

# Performance Plan

July 01, 2019



**Office of the State Public Defender**

**MEGAN A. RING**  
**Colorado State Public Defender**

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**Performance Plan**

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# Strategic Component

## **Mission**

The mission of the Office of the State Public Defender is to defend and protect the rights, liberties, and dignity of those accused of crimes who cannot afford to retain counsel. We do so by providing constitutionally and statutorily mandated representation that is effective, zealous, inspired and compassionate.

### ***OSPD Enabling Legislation:***

*The general assembly hereby declares that the state public defender at all times shall serve his clients independently of any political considerations or private interest, provide legal services to indigent persons accused of crime that are commensurate with those available to nonindigents, and conduct the office in accordance with the Colorado Rules of Professional Conduct and with the American Bar Association standards relating to the administration of criminal justice, the defense function. C.R.S. 21-1-101(1)*

## **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 effective and efficient criminal defense representation for each and every one of our clients.

## **History**

In 1963, the United States Supreme Court issued *Gideon v. Wainwright*, 372 U.S. 335 (1963), ensuring the right of the indigent accused to representation of counsel in criminal cases. During this same year, the Colorado General Assembly passed the Colorado Defender Act in response to the Supreme Court's decision in *Gideon*. This Act authorized Colorado counties to either establish a public defender's office or remain under the previous ad hoc system of appointing counsel for indigent citizens accused of criminal offenses. Four county public defender offices were established under the Act. These offices were located in Denver, Brighton, Pueblo and Durango.

In 1969, the State Legislature passed the Administrative Re-Organization Act. Pursuant to this Act, the State began to oversee the court system, which assumed responsibility for the appointment and funding of counsel for indigent defendants. The Office of the State Public Defender was created and became an independent state agency in 1970.

## **Description**

The Office of the State Public Defender (OSPD) is a single purpose program that is devoted to providing reasonable and effective criminal defense representation to indigent persons charged with crimes except where there is a conflict of interest. Our clients are indigent people who face the possibility of incarceration, are unable to afford private counsel and without counsel would otherwise be denied their constitutional right to representation throughout the criminal

proceedings. A critical element in meeting these requirements is the need to maintain the attorney-client relationship. Attorneys, investigators and legal support staff are necessary to provide effective representation of counsel as mandated by the federal and state constitutions, Colorado Revised Statutes, Colorado Court Rules, American Bar Association standards, and the Colorado Rules of Professional Conduct. The OSPD system is the most efficient means of meeting these requirements.

The OSPD is an independent agency within the Judicial Branch of Colorado State Government. The Court makes the appointment when a defendant qualifies for public defender services pursuant to statute, applicable case law and Chief Justice Directives.

In order to fulfill our responsibility in criminal proceedings, our office operates as a single purpose program which works with cases heard at two different levels of the state court system – the trial court level and the appellate court level. The trial court offices maintain 21 regional trial offices which cover the State's 22 judicial districts and 64 counties. *See the Trial Office Map on page 4.* The appellate office supports statewide indigent criminal cases heard at the Court of Appeals and the Supreme Court. The staff in these offices are entirely devoted to the processing of cases as assigned by the court. All administrative and support functions for these offices are handled centrally through the State Administrative Office in Denver. *See the OSPD Functional Organization Chart on page 5.*

The Public Defender System is directed at the state level by the Colorado State Public Defender, Megan A. Ring. A State Administrative Office provides centralized, state-wide administrative services and coordinates all office support functions to assist our regional trial offices and appellate division in providing services to clients. The administrative functions delivered by the State Administrative Office include:

- all program direction, analysis, and planning, including statistical compilation and development;
- workforce development, training, personnel policy, compensation analysis and practice development, and payroll and benefits coordination and administration;
- legislative affairs and statutory analysis;
- intragovernmental and intergovernmental affairs;
- budget analysis, development, allocation and management;
- financial management, analysis, tracking, transaction processing, procurement, and accounting;
- facilities planning, development, and lease negotiating;
- contracts and grants management; and
- development, distribution and maintenance of the agency's computer information and telecommunication systems.

To support the OSPD in the representation of their FY 2019-20 projected caseload, the OSPD was appropriated \$ 107,392,415 and 889 FTE. This is comprised of approximately 535 attorneys; 179 investigators / legal assistants (including 13 social workers); 132 administrative assistants and 43 centralized management and support positions. *See the Organization Chart on page 6.*

## **Environmental Scan**

While our primary function of providing criminal defense representation will not change, the criminal justice environment in which we operate is changing. For example, caseload continues to grow and the cases that we handle are becoming more complex. This is reflected in an increase in both the number and severity of charges.

Many other factors have compounded these case growth trends adding increasing complexity to the types of cases and the workload required to represent these cases. These changes compound existing workload conditions to make it more difficult and time consuming for attorneys to provide effective representation, including changes in the court such as:

- staffing,
- docket organization,
- the use of specialty courts,
- changes in prosecutorial practice and procedures;
- newly enacted criminal offenses;
- changes in classes of criminal offenses;
- changes in criminal penalties;
- changes to the time it takes to process a case;
- changes in the types, quality, complexity and quantity of evidence; and
- the history and documentation associated with a case.

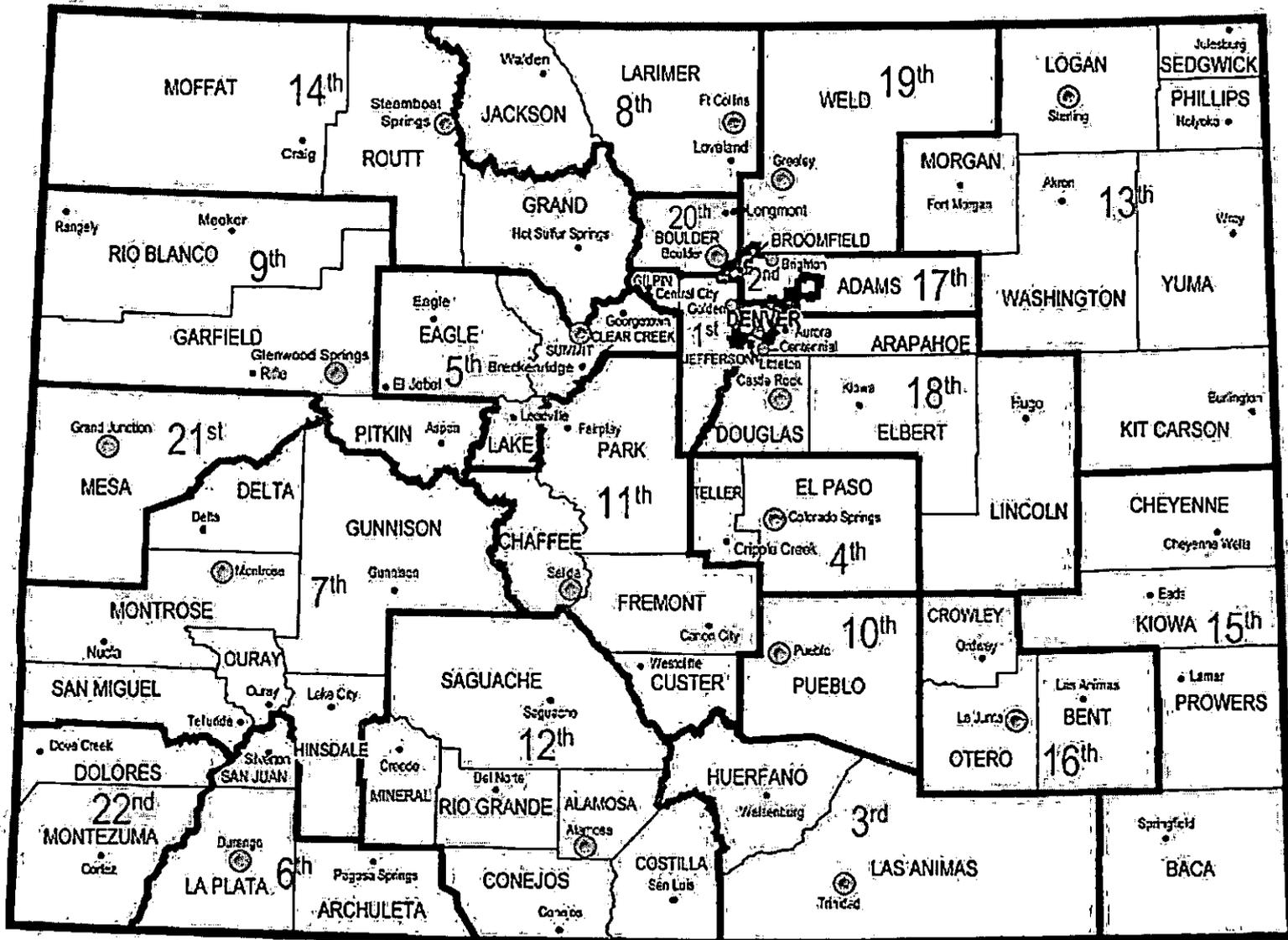
This changing environment presents a compounding challenge to The Office's need to achieve the staffing levels that are required to provide effective representation.

