

All criminal justice partners saw a significant decrease in cases in FY20 due to the Covid-19 pandemic, and although advocates and agencies feared continued decreases in FY21 would bring a sharp increase in “backlogged” cases, jury trials and caseloads for public defenders and prosecution attorneys remained low throughout FY22.

Since the district attorneys and the Public Defender Department (PDD) joined the Administrative Office of the Courts (AOC) in a comprehensive report card format, the unequal reporting of data across the criminal justice system has become apparent. District attorneys lack critical performance measurements and have not provided action plans where outcomes are poor. PDD has improved dramatically in the quality and consistency of reporting for in-house attorneys but continues to struggle with contract attorney reporting and outcomes.

Courts

Administrative Support. In FY22, the judiciary maintained a “clearance rate” above 100 percent, indicating courts are working to clear dockets more quickly than cases pile up. However, New Mexico courts continue to lag in providing timely justice, a key aspect of a functional judicial system, with the average time to disposition for criminal cases in district courts at 259 days, and the average age of pending cases at 524 days (the highest in three years) in FY22. Magistrate and metropolitan courts performed better than district courts for days to disposition in criminal cases, bringing the combined average below the target.

The average cost per juror rose, and while jury trials increased slightly year over year, courts still held only 60 percent of the trials held pre-pandemic in FY22. More than two years after the start of the public health emergency, the judiciary must better manage the cost of holding in-person trials in compliance with internal public health policies. The average interpreter cost per session remains below the target, but agency analysts warn the figure may be artificially low due to the continued low number of court hearings.

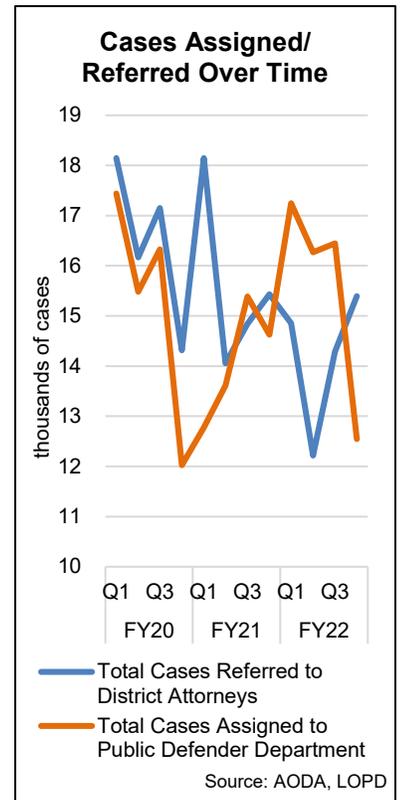
Budget: \$15,305.2 **FTE:** 49.25

	FY20 Actual	FY21 Actual	FY22 Target	FY22 Actual	Rating
Average cost per juror	\$49.2	\$54.8	\$55.0	\$56.4	G
Number of jury trials for metro, district, and statewide courts*	725	517	N/A	574	
Average interpreter cost per session	\$117.1	\$63.4	\$150.0	\$64.1	G
Age of active pending criminal cases for district, magistrate, and metropolitan courts, in days	NEW	364	180	524	R
Days to disposition in criminal cases in district and magistrate courts	NEW	207	180	145	Y
Cases disposed as a percent of cases filed	123%	135%	100%	101%	G
Program Rating	Y	Y			Y

*Measure is classified as explanatory and does not have a target.

