



Annual Performance Report

THE OFFICE OF THE ALTERNATE DEFENSE COUNSEL



JUDICIAL BRANCH

FISCAL YEAR 2019-2020

November 1, 2020

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AGENCY OVERVIEW

Each person accused of a crime has a constitutional right to be represented by counsel at each critical stage of the proceeding. 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 court-appointed counsel. The OADC continues to explore and implement strategies to control case costs while providing effective court-appointed counsel.

The OADC's 2020-2021 [Performance Plan](#) outlines strategies the Agency utilizes to ensure compliance with its constitutional and statutory mandate and to meet its goals and objectives. As evidenced by 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.

STRATEGIES

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, and social workers who assist the OADC contract attorneys with their cases. Not only do these people work at an hourly rate well below the OADC attorney rate, 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 maximize efficiency and minimize costs. As defendants and the public become more "connected," the OADC has become inundated with requests for both specific and general information. The OADC 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.

A. ENSURE ADEQUATE CONTRACTOR RATES

For the FY20–21 Budget Request, the OADC submitted a Decision Item requesting a 5% increase in contractor hourly rates. The Joint Budget Committee originally approved the request, but later withdrew their decision due to statewide budgetary cuts due to the COVID-19 pandemic.

¹ A more detailed description of the Agency's Performance Measures can be seen in Appendix C of the Agency's FY21-22 budget submission.

REPORT ON PERFORMANCE MEASURES

Performance Measure A:		FY19 Actual	FY20 Actual	FY21 Budget	FY22 Request	FY23 Goal
The OADC average hourly Attorney Rates	Target	\$80	\$80	\$85	\$80	\$85
	Actual	\$80	\$80	\$80		

B. CONTAIN CASE COSTS

The OADC analyzes the average cost per case monthly and strives to find innovative and effective strategies to contain the average cost per case. The Agency’s actual average cost per case was \$42.00 higher than the target while the ancillary costs were lower than the target by \$21.00.

Performance Measure B:		FY19 Actual	FY20 Actual	FY21 Budget	FY22 Request	FY23 Goal
Average Cost per Case	Target	\$ 1,523	\$ 1,456	\$ 1,474	\$ 1,498	\$ 1,498
	Actual	\$ 1,474	\$ 1,498			
Keep ancillary costs per case to a minimum.	Target	\$ 107	\$ 91	\$ 67	\$ 70	\$ 70
	Actual	\$ 67	\$ 70			

C. PROVIDE HIGH-QUALITY ANNUAL TRAININGS

The OADC exceeded its training program target in FY20 with 51 trainings. The Agency surpassed its targeted number of training hours by 109 and its targeted number of attendees by 1,856. The OADC trained on a variety of subjects and most trainings were webcast and accessible to anyone with a high speed internet connection, and/or recorded and made available for Home Study.

Performance Measure C:		FY19 Actual	FY20 Actual	FY21 Budget	FY22 Request	FY23 Goal
Total Number of Trainings	Target	15	16	31	51	51
	Actual	31	51			
Total Number of Hours	Target	192	158	244	267	267
	Actual	244	267			
Total Number of Attendees	Target	956	903	1,351	2,650	2,650
	Actual	1,351	2,650			

D. PROVIDE COST-EFFECTIVE RESEARCH TOOLS AND ASSISTANCE

To advance quality and efficiency in OADC contractors, the OADC recognized the need for providing cost-effective research tools and resources. To accomplish this, the OADC is:

- Improving and expanding its eLibrary.
- Providing legal research, motion drafting, and other assistance to contractors, using lawyers and non-lawyers.
- Providing weekly emailed case law summaries of new criminal legal opinions issued by the Colorado Court of Appeals, the Colorado Supreme Court, the 10th Circuit of the United States Court of Appeals, and the United States Supreme Court.
- Providing a weekly podcast discussing recent cases of interest, practice pointers and contractor wellness issues.

- Analyzing and introducing best practice applications to OADC contractors.
- Creating comprehensive manuals on complex but frequently used subject matter such as COCCA (Colorado Organized Crime Control Act), self-defense, character evidence, restitution claims, CRE 404(b) evidence, researching legislative history, sex offenders, out-of-state subpoenas, habitual criminal sentencing, proportionality review materials and post-conviction and ineffective assistance of counsel claims. The OADC also Co-authored the 4th edition of the Juvenile Defense Manual, which was released in April 2020.
- Providing access to online subscription research services including Westlaw (legal research) and EBSCO (Psychology and Behavioral Sciences Collection and the Sociology Index).

