategies to contain hours per case. As the chart below demonstrates, the Agency is exceeding its goal.

Performance Measure B:		FY14 Actual	FY15 Actual	FY16 Budget	FY17 Request	FY18 Goal
Contain the total number of Attorney hours per case. Includes all case type hours.	Target hours	19.64	19.64	19.64	19.64	19.64
	Actual	17.91	16.57			

Annual Trainings

Based on the Performance audit of 2006 the Agency recognized the need for additional evaluation, monitoring and training of contractors. Since then the Agency has developed three basic components to its training program: Assessing and determine the types of training needed; organizing and presenting continuing legal education training for OADC lawyers, investigators, social workers, and paralegals; facilitating access to trainings through in-person attendance, DVD reproduction, and webcasting. Although the OADC did not meet its training program target in terms of actual number of trainings, it exceeded its target for number of individuals trained and training hours.

Performance Measure C:		FY14 Actual	FY15 Actual	FY16 Budget	FY17 Request	FY18 Goal
Sponsor X number of trainings annually for attorneys, investigators, paralegals, social workers, and court personnel.	Target	12	15	16	13	13
	Actual	15	14			

Cost-Effective Research Tools

To advance quality and efficiency in OADC contractors, the Agency is providing cost-effective research tools and resources by: Improving and expanding the Brief and Motions Bank; providing legal research and motion drafting assistance to contractors; providing timely case law summaries of new criminal legal opinions issued by the Colorado Court of Appeals, the Colorado Supreme Court, the 10th Circuit, and the United States Supreme Court; analyzing and introducing best practice applications to OADC contractors; creating comprehensive manuals on complex but frequently used subject matters such as COCCA, habitual criminal charges, grand jury challenges, juvenile law, and post-conviction cases.

Performance Measure D:		FY14 Actual	FY15 Actual	FY16 Budget	FY17 Request	FY18 Goal
Provide Cost-Effective On-Line Research Tools and Resources to OADC Contractors	Total Documents	4,800	5,000	6,000	6,000	6,000
	Total users or queries per month		250 users	250 users	1,000 Queries	1,200 Queries

Contract Applicants

Pursuant to the state performance audit of 2006, the OADC began a process to insure that all OADC lawyers and investigators are under a current contract. This process includes interviewing and evaluating all attorney contractors and contracting with investigators.

Performance Measure E.		FY14 Actual	FY15 Actual	FY16 Budget	FY17 Request	FY18 Goal
Interview Attorney Applicants	Target	100%	100%	100%	100%	100%
	Actual	100%	100%			
Interview Investigator Applicants	Target	100%	100%	100%	100%	100%
	Actual	100%	100%			

Evidence Based Practices (EBP)

In 2011, the legislature amended the “purposes of sentencing” in [§ 18-1-102.5 C.R.S.](#) These changes were the first substantive changes in nearly 30 years. The changes represent the embracing of standardized risk/needs assessments and supervision and treatment tailored to reduce recidivism. In addition, the cost of alternative sentences is to be considered by judges. Statewide endeavors in agencies such as probation, parole, corrections, Colorado Commission on Criminal Juvenile Justice (CCJJ), and other stakeholder agencies to enact and monitor Evidence Based Practices have gained both funding and legislative support. Since 2011, the OADC has acknowledged and worked at implementing these changes. Performance measure F is an implementation strategy to effectuate Evidence Based Practices in criminal cases by: Institutionalizing the OADC Social Worker Program; expanding the separate social science component of the Agency’s Brief and Motions Bank; and ensuring that a part of the OADC’s training program is focused on EBP and social workers.

Performance Measure F:		FY14 Actual	FY15 Actual	FY16 Budget	FY17 Request	FY18 Goal
Institutionalize OADC's Social Worker Program	Target	10 cases	70 cases	100 cases	125 cases	125 cases
	Actual	27 cases	75 cases			
Increase the number of Social Worker Contractors	Target	2 contractors	6 contractors	6 contractors	10 contractors	10 contractors
	Actual	2 contractors	9 contractors			
Provide on-line EBP / social sciences materials on the Brief and Motions Bank.	Target		250 documents 10 users/month	1000 documents	1000 documents	1000 documents
	Actual		290 documents			
Ensure that a part of OADC's training program is focused on EBP.	Target		3 trainings	3 trainings	3 trainings	3 trainings
	Actual		3 trainings			

In addition to meeting its Performance Measures and Goals, the Agency has also reached the benchmarks listed in the timeline of the Agency's Performance Management System. The Agency continues to seek feedback from its 600+ contractors regarding trainings, communications, the on-line payments system, and technological resources. Based on prior contractor responses, the Agency has re-designed its billing system to not only streamline the contractor billing process but also allow improved case and expenditure reporting for the annual budget request, the fiscal note process, and better meet financial reporting and auditing requirements.

The Agency has made improvements to its internal operations and personnel and retention practices. In addition to the annual employee review process, the Agency actively solicits feedback from its staff with regards to day-to-day operations, internal system efficiencies, job description improvements, and growth opportunities. An example of this includes the creation of the Agency's internal Access Database, which has consolidated numerous information gathering systems in a centralized location. These improvements have already benefited the staff and Agency by encouraging a cohesive personnel system and promoting efficiency and effectiveness in its day-to-day operations.