## **Constitutional, Statutory and other authority**

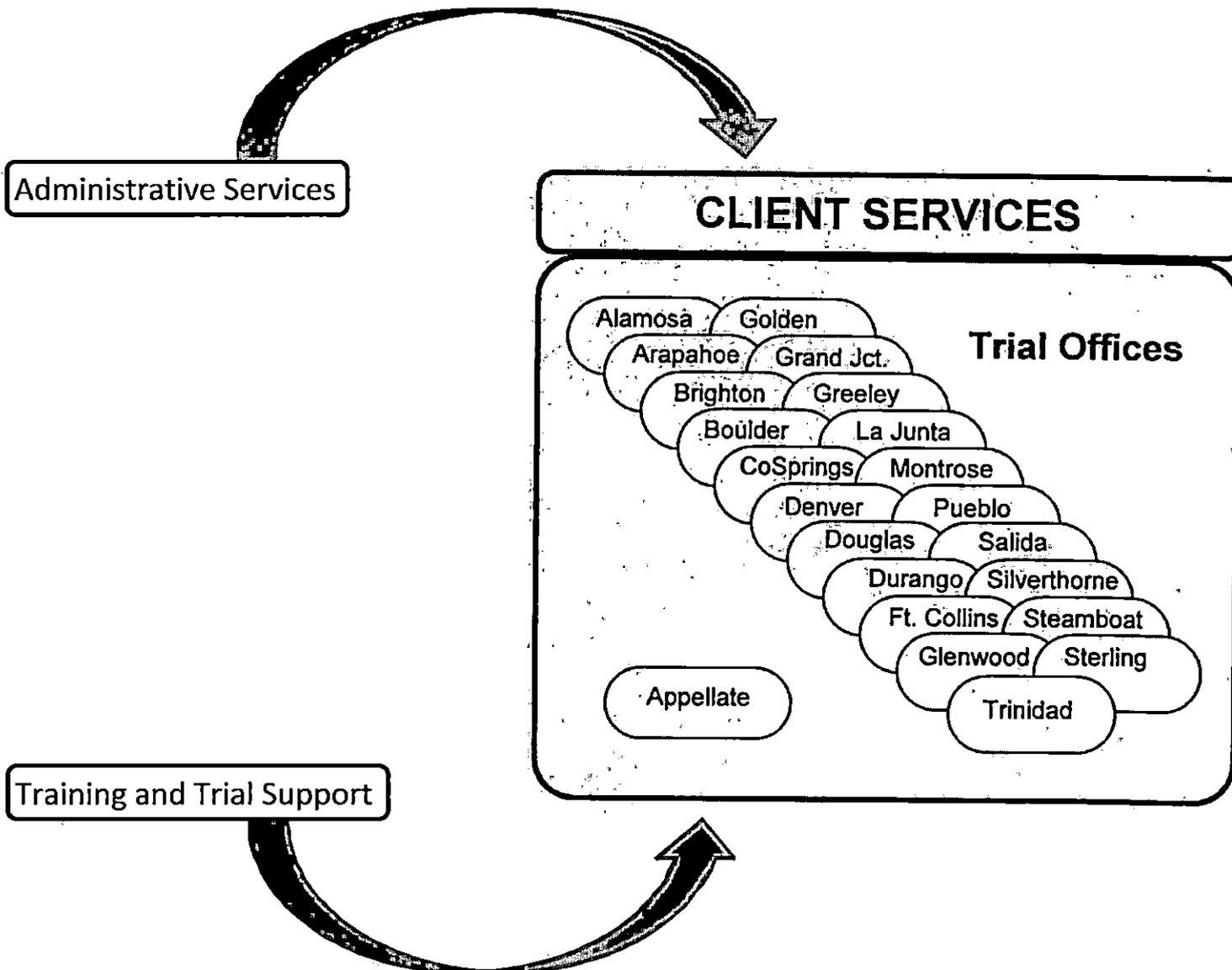
Constitutional, Statutory and other authority for the OSPD is established pursuant to:

- U.S. CONSTITUTION AMEND. VI;
- COLO. CONST. Art. II, § 16;
- C.R.S. § 21-1-101 *et seq.*;
- Chief Justice Directive 04-04, as amended;
- ABA STANDARDS FOR CRIMINAL JUSTICE;
- Colo. Rules of Professional Conduct (Colo. RPC);
- *Gideon v. Wainwright*, 372 U.S. 335 (1963);
- *Alabama v. Shelton*, 535 U.S. 654 (2002);
- *Rothgery v. Gillespie County*, 554 U.S. 191;
- *Nikander v. District Court*, 711 P.2d 1260 (Colo. 1986);
- *Allen v. People*, 157 Colo. 582, 404 P.2d 266 (1965); and
- *In Re Gault*, 387 U.S. 1 (1967).