Performance Measure D:		FY19 Actual	FY20 Actual	FY21 Budget	FY22 Request	FY23 Goal
On-Line Research Tools and Resources to the OADC Contractors (including Juvenile, Social Sciences and Mental Health specific materials)	Target docs	7,000	7,500	7,541	7,854	7,854
	Actual docs	7,541	7,854			
	Target hits	1,700	2,000	4,952	5,928	5,928
	Actual hits	4,952	5,928			

E. MONITOR AND EVALUATE CONTRACTORS

As the numbers below indicate, the Agency met its goal and evaluated 100% of its renewing contractors. The OADC has a process to ensure that all OADC lawyers, investigators, and social workers are under a current contract. This process includes interviewing and evaluating potential contractors, and renewing current contract attorneys, investigators, and social workers.

Performance Measure E:		FY19 Actual	FY20 Budget	FY21 Request	FY22 Goal	FY23 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%			

F. STRENGTHEN SOCIAL WORKER PROGRAM

As demonstrated in the chart below, the OADC had social workers on 235 more cases than forecasted for FY20, and it is estimated that this number will continue to grow in FY21.

Performance Measure F:		FY19 Actual	FY20 Actual	FY21 Budget	FY22 Request	FY23 Goal
Number of Cases with Social Workers	Target	300	350	535	550	551
	Actual	535	624			
Number of Social Worker Contractors	Target	21	24	35	35	36
	Actual	32	44			
Number of Social Worker Interns	Target	4	5	5	5	6
	Actual	3	5			

G. STRENGTHEN JUVENILE DIVISION

The Agency has changed the target numbers for the “Screen 100% of attorneys doing juvenile work and up for contract renewal, to ensure competency in juvenile representation” to a percentage from an actual number as that is a more accurate way of documenting this. The OADC did exceed its goals for incorporating social workers into juvenile defense teams and providing specialized education law assistance.

Performance Measure G:		FY19 Actual	FY20 Actual	FY21 Budget	FY22 Request	FY23 Goal
Screen 100% of attorneys doing juvenile work and up for contract renewal, to ensure competency in juvenile representation.	Target	25	25	25	100%	100%
	Actual	26	100%			
Incorporate a social worker into juvenile defense teams where appropriate.	Target	50	60	112	114	114
	Actual	112	114			
Provide specialized education law assistance to juvenile defense teams where appropriate.	Target	20	25	40	42	42
	Actual	40	42			

H. IMPLEMENT AND MANAGE THE MUNICIPAL COURT PROGRAM

To ensure that indigent defendants in Colorado’s municipal courts receive representation free from political and judicial influence and that such representation is effective, high quality, ethical, conflict-free and constitutionally sound, the OADC acquired two new positions to implement the Municipal Court Program. The Program is evaluating the selection process of court-appointed counsel in municipalities and the independence and competence of those attorneys. Evaluations began January 1, 2020.

As demonstrated in the chart below, the Agency exceeded its goal by six for Municipalities Requesting OADC Attorney Evaluations. At the time of this report, 54 Municipalities have received their evaluations. The remaining evaluations will be completed by the end of the calendar year. The Agency has changed the target numbers for the “Evaluation of Municipalities requesting services” to a percentage from an actual number as that is a more accurate way of documenting this.

Performance Measure H:		FY18 Actual	FY19 Actual	FY20 Actual	FY21 Budget	FY22 Request	FY23 Goal
Municipalities Requesting OADC Attorney Evaluations	Target	na	50	50	50	56	56
	Actual	na	37	56			
Evaluation of Municipalities requesting services	Target	na	na	100%	100%	100%	100%
	Actual	na	na	100%			
Evaluation of Court-Appointed Attorneys	Target	na	na	112	75	75	75
	Actual	na	na	81*			
Municipalities visited that requested OADC services	Target	na	100%	100%	100%	100%	100%
	Actual	na	97%	13% **			

**The remaining attorneys are OADC contractors that do not require an evaluation and where not up for renewal in FY20.*

***This number is low due to COVID-19 closures of municipal courts.*