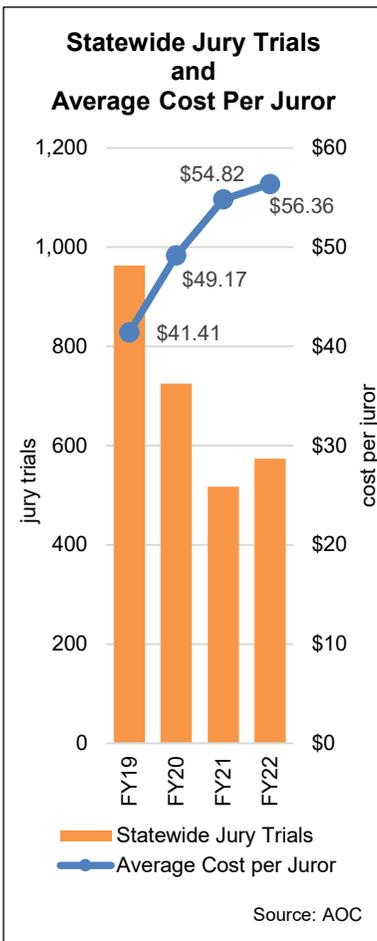
ACTION PLAN

Submitted by agency?	PDD Only
Timeline assigned?	No
Responsibility assigned?	No



Warrants

AOC reports 206.3 thousand active warrants related to 185.5 thousand defendants as of September 6, with the number of defendants with outstanding warrants equal to almost 9 percent of the state’s total population. The majority of these outstanding warrants are for failure to appear (40.2 percent) or bench warrants (40.1 percent), while almost 10 percent of warrants are nonarrestable parking warrants. Of the active warrants, almost 27 percent were issued at least 20 years ago, with the oldest active warrant over 50 years old.



Special Court Services. The Legislature has prioritized treatment courts in the last five years, and AOC reported specialty court outcomes quarterly for the first time in several years, in part due to new drug court reporting software funded by the Legislature. The agency also voluntarily reported enrollment in drug and DWI court programs, with 496 defendants referred to the programs in FY22, compared to 328 in FY21. Even with increased enrollment, cost per client for drug court participants continued to increase in FY22.

Budget: \$12,061.5 **FTE:** 32

	FY20 Actual	FY21 Actual	FY22 Target	FY22 Actual	Rating
Cases to which CASA volunteers are assigned*	1050	2,430	N/A	1,448	
Monthly supervised child visitations and exchanges conducted	11,412	11,211	N/A	12,012	G
Average time to completed disposition in abuse and neglect cases, in days.*	124	161	N/A	148	
Recidivism rate for drug-court participant	18.4%	10.4%	12.0%	14%	Y
Recidivism rate for DWI-court participants	7.1%	7.6%	10.0%	6.1%	G
Graduation rate for drug-court participants*	59.3%	61.0%	N/A	59.2%	R
Graduation rate for DWI-court participants*	80.9%	79.0%	N/A	89.5%	G
Cost per client per day for all drug-court participants*	\$25.4	\$28.8	N/A	\$37.10	
Program Rating					Y R G

*Measure is classified as explanatory and does not have a target.

Statewide Judiciary Automation. AOC began reporting on new measures for the first quarter of FY20 to better gauge the success of the Statewide Judiciary Automation Program. Previous targets, which measured call times in hours regardless of difficulty, were unattainable, however, AOC has surpassed the target (now measured in days) two consecutive years, indicating a need to adjust the target.

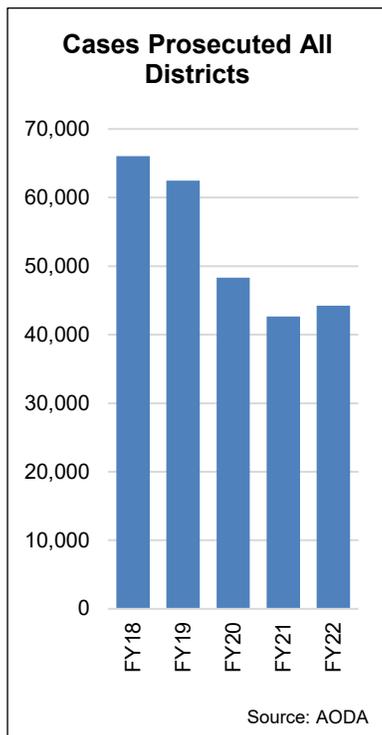
Budget: \$11,564.3 **FTE:** 12

	FY20 Actual	FY21 Actual	FY22 Target	FY22 Actual	Rating
Average time to resolve calls for assistance, in days	0.6	0.5	5	.02	G
Program Rating					G G G

District Attorneys

Performance measures for district attorneys’ offices that examine elements of the agencies’ work outside of prosecution, such as pretrial detention motions and referrals to alternative sentencing treatments, are reported inconsistently by different agencies, making it difficult to track these important metrics related to criminal justice reform implementation.

