



Office of the
**Alternate
Defense
Counsel**

JUDICIAL BRANCH

FISCAL YEAR 2017-2018

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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. 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 an ethical conflict of interest.*** The OADC has become a nationally recognized model that other states look to when designing or improving their system for appointed counsel. The OADC continues to explore and implement strategies to control case costs while providing effective court-appointed counsel.

The Agency’s 2018-2019 [Performance Plan](#) outlines strategies the Agency utilizes to insure compliance with its constitutional and statutory mandate and to meet its goals and objectives. As can be seen in the Performance Measures below¹, the Agency continues to engage in and advance each of these strategies to achieve the Agency’s mission of providing indigent adults and juveniles charged with crimes the best legal representation possible.

One important way the OADC has contained 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 rate. For example, the OADC contracts with paralegals, legal researchers, case assistants, investigators, social workers, and document managers who assist the OADC contract attorneys with their 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 their specialized area of knowledge.

The OADC also encourages contractors to use current technology and digital communication methods to minimize costs. 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.

In the FY18–19 Budget Request the OADC submitted a Decision Item regarding an increase to Contractor hourly rates by 6.7%. The Joint Budget Committee approved that Decision Item and the OADC was appropriated an additional \$2,306291 to accommodate the rate increase.

Performance Measure A: Ensure Adequate Contractor Rates		FY09-14 Actual	FY15-17 Actual	FY18 Actual	FY19 Budget	FY20 Request	FY21 Request
The OADC average hourly Attorney Rates	Target	\$75	\$75	\$75	\$80	\$80	undetermined
	Actual	\$65	\$75	\$75			

¹ A more detailed description of the Agency’s Performance Measures can be seen in Appendix C of the Agency’s [FY19-20](#) budget submission.

Performance Measure B: Contain Case Costs		FY12 Actual	FY13 Actual	FY14 Actual	FY15 Actual	FY16 Actual	FY17 Actual	FY18 Actual	FY19 Budget	FY20 Request	FY21 Goal
Contain the total number of Attorney hours per case. Includes all case type hours.	Target	19.64	19.64	19.64	19.64	19.64	19.64	19.64	19.64	15.27	14.33
	Actual	18.91	17.94	17.91	16.57	15.91	15.27	14.33			
	% change	-1.61%	-5.13%	-0.17%	-7.48%	-3.98%	-4.02%	-6.16%			

The OADC analyzes the Attorney Hours per Case monthly and strives to find innovative and effective strategies to contain the average number of hours per case. As the chart above demonstrates the Agency has exceeded this goal by decreasing the number of attorney hours per case by 6.16% in FY18 from FY17.

Performance Measure C: Provide High Quality Trainings		FY17 Actual	FY18 Actual	FY19 Budget	FY20 Request	FY21 Goal
Trainings for attorneys, investigators, paralegals, social workers, and court personnel.	Target	13	16	17	16	14
	Actual	18	16			
Total Number of Hours		189	398	224	158	211
Total Number of Attendees		1,065	1,384	1,068	903	1,120

The OADC met its training program target in FY18 with 16 trainings. The Agency surpassed its targeted number of hours by 195 and its targeted number of attendees by 426. The Agency trained on a variety of subjects and most trainings are webcast and accessible to anyone with a high speed internet connection, and/or recorded and made available for Home Study.

Performance Measure D: Provide High Quality Trainings		FY17 Actual	FY18 Actual	FY19 Budget	FY20 Request	FY21 Goal
On-Line Research Tools and Resources to the OADC Contractors (including Juvenile, Social Sciences and Mental Health specific materials)	Target documents	6,000	6,000	7,000	7,500	7,500
	Actual documents	7,750	7,297			
	Target users*/queries	1000/month	1200/month	1,700/month	2,000/month	2,000/month
	Actual users*/queries	1,850/month	3,108			

**Due to a change in technology the agency stopped tracking users and began tracking total number of search queries.*

To advance the quality and efficiency of OADC contractors, the Agency recognized the need for providing cost-effective research tools and resources. To accomplish this the Agency has: Improved and expanded the eLibrary; provided legal research and motion drafting assistance to contractors; utilized lower cost case assistants and interns to assist on cases; provided timely case law summaries of new criminal legal opinions issued by the Colorado Court of Appeals, the Colorado Supreme Court, the 10th Circuit, the United States Supreme Court and other courts; analyzed and introduced best practice applications to OADC contractors; and created and updated comprehensive manuals on complex but frequently used subject matter.

