

JOINT BUDGET COMMITTEE



SUPPLEMENTAL BUDGET REQUESTS FY 2021-22

JUDICIAL DEPARTMENT

Courts and Probation

Office of the State Public Defender

Office of the Respondent Parents' Counsel

JBC WORKING DOCUMENT - SUBJECT TO CHANGE
STAFF RECOMMENDATION DOES NOT REPRESENT COMMITTEE DECISION

PREPARED BY:
ALFREDO KEMM, JBC STAFF
JANUARY 18, 2022

JOINT BUDGET COMMITTEE STAFF
200 E. 14TH AVENUE, 3RD FLOOR • DENVER • COLORADO • 80203
TELEPHONE: (303) 866-2061 • TDD: (303) 866-3472
<https://leg.colorado.gov/agencies/joint-budget-committee>

CONTENTS

Department Overview	3
Summary: FY 2021-22 Appropriation and Recommendation	4
Prioritized Supplemental Requests.....	5
C&P S1 PURCHASING AND CONTRACTs FTE.....	5
C&P S2 IT INFRASTRUCTURE UPGRADES	9
C&P S3 COURTHOUSE MAINTENANCE.....	10
C&P S4 FEDERAL ARPA VALE ADMIN COST.....	13
C&P S5 PERSISTENT DRUNK DRIVING CONTRACT.....	15
OADC S1 CASELOAD DECREASE.....	16
Staff-initiated Supplemental Requests.....	17
Staff-initiated – ORPC Footnote Correction.....	17
Statewide Common Policy Supplemental Requests.....	18
Appendix A: Numbers Pages.....	A-1

JUDICIAL DEPARTMENT

DEPARTMENT OVERVIEW

One of three branches of Colorado state government, the Judicial Department primarily interprets and administers the law and resolves disputes. The state court system (Courts) consists of the Colorado Supreme Court, the Colorado Court of Appeals, district courts, the Denver probate and juvenile courts, and all county courts except the Denver county court. In addition to resolving disputes and delivering justice in criminal and civil cases, the Judicial Department supervises juvenile and adult offenders who are sentenced to probation. The Judicial Department also currently includes seven independent agencies:

- The *Office of the State Public Defender* (OSPD) provides legal representation for indigent defendants in criminal and juvenile delinquency cases where there is a possibility of incarceration.
- The *Office of Alternate Defense Counsel* (OADC) oversees the provision of legal representation to indigent defendants in criminal and juvenile delinquency cases where there is a possibility of incarceration and the OSPD has an ethical conflict of interest. The office provides legal representation by contracting with licensed attorneys across the state.
- The *Office of the Child's Representative* (OCR) oversees the provision of legal services for children, including legal representation of children involved in the court system due to abuse or neglect.
- The *Office of the Respondent Parents' Counsel* (ORPC) oversees the provision of legal representation for indigent parents or guardians who are involved in dependency and neglect proceedings.
- The *Office of the Child Protection Ombudsman* (OCPO) serves as an independent and neutral organization to investigate complaints and grievances about child protection services, make recommendations about system improvements, and serve as a resource for persons involved in the child welfare system.
- The *Independent Ethics Commission* (IEC) provides advice and guidance on ethics-related matters concerning state legislative and executive branch elected officials and employees, as well as elected officials and employees of most Colorado counties and municipalities.
- The *Office of Public Guardianship* (OPG) operates a pilot program in Denver to provide legal guardianship services for incapacitated and indigent adults who have no other guardianship prospects.

SUMMARY: FY 2021-22 APPROPRIATION AND RECOMMENDATION

JUDICIAL DEPARTMENT: RECOMMENDED CHANGES FOR FY 2021-22						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2021-22 APPROPRIATION						
SB 21-205 (Long Bill)	\$850,125,537	\$622,293,390	\$169,865,434	\$53,541,713	\$4,425,000	4,996.1
Other legislation	7,260,253	1,915,621	5,344,632	0	0	10.9
CURRENT FY 2021-22 APPROPRIATION:	\$857,385,790	\$624,209,011	\$175,210,066	\$53,541,713	\$4,425,000	5,007.0
RECOMMENDED CHANGES						
Current FY 2021-22 Appropriation	\$857,385,790	624,209,011	\$175,210,066	\$53,541,713	\$4,425,000	5,007.0
C&P S1 Purchasing and contracts FTE	226,083	226,083	0	0	0	2.4
C&P S2 IT infrastructure upgrades	0	0	0	0	0	0.0
C&P S3 Courthouse maintenance	1,538,580	1,538,580	0	0	0	0.0
C&P S4 Federal ARPA VALE admin cost	58,689	0	58,689	0	0	0.5
C&P S5 Persistent drunk driving contract	157,352	0	0	157,352	0	0.0
OADC S1 Caseload decrease	(5,513,424)	(5,513,424)	0	0	0	0.0
Staff-initiated ORPC footnote correction	0	0	0	0	0	0.0
Annual fleet supplemental	20,603	20,603	0	0	0	0.0
RECOMMENDED FY 2021-22 APPROPRIATION:	\$853,873,673	\$620,480,853	\$175,268,755	\$53,699,065	\$4,425,000	5,009.9
RECOMMENDED INCREASE/(DECREASE)	(\$3,512,117)	(\$3,728,158)	\$58,689	\$157,352	\$0	2.9
Percentage Change	(0.4%)	(0.6%)	0.0%	0.3%	0.0%	0.1%
FY 2021-22 EXECUTIVE REQUEST						
Request Above/(Below) Recommendation	\$9,162,245	\$72,038	\$17,079	\$0	\$9,073,128	6.6

REQUEST/RECOMMENDATION DESCRIPTIONS

C&P S1 PURCHASING AND CONTRACTS FTE: The request includes \$298,121 General Fund and 9.0 FTE for purchasing and contract management staff. The recommendation is \$226,083 General Fund and 2.4 FTE.