# Trial Office Map



# Functional Organization Chart



**Office of the State Public Defender Organizational Chart**

**Megan A. Ring**  
State Public Defender

**Karen Taylor**  
First Assistant Public Defender

**Lucienne Ohanlan**  
Chief Deputy

**Tina Fang**  
Chief Deputy

**Karen Porter**  
Chief Financial Officer

**Kyle Hughes**  
Chief Information Officer

**REGIONAL TRIAL OFFICES**

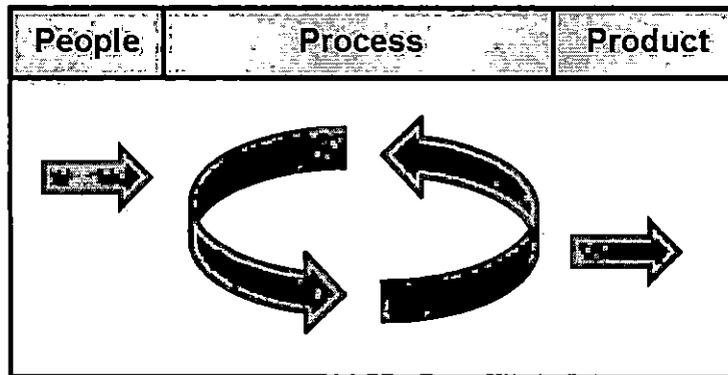
**APPELLATE**

<p><b>Alamosa Trial Office,</b> 12th Judicial District</p> <p>Regional Trial Office Chief Janie Keairns</p> <p>Office Manager Angelica Hart</p>	<p><b>Arapahoe Trial Office,</b> 18th Judicial District</p> <p>Regional Trial Office Chief James Karbach</p> <p>Office Manager Cheryl Healy</p>	<p><b>Boulder Trial Office,</b> 20th Judicial District</p> <p>Regional Trial Office Chief Nicole Collins</p> <p>Office Manager Elizabeth Cantor</p>	<p><b>Brighton Trial Office,</b> 17th Judicial District</p> <p>Regional Trial Office Chief Sarah Quinn</p> <p>Office Manager Sarah Petty</p>	<p><b>Colorado Springs Trial Office,</b> 4th Judicial District</p> <p>Regional Trial Office Chief Rosalie Roy</p> <p>Office Manager Norie Spooner</p>	<p><b>Denver Trial Office,</b> 2nd Judicial District</p> <p>Regional Trial Office Chief Demetria Trujillo</p> <p>Office Manager Claudia Duran</p>	<p><b>Dillon Trial Office,</b> 5th Judicial District</p> <p>Regional Trial Office Chief Thea Reiff</p> <p>Office Manager Meghan Layfield</p>	<p><b>Appellate Office</b></p> <p>Appellate Division Chief Jason Middleton</p> <p>Office Manager Jenée Bowden</p>
<p><b>Douglas Trial Office,</b> 18th Judicial District</p> <p>Regional Trial Office Chief Ara Ohanlan</p> <p>Office Manager Amy Mendigórin</p>	<p><b>Durango Trial Office,</b> 6th &amp; 22nd Judicial Districts</p> <p>Regional Trial Office Chief Justin Bogán</p> <p>Office Manager Tuesday Puls</p>	<p><b>Fort Collins Trial Office,</b> 8th Judicial District</p> <p>Regional Trial Office Chief Kathryn Hay</p> <p>Office Manager Karlee Gettman</p>	<p><b>Glenwood Springs Trial Office,</b> 9th Judicial District</p> <p>Regional Trial Office Chief Scott Troxell</p> <p>Office Manager Verónica Ulloa</p>	<p><b>Golden Trial Office,</b> 1st Judicial District</p> <p>Regional Trial Office Chief Mitchell Ahnstedt</p> <p>Office Manager Sara Bollig</p>	<p><b>Grand Junction Trial Office,</b> 21st Judicial District</p> <p>Regional Trial Office Chief Steve Colvin</p> <p>Office Manager Lorie Kerr</p>	<p><b>Greeley Trial Office,</b> 19th Judicial District</p> <p>Regional Trial Office Chief Michele Newell</p> <p>Office Manager Terri Cook</p>	
<p><b>La Junta Trial Office,</b> 15 &amp; 16th Judicial Districts</p> <p>Regional Trial Office Chief Raymond Torres</p> <p>Office Manager Raquel Romero</p>	<p><b>Montrose Trial Office,</b> 7th Judicial District</p> <p>Regional Trial Office Chief Kori Zapletal</p> <p>Office Manager Val Barnica</p>	<p><b>Pueblo Trial Office,</b> 10th Judicial District</p> <p>Regional Trial Office Chief Albert Singleton</p> <p>Office Manager Marisa Herrera</p>	<p><b>Salida Trial Office,</b> 11th Judicial District</p> <p>Regional Trial Office Chief Daniel Zettler</p> <p>Office Manager Carol Mattson</p>	<p><b>Steamboat Springs Trial Office,</b> 14th Judicial District</p> <p>Regional Trial Office Chief Sheryl Uhlmann</p> <p>Office Manager Erin Biggs</p>	<p><b>Sterling Trial Office,</b> 13th Judicial District</p> <p>Regional Trial Office Chief Brian Johnson</p> <p>Office Manager Mandy Scoular</p>	<p><b>Trinidad Trial Office,</b> 3rd Judicial District</p> <p>Regional Trial Office Chief Patrick McCarville</p> <p>Office Manager Juanita Gonzalez</p>	

# Operational Component/Processes

## Goals, Strategies and Measures

In order to achieve our mission of providing high-quality, effective criminal defense representation for each of our clients, the OSPD ensures 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.

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### **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

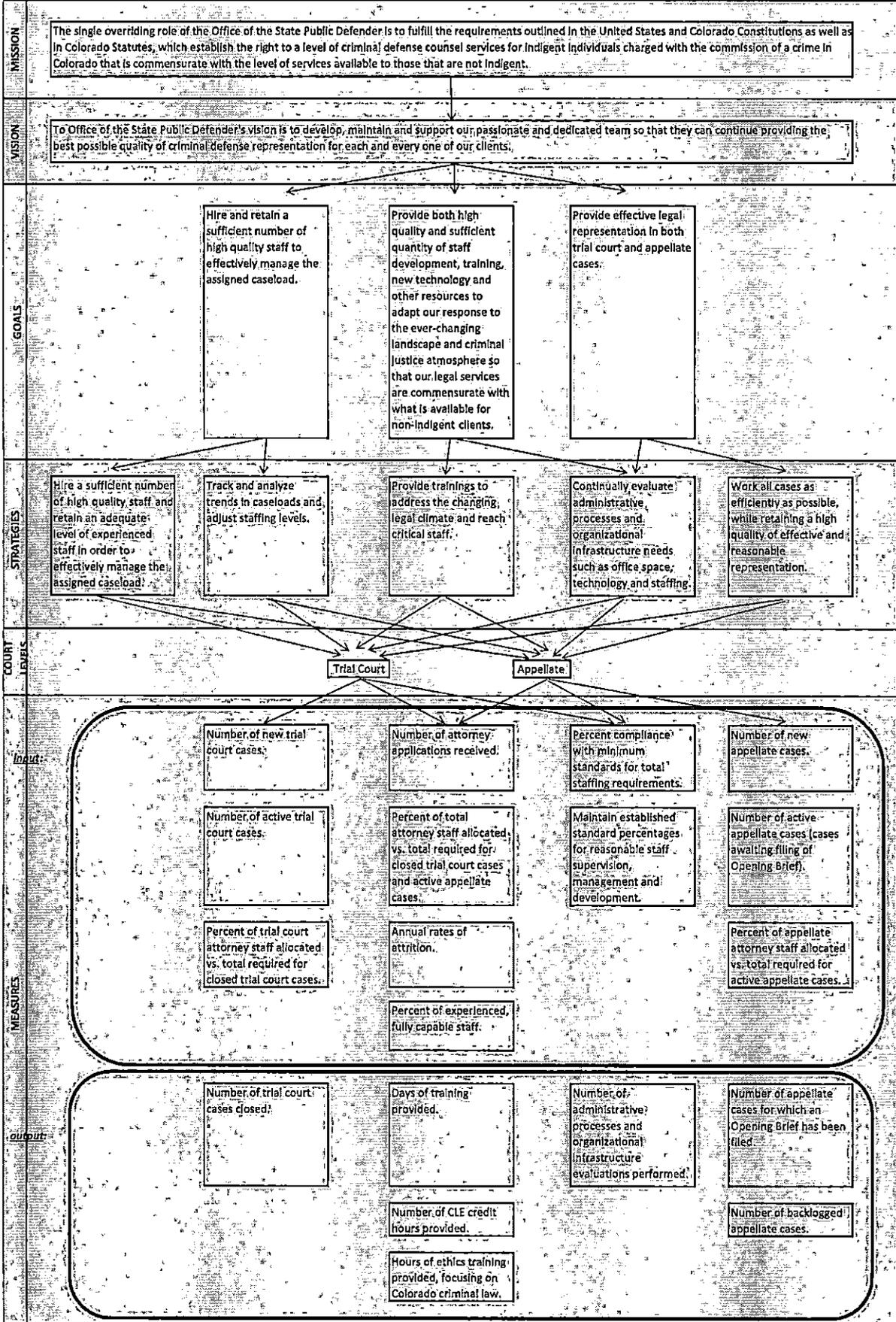
1. Number of new trial court cases.
2. Number of active trial court cases.
3. Percent of trial court attorney staff allocated vs. total required for closed trial court cases.
4. Number of attorney applications received.
5. Percent of total attorney staff allocated versus total required for closed trial 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.

To see a pictorial representation of the relationships among our mission, vision, goals, strategies and measures. *See our Performance Planning Structure on page 9.*

