

ANNUAL HEARING

Before
The Joint Judiciary Committee
Of The Colorado General Assembly



APPEARING ON BEHALF OF THE AGENCY:

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COLORADO STATE PUBLIC DEFENDER

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Wednesday, January 04, 2017

Hearing Agenda

9:30 AM – 10:00 AM Office of the State Public Defender

Introductions

Opening Comments

- Introductory remarks about the creation of the modern Office of the State Public Defender (OSPD) in 1970
- Our role under the United States and Colorado Constitutions

Mission

- The single overriding role of the Office of the State Public Defender is to fulfill requirements outlined in the United States and Colorado Constitutions as well as in Colorado Statutes, which establish the right to a level of criminal defense counsel services for indigent individuals charged with the commission of a crime in Colorado that is commensurate with the level of services available to those that are not indigent and in accordance with the American Bar Association standards relating to the administration of criminal justice, the defense function.

Vision

- The Office of the State Public Defender's vision is to develop, maintain and support our passionate and dedicated team so that they can continue providing the best possible quality of criminal defense representation for each and every one of our clients.

Current Year

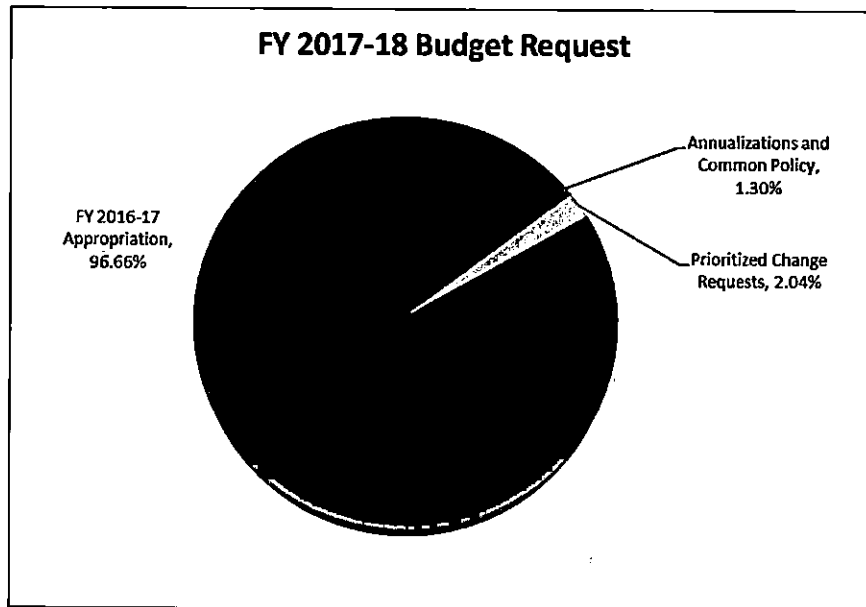
- To support the OSPD in the representation of their FY 2016-17 projected caseload, the OSPD was appropriated \$ 86,426,501 and FTE of approximately 786. This is comprised of 490 attorneys; 151 investigators, paralegals and social workers (including 8 social workers dedicated to juvenile work); 112 administrative assistants and 33 centralized management and support positions.

FY2017-18 Budget Request

The total FY 2017-18 budget request for the OSPD is \$ 89,409,524 and 808.8 FTE. This change represents an increase of 2% when compared to the FY 2017-18 base request of \$ 87,585,604.

We are asking for four prioritized Change Requests totaling \$ 1,823,920 in our FY 2017-18 Budget Request. Our main requests are for deferred support staff and mandated and electronic data management expenses.