C&P S2 IT INFRASTRUCTURE UPGRADES: The request includes \$9,073,128 federal funds from Coronavirus State and Local Recovery Funds (ARPA) for information technology infrastructure upgrades. The recommendation is to deny the request.

C&P S3 COURTHOUSE MAINTENANCE: The request includes \$1,538,580 General Fund for county-initiated courthouse remodeling projects. The recommendation is \$1,538,580 General Fund.

C&P S4 FEDERAL ARPA VALE ADMIN COST: The request includes \$75,768 federal ARPA funds and 0.5 FTE for "Recovery Officer" staff to assist with the administration, monitoring, and reporting of ARPA-originated funds appropriated in S.B. 21-292. The recommendation is \$58,689 cash funds from the Economic Relief and Recovery Cash Fund and 0.5 FTE.

C&P S5 PERSISTENT DRUNK DRIVING CONTRACT: The request includes \$157,352 reappropriated funds spending authority from the Department of Human Services related to the persistent drunk

driving contract. The recommendation is \$157,352 reappropriated funds spending authority from the Department of Human Services.

OADC S1 CASELOAD DECREASE: The request includes a decrease of \$5,513,424 General Fund for the Office's revised projected lower caseload for FY 2021-22. The recommendation is for a decrease of \$5,513,424 General Fund.

STAFF-INITIATED ORPC FOOTNOTE CORRECTION: The recommendation is for a Long Bill footnote correction with no appropriation adjustment.

ANNUAL FLEET SUPPLEMENTAL: The common policy request includes \$20,603 General Fund for the Department of Personnel's annual fleet supplemental request. The recommendation is pending.

PRIORITIZED SUPPLEMENTAL REQUESTS

C&P S1 PURCHASING AND CONTRACTS FTE

	REQUEST	RECOMMENDATION
TOTAL	\$298,121	\$226,083
FTE	9.0	2.4
General Fund	298,121	226,083
Cash Funds	0	0
Federal Funds	0	0

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? **YES**
 [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]

Explanation: JBC staff and the Department agree that this request is the result of data that was not available when the original appropriation was made and an unforeseen contingency.

DEPARTMENT REQUEST: The Courts and Probation requests \$298,121 General Fund and 9.0 FTE for purchasing and contract management staff. A companion budget amendment for FY 2022-23 was also submitted that annualizes this request to \$884,729 General Fund and 9.0 FTE.

STAFF RECOMMENDATION: Staff recommends that the Committee approve the request with adjustments outlined in the analysis. Staff recommends an appropriation of \$226,083 General Fund and 2.4 FTE. Staff's recommendation will include a figure setting recommendation for annualization to \$730,157 General Fund and 9.0 FTE in FY 2022-23 and future years.

STAFF ANALYSIS: The Courts request \$298,121 General Fund and 9.0 FTE for FY 2021-22; a budget amendment was submitted with this request to annualize this request to \$884,729 General Fund and 9.0 FTE for FY 2022-23 and future years.

Of the 9.0 FTE requested, 8.0 FTE are intended to reinforce the contract management unit and 1.0 FTE is for the purchasing unit.

The contract management unit was instituted in FY 2020-21 and consists of 4.0 FTE approved (out of 6.0 FTE requested and initially approved in that first COVID budget year). This S1 request will increase staffing at the contract management unit to 12.0 FTE. Additionally, the Courts R1 request includes an additional 5.0 FTE for the contract management unit. In all, over the S1/BA1 and R1 requests, this would provide a total staff of 17.0 FTE for the contract management unit. The purchasing unit would gain 2.0 FTE across S1/BA1 and R1 requests, and provide a total of 8.0 FTE for the purchasing unit

The Courts state that historically they have managed procurement and contracting as a decentralized system in which judicial districts performed and managed these functions independently. The Courts state that they have moved to a centralized system for procurement and contracting in order to minimize risk. Additionally, the Courts state that the centralized purchasing and contract management units will function as a "one-stop shop" with complete purchasing, contracting, and contract management functions that will remove this work from judicial district staff.

NOV 2020 OSA AUDIT FINDINGS

The Courts point to the November 2020 performance audit of the State Court Administrator's Office (SCAO) by the Office of the State Auditor as a primary source for the need to minimize risk. It is staff's understanding that the audit addressed practices within the SCAO itself and did not address the activities of the judicial districts. However, the need to improve processes and practices extends to the Courts current request.

For the Committee's reference, the audit identified the following related findings and recommendations:

- Regarding "sole source procurements", the audit found there were insufficient provisions in Judicial Fiscal Rules and a lack of SCAO policies and procedures. The recommendation was to establish and implement written rules, policies, and procedures related to sole source procurements.
- Regarding "procurement cards", the audit found a lack of written rules and clarity defining and regarding a proper designated "budget authority" for approval of procurement card purchases. The recommendation was to improve controls by establishing written policies related to "budget authority" approval.
- Regarding the "SCAO administrative framework", the audit "identified problems with the SCAO's oversight of and accountability for its human resources and financial services functions that raise questions about the efficacy of the SCAO's system of internal control, including, in particular, its culture of accountability." The audit identified the "appearance of impropriety", the "failure to establish structure, responsibility, and authority" for contracts and approvals, and the "failure to design and implement control activities" including the segregation of duties and document retention. The audit determined these were failures of "Judicial Rules, Policies, and Procedures" and "monitoring activities" leading to the following conclusion: "Because the SCAO has not established an effective system of internal controls, it has not been transparent in some of its activities and cannot always demonstrate good stewardship of public funds." The recommendation was to "implement an effective system of internal control that fosters a culture of integrity, ethical

values, and accountability" through updated policies, procedures, and Judicial Rules and implementing monitoring activities.

The 2020 audit identified weak fiscal controls generally and a lack of specificity in oversight rules and procedures. While the audit did not address fiscal oversight at the judicial districts level, it is reasonable that the Courts would have an interest in establishing greater centralized oversight of procurement and contracts based on the findings of the audit. While staff is not able to comment on the Courts progress related to the audit findings for the SCAO, staff does believe that this request for a centralized and reinforced Contract Management Unit is integral and critical for the SCAO to improve its oversight of procurement and contracts generally.