# Performance Planning Structure



# Performance Evaluation

## REGIONAL TRIAL OFFICE CASELOAD

### OVERALL OSPD CASE TRENDS

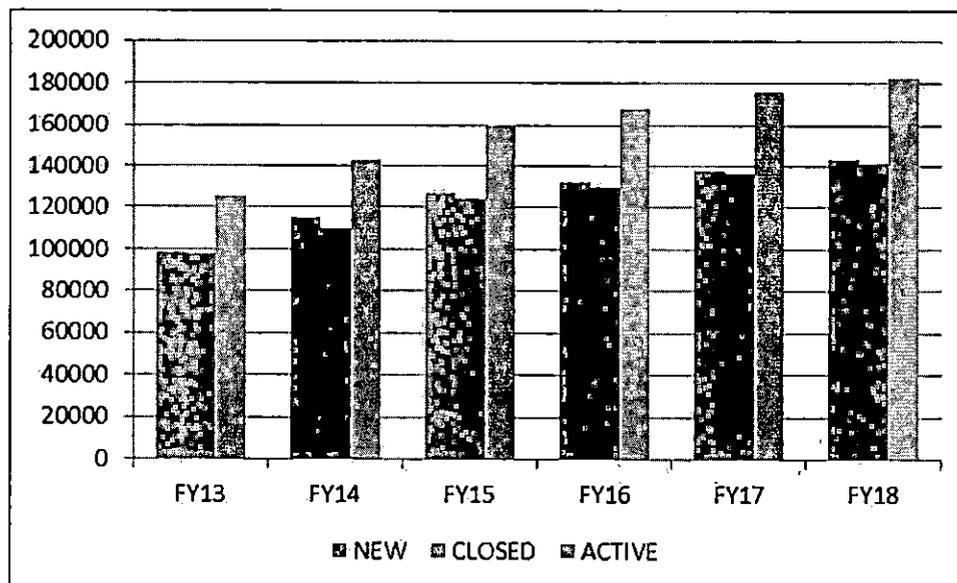
**Total Cases.** The Office of the State Public Defender (OSPD) tracks and monitors its caseload in three separate categories: new cases, closed cases and active cases. Since FY 1999-00, the OSPD has tracked its annual Caseload Rate of Growth (CRG) which had been growing steadily in the early years, peaking at about 5 percent in FY 2005-06. After that and until FY 2012-13, it decreased and had stabilized at nearly 3.2 percent. Since then, it has been steadily increasing and in FY 2017-18 the overall CRG now averages 4.4 percent within the three categories.

From FY 2013-14 until FY 2015-16, the OSPD had experienced a significant increase in its misdemeanor caseload primarily due to legislation enacted on January 1, 2014. H.B. 13-1210 (commonly known as the *Rothgery* bill) amended C.R.S. 16-7-301(4)(a), striking the section of law requiring defendants in misdemeanors, petty offenses and traffic offenses to first discuss plea negotiations with the prosecution prior to being assigned defense counsel. The number of these cases has now stabilized over the past couple of years.

Since FY 2014-15, the OSPD has experienced an increase in its juvenile caseload, again due to recent legislation. H.B. 14-1032 (commonly known as the *Juvenile Defense* bill) now requires the OSPD to be present at detention hearings, allows the court to appoint the OSPD when the parents refuse to provide counsel, allows the court to appoint the OSPD when the court deems it to be in the best interest of the child, and further specifies the conditions under which a juvenile can waive counsel.

Although the misdemeanor and juvenile caseloads have begun to level off, the OSPD has experienced a significant increase in its felony caseload in the past few years and as a result overall caseload continues to increase.

### Overall Case Trends



## NEW CASE TRENDS

**New Cases.** In FY 2017-18, the OSPD was appointed on 143,552 new cases, a 4.2 percent increase over last year's 137,777 cases. The CRG for new cases since FY 1999-00 was 3.2 percent through FY 2012-13 and now has risen to 4.4 percent. The CRG for misdemeanor cases alone at 7.6 percent identifies the biggest increase is and is the direct result of the *Rothgery* bill.

OSPD Trial Office - New Cases								
FY13-FY18								
CASE TYPE	FY13 New	FY14 New	FY15 New	FY16 New	FY17 New	FY18 New	FY18 % Total Cases	18 Yr CRG
Felony:1					190	157		
Felony:2					348	377		
Sex Assault Felony:2-6					1,779	982		
Felony:3&4:(COV)					3,144	2,003		
Felony:3&4:(Non COV)					9,050	11,426		
Felony:5&6					12,631	13,585		
DUI Felony:4					801	741		
Drug Felony:1-4					10,681	11,880		
<b>Subtotal Felony Trial and Pre Trial</b>	<b>28,581</b>	<b>30,066</b>	<b>30,931</b>	<b>34,464</b>	<b>38,624</b>	<b>41,151</b>	<b>28.7%</b>	<b>3.5%</b>
Misc. Proceedings					5,224	5,375		
Revocations					16,952	18,225		
Appeals					32	19		
<b>Subtotal Felony Other Proceedings</b>	<b>18,439</b>	<b>20,777</b>	<b>20,097</b>	<b>21,220</b>	<b>22,208</b>	<b>23,619</b>	<b>16.5%</b>	<b>2.7%</b>
<b>Total Felony</b>	<b>47,020</b>	<b>50,843</b>	<b>51,028</b>	<b>55,684</b>	<b>60,832</b>	<b>64,770</b>	<b>45.1%</b>	<b>3.2%</b>
Misdemeanor Sex Offense					640	431		
Misdemeanor:1					16,085	16,325		
Misdemeanor:2 or 3					12,892	13,252		
Misdemeanor DUI					6,122	6,759		
Misdemeanor Traffic/Other					13,566	13,179		
<b>Subtotal Misd Trial and Pre Trial</b>	<b>32,728</b>	<b>41,041</b>	<b>49,634</b>	<b>49,974</b>	<b>49,305</b>	<b>49,946</b>	<b>34.8%</b>	<b>7.0%</b>
Misc. Proceedings					2,793	3,347		
Revocations					16,216	16,624		
Appeals					225	208		
<b>Subtotal Misd Other Proceedings</b>	<b>11,571</b>	<b>16,183</b>	<b>18,010</b>	<b>18,463</b>	<b>19,234</b>	<b>20,179</b>	<b>14.1%</b>	<b>9.7%</b>
<b>Total Misdemeanor</b>	<b>44,299</b>	<b>57,224</b>	<b>67,644</b>	<b>68,437</b>	<b>68,539</b>	<b>70,125</b>	<b>48.8%</b>	<b>7.6%</b>
Juvenile Sex Offense					287	187		
Juvenile Felony					2,263	2,398		
Juvenile Misdemeanor					2,534	2,560		
<b>Subtotal Juv Trial and Pre Trial</b>	<b>3,742</b>	<b>3,708</b>	<b>4,971</b>	<b>5,160</b>	<b>5,084</b>	<b>5,145</b>	<b>3.6%</b>	<b>-0.6%</b>
Misc. Proceedings					985	1,258		
Revocations					2,317	2,222		
Appeals					20	32		
<b>Subtotal Juv Other Proceedings</b>	<b>3,476</b>	<b>3,332</b>	<b>3,304</b>	<b>3,107</b>	<b>3,322</b>	<b>3,512</b>	<b>2.4%</b>	<b>-1.5%</b>
<b>Total Juvenile</b>	<b>7,218</b>	<b>7,040</b>	<b>8,275</b>	<b>8,267</b>	<b>8,406</b>	<b>8,657</b>	<b>6.0%</b>	<b>-1.0%</b>
<b>Summary</b>								
<b>Total Trial and Pretrial</b>	<b>65,051</b>	<b>74,815</b>	<b>85,536</b>	<b>89,598</b>	<b>93,013</b>	<b>96,242</b>	<b>67.0%</b>	<b>4.6%</b>
Total Misc. Proceedings					9,002	9,980		
Total Revocations					35,485	37,071		
Total Appeals					277	259		
<b>Total Other Proceedings</b>	<b>33,486</b>	<b>40,292</b>	<b>41,411</b>	<b>42,790</b>	<b>44,764</b>	<b>47,310</b>	<b>33.0%</b>	<b>4.1%</b>
<b>Grand Total</b>	<b>98,537</b>	<b>115,107</b>	<b>126,947</b>	<b>132,388</b>	<b>137,777</b>	<b>143,552</b>	<b>100.0%</b>	<b>4.4%</b>

Note: In FY 2016-17 the OSPD implemented revised case type classifications that were the result of the updated workload study and are identified in the table above. Summary totals are provided for the prior years.

## CLOSED CASE TRENDS

**Closed Cases.** In FY 2017-18, the OSPD closed 141,511 cases, a 3.8 percent increase over last year's 136,321 cases. The CRG for closed cases since FY 1999-00 was 3.2 percent through FY 2012-13 and has now risen to 4.4 percent.

