

ACTION PLAN

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

Criminal justice partners see continued caseload and efficiency impacts from the Covid-19 pandemic. While most measures are returning to prepandemic averages, many partners face persistent challenges that stymie overall justice system goals. Persistent hiring and retention challenges make it difficult to keep skilled staff in critical roles, an especially troubling issue for the state’s dual responsibilities to enforce the law and provide an adequate defense for indigent people accused of crimes.

Courts

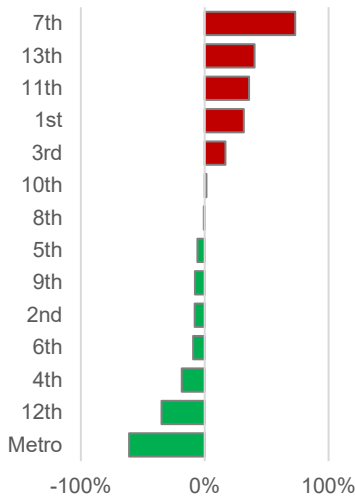
Administrative Support. In the second quarter of FY23, the time to dispose civil cases increased faster than criminal cases. Civil cases constitute the vast majority of cases that the courts process. While they do not garner as much public attention as criminal cases, civil case proceedings have significant consequences for families, children, and the poor. Slow proceedings have negative impacts on those groups. Compared with the second quarter of FY22, six districts saw an increase in the time to disposition of civil cases compared with four districts where criminal cases saw increased time to disposition. Among those districts with an increase in civil case days to disposition, the average increase was 39 percent compared with 15 percent for criminal cases.

Courts are processing more jury trials but have fewer active cases pending in the second quarter of FY23 compared with the second quarter of FY22. Jury trials are up by over 100 percent statewide over that time period. The number of active cases pending is down slightly compared with the second quarter of FY22, averaging a 4 percent decrease.

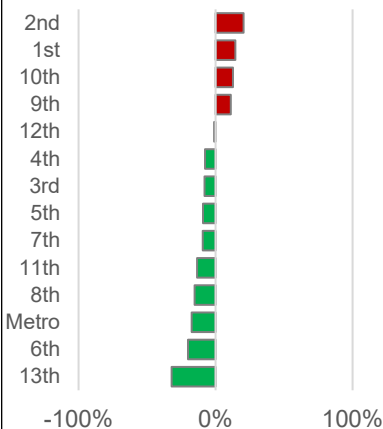
The average cost per juror decreased slightly from quarter one of FY23. Continuing recent trends, most defendants who are supervised by the courts in the pretrial period made most of their scheduled court appearances and were not charged with new offenses during the pretrial stage. This is consistent with past research identifying that pretrial defendants are small contributors to New Mexico’s overall violent crime rate.

Civil Cases Taking Longer to Dispose than Criminal Cases
Percent change of days to disposition
FY22 Q2 vs FY23 Q2