- **FY 2016-17 Appropriation of \$ 86,426,501**
 MINUS Annualizations of \$ 1,143,310
 PLUS Common Policy of \$ 2,302,413
- **FY 2017-18 Base Request of \$ 87,585,604**
- **FY 2017-18 Budget Request of \$ 89,409,524**



Budget and Legislative Priorities

Rothgery bill. The 2013 Legislative session brought us H.B. 13-1210, commonly known as the *Rothgery* bill. This legislation struck the requirement that defendants in misdemeanors, petty offenses and traffic offenses to first discuss plea negotiation with the prosecution prior to being assigned defense counsel. This has resulted in a decrease of *pro se* cases and a correlating increase in the caseload for our agency. As we identify locations most in need of additional staffing we have been rolling out the corresponding assignments. This legislation took effect on January 01, 2014. Starting November 01, 2014, we tracked approximately 12,000 related proceedings during FY 2014-15.

Juvenile Defense bill. H.B. 14-1032, the Juvenile Defense bill, gave us funding and FTE relating to appointments for juveniles. First, this bill changed the juvenile detention procedures. A juvenile who is detained for committing a delinquent act is required to be represented at the detention hearing by counsel. The second area has to do with advisements. After the detention hearing or at the first appearance if the juvenile appears on a notice to appear or summons, the court is required to advise the juvenile of his or her constitutional rights, including the right to counsel. Finally, this bill allows the court to appoint the Office when parents refuse and/or is in the best interest of the child and further specifies the conditions under which a juvenile can waive counsel. During the nine months of FY 2014-15 that this legislation was in effect we saw just over 3,000 related proceedings.

Judge in the 12th Judicial District: H.B. 15-1034 was enacted in FY 2015-16 and increased the number of district judges from three to four. At that time the Judicial Department indicated this additional judge would not preside over a criminal docket and did not anticipate the criminal docket workload would increase. For this reason, our request for additional funding was denied and the fiscal note did not include staffing for other agencies. The Judicial Department has now re-allocated criminal cases, as confirmed by the October 04, 2016 letter from the 12th district Judicial District Chief Judge.

Statewide Sharing Discovery System. S.B. 14-190 directs the Colorado District Attorney's Council to develop and maintain a statewide discovery sharing system to be integrated with its ACTION system. The e-Discovery system is intended to allow materials to be transmitted from law enforcement agencies to prosecutors and from prosecutors to the defense in an electronic or digital format. The original timeframe for design and completion has been amended and is scheduled to be fully operational by July 1, 2017.

SMART ACT - Goals, Strategies and Performance Measures

In order to achieve our mission of providing high-quality, effective criminal defense representation for each of our clients, the OSPD ensured that our goals, strategies and measures addressed our people, our process and our product.

To this end, we have developed three overarching goals, five strategies and nineteen measures, all focused on improving service to our customers. We continue to analyze and further refine the concepts included in this document throughout the year using a variety of platforms, topics such as juvenile defense, performance ratings, attrition and office staffing.

Although we have multiple connections among our goals, strategies and measures, they all tie directly to our vision and our mission. Furthermore, as part of our organizational infrastructure planning, these components are continually being reviewed and further refined.

Goals:

1. Hire and retain a sufficient number of high quality staff to effectively manage the assigned caseload.
2. Provide both high quality and sufficient quantity of staff development, training, new technology and other resources to adapt our response to the ever-changing landscape and criminal justice atmosphere so that our legal services are commensurate with what is available for non-indigent clients.
3. Provide effective legal representation in both trial court and appellate cases.

Strategies:

1. Hire a sufficient number of high quality staff and retain an adequate level of experienced staff in order to effectively manage the assigned caseload.
2. Track and analyze trends in caseloads and adjust staffing levels.
3. Provide trainings to address the changing legal climate and reach critical staff.
4. Continually evaluate administrative processes and organizational infrastructure needs such as office space, technology and staffing.
5. Work all cases as efficiently as possible, while retaining a high quality of effective and reasonable representation.

Measures:

Input

1. Number of new trial court cases.
2. Number of active trial court cases.
3. Percent of trial court attorney staff allocated vs. total required for closed trial court cases.
4. Number of attorney applications received.
5. Percent of total attorney staff allocated versus total required for closed trial court cases and active appellate cases.
6. Annual rates of attrition.
7. Percent of experienced, fully capable staff.
8. Percent compliance with minimum standards for total staffing requirements.
9. Maintain established standard percentages for reasonable staff supervision, management and development.
10. Number of new appellate cases.
11. Number of active appellate cases (cases awaiting filing of Opening Brief).
12. Percent of appellate attorney staff allocated vs. total required for active appellate cases.