OSPD Trial Office - Closed Cases								
FY13-FY18								
CASE TYPE	FY13 Closed	FY14 Closed	FY15 Closed	FY16 Closed	FY17 Closed	FY18 Closed	FY18 % Total Cases	18 Yr CRG
Felony 1					74	97	0.1%	
Felony 2					155	190	0.1%	
Sex Assault Felony 2, 3, 4, 5 or 6					1,333	1,279	0.9%	
Felony 3 or 4 (COV)					2,203	2,288	1.6%	
Felony 3 or 4 (non-COV)					6,797	7,355	5.2%	
Felony 5 or 6					9,716	10,267	7.3%	
DUI Felony 4					564	645	0.5%	
Drug Felony 1, 2, 3 or 4					7,953	8,837	6.2%	
<b>Subtotal Felony Trial and PreTrial</b>	<b>21,575</b>	<b>22,189</b>	<b>23,583</b>	<b>25,603</b>	<b>28,795</b>	<b>30,958</b>	<b>21.9%</b>	<b>3.5%</b>
Misc. Proceedings					4,935	5,410	3.8%	
Revocations					16,876	18,017	12.7%	
Appeals					31	32	0.0%	
Partial Service:					8,375	8,868	6.3%	
<b>Subtotal Felony Other Proceedings</b>	<b>24,711</b>	<b>27,681</b>	<b>27,127</b>	<b>28,042</b>	<b>30,217</b>	<b>32,327</b>	<b>22.8%</b>	<b>2.9%</b>
<b>Total Felony</b>	<b>46,286</b>	<b>49,870</b>	<b>50,710</b>	<b>53,645</b>	<b>59,012</b>	<b>63,285</b>	<b>44.7%</b>	<b>3.2%</b>
Misdemeanor Sex Offense					535	482	0.3%	
Misdemeanor 1					13,431	13,424	9.5%	
Misdemeanor 2 or 3					10,667	10,836	7.7%	
Misdemeanor DUI					5,318	5,680	4.0%	
Misdemeanor Traffic/Other					11,957	11,284	8.0%	
<b>Subtotal Misd Trial and PreTrial</b>	<b>28,421</b>	<b>30,815</b>	<b>39,344</b>	<b>41,612</b>	<b>41,908</b>	<b>41,706</b>	<b>29.5%</b>	<b>6.9%</b>
Misc. Proceedings					2,768	3,111	2.2%	
Revocations					16,073	16,646	11.8%	
Appeals					186	206	0.1%	
Partial Service:					8,000	8,103	5.7%	
<b>Subtotal Misd Other Proceedings</b>	<b>16,053</b>	<b>22,382</b>	<b>26,687</b>	<b>26,292</b>	<b>27,027</b>	<b>28,066</b>	<b>19.8%</b>	<b>9.0%</b>
<b>Total Misdemeanor</b>	<b>44,474</b>	<b>53,197</b>	<b>66,031</b>	<b>67,904</b>	<b>68,935</b>	<b>69,772</b>	<b>49.3%</b>	<b>7.6%</b>
Juvenile Sex Offense					256	243	0.2%	
Juvenile Felony					1,628	1,606	1.1%	
Juvenile Misdemeanor					2,028	1,975	1.4%	
<b>Subtotal Juv Trial and PreTrial</b>	<b>3,150</b>	<b>2,879</b>	<b>3,486</b>	<b>4,011</b>	<b>3,912</b>	<b>3,824</b>	<b>2.7%</b>	<b>-1.0%</b>
Misc. Proceedings					926	1,235	0.9%	
Revocations					2,326	2,251	1.6%	
Appeals					12	25	0.0%	
Partial Service:					1,198	1,119	0.8%	
<b>Subtotal Juv Other Proceedings</b>	<b>3,962</b>	<b>4,098</b>	<b>4,189</b>	<b>4,204</b>	<b>4,462</b>	<b>4,630</b>	<b>3.3%</b>	<b>-1.1%</b>
<b>Total Juvenile</b>	<b>7,112</b>	<b>6,977</b>	<b>7,675</b>	<b>8,215</b>	<b>8,374</b>	<b>8,454</b>	<b>6.0%</b>	<b>-1.1%</b>
<b>Summary</b>								
<b>Total Trial and Pretrial</b>	<b>53,146</b>	<b>55,883</b>	<b>66,413</b>	<b>71,226</b>	<b>74,615</b>	<b>76,488</b>	<b>54.1%</b>	<b>4.6%</b>
<b>Total Misc. Proceedings</b>					<b>8,629</b>	<b>9,756</b>	<b>6.9%</b>	
<b>Total Revocations</b>					<b>35,275</b>	<b>36,914</b>	<b>26.1%</b>	
<b>Total Appeals</b>					<b>229</b>	<b>263</b>	<b>0.2%</b>	
<b>Total Partial Service</b>					<b>17,573</b>	<b>18,090</b>	<b>12.8%</b>	
<b>Total Other Proceedings</b>	<b>44,726</b>	<b>54,161</b>	<b>58,003</b>	<b>58,538</b>	<b>61,706</b>	<b>65,023</b>	<b>45.9%</b>	<b>4.2%</b>
<b>Grand Total</b>	<b>97,872</b>	<b>110,044</b>	<b>124,416</b>	<b>129,764</b>	<b>136,321</b>	<b>141,511</b>	<b>100.0%</b>	<b>4.4%</b>

Note: In FY 2016-17 the OSPD implemented revised case type classifications that were the result of the updated workload study and are identified in the table above. Summary totals are provided for the prior years.

## ACTIVE CASE TRENDS

**Active Cases.** Active caseload incorporates all cases in which the OSPD is actively representing clients in a given year: the total new cases, plus the remaining unfinished cases from prior years and therefore carried forward into the current year. In FY 2017-18, the OSPD handled 183,078 active cases, an increase of just over 4 percent over the prior year's 175,873 cases.

OSPD Trial Office - Active Cases								
FY13-FY18								
CASE TYPE	FY13 Active	FY14 Active	FY15 Active	FY16 Active	FY17 Active	FY18 Active	FY18 % Total Cases	18 yr CRG
Felony 1					242	278	0.2%	
Felony 2					362	421	0.2%	
Sex Assault Felony 2; 3; 4, 5 or 6					2,390	1,761	1.0%	
Felony 3 or 4 (COV)					3,654	2,931	1.6%	
Felony 3 or 4 (non-COV)					9,912	12,133	6.6%	
Felony 5 or 6					13,773	14,885	8.1%	
DUI Felony 4					990	1,015	0.6%	
Drug Felony 1; 2; 3 or 4					10,970	12,187	6.7%	
<b>Subtotal Felony Trial and PreTrial</b>	<b>30,506</b>	<b>32,199</b>	<b>34,054</b>	<b>37,424</b>	<b>42,293</b>	<b>45,611</b>	<b>24.9%</b>	<b>3.9%</b>
Misc. Proceedings					6,468	6,881	3.8%	
Revocations					20,585	21,936	12.0%	
Appeals					56	53	0.0%	
Partial Service:					8,375	9,013	4.9%	
<b>Subtotal Felony Other Proceedings</b>	<b>29,385</b>	<b>32,251</b>	<b>31,540</b>	<b>33,163</b>	<b>35,484</b>	<b>37,883</b>	<b>20.7%</b>	<b>2.6%</b>
<b>Total Felony</b>	<b>59,891</b>	<b>64,450</b>	<b>65,594</b>	<b>70,587</b>	<b>77,777</b>	<b>83,494</b>	<b>45.6%</b>	<b>3.3%</b>
Misdemeanor Sex Offense					855	630	0.3%	
Misdemeanor 1					18,090	18,139	9.9%	
Misdemeanor 2 or 3					13,795	14,110	7.7%	
Misdemeanor DUI					7,805	8,227	4.5%	
Misdemeanor Traffic/Other					15,605	14,806	8.1%	
<b>Subtotal Misd Trial and PreTrial</b>	<b>37,774</b>	<b>43,837</b>	<b>53,902</b>	<b>56,091</b>	<b>56,150</b>	<b>55,912</b>	<b>30.5%</b>	<b>7.2%</b>
Misc. Proceedings					3,461	4,057	2.2%	
Revocations					18,947	19,502	10.7%	
Appeals					392	413	0.2%	
Partial Service:					8,000	8,233	4.5%	
<b>Subtotal Misd Other Proceedings</b>	<b>18,851</b>	<b>25,570</b>	<b>29,967</b>	<b>30,189</b>	<b>30,800</b>	<b>32,205</b>	<b>17.6%</b>	<b>8.2%</b>
<b>Total Misdemeanor</b>	<b>56,625</b>	<b>69,407</b>	<b>83,869</b>	<b>86,280</b>	<b>86,950</b>	<b>88,117</b>	<b>48.1%</b>	<b>7.5%</b>
Juvenile Sex Offense					475	387	0.2%	
Juvenile Felony					2,410	2,548	1.4%	
Juvenile Misdemeanor					2,935	3,007	1.6%	
<b>Subtotal Juv Trial and PreTrial</b>	<b>4,324</b>	<b>4,195</b>	<b>5,299</b>	<b>5,898</b>	<b>5,820</b>	<b>5,942</b>	<b>3.2%</b>	<b>0.3%</b>
Misc. Proceedings					1,185	1,513	0.8%	
Revocations					2,916	2,824	1.5%	
Appeals					27	48	0.0%	
Partial Service:					1,198	1,140	0.6%	
<b>Subtotal Juv Other Proceedings</b>	<b>4,766</b>	<b>4,855</b>	<b>5,052</b>	<b>5,049</b>	<b>5,326</b>	<b>5,525</b>	<b>3.0%</b>	<b>-1.1%</b>
<b>Total Juvenile</b>	<b>9,090</b>	<b>9,050</b>	<b>10,351</b>	<b>10,947</b>	<b>11,146</b>	<b>11,467</b>	<b>6.3%</b>	<b>-0.4%</b>
<b>Summary</b>								
<b>Total Trial and PreTrial</b>	<b>72,604</b>	<b>80,231</b>	<b>93,255</b>	<b>99,413</b>	<b>104,263</b>	<b>107,465</b>	<b>58.7%</b>	<b>5.0%</b>
Total Misc. Proceedings					11,114	12,451	6.8%	
Total Probation Revocations					42,448	44,262	24.2%	
Total Appeals					475	514	0.3%	
Total Partial Service					17,573	18,386	10.0%	
<b>Other Proceedings Total</b>	<b>53,002</b>	<b>62,676</b>	<b>66,559</b>	<b>68,401</b>	<b>71,610</b>	<b>75,613</b>	<b>41.3%</b>	<b>3.8%</b>
<b>GRAND TOTAL</b>	<b>125,606</b>	<b>142,907</b>	<b>159,814</b>	<b>167,814</b>	<b>175,873</b>	<b>183,078</b>	<b>100.0%</b>	<b>4.5%</b>