Civil Cases



Criminal Cases



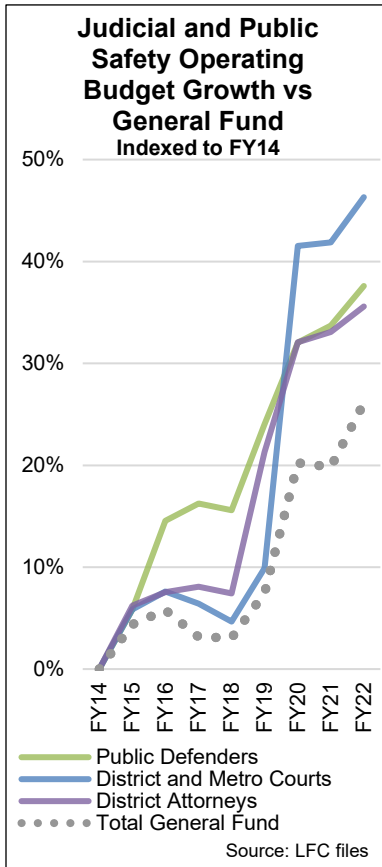
Source: AOC

Budget: \$21,449.1 FTE: 60	FY21 Actual	FY22 Actual	FY23 Target	FY23 Q1	FY23 Q2	FY23 Q3	Rating
Average cost per juror	\$54.82	\$56.4	\$55	\$56.4	\$54.9		Y
Number of jury trials for metro, district, and statewide courts*	533	574	N/A	178	183		
Average interpreter cost per session	\$63	\$64.1	\$150	\$49.5	\$79.7		G
Percent of supervised defendants who make all scheduled court appearances	NEW	NEW	N/A	76%	74%		
Percent of supervised defendants who are not charged with a new offense during the pretrial stage	NEW	NEW	N/A	84%	83%		
Percent of released defendants who did not commit a new violent charge	NEW	NEW	N/A	95%	94%		
Age of active pending criminal cases in days	364	524	365	303	344		G
Days to disposition in criminal cases	207	145	365	233	227		G
Cases disposed as a percent of cases filed	135%	101%	100%	95%	101%		G
Program Rating	Y	Y		G			G

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

Special Court Services. The Legislature has prioritized treatment courts in the last several years. Despite this, drug courts have seen a shift from oversubscription in FY13 to having about half of their capacity filled over the past 10 years. Drug and driving while intoxicated courts report recidivism rates below the target, and graduation rates remain persistently low.

Monthly supervised child visitations and exchanges decreased by 19 percent compared with quarter one of FY23, but the measure remains on track with FY22. The number of cases to which Court Appointed Special Advocate (CASA) volunteers are assigned increased by 2 percent in quarter two compared with quarter one of FY23.



	FY21 Actual	FY22 Actual	FY23 Target	FY23 Q1	FY23 Q2	FY22 Q3	Rating
Budget: \$16,934.8 FTE: 38							
Cases to which CASA volunteers are assigned*	2,430	1,448	N/A	393	404		
Monthly supervised child visitations and exchanges conducted	11,211	12,012	N/A	3,179	2,577		
Average time to completed disposition in abuse and neglect cases, in days.*	161	148	N/A	141	150		
Recidivism rate for drug-court participants	18%	14%	12%	8.1%	12.3%		G
Recidivism rate for DWI-court participants	10%	6.1%	9%	5.2%	5.0%		G
Graduation rate for drug-court participants	61%	59.2%	70%	55%	59.4%		R
Graduation rate for DWI-court participants	78%	89.5%	80%	62.5%	82.1%		R
Cost per client per day for all drug-court participants*	\$29	\$37.10	N/A	\$33.6	\$33.7		
Percent of supervised defendants who make all scheduled court appearances*	NEW	NEW	N/A	76%	74%		
Percent of supervised defendants who are not charged with a new offense during the pretrial state*	NEW	NEW	N/A	84%	83%		
Percent of released defendants not charged with a new violent crime.	NEW	NEW	N/A	95%	94%		
Program Rating	R	Y		Y			Y

Statewide Judiciary Automation. The Administrative Office of the Courts (AOC) began reporting on new measures for the first quarter of FY20 to better gauge the success of the Statewide Judiciary Automation Program. AOC surpassed second quarter targets.