CENTRALIZED CONTRACT MANAGEMENT

An addition of 17.0 FTE across the Courts' current requests to reinforce the centralized contract management unit appears to be a substantial increase in FTE. However, the move to centralized contract management at the SCAO should provide operating efficiencies at the judicial district level.

The Courts state that the current workload for the 4.0 FTE contract management unit is overwhelming and has led to two staff, including the contract management unit lead, to resign after just over a year in the position. The Courts provided the following workload statistics:

- 5,058 active contracts
- 1,555 probation services contracts pending (to be drafted and finalized)
- 854 contracts processed and completed since February 2021
- 291 contracts in the queue as initial drafts
- 14,901 supplier documents (e.g. insurance and vendor certifications) awaiting review and approval
- 232 criminal history checks processed
- 1,269 criminal history checks pending

The Courts state that it is anticipated procurement and contracts staff will process at least 650 purchase orders and 2,500-3,000 contracts annually. The Courts provided data from the Departments of Public Health and Environment (CDPHE) and Health Care Policy and Financing (HCPF) for comparison. According to this data, HCPF includes a purchasing and contract unit of 12.0 FTE that handles 350-400 purchase orders and 350 contracts per year; and CDPHE includes a contract unit of 11.0 FTE that processes 3,400 contracts per year but does not perform contract administration.

It is unclear to staff that there is a correct number of additional staff that should be added based on the comparison data due to the differences in tasks and responsibilities. At this time, staff is comfortable recommending the requested positions based on a rough equivalence with the comparison departments and the workload statistics provided.

The following table outlines the Courts requested positions and salary amounts as well as the identified occupational classification salary range for those positions.

S1 PURCHASING AND CONTRACTS FTE - STAFFING REQUESTS AND CLASS SALARY RANGE						
	FTE	REQUESTED	SALARY	IDENTIFIED OCCUPATIONAL CLASS SALARY RANGE		
		MO. BASE SALARY	QUARTILE	MINIMUM	MAXIMUM	MIDPOINT
CMU Manager - (Legal Contracts Manager)	1.0	\$11,000	Q3	\$8,542	\$11,832	\$10,187
CMU Specialist I (Contract Admin III)	4.0	6,058	Q4	4,370	6,395	5,383
CMU Specialist II (Contract Admin IV)	2.0	6,792	Q3	5,428	7,946	6,687
CMU Specialist III (Contract Admin V)	1.0	8,250	Q2	6,792	10,296	8,544
Purchasing Agent II (Purchasing Agent IV)	1.0	7,369	Q4	5,428	7,946	6,687

As outlined in the table, the Courts request funding at greater than midpoint for all positions except the CMU Specialist III. However, the standard Committee policy is to appropriate at the range minimum. Setting salary at the requested amount is neither explained nor justified in the narrative as it relates to Committee policy; therefore, staff recommends an appropriation at the minimum for these positions.

The Judicial personnel system does not currently include the identified occupational classes. The Courts have established the job description and salary range for the CMU Manager position, and that data is included in the table. The Courts state that they are modeling the additional occupational classes on the executive branch occupational classes included in parentheses in the table. Staff has included salary range data from the executive branch personnel system for this analysis.

Additionally, the request includes POTS; Committee policy excludes POTS in the first year of the appropriation, after which POTS are accounted for in the statewide POTS appropriations calculated in agency compensation templates.

Unusually, while the Courts have included \$298,121 as their request amount, the detail table in the request narrative outlines an itemized total expense of \$342,768 for FY 2021-22.

The following table outlines the itemized request amounts and recommended appropriation details. Although this supplemental recommendation and action addresses only FY 2021-22, recommended out-year funding for FY 2022-23 and future years is included in this illustration and will be presented for recommendation at figure setting for FY 2022-23 for the BA1 request.

S1 PURCHASING AND CONTRACTS FTE REQUEST AND RECOMMENDATION								
	FY 2021-22		FY 2021-22		FY 2022-23		FY 2023-24	
	REQUEST		RECOMMENDATION		REC. ANNUALIZATION		REC. ANNUALIZATION	
	FTE	Cost	FTE	Cost	FTE	Cost	FTE	Cost
Personal Services								
CMU Manager - (Legal Contracts Manager)	1.0	\$49,434	0.3	\$28,945	1.0	\$129,332	1.0	\$129,332
CMU Specialist I (Contract Admin III)	4.0	108,899	1.0	59,231	4.0	236,924	4.0	236,924
CMU Specialist II (Contract Admin IV)	2.0	61,046	0.5	36,785	2.0	147,142	2.0	147,142
CMU Specialist III (Contract Admin V)	1.0	37,076	0.3	23,014	1.0	92,059	1.0	92,059
Purchasing Agent II (Purchasing Agent IV)	1.0	33,116	0.3	18,393	1.0	73,571	1.0	73,571
Subtotal - Personal Services	9.0	289,571	2.4	166,368	9.0	679,028	9.0	679,028
POTS		25,774		0		38,979		38,979
Operating Expense		8,550		3,915		12,150		12,150
Capital Outlay		18,873		55,800		0		0
Total	9.0	\$342,768	2.4	\$226,083	9.0	\$730,157	9.0	\$730,157

Staff recommends an appropriation of \$226,083 General Fund and 2.4 FTE for FY 2021-22.

C&P S2 IT INFRASTRUCTURE UPGRADES

	REQUEST	RECOMMENDATION
TOTAL	\$9,073,128	\$0
FTE	0.0	0.0
General Fund	0	0
Cash Funds	0	0
Federal Funds	9,073,128	0

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? YES

[An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]

Explanation: JBC staff and the Department agree that this request is the result of data that was not available when the original appropriation was made and an unforeseen contingency.

DEPARTMENT REQUEST: The Courts and Probation requests \$9,073,128 federal funds from Coronavirus State and Local Recovery Funds (ARPA) for information technology infrastructure upgrades.

