

ANNUAL HEARING
Before
The Joint Judiciary Committee
Of The Colorado General Assembly



APPEARING ON BEHALF OF THE AGENCY:

DOUGLAS K. WILSON
COLORADO STATE PUBLIC DEFENDER

MAUREEN CAIN
Director of Legislative Policy

KAREN PORTER
Chief Financial Officer

Monday, January 08, 2018

Hearing Agenda

1:45 PM – 2:15 PM Office of the State Public Defender

Introductions

Opening Comments

- Introductory remarks about the creation of the 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

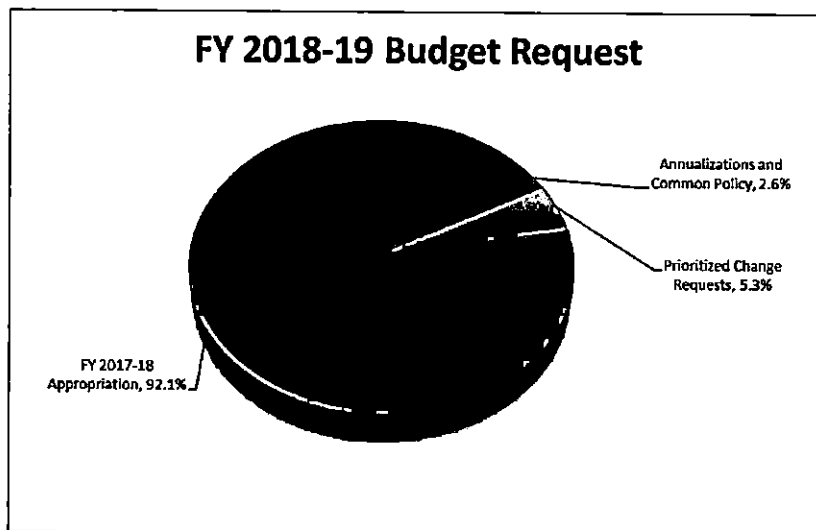
- To support the OSPD in the representation of their FY 2017-18 projected caseload; the OSPD was appropriated \$ 89,699,687 and 811 FTE. This is comprised of 491 attorneys; 163 investigators, paralegals and social workers (including 9 social workers); 122 administrative assistants and 35 centralized management and support positions.

FY2018-19 Budget Request

The total FY 2018-19 budget request for the OSPD is \$ 97,395,113 and 871.5 FTE. This change represents an increase of 5.5% when compared to the FY 2018-19 base request of \$ 92,272,653.

We are asking for three prioritized Change Requests totaling \$ 5,122,460 in our FY 2018-19 Budget Request. Our main requests are for workload/caseload FTE; automation staffing, database and licensure; and an interpreter rate increase.

- **FY 2017-18 Appropriation of \$ 89,699,687**
 MINUS Animalization's of \$ 144,615
 PLUS Common Policy of \$ 2,717,581
- **FY 2018-19 Base Request of \$ 92,272,653**
- **FY 2018-19 Budget Request of \$ 97,395,113**



Budget Priorities

The OSPD is continually reviewing, analyzing and prioritizing needs to efficiently use the limited resources in a manner that still accomplishes our mission. With this in mind, we are making two key budget requests for FY 2018-19.

The number one priority for our FY2018-19 budget is for staffing. In recognition of the pressures a full funding request would have on the state's fiscal resources and realizing an increase of this magnitude is hard to manage and implement efficiently we are asking for a much more modest 34.2 attorney positions. We estimate these 34.2 attorneys would allow us to achieve an 85% staffing level.

Since FY 2011-12 our continuing caseloads (which does not include Rothgery or juvenile delinquency cases) have increased by 24%. During this same timeframe, we have not requested any staffing to handle this workload increase. Intensifying this divergence is the fact that most of this caseload increase is from the felony case class which is the case class that demands the most time from our staff. Our request this year represents a 5% increase in our current funding to start addressing this deficit. We are at a point where our attorney staffing level will drop to under 80% if no additional resources are received. This current and growing deficit presents a clear threat to the Public Defender's ability to ethically, responsibly and effectively meet its constitutionally mandated mission.