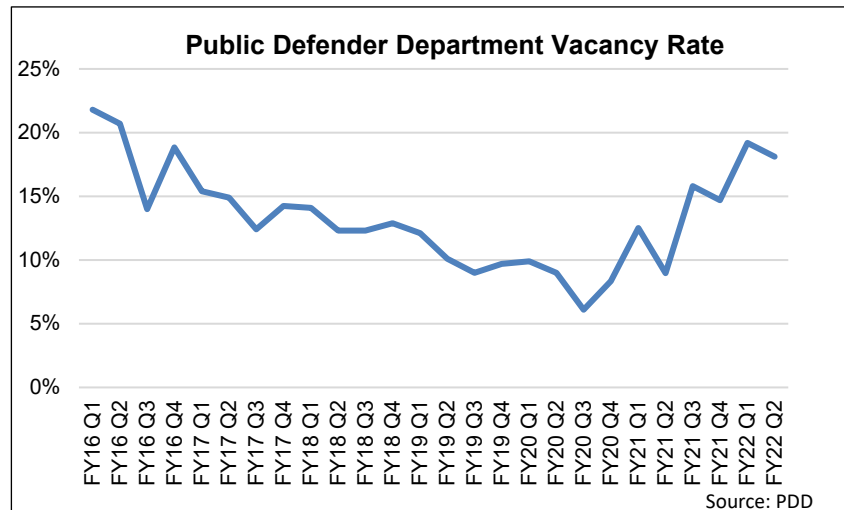
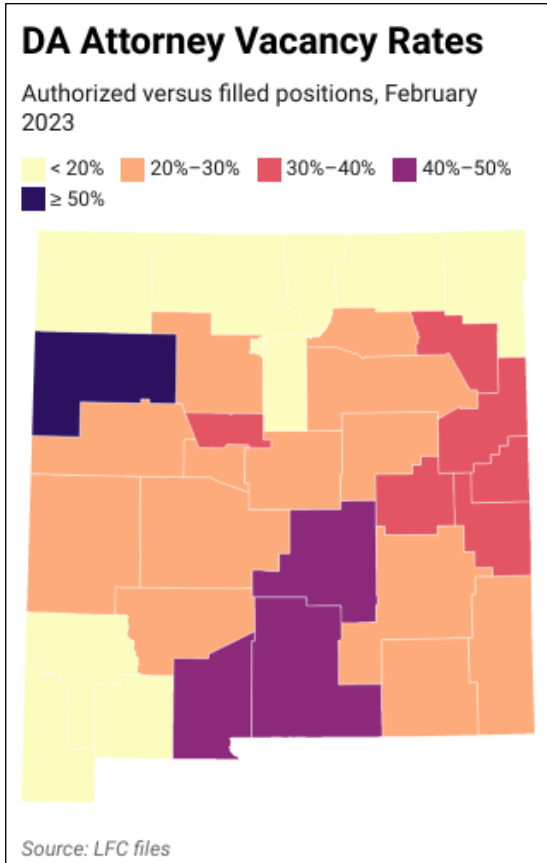
	FY21 Actual	FY22 Actual	FY23 Target	FY23 Q1	FY23 Q2	FY22 Q3	Rating
Budget: \$15,679.3 FTE: 60.5							
Average time to resolve calls for assistance, in days	0.33	0.02	1	.11	.67		G
Program Rating		G		G			G

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

Public Criminal Legal Attorneys

Recruiting and retaining attorneys continues to be an issue for both prosecution and defense attorney offices, especially in rural parts of the state. Because limited staffing directly impacts justice outcomes, policymakers have a strong interest in reducing crime and have provided a range of solutions, such as law enforcement investments, creating new crimes and increasing penalties, and improving behavioral health initiatives.

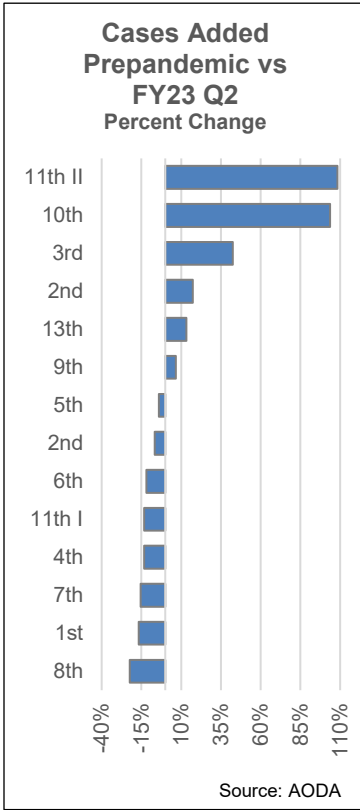
Efforts to reduce crime may be thwarted because prosecutors are not sufficiently resourced to bring strong cases to trial and gain conviction of criminals. High vacancies also present challenges for the state to meet its affirmative responsibility to provide an adequate defense for indigent defendants. Chronically high vacancy rates make these dual priorities difficult to achieve and place a burden on communities.



The Public Defender Department (PDD) has submitted detailed reports of its vacancies over the past several fiscal years. Vacancy rate data from PDD was reported directly while vacancy information for district attorney offices is taken from the State Personnel Office and considers positions vacant for less than 18 months. However, this may not consider positions that have been recently unfunded.