Performance Measure E: Monitor and Evaluate Contractors		FY17 Actuals	FY18 Actual	FY19 Budget	FY20 Request	FY21 Goal
Evaluate Renewing Attorney Applicants	Target	100%	100%	100%	100%	100%
	Actual	100%	100%			
Evaluate Renewing Investigator Applicants	Target	100%	100%	100%	100%	100%
	Actual	100%	100%			

As the numbers above indicate the Agency met its goal and evaluated 100% of its renewing contractors. The OADC has a process to ensure that all OADC lawyers and investigators are under a current contract. This process includes evaluating all attorney and investigator contractors. To accomplish this, the Agency does the following: Maintains a tracking system for all attorney and investigator contractors that includes contract renewal dates; contacts and requests renewal applications for contractors; reviews at least one pleading or report from each renewal applicant; monitors, observes and evaluates lawyers' courtroom practice; requests feedback from judicial districts concerning OADC lawyers; verifies attorney status with the Office of Attorney Regulation; mandates training and testing for investigators prior to contract issuance; interviews and evaluates contractors, and renews contracts if appropriate; conducts audit and time-efficiency studies of select OADC contractors; requires at least 5 hours of juvenile or defense specific CLE training per year for all attorney contractors; and maintains an Access data base to streamline the collection of information relating to this process.

Performance Measure F: Support the use of Evidence Based		FY17 Actual	FY18 Actual	FY19 Budget	FY20 Request	FY21 Goal
Number of Cases with Social Workers	Target	125 cases	200 cases	300 cases	350 cases	400 cases
	Actual	263 cases	320 cases			
Number of Social Worker Contractors	Target	10 contractors	15 contractors	21 contractors	24 contractors	35 contractors
	Actual	16 contractors	22 contractors			
Number of Social Worker Interns	Target	5 interns	3 interns	4 interns	5 interns	5 interns
	Actual	2 interns	3 interns			

The purpose of performance measure F is to create an implementation strategy to effectuate Evidence Based Best Practices in criminal cases by: Institutionalizing the OADC Social Worker Program; expanding the separate social science component of the Agency's eLibrary; and ensuring that a part of the OADC's training program is focused on Evidence Based Best Practices and social workers. As can be seen in the chart above, the Agency had 120 more cases worked on by social workers than it had forecast for FY18, and it is estimated that this increase will continue to grow in FY19. The Agency did meet its goal regarding the predicted number of interns in FY18.

Performance Measure G: Strengthen OADC's Juvenile Division		FY17 Actual	FY18 Budget	FY19 Request	FY20 Goal	FY21 Goal
Screen 100% of attorneys doing juvenile work and up for contract renewal, to ensure competency in juvenile representation.	Target	25	25	25	25	25
	Actual	0*	7*			
Incorporate a social worker into juvenile defense teams where appropriate.	Target	50 cases	50 cases	50 cases	50 cases	60 cases
	Actual	45	61			
Provide specialized education law assistance to juvenile defense teams where appropriate.	Target	20	20	20	20	25
	Actual	19	31			

*The OADC conducts contract renewal screenings at the end of each calendar year. In the summer of 2016, the OADC screened 100% of the attorneys who applied to represent juveniles. Thus, no juvenile attorneys were screened at the end of 2016. The contracts began on January 1, 2017 and most were for two or three years. Therefore, there were few renewal screenings at the end of 2017.

In FY17, the OADC created a Juvenile Division of contract attorneys specializing in juvenile defense, which improved the quality and efficiency of OADC juvenile defenders across the state. The OADC conducts both live and web-based juvenile specific training in the Denver metropolitan area as well as several other areas throughout the state. In addition, the OADC maintains a resource bank that includes juvenile-specific resources and connects contract attorneys to human resources such as specialists in education advocacy, appeals, mental health and competency, sex offense defense, social workers, mitigation specialists, investigators, paralegals, and legal researchers. The Juvenile Defense Coordinator often observes Juvenile Division contractors in court and conducts contract renewal interviews to ensure continued high-quality juvenile defense.