Our second budget priority for FY 2018-19 relates to technology needs. This item would allow us to improve our staffing percentages for our automation section, update our case management database and help with costs of licensure and security. As of spring 2017 every regional trial office is using the courts e-filing system and receives notices, orders, and additional filings electronically. In addition, the new statewide e-Discovery system has been implemented in most every jurisdiction. While some offices are not receiving all data electronically through this system, they have all have moved away from paper, which means every file in every case is electronic. Unfortunately, our current electronic systems do not work together and are not able to integrate all of the additional electronic files arising from these two

systems. Additionally, an updated case management system will help attorneys, investigators and administrative staff spend less time duplicating efforts and allow them to spend more time on case work. Our current database lacks flexibility and offers reduced usability.

Legislation

Statewide Sharing Discovery System. S.B. 14-190 directed the Colorado District Attorney's Council (CDAC) 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. Once implemented the intent is to use the existing general fund appropriations to the judicial department, previously used for reimbursement to district attorneys for the cost of duplicating discoverable materials, for the ongoing maintenance of the statewide e-Discovery system and ACTION system operated by the CDAC.

The original timeframe for design and completion was amended and the system was to be fully operational by July 1, 2017. As of this time, OSPD is in compliance with the financial aspects of this bill in that the office is no longer paying for discovery. Two districts (Boulder and Denver) are not yet using the system, requiring our office to obtain discovery in a different fashion than the statewide system.

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.
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 (cases awaiting filing of Opening Brief).

Performance Measures

		FY 15-16 (actual)	FY 16-17 (actual)	FY 17-18 (projected)	FY 18-19 (projected)	FY 19-20 (projected)
MEASURE 1:		Target	132,500	137,652	141,907	146,179
Number of new trial court cases.		Actual	132,388	137,777		151,289
MEASURE 2:		Target	166,589	173,612	181,112	186,532
Number of active trial court cases.		Actual	167,814	175,873		193,040
MEASURE 3:		Target	100%	100%	100%	100%
Percent of trial court attorney staff allocated vs. total required for closed trial court cases.		Actual	88.1%	83.4		
MEASURE 4:		Target	480	500	475	475
Number of attorney applications received.		Actual	489	483		
MEASURE 5:		Target	100%	100%	100%	100%
Percent of total attorney staff allocated vs. total required for closed trial court cases and appellate cases.		Actual	87.2%	83.4%		
MEASURE 6:		Target	12%	12%	12%	12%
Annual rates of attrition:						
Attorneys	Actual	12%	14%			
Investigators	Actual	6%	12%			
Administrative Assistants	Actual	18%	17%			
Total All Employees	Actual	11%	13%			
MEASURE 7:		Target	70%	70%	70%	70%
Percent of experienced, fully capable staff (journey level or higher):						
Attorneys	Actual	45%	46%			
Investigators	Actual	54%	55%			
Legal Assistants	Actual	42%	48%			
Total All Employees	Actual	47%	49%			
MEASURE 8:		Target	100%	100%	100%	100%
Percent compliance with minimum standards for total staffing requirements		Actual	82.1%	81.8%		
MEASURE 9:		Target	12%	12%	10%	10%
Maintain established standard percentages for reasonable staff supervision, management and development		Actual	8.3%	8.2%		
MEASURE 10:		Target	576	558	535	545
Number of new appellate cases.		Actual	511	525		555
MEASURE 11:		Target	2,299	2,229	2,001	1,964
Number of active appellate cases.		Actual	2,234	2,196		1,926

		FY 15-16 (actual)	FY 16-17 (actual)	FY 17-18 (projected)	FY 18-19 (projected)	FY 19-20 (projected)
MEASURE 12: Percent of appellate attorney staff allocated vs. total required for appellate cases awaiting filing of initial brief.	Target	100%	100%	100%	100%	100%
	Actual	79.7%	83.2%			
MEASURE 13: Number of trial court cases closed.	Target	129,805	134,266	140,395	144,609	149,643
	Actual	129,764	136,321			
MEASURE 14: Days of training provided.	Target	106	130	168	168	168
	Actual	140	179			
MEASURE 15: Number of CLE credits provided to all attorneys.	Target	15	15	15	15	15
	Actual	15	15			
MEASURE 16: Hours of ethics training provided, focusing on Colorado criminal law.	Target	3	3	3	3	3
	Actual	3	3			
MEASURE 17: Number of administrative processes and organizational infrastructure evaluations performed.	Target	15	15	15	15	15
	Actual	14	14			
MEASURE 18: Number of appellate cases for which an Opening Brief has been filed.	Target	502	486	468	468	468
	Actual	486	459			
MEASURE 19: Number of backlogged appellate cases.	Target	681	563	531	483	443
	Actual	622	587			