Output

13. Number of trial court cases closed.
14. Days of training provided.
15. Number of CLE credit hours provided.
16. Hours of ethics training provided, focusing on Colorado criminal law.
17. Number of administrative processes and organizational infrastructure evaluations performed.
18. Number of appellate cases for which an Opening Brief has been filed.
19. Number of backlogged appellate cases.

Performance Measures

		FY 14-15 (actual)	FY 15-16 (actual)	FY 16-17 (projected)	FY 17-18 (projected)	FY 18-19 (projected)
MEASURE 1:	Target	132,270	132,500	137,652	143,430	149,776
Number of new trial court cases.	Actual	126,947	132,388			
MEASURE 2:	Target	159,575	166,589	173,612	179,869	186,617
Number of active trial court cases.	Actual	159,814	167,814			
MEASURE 3:	Target	100%	100%	100%	100%	100%
Percent of trial court attorney staff allocated vs. total required for closed trial court cases.	Actual	92.3%	88.1%			
MEASURE 4:	Target	480	480	500	500	500
Number of attorney applications received.	Actual	615	489			
MEASURE 5:	Target	100%	100%	100%	100%	100%
Percent of total attorney staff allocated vs. total required for closed trial court cases and active appellate cases.	Actual	92.2%	88.4%			
MEASURE 6:	Target	12%	12%	12%	12%	12%
Annual rates of attrition:						
Attorneys	Actual	12%	12%			
Investigators	Actual	8%	6%			
Administrative Assistants	Actual	18%	18%			
Total All Employees	Actual	11%	11%			
MEASURE 7:	Target	70%	70%	70%	70%	70%
Percent of experienced, fully capable staff (journey level or higher):						
Attorneys	Actual	41%	45%			
Investigators	Actual	44%	54%			
Legal Assistants	Actual	45%	42%			
Total All Employees	Actual	44%	47%			
MEASURE 8:	Target	100%	100%	100%	100%	100%
Percent compliance with minimum standards for total staffing requirements	Actual	86.2%	83.3%			
MEASURE 9:	Target	12%	12%	12%	12%	12%
Maintain established standard percentages for reasonable staff supervision, management and development	Actual	8.6%	8.3%			
MEASURE 10:	Target	592	576	558	558	558
Number of new appellate cases.	Actual	533	511			
MEASURE 11:	Target	n/a	2,299	2,229	2,170	2,110
Number of active appellate cases.	Actual	2,282	2,234			

		FY 14-15 (actual)	FY 15-16 (actual)	FY 16-17 (projected)	FY 17-18 (projected)	FY 18-19 (projected)
MEASURE 12:	Target	100%	100%	100%	100%	100%
Percent of appellate attorney staff allocated vs. total required for active appellate cases.	Actual	91.5%	92.0%			
MEASURE 13:	Target	127,879	129,805	134,266	139,142	144,420
Number of trial court cases closed.	Actual	124,416	129,764			
MEASURE 14:	Target	106	106	130	130	130
Days of training provided.	Actual	162	140			
MEASURE 15:	Target	15	15	15	15	15
Number of CLE credits provided.	Actual	17	30			
MEASURE 16:	Target	3	3	3	3	3
Hours of ethics training provided, focusing on Colorado criminal law.	Actual	3	3			
MEASURE 17:	Target	15	15	15	15	15
Number of administrative processes and organizational infrastructure evaluations performed.	Actual	16	14			
MEASURE 18:	Target	507	502	486	486	486
Number of appellate cases for which an Opening Brief has been filed.	Actual	422	486			
MEASURE 19:	Target	703	681	563	503	444
Number of backlogged appellate cases.	Actual	738	622			