Attorney workload for nearly every district continues to fall below pre-pandemic levels, and no single prosecution office had an average new caseload at or above the FY22 target of 170 cases per attorney with the exception of the 11th (Div. II), which faces persistent attorney vacancies. However, the Administrative Office of the District Attorneys reports many offices face constraints due to an insufficient number of attorneys.



The 2022 GAA provides funding to provide targeted increases for all attorneys employed by district attorneys’ offices, including 3.5 percent for attorneys in urban areas and 6.5 percent for those in rural areas. These increases are not mandated and are in addition to the 7 percent statewide employee compensation package.

Budget: \$188,605.5 **FTE:** 305

	FY20 Actual	FY21 Actual	FY22 Target	FY22 Actual	Rating
Average cases added to attorney caseload	264	205	170	92	G
Number of cases referred for screening*	73,256	73,386	N/A	59,063	
1st District	5,888	4,985	N/A	4,105	
2nd District	24,859	21,806	N/A	16,434	
3rd District	1,878	5,244	N/A	5,174	
4th District	1,888	1,734	N/A	1,914	
5th District	7,510	7,163	N/A	6,147	
6th District	2,737	2,621	N/A	2,593	
7th District	2,107	1,747	N/A	1,796	
8th District	2,005	1,758	N/A	1,683	
9th District	3,150	2,840	N/A	2,412	
10th District	902	670	N/A	683	
11th Division I.	5,298	5,128	N/A	5,133	
11th District Div. II	2,603	2,279	N/A	2,172	
12th District	2,936	2,850	N/A	2,678	
13th District	5,803	5,647	N/A	6,139	
Average cases referred into pre-prosecution diversion programs*	92	84	N/A	77	

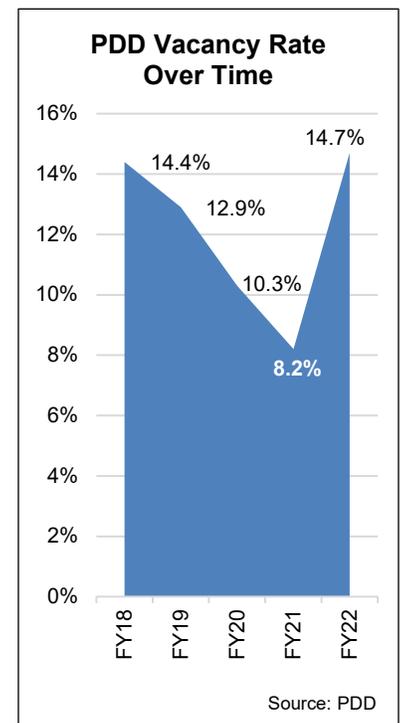
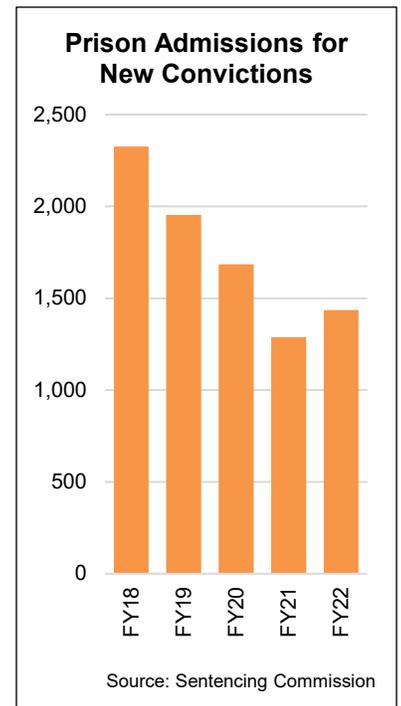
Program Rating **Y** **R** **G**