STAFF RECOMMENDATION: Staff recommends that the Committee deny the supplemental request. Consistent with the Committee's action based on staff's recommendation in the briefing document, staff has forwarded the supplemental request to the Joint Technology Committee (JTC) for consideration as a FY 2022-23 IT Capital project.

STAFF ANALYSIS: Staff has generally, and in principle, addressed this request in the briefing document and presentation. Likewise, the Committee accepted staff's recommendation to have the JTC address this supplemental along with the FY 2022-23 request as a FY 2022-23 appropriation.

Nevertheless, for the Committee's information and consideration, the Courts provide the following new information in their S2 request:

In the interim, the Department has made a strategic decision to purchase nearly \$4.5 million of hardware identified in the four-year IT Infrastructure Upgrade Plan due to the critical and essential nature of these items for the stability and reliability of the Judicial IT network and resultant impact on court and probation operations. With current supply chain issues and production lead times, waiting to order these items until mid-2022 was an unacceptable alternative as the need for relief is immediate.

...
Timing is a key Departmental concern. Since the Department has incurred \$4.5 million in expenses and the JTC's recommendation are not due until February 15th, there is the potential for over-expenditure in the Department's IT Infrastructure line item during the current fiscal year if additional spending authority is not granted. Further, it is the Department's understanding that if this four-year infrastructure plan is approved as an IT Capital Request, while funds will be available upon signature of the Long Bill, expenses occurred prior to its signing cannot be charged to that appropriation. A potential option is to include this supplemental request into the FY23 Long Bill after the JTC has made its decision on this project.

The Courts appear to have opted to proceed with commitments for requested appropriations that have not yet been approved or appropriated. If the line item is overspent, the State Controller will place a restriction on the line item requiring an increased appropriation in FY 2022-23 to cover both that expenditure and the upcoming fiscal year costs. In that eventuality, the Courts appear to have made a decision that tied the JBC's hands and either outright usurped or at least infringed upon legislative authority over budget decisions.

Nevertheless, at this time, staff continues to maintain that it is in the interest of the budget process to have this request be reviewed and recommended by the JTC as a FY 2022-23 request and potential IT Capital project.

Further, staff believes it is in the interest of the budget process and the JBC, the JTC, and the General Assembly, that the Courts actions should not influence the JBC's, JTC's, or General Assembly's deliberations on the scope, necessity, or fund source for the overall request.

Finally, staff does not believe that it is the Committee's role to preemptively address and resolve the Courts payment or reimbursement concerns related to their financial actions and commitments, regardless of the perceived need. Staff would refer to the findings in the 2020 audit that recommended the implementation of "an effective system of internal control that fosters a culture of integrity, ethical values, and accountability". At this time, this is simply a spending authority decision for the General Assembly; and the Committee should not take action it would not have otherwise taken simply to cover the Court's premature assumption of or infringement on that authority.

C&P S3 COURTHOUSE MAINTENANCE

	REQUEST	RECOMMENDATION
TOTAL	\$1,538,580	\$1,538,580
FTE	0.0	0.0
General Fund	1,538,580	1,538,580
Cash Funds	0	0
Federal Funds	0	0

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? YES

[An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]

Explanation: JBC staff and the Department agree that this request is the result of data that was not available when the original appropriation was made.

DEPARTMENT REQUEST: The Courts and Probation requests \$1,538,580 General Fund for county-initiated courthouse remodeling projects. Additionally, the Department requests two-year spending authority for this line item.

STAFF RECOMMENDATION: Staff recommends that the Committee approve the request, including two-year spending authority.

STAFF ANALYSIS: The Courts cite sections 13-3-104 and 13-3-108, C.R.S., for the basis of capital construction-related funding for court facilities. Section 13-3-104, C.R.S., provides the following:

13-3-104. State shall fund courts. (1) *The state of Colorado shall provide funds by annual appropriation for the operations, salaries, and other expenses of all courts of record within the state, except for county courts in the city and county of Denver and municipal courts.*

(2) *When a board of county commissioners determines that any furniture or equipment transferred to the judicial department as of January 1, 1970, has historic value, it shall remain in the county courthouse and revert to the county when no longer used by the judicial department.*

Sections 13-3-108, (1), (2), and (4)(a), C.R.S., provide the following (emphasis added):

13-3-108. Maintenance of court facilities - capital improvements. (1) *The board of county commissioners in each county shall continue to have the responsibility of providing and maintaining adequate courtrooms and other court facilities including janitorial service, except as otherwise provided in this section.*

(2) *The court administrator, subject to the approval of the chief justice, shall prepare annually a capital construction budget. The capital construction budget shall specify: The additional court housing facilities required for each court; the estimated cost of such additional structures or facilities and whether such additional court structures or facilities will include space used by other governmental units for nonjudicial purposes; and a detailed report on the present court facilities currently in use and the reasons for their inadequacy.*

(4) (a) *The chief justice is authorized to approve payment of state funds for the construction of any capital improvement facilities to be used for judicial purposes authorized and approved by the general assembly.*

While statute specifies that counties have the responsibility to provide and maintain court facilities, statute also provides that the General Assembly may authorize state funds for construction and capital improvement of court facilities. However, what appears to be tradition and practice is that the Courthouse Furnishings and Infrastructure Maintenance line item annually funds furnishings, IT infrastructure, and related architect services as requested by counties and submitted to the Courts pursuant to Section 13-3-104 (1), C.R.S. Additionally, supplemental appropriations are regularly requested for this line item.

