

JOINT BUDGET COMMITTEE



STAFF FIGURE SETTING FY 2017-18

JUDICIAL BRANCH

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

PREPARED BY:
CAROLYN KAMPMAN, JBC STAFF
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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>

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HOW TO USE THIS DOCUMENT

The Department Overview contains a table summarizing the staff recommended incremental changes followed by brief explanations of each incremental change. A similar overview table is provided for each division, but the description of incremental changes is not repeated, since it is available under the Department Overview. More details about the incremental changes are provided in the sections following the Department Overview and the division summary tables.

Decision items, both department-requested items and staff-initiated items, are discussed either in the Decision Items Affecting Multiple Divisions or at the beginning of the most relevant division. Within a section, decision items are listed in the requested priority order, if applicable.

JUDICIAL BRANCH OVERVIEW

One of three branches of Colorado state government, the Judicial Branch primarily interprets and administers the law and resolves disputes. The state court system 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. Municipal courts and Denver's county court are not part of the state court system, and they are funded by their respective local governments. The Judicial Branch also supervises juvenile and adult offenders who are sentenced to probation.

The Judicial Branch also includes the following 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 being jailed or imprisoned. The OSPD is comprised of a central administrative office, an appellate office, and 21 regional trial offices. The OSPD employs about 780 individuals including attorneys, investigators, and support staff.
- The *Office of Alternate Defense Counsel* (OADC) oversees the provision of legal representation to indigent defendants in criminal and juvenile delinquency cases when the OSPD has an ethical conflict of interest. This 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 representation to children and youth involved in the court system, primarily due to abuse, neglect, or delinquency. Generally, the Office provides legal representation by contracting with licensed attorneys across the state.
- As of July 1, 2016, 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. This office provides legal representation by contracting with licensed attorneys across the state.
- 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) hears complaints, issues findings, assesses penalties, and issues advisory opinions on ethics-related matters concerning public officers, state legislators, local government officials, or government employees.

The Department's FY 2016-17 appropriation represents approximately 2.5 percent of statewide operating appropriations and 4.9 percent of statewide General Fund appropriations.

SUMMARY OF STAFF RECOMMENDATIONS

JUDICIAL DEPARTMENT						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2016-17 APPROPRIATION						
HB 16-1405 (Long Bill)	\$690,115,303	\$486,631,108	\$164,813,980	\$34,245,215	\$4,425,000	4,610.7
Other legislation	(124,039)	(302,212)	178,173	0	0	4.4
SB 17-164 (Supplemental bill)	4,503,732	4,917,529	(437,552)	23,755	0	0.0
TOTAL	\$694,494,996	\$491,246,425	\$164,554,601	\$34,268,970	\$4,425,000	4,615.1
FY 2017-18 RECOMMENDED APPROPRIATION						
FY 2016-17 Appropriation	\$694,494,996	\$491,246,425	\$164,554,601	\$34,268,970	\$4,425,000	4,615.1
JUD R1/BA2 Courthouse capital and infrastructure maintenance	3,230,056	2,639,800	590,256	0	0	0.0
JUD R2/BA7 Language access caseload and contractor rate increase	307,916	307,916	0	0	0	0.0
JUD BA1 Restorative justice	0	0	0	0	0	0.0
JUD BA4 Long Bill clean-up and FTE true-up	361,823	0	0	361,823	0	(2.0)
OSPD R1 Deferred support staff	1,113,027	1,113,027	0	0	0	23.4
OSPD R2 Mandated and electronic data management expenses	585,831	585,831	0	0	0	0.0
OSPD R3 New criminal judge in the 12th	110,084	110,084	0	0	0	1.8
OSPD R4 Vehicles	(2,282)	(2,282)	0	0	0	0.0
OSPD BA1 Bandwidth	(99,963)	(99,963)	0	0	0	0.0
OADC R1 OADC salary survey	24,203	24,203	0	0	0	0.0
OADC R2 Increase training cash funds spending authority	40,000	0	40,000	0	0	0.0
OADC BA1 Mandated costs	0	0	0	0	0	0.0
OCR R1/BA1 Workload and caseload adjustment	281,689	281,689	0	0	0	0.0
OCR R2 Case management and billing system	803,000	803,000	0	0	0	0.0
OCR R3 El Paso GAL office relocation	16,408	16,408	0	0	0	0.0
OCR R4 FTE adjustment	41,914	41,914	0	0	0	0.4
OCR R5 Operating expenditure increase	0	0	0	0	0	0.0
ORPC R1 Conversion to hourly billing	785,902	785,902	0	0	0	0.0
ORPC R2/BA1 Increase in case filings	219,354	219,354	0	0	0	0.0
ORPC BA2 Social worker pilot program	301,033	301,033	0	0	0	0.0
ORPC BA3 Reflect grant expenditures	7,340	0	0	7,340	0	0.0
OCPO R1 OCPO Staff and salaries	125,938	125,938	0	0	0	1.5
CDAC R1 District Attorney mandated costs	67,420	67,420	0	0	0	0.0