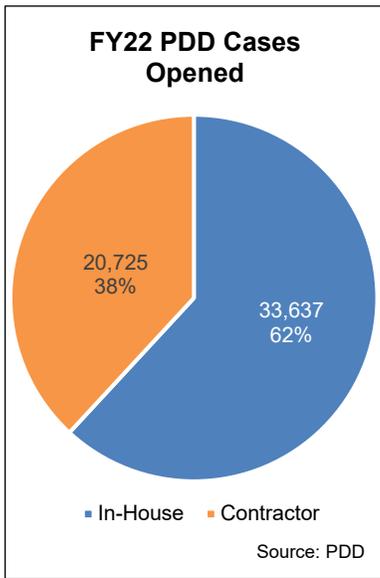
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Public Defender

Like other criminal justice partners, the Public Defender Department (PDD) has difficulties recruiting and retaining legal professionals in rural areas. PDD implemented geographical pay differentials and expanded recruitment tactics (a strategy the district attorneys have since adopted) which decreased the agency’s historically high vacancy rate and reduced attorney caseloads. However, labor constraints felt by much of the state throughout the pandemic once again brought vacancy rates to double digits in FY22. The department reports losing a total of 65 attorneys in FY22, which it attributes to increased workloads, low pay, and competition within state agencies as courts and district attorney offices ramp up hiring efforts.

The FY23 budget provides a 9.5 percent recurring increase for PDD, which includes \$200 thousand for targeted compensation increases and \$415 thousand to increase pay for rural contract attorneys. The department will need to revamp recruitment initiatives to retain existing attorneys and recruit new staff the Legislature funded for FY23.





PDD did not meet the target for total reduced charges in felony, misdemeanor, and juvenile cases. According to the agency, this is largely due to the dramatic change in how the criminal justice system operated during the Covid-19 pandemic, during which limited in-person contact decreased the ability of attorneys to effectively communicate with clients and increased the likelihood that defendants accepted unfavorable plea deals for fear of contracting the virus in detention.

PDD currently does not require contract attorneys to regularly close cases in the case management system, likely resulting in underreporting. This may contribute to poor outcomes for contract attorneys, but the agency also notes low base rates result in attorneys dedicating limited time to cases, also leading to poor outcomes. PDD began a pilot program in 2019 to compensate contract attorneys hourly on designated cases, receiving additional funds in the 2020 legislative session and flexibility to use funds for the same purpose. Many of the early pilot cases have been resolved (with just three outstanding cases likely to resolve in FY23), and should provide data linking the compensation rate for contract attorneys and case outcomes. This data will be critical to the agency, as 18 counties with no public defender office rely solely on contract attorneys.

Budget: \$55,488 **FTE:** 439

	FY20 Actual	FY21 Actual	FY22 Target	FY22 Actual	Rating
Felony, misdemeanor, and juvenile cases resulting in a reduction of original formally filed charges	63%	48%	70%	44%	R
In-house attorneys	78%	51%	70%	45%	R
Contract attorneys	21%	40%	70%	41%	R
Felony, misdemeanor, and juvenile cases resulting in alternative sentencing treatment	8,003	6,312	5,000	7,090	G
In-house attorneys	6,956	4,570	4,000	5,333	G
Contract attorneys	1,047	1,742	1,000	1,837	G
Cases assigned to contract attorneys*	35%	36%	N/A	34%	
Average time to disposition for felonies, in days*	269	295	N/A	336	
In-house attorneys*	247	270	N/A	308	
Contract attorneys*	290	320	N/A	363	
Cases opened by Public Defender Department *	61,294	56,403	N/A	54,362	
In-house attorneys*	40,074	35,993	N/A	33,637	
Contract attorneys*	21,220	20,410	N/A	20,725	
Program Rating	G	G			Y

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