

Annual Performance Report



JUDICIAL BRANCH

FISCAL YEAR 2021-2022

November 1, 2022

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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 2022-2023 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 youth 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 clients 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 FY23–24 Budget Request, the OADC will be submitting a Decision Item requesting an 18% increase in contractor hourly rates.

Performance Measure A:		FY21	FY22	FY23	FY24	FY25
		Actual	Actual	Budget	Request	Goal
The OADC average hourly Attorney Rates	Target	\$80	\$85	\$85	\$100	\$100
	Actual	\$80	\$85			

REPORT ON PERFORMANCE MEASURES

¹ A more detailed description of the Agency's Performance Measures can be seen in Appendix C of the Agency's FY23-24 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 \$25.00 lower than the target in FY22. Ancillary costs were also lower than the target by \$3.00.

Performance Measure B:		FY21 Actual	FY22 Actual	FY23 Budget	FY24 Request	FY25 Goal
Average Cost per Case	Target	\$ 1,474	\$ 1,474	\$ 1,498	\$ 1,449	\$ 1,449
	Actual	\$ 1,451	\$ 1,449			
Keep ancillary costs per case to a minimum.	Target	\$ 91	\$ 67	\$ 70	\$ 66	\$ 66
	Actual	\$ 64	\$ 66			

C. PROVIDE HIGH-QUALITY ANNUAL TRAININGS

As can be seen by the chart below, the agency provided 57 trainings, consisting of 276.5 hours, and reaching 2,399 attendees, a decrease from the projected 2,650. 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:		FY21 Actual	FY22 Actual	FY23 Budget	FY24 Request	FY25 Goal
Total Number of Trainings	Target	31	51	51	57	57
	Actual	66	57			
Total Number of Hours	Target	244	267	267	276.5	276.5
	Actual	210	276.5			
Total Number of Attendees	Target	1,351	2,650	2,650	2,399	2,399
	Actual	2,731	2,399			

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 5th edition of the Juvenile Defense Manual, which was released in April 2022.
- 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:		FY21 Actual	FY22 Actual	FY23 Budget	FY24 Request	FY25 Goal
On-Line Research Tools and Resources to the OADC Contractors (including Juvenile, Social Sciences and Mental Health specific materials)	Target docs	7,541	7,854	8,482	11,000	12,000
	Actual docs	8,936	10,134			
	Target hits	4,952	5,928	6,692	5,100	5,100
	Actual hits	6,757	5,306			

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:		FY21 Actual	FY22 Actual	FY23 Budget	FY24 Request	FY25 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

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 292 more cases than forecasted for FY22, and it is estimated that this number will continue to grow in FY23.

Performance Measure F:		FY21 Actual	FY22 Actual	FY23 Budget	FY24 Request	FY25 Goal
Number of Cases with Social Workers	Target	496	624	1,100	1,300	1,450
	Actual	1,172	959			
Number of Social Worker Contractors	Target	32	44	55	65	70
	Actual	49	55			
Number of Social Worker Interns	Target	5	6	6	6	7
	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 61 and providing specialized education law assistance by 8.

Performance Measure G:		FY21 Actual	FY22 Actual	FY23 Budget	FY24 Request	FY25 Goal
Screen 100% of attorneys doing juvenile work and up for contract renewal, to ensure competency in juvenile representation.	Target	26	100%	100%	100%	100%
	Actual	18	100%			
Incorporate a social worker into juvenile defense teams where appropriate.	Target	112	114	125	175	175
	Actual	125	175			
Provide specialized education law assistance to juvenile defense teams where appropriate.	Target	40	42	52	50	50
	Actual	52	50			

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 three for Municipalities Requesting OADC Attorney Evaluations. At the time of this report, 59 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:		FY21 Actual	FY22 Actual	FY23 Budget	FY24 Request	FY25 Goal
Municipalities Requesting OADC Attorney Evaluations	Target	50	56	56	59	59
	Actual	56	59			
Municipalities visited that requested OADC services	Target	100%	100%	100%	100%	100%
	Actual	2% *	11% *			

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