JUDICIAL DEPARTMENT						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
CDAC R2 eDiscovery/ Annualization of SB 14-190	(1,155,411)	(1,155,411)	0	0	0	0.0
Centrally appropriated line items	19,171,137	18,446,103	725,034	0	0	0.0
Reverse supplemental action	1,255,167	694,911	560,256	0	0	0.0
Indirect cost assessment	55,998	(55,998)	42,157	69,839	0	0.0
Staff-initiated R1 Compensation alignment	21,974	21,974	0	0	0	0.0
Correctional Treatment Cash Fund allocation	3,069	0	3,069	0	0	0.0
Fund source adjustment	0	(102,160)	0	102,160	0	0.0
Annualize prior year budget actions	(11,290,818)	(2,344,144)	(8,946,674)	0	0	0.5
Annualize prior year legislation	(293,731)	(342,203)	48,472	0	0	0.5
Other	176,717	(3,953)	163,151	17,519	0	0.0
TOTAL	\$710,763,409	\$513,730,436	\$157,780,322	\$34,827,651	\$4,425,000	4,641.2
INCREASE/(DECREASE)	\$16,268,413	\$22,484,011	(\$6,774,279)	\$558,681	\$0	26.1
Percentage Change	2.3%	4.6%	(4.1%)	1.6%	0.0%	0.6%
FY 2017-18 EXECUTIVE REQUEST	\$714,295,908	\$517,129,117	\$157,914,140	\$34,827,651	\$4,425,000	4,640.8
Request Above/(Below) Recommendation	\$3,532,499	\$3,398,681	\$133,818	\$0	\$0	(0.4)

GENERAL NOTE: The descriptions of prioritized requested changes in the above table indicate the source of the request. Specifically:

- "JUD" indicates a request submitted by the Chief Justice concerning courts or probation programs;
- "OSPD" indicates a request submitted by the Office of the State Public Defender;
- "OADC" indicates a request submitted by the Office of the Alternate Defense Counsel;
- "OCR" indicates a request submitted by the Office of the Child's Representative;
- "ORPC" indicates a request submitted by the Office of the Respondent Parents' Counsel;
- "OCPO" indicates a request submitted by the Office of the Child Protection Ombudsman;
- "IEC" indicates a request submitted by the Independent Ethics Commission; and
- "CDAC" indicates a request submitted by the Colorado District Attorneys' Council.

DESCRIPTION OF INCREMENTAL CHANGES

Requests from Judicial Department (Courts/Probation)

JUD R1/BA2 COURTHOUSE CAPITAL AND INFRASTRUCTURE MAINTENANCE: The recommendation includes \$3,230,056, including \$2,639,800 General Fund and \$590,256 cash funds, to fulfill the State's responsibility to provide furnishing and equipment for court facilities, including:

- \$1,919,800 for new projects in 10 judicial districts; and
- \$1,310,256 for projects that were delayed from FY 2016-17 to FY 2017-18.

