

Office of the

**Alternate
Defense
Counsel**

Annual Performance Report



JUDICIAL BRANCH

FISCAL YEAR 2018-2019

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Lindy Frolich, Director

THE OFFICE OF THE ALTERNATE DEFENSE COUNSEL

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 Agency's 2019-2020 [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

One important way the OADC has contained per case costs is by encouraging attorneys to do **attorney work** while providing a wide array of support services to perform **non-attorney work**, at a lower rate. For example, the OADC contracts with paralegals, legal researchers, case assistants, investigators, and social workers who assist the OADC contract attorneys with their cases. Not only do these people work at an hourly rate well below what the OADC pays attorneys, but they also bring a level of expertise to their specialized area of knowledge.

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 Agency has become inundated with requests for both specific and general information. The Agency 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

The OADC did not request a contractor rate increase for FY19-20, but in the FY20–21 Budget Request, the OADC submitted a Decision Item requesting a 5% increase in contractor rates.

¹ A more detailed description of the Agency's Performance Measures can be seen in Appendix C of the Agency's FY20-21 budget submission.

Performance Measure A		FY18 Actual	FY19 Actual	FY20 Budget	FY21 Request	FY22 Goal
OADC Average Hourly Attorney Rates	Target	\$ 75	\$ 80	\$ 80	\$ 85	\$ 85
	Actual	\$ 75	\$ 80			

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. As the chart below demonstrates, the Agency's actual average cost per case was \$49.00 less than the target. The Agency also beat its FY19 goal of keeping ancillary costs to a minimum by \$40.00.

Performance Measure B		FY18 Actual	FY19 Actual	FY20 Budget	FY21 Request	FY22 Goal
Average Cost per Case	Target	\$ 1,581	\$ 1,523	\$ 1,456	\$ 1,474	\$ 1,474
	Actual	\$ 1,456	\$ 1,474			
Keep ancillary costs per case to a minimum	Target	\$ 120	\$ 107	\$ 91	\$ 67	\$ 67
	Actual	\$ 91	\$ 67			

C. PROVIDE HIGH-QUALITY ANNUAL TRAININGS

The OADC exceeded its training program target in FY19 with 31 trainings. The Agency surpassed its targeted number of training hours by 52 and its targeted number of attendees by 395. The Agency 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		FY18 Actual	FY19 Actual	FY20 Budget	FY21 Request	FY22 Goal
Total Number of Trainings	Target	16	15	16	31	31
	Actual	16	31			
Total Number of Hours	Target	203	192	158	244	244
	Actual	332	244			
Total Number of Attendees	Target	958	956	903	1,351	1,351
	Actual	1,384	1,351			

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 timely case law summaries (both written and podcast) of new criminal law 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;
- 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, sex offenders, out-of-state subpoenas, alternate suspects, habitual criminal proceedings, and ineffective assistance of counsel claims.

Performance Measure D		FY18 Actual	FY19 Actual	FY20 Budget	FY21 Request	FY22 Goal
On-Line Research Tools and Resources for the OADC Contractors (including Juvenile, Social Sciences and Mental Health specific materials)	Target Documents	6,000	7,000	7,500	7,541	7,541
	Actual Documents	7,297	7,541			
	Target Users/Month	1,200	1,700	2,000	4,952	4,952
	Actual Users/Month	3,108	4,952			

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		FY18 Actual	FY19 Actual	FY20 Budget	FY21 Request	FY22 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

As demonstrated in the chart below, the Agency had social workers working on 235 more cases than it had forecasted for FY19, and it is estimated that this number will continue to grow in FY20.

Performance Measure F		FY18 Actual	FY19 Actual	FY20 Budget	FY21 Request	FY22 Goal
Number of Cases with Social Workers	Target	200	300	350	535	550
	Actual	320	535			
Number of Social Worker Contractors	Target	15	21	24	35	35
	Actual	22	32			
Number of Social Worker Interns	Target	3	4	5	5	5
	Actual	3	3			

G. STRENGTHEN JUVENILE DIVISION

As the numbers below indicate, the Agency exceeded its goal and screened 100% of its renewing juvenile contractors. The OADC also exceeded its goals for incorporating social workers into juvenile defense teams and providing specialized education law assistance.

Performance Measure G		FY18 Budget	FY19 Actual	FY20 Budget	FY21 Request	FY22 Goal
Screen 100% of attorneys doing juvenile work to ensure competency in juvenile representation.	Target	25	25	25	25	26
	Actual	7*	26			
Incorporate a social worker into juvenile defense teams where appropriate.	Target	50	50	60	112	112
	Actual	61	112			
Provide specialized education law assistance to juvenile defense teams where appropriate.	Target	20	20	25	40	40
	Actual	31	40			

*The OADC conducts contract renewal screenings at the end of each calendar year. In 2016, the OADC created a Juvenile Division, and screened all attorneys who applied to represent juveniles in the summer of that year. Therefore, no juvenile attorneys were screened at the end of that calendar year. In addition, because most contractors were given two or three year contracts beginning on January 1, 2017, there were fewer renewal screenings at the end of 2017 than 2018.