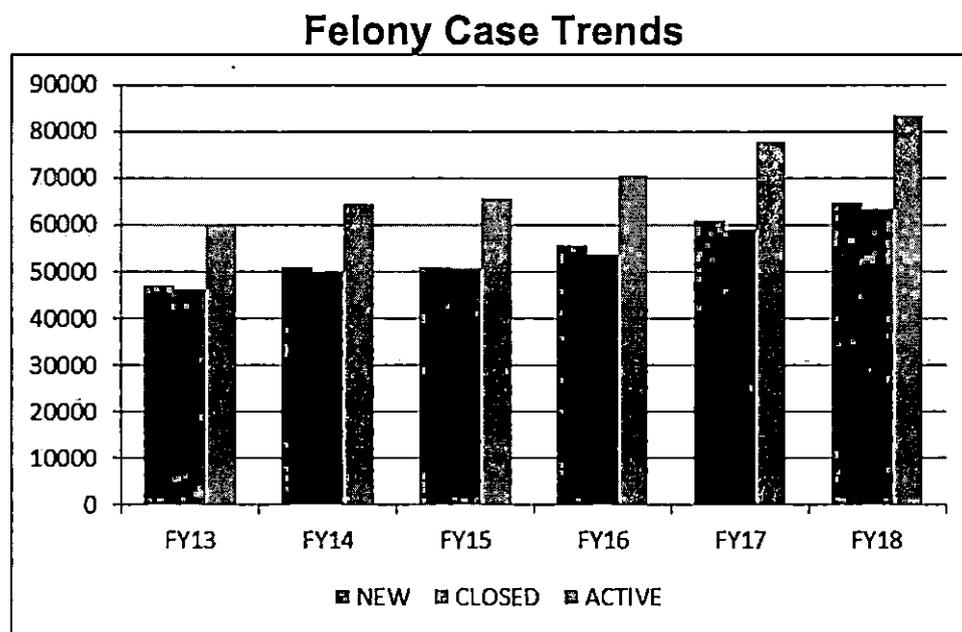
Note: In FY 2016-17 the OSPD implemented revised case type classifications that were the result of the updated workload study and are identified in the table above. Summary totals are provided for the prior years.

## CASE TYPE TRENDS

**Felony Cases.** In FY 2017-18, the OSPD had 83,494 active felony cases, an increase of approximately 7.5 percent over the prior year. The felony case growth had peaked in FY 2005-06 when the OSPD handled 67,886 cases and had been steadily decreasing through FY 2011-12 down to 56,631. However, over the past 5 years, the OSPD has continued to experience significant increases each year, amounting to nearly a 40 percent increase in its active felony cases. The Judicial Department District Courts are also reporting significant increases and over the same timeframe have experienced approximately a 44 percent increases in their felony filings.

Felony cases, primarily the Trial and Pre-trial cases, require the greatest attorney effort, time and dedication of resources. They cost the State the most money, and increasingly draw OSPD resources away from misdemeanor and juvenile defendant cases.

Felony cases make up approximately 45 percent of our cases yet require 65 percent of our trial FTE resources.

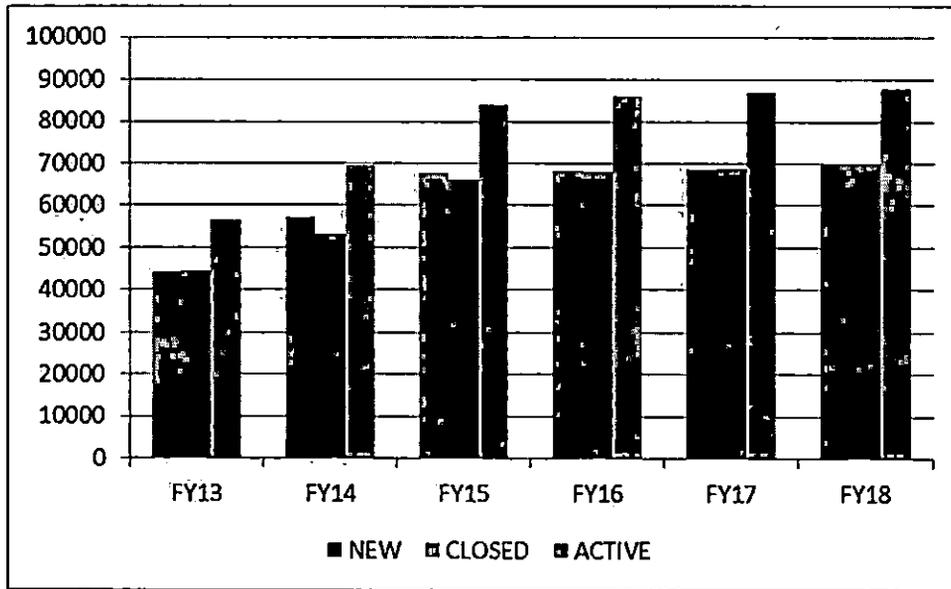


**Misdemeanor Cases.** Misdemeanor case growth in each category of new, closed and active caseload continued at a relatively predictable rate of 6 percent to 7 percent annual CRG through FY 2012-13, as the OSPD handled 56,625 cases.

Since the *Rothgery* bill did not take effect until January 1, 2014, the increase in the number of active misdemeanor cases for FY 2013-14 included just six months, yet by the end of FY 2014-15 the OSPD experienced the full impact. In FY 2014-15 the number of active misdemeanor cases surged to 83,869, and in FY 2015-16 the number of active cases continued its upward trend to 86,280. While some of this is attributed to normal case growth, the impact of *Rothgery* is definitely the driving force. Misdemeanor caseload has now stabilized with the OSPD handling 88,117 cases in FY 2017-18.

Misdemeanor cases represent about 49 percent of our total cases and require about 28 percent of our trial FTE resources.