JUD R2/BA7 LANGUAGE ACCESS CASELOAD AND CONTRACTOR RATE INCREASE: The recommendation includes continuation of an \$821,775 General Fund increase that was recently approved to address a growing need for language interpreter services for individuals who are not

proficient in English, plus \$307,916 General Fund to increase by \$5.00 the hourly rate for independent contract court interpreters.

JUD BA1 RESTORATIVE JUSTICE: The recommendation includes continuation of the \$122,704 increase in cash funds spending authority from the Restorative Justice Surcharge Fund that was recently approved for FY 2016-17.

JUD BA4 LONG BILL CLEAN-UP AND FTE TRUE-UP: The recommendation includes an increase of \$361,823 reappropriated funds and a reduction of 2.0 FTE to reflect changes in staffing requirements related to federal grants and the Office of Attorney Regulation Counsel.

Requests from Office of the State Public Defender (OSPD)

OSPD R1 DEFERRED SUPPORT STAFF: The recommendation includes an increase of \$1,113,027 General Fund to add 23.4 FTE investigators, paralegals, and administrative staff to improve the ratio of support staff to attorneys.

OSPD R2 MANDATED AND ELECTRONIC DATA MANAGEMENT EXPENSES: The recommendation includes an increase of \$585,831 General Fund, including:

- \$469,585 to adjust the Mandated Costs appropriation based on recent caseload increases; and
- A one-time appropriation of \$116,246 to acquire the hardware and software necessary to receive and manage the electronic discovery that will be made available through the new statewide discovery sharing system (called “eDiscovery”).

OSPD R3 NEW CRIMINAL JUDGE IN THE 12TH: The recommendation includes \$110,084 General Fund to add 1.8 FTE to address the workload impact of adding a new district court judge in the 12th judicial district (H.B. 15-1034) due to a recent decision to reallocate criminal cases and add a new adult criminal drug court.

OSPD R4 VEHICLES: The recommendation includes a reduction of \$2,282 General Fund based on a proposal to increase the OSPD fleet of state-owned vehicles by four (from 26 to 30). The recommendation includes an increase of \$5,552 for Vehicle Lease Payments and a decrease of \$7,834 for Operating Expenses (for employee mileage reimbursements).

OSPD BA1 BANDWIDTH: The recommendation includes a reduction of \$99,963 General Fund related to a project to increase the bandwidth in OSPD regional offices to the level of service needed to support eDiscovery. The recommendation eliminates one-time funding that was provided in FY 2016-17 to purchase and install routers capable of handling the higher bandwidth for several regional offices, and provides \$46,857 General Fund for the ongoing costs of upgraded circuits that will accommodate the increased bandwidth needs.

Requests from Office of the Alternate Defense Counsel (OADC)

OADC R1 SALARY SURVEY: The recommendation includes \$24,203 General Fund to align the base salaries for three employees with those of comparable positions.

OADC R2 INCREASE TRAINING CASH FUNDS SPENDING AUTHORITY: The recommendation includes a \$40,000 increase in cash funds spending authority for training (from \$40,000 to \$80,000).

OADC BA1 MANDATED COSTS: The recommendation includes continuation of a \$582,403 General Fund increase that was recently approved for FY 2016-17 to cover higher than anticipated mandated costs.

Requests from Office of the Child's Representative (OCR)

OCR R1/BA1 WORKLOAD AND CASELOAD ADJUSTMENT: The recommendation includes \$281,689 General Fund to align the appropriation with the projected caseload and workload for state-paid court-appointed counsel. Primarily this increase is based on a projected increase in the number of dependency and neglect case filings.

OCR R2 CASE MANAGEMENT AND BILLING SYSTEM: The recommendation includes \$803,000 General Fund to replace the OCR case management and billing system.

OCR R3 EL PASO GAL OFFICE RELOCATION: The recommendation includes \$16,408 General Fund to relocate the El Paso county office to a smaller but more efficient space that is closer to the courthouse.