The following table outlines the courthouse projects included in the supplemental request:

S3 COURTHOUSE FURNISHINGS AND INFRASTRUCTURE MAINTENANCE				
DISTRICT AND PROJECT	ARCH SVCS	A/V, NETWORK, AND TECH SVCS	FURNITURE	TOTAL
19th Weld Co Clerk's Office renovation	\$1,000	\$12,500	\$359,100	\$372,600
20th Boulder Co Jail Courtroom reconfiguration	0	263,805	85,800	349,605
2nd Denver Co Courtroom 476 remodel	100	52,200	114,575	166,875
9th Pitkin Co phase 3 temp move	2,000	28,000	5,500	35,500
6th San Juan Co courthouse restoration	0	(35,000)	(114,650)	(149,650)
11th Park Co probation office expansion	1,000	15,000	16,150	32,150
17th Adams Co trial courts private offices	100	2,400	13,400	15,900
17th Adams Co Commerce City probation office relocation	100	28,000	452,800	480,900
15th Cheyenne Co temp court location	1,000	15,300	0	16,300
18th Arapahoe Co temp move	100	6,500	211,800	218,400
Total	\$5,400	\$388,705	\$1,144,475	\$1,538,580

PROJECT DESCRIPTIONS

19TH WELD CO CLERK'S OFFICE RENOVATION: Weld County is replacing carpet and adding office and conference rooms in the Clerk's Office.

20TH BOULDER CO JAIL COURTROOM RECONFIGURATION: Boulder County Jail Courtroom reconfiguration that was delayed to FY 2021-22.

2ND DENVER CO COURTROOM 476 REMODEL: Denver is renovating District Courtroom 476 in the City and County Building.

9TH PITKIN CO PHASE 3 TEMP MOVE: Staff will be moved to a temporary location during construction at the courthouse.

6TH SAN JUAN CO COURTHOUSE RESTORATION: San Juan County's complete restoration of courtrooms, clerk's office, and chambers was completed in FY 2020-21 and funding is no longer needed.

11TH PARK CO PROBATION OFFICE EXPANSION: Park County added office for the Probation Department. Furnishings and IT cabling are required in the new space.

17TH ADAMS CO TRIAL COURTS PRIVATE OFFICES: Adams County is currently building two additional private offices.

17TH ADAMS CO COMMERCE CITY PROBATION OFFICE RELOCATION: Adams County is relocating the Commerce City Probation Office. Estimates have increased due to changes in the project scope.

15TH CHEYENNE CO TEMP COURT LOCATION: Cheyenne County is renovating the Cheyenne Wells Courtroom and requires staff to move to a temporary location.

18TH ARAPAHOE CO TEMP MOVE: Office tower renovation requires furniture for temporary location.

The Courts also request two-year spending authority for this line item. The Courts state that these projects are county-initiated with timelines outside of the Courts' control. Additionally, in staff's opinion it is not unusual for the completion of capital construction projects to cross fiscal years. Staff recommends that the Committee provide two-year spending authority for FY 2021-22 and on an ongoing basis for this line item.

C&P S4 FEDERAL ARPA VALE ADMIN COST

	REQUEST	RECOMMENDATION
TOTAL	\$75,768	\$58,689
FTE	0.5	0.5
General Fund	0	0
Cash Funds	0	58,689
Federal Funds	75,768	0

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? YES

[An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]

Explanation: JBC staff and the Department agree that this request is the result of a technical error in calculating the original appropriation.

DEPARTMENT REQUEST: The Courts and Probation requests \$75,768 federal ARPA funds and 0.5 FTE for "Recovery Officer" staff to assist with the administration, monitoring, and reporting of ARPA-originated funds appropriated in S.B. 21-292. Staff has clarified that the request is for cash funds from the Economic Relief and Recovery Cash Fund created in Section 24-75-228 (2)(a), C.R.S. Staff has further clarified that this request extends to FY 2022-23, FY 2023-24, and FY 2024-25.

Technical note: This request was submitted as S4/BA3 (supplemental request 4 for FY 2021-22 and budget amendment request 3 for FY 2022-23). The S4 supplemental request includes only the VALE administrative expenses portion; therefore this analysis only includes the VALE portion of the request. The additional IT Infrastructure administrative expenses portion included in BA3 is not addressed in this analysis, but will be included in a figure setting analysis.

STAFF RECOMMENDATION: Staff recommends that the Committee consider funding the request with the adjustments included in the table in the staff analysis section. Staff recommends a total appropriation of \$58,689 cash funds from the Economic Relief and Recovery Cash Fund and 0.5 FTE for FY 2021-22.

STAFF ANALYSIS: Senate Bill 21-292, *Federal COVID Funding for Victim's Services*, appropriated \$3.0 million to the Victims and Witnesses Assistance and Law Enforcement Fund (VALE Fund). The appropriation clause is to the Judicial Department and assigns responsibility to the Judicial Department for the accounting related to the program. Section 24-4.2-103 (1.7)(a), C.R.S., specifies the funding provided "to the office of the court administrator for distribution to the district attorney's office of each judicial district to be used for victims and witness assistance and law enforcement programs...".

However, Section 24-4.2-103 (1.7)(c), C.R.S., provides access of up to 10 percent of the appropriation for administrative expenses only to the district attorney's office in each judicial district. The bill neither appropriates nor provides access to administrative funds to the Judicial Department, the authorized custodian of the appropriation.

The Courts state the following in their request narrative:

In the July budget users meeting, the Governor's State Office of Planning and Budgeting (OSPB) instructed Departments (including Judicial) to submit requests for administrative assistance for monitoring and compliance of programs that receive federal funds from the CARES Act or ARPA (American Rescue Plan Act). The Judicial Department soon thereafter submitted a request to OSPB for assistance for the implementation of SB21-292 Section 5 (since there was no federal appropriation for administrative assistance). In September, the Department was advised that OSPB had to speak to the JBC regarding the request. With this uncertain resolution, the Department is submitting this supplemental request for federal administrative dollars to offset the considerable costs incurred with the implementation of SB21-292.

It was staff's understanding, based on the request, that the Courts solution as presented in the request is for an appropriation from the "federal" funds provided to OSPB for allocation to departments for ARPA-related administrative expenses. However, as staff understands this source, OSPB has authority over those funds for allocation; it is not possible to appropriate funds from that source for the Courts' request.

