

Annual Performance Report



JUDICIAL BRANCH

FISCAL YEAR 2020-2021

November 1, 2021

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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 2021-2022 [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

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.

REPORT ON PERFORMANCE MEASURES

A. ENSURE ADEQUATE CONTRACTOR RATES

For the FY22–23 Budget Request, the OADC will be submitting a Decision Item requesting a 6% increase in contractor hourly rates.

Performance Measure A:		FY20	FY21	FY22	FY23	FY24
		Actual	Actual	Budget	Request	Goal
The OADC average hourly Attorney Rates	Target	\$80	\$80	\$80	\$85	\$85
	Actual	\$80	\$80			

¹ A more detailed description of the Agency's Performance Measures can be seen in Appendix C of the Agency's FY22-23 budget submission.

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 \$23.00 lower than the target in FY21. Ancillary costs were also lower than the target by \$3.00.

Performance Measure B:		FY20 Actual	FY21 Actual	FY22 Budget	FY23 Request	FY24 Goal
Average Cost per Case	Target	\$ 1,456	\$ 1,474	\$ 1,474	\$ 1,498	\$ 1,498
	Actual	\$ 1,498	\$ 1,451			
Keep ancillary costs per case to a minimum.	Target	\$ 91	\$ 91	\$ 67	\$ 70	\$ 70
	Actual	\$ 70	\$ 64			

C. PROVIDE HIGH-QUALITY ANNUAL TRAININGS

As can be seen by the chart below, the agency provided 66 trainings, consisting of 210 hours, and reaching 2,731 attendees, an increase from the projected 1,351. 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:		FY20 Actual	FY21 Actual	FY22 Budget	FY23 Request	FY24 Goal
Total Number of Trainings	Target	16	31	51	51	51
	Actual	51	66			
Total Number of Hours	Target	158	244	267	267	267
	Actual	267	210			
Total Number of Attendees	Target	903	1,351	2,650	2,650	2,650
	Actual	2,650	2,731			

D. PROVIDE COST-EFFECTIVE RESEARCH TOOLS AND ASSISTANCE

To advance quality and efficiency in OADC contractors, the Agency recognized the need for providing cost-effective research tools and resources. To accomplish this the Agency 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, as well as its addendum, released in April 2021.
- 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:		FY20 Actual	FY21 Actual	FY22 Budget	FY23 Request	FY24 Goal
On-Line Research Tools and Resources to the OADC Contractors (including Juvenile, Social Sciences and Mental Health specific materials)	Target docs	7,500	7,541	7,854	8,482	8,482
	Actual docs	7,854	8,936			
	Target hits	2,000	4,952	5,928	6,692	6,692
	Actual hits	5,928	6,757			

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:		FY20 Actual	FY21 Actual	FY22 Budget	FY23 Request	FY24 Goal
Evaluate Renewing Attorney Applicants	Target	100%	100%	100%	100%	100%
	Actual	100%				
Evaluate Renewing Investigator Applicants	Target	100%	100%	100%	100%	100%
	Actual	100%				

F. STRENGTHEN SOCIAL WORKER PROGRAM

The Agency's Social Worker program has continued to expand as seen in the chart below. Since the hiring of a full-time Social Worker Coordinator in September 2016, the Agency expanded the number of Social Worker contractors, and therefore the number of cases with social workers. The JBC approved the OADC's request for a Social Worker Outreach Coordinator for FY19-20, and that position was filled on July 1, 2019. The OADC had social workers on 637 more cases than forecasted for FY21, and it is estimated that this number will continue to grow in FY22.

Performance Measure F:		FY20 Actual	FY21 Actual	FY22 Budget	FY23 Request	FY24 Goal
Number of Cases with Social Workers	Target	350	496	624	1,110	1,110
	Actual	624	1,172			
Number of Social Worker Contractors	Target	24	32	44	55	55
	Actual	44	49			
Number of Social Worker Interns	Target	5	5	6	6	6
	Actual	5	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 by 13 and providing specialized education law assistance by 12.

Performance Measure G:		FY20 Actual	FY21 Actual	FY22 Budget	FY23 Request	FY24 Goal
Screen 100% of attorneys doing juvenile work and up for contract renewal, to ensure competency in juvenile representation.	Target	25	26	100%	100%	100%
	Actual	18	18			
Incorporate a social worker into juvenile defense teams where appropriate.	Target	60	112	114	125	125
	Actual	114	125			
Provide specialized education law assistance to juvenile defense teams where appropriate.	Target	25	40	42	52	52
	Actual	42	52			

H. IMPLEMENT AND MANAGE THE MUNICIPAL COURT PROGRAM

Pursuant to SB18-203, the OADC is evaluating municipal court-appointed counsel through the Municipal Court Program. In a similar approach to the process already in place by the OADC to contract with effective counsel, this program will ensure that indigent defendants in municipal courts are represented free from any political considerations or private interest and that such representation is effective, high quality, ethical, conflict-free, and constitutionally sound.

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, 56 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:		FY20 Actual	FY21 Actual	FY22 Budget	FY23 Request	FY24 Goal
Municipalities Requesting OADC Attorney Evaluations	Target	50	50	56	56	56
	Actual	56	56			
Evaluation of Municipalities requesting services	Target	56	56	56	56	56
	Actual	56	0 ***			
Evaluation of Court-Appointed Attorneys	Target	112	33%	33%	33%	33%
	Actual	81*	11 ***			
Municipalities visited that requested OADC services	Target	100%	100%	100%	100%	100%
	Actual	13% **	2% **			

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

**These numbers are low due to COVID-19 closures of municipal courts.

***Evaluations are due at the end of the calendar year.