OCR R4 FTE ADJUSTMENT: The recommendation includes \$41,914 General Fund to convert a part-time (0.65 FTE) Staff Attorney position to a full time position.

OCR R5 OPERATING EXPENDITURE INCREASE: The recommendation includes \$24,780 General Fund to acquire licenses to a commercial legal research tool for court-appointed counsel. This increase is offset by a reduction of \$24,780 General Fund in funding for court-appointed counsel to recognize the contract attorney efficiencies that are anticipated to result from providing access to this tool.

Requests from Office of the Respondent Parents' Counsel (ORPC)

ORPC R1 CONVERSION TO HOURLY BILLING: The recommendation includes an increase of \$785,902 General Fund to convert to a consistent hourly contractor payment system, eliminating flat fee payments to attorneys in eight jurisdictions.

ORPC R2/BA1 INCREASE IN CASE FILINGS: The recommendation includes \$219,354 General Fund to align the appropriation with the projected caseload and workload for state-paid court-appointed counsel. Primarily this increase is based on a projected increase in the number of dependency and neglect case filings.

ORPC BA2 SOCIAL WORKER PILOT PROGRAM: The recommendation includes \$301,033 General Fund to allow the ORPC to implement a pilot program that will provide respondent parents' counsel in two judicial districts with access to contract social workers.

ORPC BA3 REFLECT GRANT EXPENDITURES: The recommendation includes \$7,340 to reflect anticipated training expenditures using federal grant funding that is transferred from the Department of Human Services.

Requests from Office of the Child Protection Ombudsman (OCPO)

OCPO R1 OCPO STAFF AND SALARIES: The recommendation includes \$125,938 General Fund for staffing and salary increases, including: adding 1.0 FTE to address an increasing number of calls

and complaints concerning child protection services; converting a half-time Communications Director to a full-time position; and increasing the salary of the Child Protection Ombudsman.

Requests from the Colorado District Attorneys' Council

CDAC R1 DISTRICT ATTORNEY MANDATED COSTS: The recommendation includes \$67,420 General Fund to cover projected increases in mandated costs incurred by district attorneys.

CDAC R2 EDISCOVERY/ ANNUALIZATION OF SB 14-190: The recommendation includes a decrease of \$1,155,411 General Fund for the first full year of operating eDiscovery. This system will enable the sharing and transfer of information electronically between law enforcement agencies, district attorneys' offices, and defense attorneys. As this system is implemented in each judicial district, the defense is no longer required to reimburse district attorneys for duplicating discoverable materials. The recommendation thus reflects:

- a reduction of \$1,529,303 from existing appropriations for state agencies to reimburse the prosecution for discoverable materials; and
- an increase of \$373,892 for the ongoing operations of eDiscovery and the associated ACTION case management system.

Other Changes

CENTRALLY APPROPRIATED LINE ITEMS: The recommendation includes \$19,171,137 total funds (including \$18,446,103 General Fund) related to employee benefits and other centrally appropriated line items. Most line items are pending the Committee's related common policies. The amounts in the following table reflect the amounts requested for pending items.

CENTRALLY APPROPRIATED LINE ITEMS						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
Salary survey adjustment	\$10,142,982	\$9,795,506	\$347,476	\$0	\$0	0.0
Health, life, and dental adjustment	3,812,730	3,410,885	401,845	0	0	0.0
Payments to OIT adjustment	2,713,853	2,713,853	0	0	0	0.0
SAED adjustment	1,114,346	1,122,925	(8,579)	0	0	0.0
AED adjustment	1,021,258	1,038,900	(17,642)	0	0	0.0
Payment to risk management / property funds adjustment	247,498	247,498	0	0	0	0.0
Workers' compensation adjustment	125,065	125,065	0	0	0	0.0
Leased space adjustment	39,097	39,097	0	0	0	0.0
Short-term disability adjustment	16,846	14,912	1,934	0	0	0.0
Legal services adjustment	11,472	11,472	0	0	0	0.0
CORE adjustment	(64,289)	(64,289)	0	0	0	0.0
Vehicle lease payments	(9,721)	(9,721)	0	0	0	0.0
TOTAL	\$19,171,137	18,446,103	\$725,034	\$0	\$0	0.0

REVERSE SUPPLEMENTAL ACTION: The recommendation reflects the reversal of several mid-year adjustments that were reflected in the FY 2016-17 supplemental bill for the Judicial Branch.