District Attorneys. In the second quarter of FY23, the number of cases referred to district attorney offices remain below pre-pandemic averages. On average, statewide offices were referred 990 cases in the second quarter of FY23 compared with an average of 1,224 cases between FY18 and FY20. Despite the lower number of referred cases, average cases added to attorney caseloads increased by 13 percent statewide in the second quarter of FY23 compared with pre-pandemic averages.

This reflects a troubling trend. While cases referred have decreased, offices may not be able to keep up due to high vacancies. This trend was driven mostly by districts with very high attorney vacancies, especially in the tenth district and 11th district division II, where attorney vacancies were 33 percent and 60 percent, respectively, according to

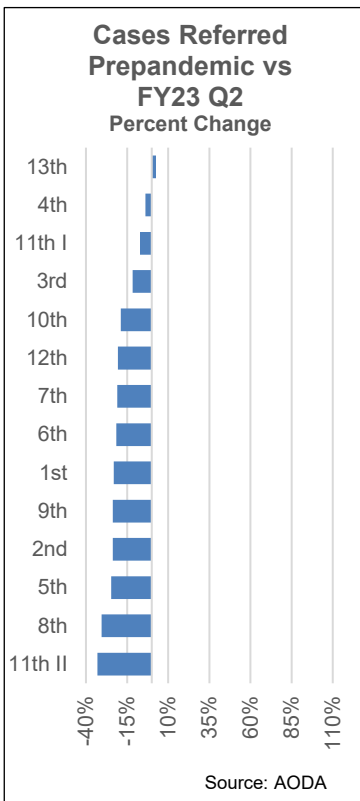


state personnel office data. According to the most recent data available, one out of three attorney positions were vacant in six districts.

Data on caseloads should be interpreted with caution. The current measure “the average number of cases added to each attorney’s case load” reports new cases added to attorney caseloads during the quarter but does not reflect the actual average number of cases assigned to attorneys during this time. Further, the measure is not indicative of the net change in attorneys’ caseloads during the quarter because it does not account for closed cases. As a result, the measure does not indicate if attorneys’ caseloads increased or decreased during the quarter.

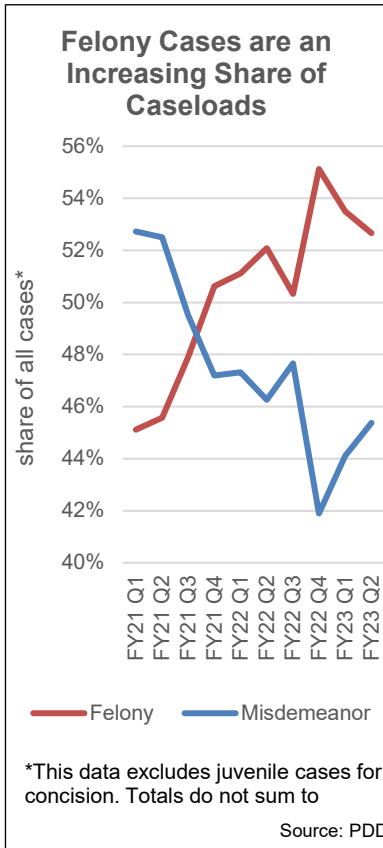
In FY24, district attorneys will begin reporting average attorney caseloads, which will help discern trends in prosecution caseloads; further modifications may be required to appropriately report and measure caseloads and their impact on overall performance, such as data on attorney vacancies and information on the types of cases carried by attorneys.

Statewide, prosecutors and defenders report seeing felonies as an increasing share of their caseloads. This may result from a more discerning—and cost-effective—screening of cases by law enforcement and prosecutors before cases are formally prosecuted, but the increasing share of felonies and corresponding decrease in misdemeanors requires more time per case and may require modified measures to understand attorney workload. Public defenders have implemented measures, such as case time keeping, to monitor impacts of this trend.