Nevertheless, the Courts should have been provided access to administrative expenses from the appropriation to the VALE Fund as the designated custodian of that appropriation. On that basis, staff would have recommended that the Committee pursue legislation to authorize Judicial Department access to a portion of the appropriation for administrative expenses. However, the Courts report that all \$3.0 million of the appropriation to the VALE Fund has been awarded to local VALE boards, and is therefore no longer available to fund administrative expenses.

After follow-up, the Courts further clarified that this request should be funded from the Economic Relief and Recovery Cash Fund created in Section 24-75-228 (2)(a), C.R.S., which funded the appropriations included in S.B. 21-292. On that basis it appears that this request for funding for this purpose meets the statutory requirements for this fund source.

Specifically, the Courts outline a total expense of \$75,768 and 0.5 FTE for the supplemental appropriation request for FY 2021-22. The Courts have also submitted a companion budget amendment request (BA3) that includes \$75,768 and 0.5 FTE for FY 2022-23, FY 2023-24, and FY 2024-25.

The Courts request funding for a half-time Accountant IV position to serve as Recovery Officer for the VALE Fund appropriation, with an identified monthly base salary of \$10,042. The salary range provided for an Accountant IV in the Judicial Branch personnel system is \$6,309 to \$10,042. The request is at the range maximum, while the standard Committee policy is to appropriate at the range minimum. However, this position is a temporary position; on that basis, staff recommends an appropriation at the midpoint of \$8,176. Additionally, the request includes POTS; Committee policy excludes POTS in the first year of the appropriation, after which POTS are accounted for in the statewide POTS appropriations calculated in agency compensation templates.

The following table outlines the requested and recommended appropriation details. Although this supplemental recommendation and action addresses only FY 2021-22, recommended out-year funding for the period of the request is included in this illustration and will be presented for recommendation at figure setting for FY 2022-23 for the VALE portion of the BA3 request. All

appropriations from this ARPA-originated, cash fund source expire on December 30, 2024, therefore a half-year of funding is identified for FY 2024-25.

S4 FEDERAL ARPA VALE ADMIN COST REQUEST										
	FY 2021-22 REQUEST		FY 2021-22 RECOMMENDATION		FY 2022-23 ANNUALIZATION		FY 2023-24 ANNUALIZATION		FY 2024-25 ANNUALIZATION	
	FTE	Cost	FTE	Cost	FTE	Cost	FTE	Cost	FTE	Cost
Personal Services - Accountant IV	0.5	\$66,965	0.5	\$55,139	0.5	\$55,139	0.5	\$55,139	0.3	\$27,570
POTS		6,128		0		14,989		14,989		7,495
Operating Expense		475		1,350		1,350		1,350		675
Capital Outlay		2,200		2,200		0		0		0
Subtotal FY 2021-22	0.5	\$75,768	0.5	\$58,689						
FY 2022-23	0.5	75,768			0.5	71,478				
FY 2023-24	0.5	75,768					0.5	71,478		
FY 2024-25	0.5	37,884							0.3	35,739
Total		\$265,188								\$237,384

Staff recommends a total appropriation of \$58,689 and 0.5 FTE for FY 2021-22, as outlined in the table.

C&P S5 PERSISTENT DRUNK DRIVING CONTRACT

	REQUEST	RECOMMENDATION
TOTAL	\$157,352	\$157,352
FTE	0.0	0.0
General Fund	0	0
Cash Funds	0	0
Reappropriated Funds	157,352	157,352
Federal Funds	0	0

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? YES

[An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]

Explanation: JBC staff and the Department agree that this request is the result of data that was not available when the original appropriation was made.

DEPARTMENT REQUEST: The Courts and Probation requests \$157,352 reappropriated funds spending authority from the Department of Human Services related to the persistent drunk driving contract.

STAFF RECOMMENDATION: Staff recommends that the Committee approve the request.

STAFF ANALYSIS: For Offender Treatment and Services in Probation, the Courts receive reappropriated funds from the Department of Human Services Office of Behavioral Health to provide treatment and support for probation offenders who qualify as persistent drunk drivers. On June 28, 2021, through an interagency agreement amendment, the Department of Human Services increased

the transfer to the Offender Treatment and Services appropriation by \$157,352, from \$888,341 to \$1,045,693.

OADC S1 CASELOAD DECREASE

	REQUEST	RECOMMENDATION
TOTAL	(\$5,513,424)	(\$5,513,424)
FTE	0.0	0.0
General Fund	(5,513,424)	(5,513,424)
Cash Funds	0	0
Federal Funds	0	0

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? YES

[An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]

Explanation: JBC staff and the Department agree that this request is the result of data that was not available when the original appropriation was made.

DEPARTMENT REQUEST: The Office of the Alternate Defense Counsel requests a decrease adjustment of \$5,513,424 General Fund for the Office's revised projected lower caseload for FY 2021-22.

STAFF RECOMMENDATION: Staff recommends that the Committee approve the request.

STAFF ANALYSIS: The Office of the Alternate Defense Counsel has revised its estimate of total cases in FY 2021-22 to 26,246 from an original estimate of 29,425. This represents a 10.8 percent decrease.

The Office also estimates decreases of 12.21 percent for its Conflicts-of-interest Contracts and Mandated Costs line items. The following table outlines the Office's estimated decreases.

OFFICE OF ALTERNATE DEFENSE COUNSEL FY 2021-22 REVISED LINE ITEM ESTIMATES			
LINE ITEM	CURRENT	REVISED	DIFFERENCE
Conflict-of-interest Contracts	\$42,262,813	\$37,102,912	(\$5,159,901)
Mandated Costs	2,895,573	2,542,050	(353,523)
Total Adjustment			(\$5,513,424)

The Office has confirmed to staff that this decrease is a reasonable adjustment that they have identified will revert at the end of the fiscal year. Staff recommends that the Committee approve the request.

STAFF-INITIATED SUPPLEMENTAL REQUESTS

STAFF-INITIATED – ORPC FOOTNOTE CORRECTION

	REQUEST	RECOMMENDATION
TOTAL	\$0	\$0
FTE	0.0	0.0
General Fund	0	0
Cash Funds	0	0
Federal Funds	0	0

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? YES

[An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]

Explanation: JBC staff recommends the correction of a technical error in the Office's Long Bill Footnote.