## Misdemeanor Case Trends

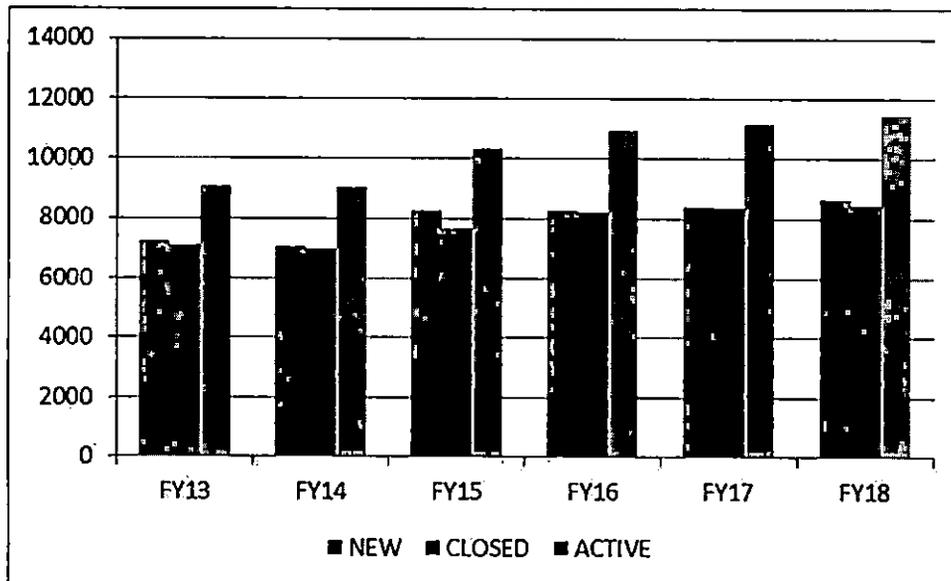


**Juvenile Cases.** Since FY 1999-00, juvenile cases had continued to gradually decline. However, this decline has slowed since FY 2004-05, falling from a decline of about 4 percent annual CRG through FY 2004-05 to a decline of nearly 2.7 percent annual CRG through FY 2013-14. Active juvenile cases handled by the OSPD dropped slightly from 9,090 in FY 2012-13 to 9,050 in FY 2013-14, a 0.4 percent decrease.

Although the juvenile caseload had dropped for almost a decade, the impact of H.B. 14-1032, the *Juvenile Defense* bill, has turned this around. Since November 1, 2014 when this legislation went into effect, the number of active juvenile cases rose from 9,050 in FY 2013-14 to 11,467 in FY 2017-18, nearly a 27 percent increase over the past 4 years.

Juvenile cases represent about 6 percent of our total cases and require about 4 percent of our trial FTE resources.

## Juvenile Case Trends



## REGIONAL TRIAL OFFICE CASELOAD

### TRIAL AND PRETRIAL CASE TRENDS

Trial and Pretrial closings reflect cases that are brought to a final disposition. The increase in Trial and Pretrial closings is the primary factor that drives attorney staffing needs, since these cases account for the greatest draw on attorney resources and time.

The office has participated in several workload studies over the years to determine the appropriate case weights for the various types of cases in order to determine its staffing needs. The OSPD case weights are applied to Trial and Pretrial cases, as well as to revocations, which make up a large portion of the Other Proceedings. The weights take into account the time associated with all Other Proceedings. Assuming that the proportionate share of Trial and Pretrial versus Other Proceedings caseloads remain relatively constant through time, these weights will remain accurate. As seen on the chart below, this has been the case with the Trial and Pretrial averaging at 54 percent of the total cases and 46 percent for the Other Proceedings.

The annual CRG for Trial and Pretrial cases closed had grown at a rate of 3.5 percent through FY 2012-13. As of the end of FY 2017-18, the CRG has now increased to 4.6 percent.

OSPD Cases Closed								
Trial and Pretrial & Other Proceedings								
	FY 1999-00	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	Annual CRG Through FY 2017-18
<b>Total Closed Cases</b>	64,779	97,872	110,044	124,416	129,764	136,321	141,511	4.4%
<b>Trial and Pretrial</b>	33,824	53,146	55,883	66,413	71,226	74,615	76,488	4.6%
<b>Portion of Total Cases</b>	52.2%	54.3%	50.8%	53.4%	54.9%	54.7%	54.1%	
<b>Other Proceedings</b>	30,955	44,726	54,161	58,003	58,538	61,706	65,023	4.2%
<b>Portion of Total Cases</b>	47.8%	45.7%	49.2%	46.6%	45.1%	45.3%	45.9%	

## REGIONAL TRIAL OFFICE CASELOAD

### OTHER PROCEEDINGS TRENDS

Overall Other Proceedings had grown at a rate of about 2.9 percent annually through FY 2012-13. As of FY 2017-18, it has now increased to 4.2 percent. The Other Proceedings category includes all revocations, Rule 35(b) sentence reconsiderations, Rule 35(c) hearings, extradition matters, and other miscellaneous proceedings. Other Proceedings may also include appeals and original proceedings handled by a regional office. The partial service category refers to cases that are not brought to a final disposition. These include conflicts of interest, other withdrawals because a defendant retained private counsel or went *pro se*, and situations where a client fails to appear. In order to be opened and subsequently counted as a partial service closing there must be client contact and a specific action taken with respect to the client. Revocations constitute the biggest percent Other Proceedings, representing 56.8 percent of the total in FY 2017-18.

## MISCELLANEOUS HEARINGS

As a result of H.B. 13-1210, the *Rothgery* bill, and H.B. 14-1032, the *Juvenile Defense* bill, OSPD began tracking the number of both felony and misdemeanor advisement/bond hearings along with juvenile detention hearings. These stats are shown separately below and are not included in the Other Proceedings.

### Advisement/Bond Hearings and Juvenile Detention Hearings

	FY16	FY17	FY18	FY19 - proj
Advisement/Bond, Felony	29,315	35,904	38,567	39,959
Advisement/Bond, Misdemeanor	31,173	33,818	35,462	36,526
Juvenile Detention Hearings	3,973	4,006	3,625	3,657

## REGIONAL TRIAL OFFICE CASELOAD

### CASE WITHDRAWAL TRENDS

Partial services includes cases in which the OSPD is requesting to withdraw from a case due to conflicts of interest and for non-conflict reasons, such as private counsel enters or defendants deciding to go *pro se*. Since OSPD began tracking case withdrawals 18 years ago, the withdrawal rate has consistently remained at approximately 10 percent.

**Conflict Withdrawals.** As seen in the chart below, the OSPD averages a 7 percent withdrawal rate on new cases due to a conflict of interest. A 'conflict of interest' occurs in situations where the Office represents a codefendant or a person who is a witness in the case, or other circumstances as identified in the Colorado Rules of Professional Conduct.

OSPD Withdrawals							
FY13-FY18							
	FY13	FY14	FY15	FY16	FY17	FY18	Average FY13-FY18
<b>New Cases</b>	<b>98,537</b>	<b>115,107</b>	<b>126,947</b>	<b>132,388</b>	<b>137,777</b>	<b>143,552</b>	
<b>Conflicts</b>							
Co-Defendant	3,930	3,835	4,245	4,298	4,637	4,386	
Witness	2,795	3,077	3,624	4,323	4,604	5,112	
Other	470	549	668	720	913	1,074	
<b>Total</b>	<b>7,195</b>	<b>7,461</b>	<b>8,537</b>	<b>9,341</b>	<b>10,154</b>	<b>10,572</b>	
<b>% of New Cases</b>	<b>7.3%</b>	<b>6.5%</b>	<b>6.7%</b>	<b>7.1%</b>	<b>7.4%</b>	<b>7.4%</b>	<b>7.0%</b>
<b>Non-Conflicts</b>							
Private Counsel	2,143	2,646	2,762	2,636	2,553	2,447	
Pro Se	333	332	537	540	482	491	
Other	424	590	702	889	963	960	
<b>Total</b>	<b>2,900</b>	<b>3,568</b>	<b>4,001</b>	<b>4,065</b>	<b>3,998</b>	<b>3,898</b>	
<b>% of New Cases</b>	<b>2.9%</b>	<b>3.1%</b>	<b>3.2%</b>	<b>3.1%</b>	<b>2.9%</b>	<b>2.7%</b>	<b>3.0%</b>
<b>Total</b>	<b>10,095</b>	<b>11,029</b>	<b>12,538</b>	<b>13,406</b>	<b>14,152</b>	<b>14,470</b>	
<b>% of New Cases</b>	<b>10.2%</b>	<b>9.6%</b>	<b>9.9%</b>	<b>10.1%</b>	<b>10.3%</b>	<b>10.1%</b>	<b>10.0%</b>

# APPELLATE DIVISION CASELOAD

## APPELLATE CASE TRENDS

**Appellate Cases.** The Office of the State Public Defender maintains a centralized Appellate Division (the Division) that represents clients in felony appeals from every jurisdiction in the state, regardless of who may have represented them in prior court proceedings (e.g., court appointed counsel, Alternate Defense Counsel and private attorneys). The Division is expected to carry 1,067 cases this year (FY 2018-19), including an estimated 528 new cases and 539 backlog cases carried over from previous years. This 1,067 number represents those cases where an opening brief is expected to be filed and is the phase during which the most resources are required. After the brief is filed, the case remains active as it progresses through the entire appellate process. The Division estimates there are currently 820 cases at various stages within this process and the work involved extends well into subsequent years.