	Budget: \$94,382.5	FTE: 1,013	FY21 Actual	FY22 Actual	FY23 Target	FY23 Q1	FY23 Q2	FY23 Q3	Rating
Average number of cases added to attorney caseloads			205	92	170	94	77		G
Number of Cases Referred for Screening*			73,256	73,386	N/A	15,536	13,859		
1st District			4,731	4,105	N/A	1,173	1,042		
2nd District			19,039	16,434	N/A	4,418	4,319		
3rd District			4,365	5,174	N/A	1,406	1,207		
4th District			1,812	1,914	N/A	494	429		
5th District			6,584	6,147	N/A	1,650	1,381		
6th District			2,610	2,593	N/A	713	495		
7th District			1,654	1,796	N/A	373	374		
8th District			1,544	1,683	N/A	407	337		
9th District			2,513	2,412	N/A	572	527		
10th District			661	683	N/A	252	146		
11th Division I.			4,955	5,133	N/A	1,272	1,153		
11th District Div. II			2,327	2,172	N/A	491	381		
12th District			2,459	2,678	N/A	591	648		
13th District			5,836	6,139	N/A	1,724	1,420		
Program Rating			R	Y		G	G		G

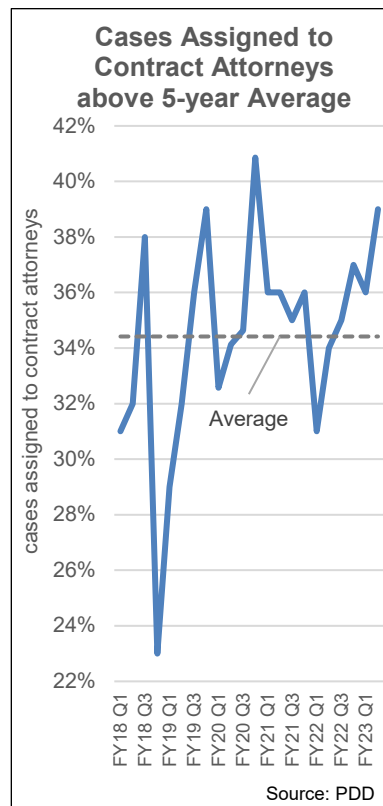
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Public Defender. PDD continues to make improvements in key performance measure targets like the percentage of cases resulting in a reduction of filed charges and alternative sentencing targets. This is despite high vacancy rates among both attorneys and core staff.

Like district attorney offices, PDD reports a changing mix of case types, with an increasing share of felony cases and a decreasing share of misdemeanor cases. This may result from decriminalization of lower level misdemeanor offenses such as driving on a suspended license or possession of small amount of marijuana. However, the changing mix type also results in a higher case per attorney workload.

PDD did not meet the target for total reduced charges in felony, misdemeanor, and juvenile cases. According to the agency, dramatic changes in how the criminal justice system operated during the Covid-19 pandemic severely impacted performance on this measure. The second quarter of FY23 saw an improvement relative to the first quarter of FY23. The total number of cases opened decreased slightly compared with the first quarter of FY23. The percentage of cases assigned to contract attorneys increased compared with previous quarters. PDD attributes this to the reassignment of contract cases due to retention of contractors and overflow of cases from PDD offices due to high vacancy rates.



	Budget: 64,294.5	FTE: 488	FY21 Actual	FY22 Actual	FY23 Target	FY23 Q1	FY23 Q2	FY23 Q3	Rating
Felony, misdemeanor, and juvenile cases resulting in a reduction of original formally filed charges			48%	44%	70%	53%	61%		Y
In-house attorneys			51%	45%	70%	59%	61%		Y
Contract attorneys			40%	41%	70%	43%	47%		Y
Felony, misdemeanor, and juvenile cases resulting in alternative sentencing treatment			6,312	7,090	5,000	2,049	3,045		G
In-house attorneys			4,570	5,333	4,000	1,517	2,208		G
Cases assigned to contract attorneys*			36%	34%	N/A	36%	39%		
Average time to disposition for felonies, in days*			295	336	N/A	340	310		
In-house attorneys*			270	308	N/A	304	254		
Contract attorneys*			320	363	N/A	377	367		
Cases opened by Public Defender Department *			56,403	54,362	N/A	14,871	13,208		
In-house attorneys*			35,993	33,637	N/A	9,179	8,385		
Contract attorneys*			20,410	20,725	N/A	5,692	4,823		
Program Rating			Y	Y		G	G		G

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