DEPARTMENT REQUEST: The Office of the Respondent Parents' Counsel did not submit a formal supplemental request, but informed staff of a technical error in Long Bill footnote 65 regarding the Office's line item transfer authority.

STAFF RECOMMENDATION: Staff recommends that the Committee approve a correction for Long Bill footnote 65 to adjust line item transfer authority from 2.5 percent to 5.0 percent, consistent with the figure setting recommendation and Committee approval.

STAFF ANALYSIS: The Office of the Respondent Parents' Counsel informed staff of a technical error in Long Bill footnote 65 regarding the Office's line item transfer authority. The footnote is currently included as follows:

- 65 Judicial Department, Office of the Respondent Parents' Counsel -- In addition to the transfer authority provided in Section 24-75-108 (5), C.R.S., up to 2.5 percent of the total Office of the Respondent Parents' Counsel's appropriation may be transferred between line items in the Office of the Respondent Parents' Counsel.

The FY 2021-22 JBC staff figure setting document included a recommendation for a 5.0 percent transfer authority, consistent with footnote authority provided to the other independent agencies that include the Office of the State Public Defender, the Office of the Alternate Defense Counsel, and the Office of the Child's Representative. The Committee approved the staff recommendation at the conclusion of Judicial Department figure setting on March 11, 2021.

STATEWIDE COMMON POLICY SUPPLEMENTAL REQUESTS

These requests are not prioritized and are not analyzed in this packet. The JBC will act on these items later when it makes decisions regarding common policies.

DEPARTMENT'S PORTION OF STATEWIDE SUPPLEMENTAL REQUEST	TOTAL	GENERAL FUND	CASH FUNDS	REAPPROP. FUNDS	FEDERAL FUNDS	FTE
C&P NP1 – Annual Fleet Supplemental	\$12,219	\$12,219	\$0	\$0	\$0	0.0
OSPD NP1 – Annual Fleet Supplemental	8,384	8,384	0	0	0	0.0
DEPARTMENT'S TOTAL STATEWIDE SUPPLEMENTAL REQUESTS	\$20,603	\$20,603	\$0	\$0	\$0	0.0

STAFF RECOMMENDATION: The staff recommendation for these requests is pending Committee action on common policy supplementals. Staff will include the corresponding appropriations in the Department's supplemental bill based on Committee action on common policy supplementals. If staff believes there is reason to deviate from the common policy, staff will appear before the Committee at a later date to present the relevant analysis.

*JBC Staff Supplemental Recommendations - FY 2021-22
Staff Working Document - Does Not Represent Committee Decision*

Appendix A: Numbers Pages

	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2021-22 Requested Change	FY 2021-22 Rec'd Change	FY 2021-22 Total w/Rec'd Change
--	----------------------	-----------------------------	--------------------------------	----------------------------	------------------------------------

JUDICIAL DEPARTMENT
Brian Boatright, Chief Justice

C&P S1 Purchasing and contract management FTE

(2) COURTS ADMINISTRATION

(A) Administration and Technology

General Courts Administration	<u>27,764,117</u>	<u>26,612,170</u>	<u>298,121</u>	<u>226,083</u>	<u>26,838,253</u>
FTE	221.2	251.3	9.0	2.4	253.7
General Fund	19,584,559	17,039,620	298,121	226,083	17,265,703
Cash Funds	6,097,872	7,318,958	0	0	7,318,958
Reappropriated Funds	2,081,686	2,253,592	0	0	2,253,592
Federal Funds	0	0	0	0	0

Total for C&P S1 Purchasing and contract management FTE	27,764,117	26,612,170	298,121	226,083	26,838,253
<i>FTE</i>	<u>221.2</u>	<u>251.3</u>	<u>9.0</u>	<u>2.4</u>	<u>253.7</u>
General Fund	19,584,559	17,039,620	298,121	226,083	17,265,703
Cash Funds	6,097,872	7,318,958	0	0	7,318,958
Reappropriated Funds	2,081,686	2,253,592	0	0	2,253,592
Federal Funds	0	0	0	0	0

*JBC Staff Supplemental Recommendations - FY 2021-22
Staff Working Document - Does Not Represent Committee Decision*

	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2021-22 Requested Change	FY 2021-22 Rec'd Change	FY 2021-22 Total w/Rec'd Change
C&P S2 IT infrastructure upgrades					
(2) COURTS ADMINISTRATION					
(A) Administration and Technology					
Information Technology Infrastructure	<u>14,492,262</u>	<u>15,976,260</u>	<u>9,073,128</u>	<u>0</u>	<u>15,976,260</u>
General Fund	0	125,230	0	0	125,230
Cash Funds	14,492,262	15,851,030	0	0	15,851,030
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	9,073,128	0	0
Total for C&P S2 IT infrastructure upgrades	14,492,262	15,976,260	9,073,128	0	15,976,260
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
General Fund	0	125,230	0	0	125,230
Cash Funds	14,492,262	15,851,030	0	0	15,851,030
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	9,073,128	0	0

JBC Staff Supplemental Recommendations - FY 2021-22
Staff Working Document - Does Not Represent Committee Decision

	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2021-22 Requested Change	FY 2021-22 Rec'd Change	FY 2021-22 Total w/Rec'd Change
--	----------------------	-----------------------------	--------------------------------	----------------------------	------------------------------------

C&P S3 Courthouse furnishings and infrastructure maintenance

(2) COURTS ADMINISTRATION

(C) Centrally Administered Programs

Courthouse Furnishings and Infrastructure

Maintenance	<u>1,228,658</u>	<u>1,384,262</u>	<u>1,538,580</u>	<u>1,538,580</u>	<u>2,922,842</u>
General Fund	1,228,658	1,384,262	1,538,580	1,538,580	2,922,842
Cash Funds	0	0	0	0	0
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0

