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State Audit Finds State Public Defender Office Challenged with High Caseloads

DENVER—The Office of the State Auditor (OSA) has issued its performance audit of Colorado’s Office of the State Public Defender (OSPD). Overall, auditors reported that OSPD attorneys have high caseloads that often exceed the number of cases that standards and national studies recommend for public defenders.

OSPD has 575 attorneys who provide defense counsel throughout the State for criminal defendants who cannot afford to retain private counsel. In Fiscal Year 2023, OSPD attorneys represented defendants in about 131,000 completed cases.

Auditors found that nearly half of OSPD attorneys had workloads exceeding standards established by a 2017 workload study that was conducted by an OSPD contractor. Moreover, auditors reported that, because the workload study is outdated due to changes within the criminal justice system, it may actually underestimate standard attorney workloads. Some OSPD attorneys told auditors that they sometimes had more than 100 felony cases at a time, or more than 200 misdemeanor cases at a time. According to some attorneys, their caseloads can be unmanageable, or limit their ability to assist and communicate with their clients. The OSA noted that public defense agencies across the country report overwork and understaffing.

Auditors found that OSPD lacks sufficient information to fully assess its staffing needs. “The problems found during this audit highlight the need for OSPD to have robust processes for assessing its personnel needs to ensure that it has enough public defenders to manage attorney workloads,” said Trey Standley, Legislative Audit Manager. The audit recommended that OSPD

conduct a new study to establish workload standards on the work necessary to provide quality representation.

Auditors also looked at whether defendants receiving public defender representation met eligibility requirements. The audit found that OSPD lacked documentation to show that applicants in 2 of the 28 cases reviewed were eligible for representation, and found additional instances where OSPD staff did not follow all eligibility determination procedures. Auditors noted that OSPD staff needed more guidance and training in this area.

The audit also determined that OSPD lacked complete training records for its new attorneys, and that some of the new attorneys had not completed all necessary training sessions on time. OSPD typically hires about 100 new attorneys a year, and State law requires the attorneys to be trained and competent.

The audit makes 11 recommendations to OSPD for improvements.

The full report is available @ www.colorado.gov/auditor.

About the Office of the State Auditor

Under the direction of State Auditor, Kerri L. Hunter, the OSA's nonpartisan, professional staff promote government accountability by conducting independent performance, financial, and IT audits and evaluations of State departments, agencies, institutions of higher education, special purpose authorities, and tax expenditures (e.g., credits, exemptions, deductions). The OSA also tracks about 4,000 Colorado local governments for compliance with the Local Government Audit Law, and operates a statewide fraud reporting hotline.

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