Since FY 1999-00, the total of new appellate cases had grown steadily before peaking in FY 2008-09, leveling off for a few years and even dropping in recent years. However, we project that the number of new appellate cases will again start to rise as the filing of appeals typically lags a couple years behind the trends experienced in the OSPD's overall felony case filings.

In FY 2013-14, the number of backlog cases (those awaiting an opening brief) peaked at 749. The following year, the Division received additional FTEs and funding to help lower this number. Over the past four years, the Division has been able to reduce this backlog to 539, yet it still exceeds the NLADA acceptable standards by 188 cases at the end of FY 2017-18. Although the Division has reduced its backlog cases, this downward trend will be interrupted if there is a surge in the number of new appeals filed as mentioned above. In addition, reductions may also be hampered due to the substantial increase in the record length for each case, which has doubled in recent years. This has a direct impact on the time and resources required to prepare an opening brief.

The Division also received two additional FTE and funding in FY 2014-15 to assist and centralize the appellate process for both county court and juvenile appeals. This past year these FTE consulted or worked on over 283 cases, handled roughly 100 queries from juvenile attorneys in the trial offices, and held numerous statewide trainings enabling trial offices to achieve improved administrative efficiencies as well as increased representational effectiveness.

Appellate Division

FISCAL YEAR	Total Atty FTE	New Appeals	Briefs Filed	Appeals Resolved Other Ways	Total Appeals Closed	Appeals awaiting filing of initial brief	Standard Caseload per NLADA	'Backlog' Appeals in excess of NLADA standards	Change in Backlog in Excess	Appeals Phase 2 (after initial brief filed)	Total Active Appeals
FY 13	34.75	585	427	135	562	671	315	356	39	848	1931
FY 14	35.75	573	367	127	495	749	279	470	114	1000	2341
FY 15	47.25	533	422	122	544	738	363	375	-95	985	2282
FY 16	47.25	511	486	141	627	622	359	263	-112	1049	2234
FY 17	47.25	525	459	101	560	587	351	236	-27	879	2196
FY 18	47.25	523	421	150	571	539	351	188	-48	820	1989
FY 19 Est.	47.25	528	451	129	581	486	351	136	-53	850	1887
FY 20 Est.	47.25	534	451	131	582	438	351	87	-49	850	1870
FY 21 Est.	47.25	539	451	132	583	393	351	43	-45	850	1827
FY 22 Est.	47.25	544	451	133	585	353	351	2	-40	850	1788

# Performance

		FY 16-17 (actual)	FY 17-18 (actual)	FY 18-19 (projected)	FY 19-20 (projected)	FY 20-21 (projected)
<b>MEASURE 1:</b>		<b>Target</b>	<b>137,652</b>	<b>141,907</b>	<b>148,664</b>	<b>153,994</b>
Number of new trial court cases.		<b>Actual</b>	<b>137,777</b>	<b>143,552</b>		<b>159,552</b>
<b>MEASURE 2:</b>		<b>Target</b>	<b>173,612</b>	<b>181,112</b>	<b>189,075</b>	<b>195,295</b>
Number of active trial court cases.		<b>Actual</b>	<b>175,873</b>	<b>183,078</b>		<b>202,978</b>
<b>MEASURE 3:</b>		<b>Target</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>
Percent of trial court attorney staff allocated vs. total required for closed trial court cases.		<b>Actual</b>	<b>83%</b>	<b>80%</b>		
<b>MEASURE 4:</b>		<b>Target</b>	<b>500</b>	<b>475</b>	<b>485</b>	<b>485</b>
Number of attorney applications received.		<b>Actual</b>	<b>483</b>	<b>521</b>		
<b>MEASURE 5:</b>		<b>Target</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>
Percent of total attorney staff allocated vs. total required for closed trial court cases and appellate cases.		<b>Actual</b>	<b>83%</b>	<b>81%</b>		
<b>MEASURE 6:</b>		<b>Target</b>	<b>12%</b>	<b>12%</b>	<b>12%</b>	<b>12%</b>
Annual rates of attrition:						
Attorneys		<b>Actual</b>	<b>14%</b>	<b>18%</b>		
Investigators		<b>Actual</b>	<b>12%</b>	<b>8%</b>		
Administrative Assistants		<b>Actual</b>	<b>17%</b>	<b>24%</b>		
Total All Employees		<b>Actual</b>	<b>13%</b>	<b>16%</b>		
<b>MEASURE 7:</b>		<b>Target</b>	<b>70%</b>	<b>70%</b>	<b>70%</b>	<b>70%</b>
Percent of experienced, fully capable staff (journey level or higher):						
Attorneys		<b>Actual</b>	<b>46%</b>	<b>43%</b>		
Investigators		<b>Actual</b>	<b>55%</b>	<b>49%</b>		
Legal Assistants		<b>Actual</b>	<b>48%</b>	<b>43%</b>		
Total All Employees		<b>Actual</b>	<b>49%</b>	<b>46%</b>		
<b>MEASURE 8:</b>		<b>Target</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>
Percent compliance with minimum standards for total staffing requirements.		<b>Actual</b>	<b>82%</b>	<b>81%</b>		
<b>MEASURE 9:</b>		<b>Target</b>	<b>12%</b>	<b>12%</b>	<b>12%</b>	<b>12%</b>
Maintain established standard percentages for reasonable staff supervision, management and development.		<b>Actual</b>	<b>8%</b>	<b>11%</b>		
<b>MEASURE 10:</b>		<b>Target</b>	<b>558</b>	<b>535</b>	<b>528</b>	<b>534</b>
Number of new appellate cases.		<b>Actual</b>	<b>525</b>	<b>523</b>		<b>539</b>
<b>MEASURE 11:</b>		<b>Target</b>	<b>2,229</b>	<b>2,001</b>	<b>1,887</b>	<b>1,870</b>
Number of active appellate cases.		<b>Actual</b>	<b>2,196</b>	<b>1,989</b>		<b>1,827</b>
<b>MEASURE 12:</b>		<b>Target</b>	<b>2,229</b>	<b>2,001</b>	<b>1,887</b>	<b>1,870</b>
Percent of appellate attorney staff allocated vs. total required for appellate cases awaiting filing of initial brief.		<b>Actual</b>	<b>2,196</b>	<b>1,989</b>		<b>1,827</b>

		FY 16-17 (actual)	FY 17-18 (actual)	FY 18-19 (projected)	FY 19-20 (projected)	FY 20-21 (projected)
<b>MEASURE 13:</b> Number of trial court cases closed.	Target	134,266	140,395	145,909	150,461	155,183
	Actual	136,321	141,511			
<b>MEASURE 14:</b> Days of training provided.	Target	130	130	133	133	133
	Actual	179	135			
<b>MEASURE 15:</b> Number of CLE credits provided to all attorneys.	Target	15	15	15	15	15
	Actual	15	15			
<b>MEASURE 16:</b> Hours of ethics training provided, focusing on Colorado criminal law.	Target	3	3	3	3	3
	Actual	3	4			
<b>MEASURE 17:</b> Number of administrative processes and organizational infrastructure evaluations performed.	Target	15	15	15	15	15
	Actual	14	15			
<b>MEASURE 18:</b> Number of appellate cases for which an Opening Brief has been filed.	Target	486	468	451	451	451
	Actual	459	421			
<b>MEASURE 19:</b> Number of backlogged appellate cases.	Target	563	531	486	438	393
	Actual	587	539			

The OSPD's Performance Plan dated July 01, 2019 can be viewed on our website at [www.coloradodefenders.us](http://www.coloradodefenders.us).