Total for C&P S3 Courthouse furnishings and infrastructure maintenance	1,228,658	1,384,262	1,538,580	1,538,580	2,922,842
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
General Fund	1,228,658	1,384,262	1,538,580	1,538,580	2,922,842
Cash Funds	0	0	0	0	0
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0

JBC Staff Supplemental Recommendations - FY 2021-22
Staff Working Document - Does Not Represent Committee Decision

	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2021-22 Requested Change	FY 2021-22 Rec'd Change	FY 2021-22 Total w/Rec'd Change
--	----------------------	-----------------------------	--------------------------------	----------------------------	------------------------------------

C&P S4 Federal ARPA administrative cost request

(2) COURTS ADMINISTRATION

(A) Administration and Technology

General Courts Administration	<u>27,764,117</u>	<u>26,612,170</u>	<u>75,768</u>	<u>58,689</u>	<u>26,670,859</u>
FTE	221.2	251.3	0.5	0.5	251.8
General Fund	19,584,559	17,039,620	0	0	17,039,620
Cash Funds	6,097,872	7,318,958	75,768	58,689	7,377,647
Reappropriated Funds	2,081,686	2,253,592	0	0	2,253,592
Federal Funds	0	0	0	0	0

Total for C&P S4 Federal ARPA administrative cost request	27,764,117	26,612,170	75,768	58,689	26,670,859
FTE	<u>221.2</u>	<u>251.3</u>	<u>0.5</u>	<u>0.5</u>	<u>251.8</u>
General Fund	19,584,559	17,039,620	0	0	17,039,620
Cash Funds	6,097,872	7,318,958	75,768	58,689	7,377,647
Reappropriated Funds	2,081,686	2,253,592	0	0	2,253,592
Federal Funds	0	0	0	0	0

JBC Staff Supplemental Recommendations - FY 2021-22
Staff Working Document - Does Not Represent Committee Decision

	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2021-22 Requested Change	FY 2021-22 Rec'd Change	FY 2021-22 Total w/Rec'd Change
--	----------------------	-----------------------------	--------------------------------	----------------------------	------------------------------------

C&P S5 Persistent drunk driving contract adjustment

(4) PROBATION AND RELATED SERVICES

Offender Treatment and Services	<u>14,346,159</u>	<u>19,758,142</u>	<u>157,352</u>	<u>157,352</u>	<u>19,915,494</u>
FTE	0.0	0.0	0.0	0.0	0.0
General Fund	269,463	276,201	0	0	276,201
Cash Funds	10,172,576	15,335,322	0	0	15,335,322
Reappropriated Funds	3,904,120	4,146,619	157,352	157,352	4,303,971
Federal Funds	0	0	0	0	0

Total for C&P S5 Persistent drunk driving contract adjustment	14,346,159	19,758,142	157,352	157,352	19,915,494
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
General Fund	269,463	276,201	0	0	276,201
Cash Funds	10,172,576	15,335,322	0	0	15,335,322
Reappropriated Funds	3,904,120	4,146,619	157,352	157,352	4,303,971
Federal Funds	0	0	0	0	0

JBC Staff Supplemental Recommendations - FY 2021-22
Staff Working Document - Does Not Represent Committee Decision

	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2021-22 Requested Change	FY 2021-22 Rec'd Change	FY 2021-22 Total w/Rec'd Change
OADC S1 Caseload decrease					
(6) OFFICE OF THE ALTERNATE DEFENSE COUNSEL					
Conflict-of-interest Contracts	<u>33,678,521</u>	<u>42,262,813</u>	<u>(5,159,901)</u>	<u>(5,159,901)</u>	<u>37,102,912</u>
General Fund	33,678,521	42,262,813	(5,159,901)	(5,159,901)	37,102,912
Mandated Costs	<u>1,381,156</u>	<u>2,895,573</u>	<u>(353,523)</u>	<u>(353,523)</u>	<u>2,542,050</u>
General Fund	1,381,156	2,895,573	(353,523)	(353,523)	2,542,050
Total for OADC S1 Caseload decrease	35,059,677	45,158,386	(5,513,424)	(5,513,424)	39,644,962
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
General Fund	35,059,677	45,158,386	(5,513,424)	(5,513,424)	39,644,962

JBC Staff Supplemental Recommendations - FY 2021-22
Staff Working Document - Does Not Represent Committee Decision

	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2021-22 Requested Change	FY 2021-22 Rec'd Change	FY 2021-22 Total w/Rec'd Change
--	----------------------	-----------------------------	--------------------------------	----------------------------	------------------------------------

ORPC Staff-initiated footnote correction

(8) OFFICE OF THE RESPONDENT PARENTS' COUNSEL

Personal Services	1,662,059	1,912,724	0	0	1,912,724
FTE	11.9	14.0	0.0	0.0	14.0
General Fund	1,593,274	1,760,249	0	0	1,760,249
Reappropriated Funds	68,785	152,475	0	0	152,475
Total for ORPC Staff-initiated footnote correction	1,662,059	1,912,724	0	0	1,912,724
<i>FTE</i>	<u>11.9</u>	<u>14.0</u>	<u>0.0</u>	<u>0.0</u>	<u>14.0</u>
General Fund	1,593,274	1,760,249	0	0	1,760,249
Reappropriated Funds	68,785	152,475	0	0	152,475

Totals Excluding Pending Items					
JUDICIAL					
TOTALS for ALL Departmental line items	767,004,577	857,385,790	5,629,525	(3,532,720)	853,853,070
<i>FTE</i>	<u>4,501.4</u>	<u>5,007.0</u>	<u>9.5</u>	<u>2.9</u>	<u>5,009.9</u>
General Fund	577,115,474	624,209,011	(3,676,723)	(3,748,761)	620,460,250
Cash Funds	142,248,550	175,210,066	75,768	58,689	175,268,755
Reappropriated Funds	41,139,529	53,541,713	157,352	157,352	53,699,065
Federal Funds	6,501,024	4,425,000	9,073,128	0	4,425,000