REVERSE SUPPLEMENTAL ACTION						
	TOTAL	GENERAL FUND	CASH	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
COURTS ADMINISTRATION Courthouse furnishings and infrastructure maintenance	\$1,345,256	\$785,000	\$560,256	\$0	\$0	0.0
COURTS ADMINISTRATION Legal services	(45,268)	(45,268)	0	0	0	0.0
OADC Leave payouts	(37,931)	(37,931)	0	0	0	0.0
ORPC Items required for ADA compliance	(6,890)	(6,890)	0	0	0	0.0
TOTAL	\$1,255,167	\$694,911	\$560,256	\$0	\$0	0.0

INDIRECT COST ASSESSMENT: The recommendation includes an increase of \$55,998 in the Department’s indirect cost assessments (including \$42,157 cash funds and \$13,841 reappropriated funds). This increase in indirect cost assessments is then applied to offset the need for General Fund in the Courts Administration section.

STAFF-INITIATED COMPENSATION ALIGNMENT: The recommendation includes \$21,974 General Fund to align salaries for several staff positions in three of the independent agencies based on a recent benchmarking study conducted by these agencies.

CORRECTIONAL TREATMENT CASH FUND ALLOCATION: The recommendation includes \$3,069 cash funds to implement the Correctional Treatment Board’s recommended allocation of money in the Correctional Treatment Cash Fund and to reflect updated information concerning indirect cost recoveries and employee benefits.

FUND SOURCE ADJUSTMENT: The recommendation reflects a \$102,160 increase in the leased space payments paid by tenants within the Ralph L. Carr Colorado Judicial Center (reappropriated funds), which allows for a \$102,160 decrease in the General Fund share of Carr Center expenses.

ANNUALIZE PRIOR YEAR BUDGET ACTIONS: The recommendation includes a decrease of \$11,290,818 (including decreases of \$2,344,144 General Fund and \$8,946,674 cash funds) and an increase of 0.5 FTE to reflect the FY 2017-18 impact of several FY 2016-17 budget decisions:

ANNUALIZE PRIOR YEAR BUDGET ACTIONS						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 16-17 JUD R1 Information Security and Supervisor Staff, Server Replacement, and Disaster Recovery	(\$6,593,764)	\$36,559	(\$6,630,323)	\$0	\$0	0.5
FY 16-17 JUD R2 Courthouse Capital and Infrastructure Maintenance	(4,692,351)	(2,376,000)	(2,316,351)	0	0	0.0
FY 16-17 OADC R2 Social Worker Coordinator	(4,703)	(4,703)	0	0	0	0.0
TOTAL	(\$11,290,818)	(2,344,144)	(\$8,946,674)	\$0	\$0	0.5

ANNUALIZE PRIOR YEAR LEGISLATION: The recommendation includes a decrease of \$293,731 total funds (including a decrease of \$342,203 General Fund and an increase of \$48,472 cash funds) and an increase of 0.5 FTE, to reflect the FY 2017-18 impact of legislation that was passed in previous legislative sessions.

ANNUALIZE PRIOR YEAR LEGISLATION						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
SB 08-054 (Judicial Performance Evaluations)	\$30,000	\$0	\$30,000	\$0	\$0	0.0
SB 16-116 (Alternate Process for Sealing Criminal Records)	18,472	0	18,472	0	0	0.5
SB 14-203 and HB 15-1149 (Office of the Respondent Parents Counsel)	(337,500)	(337,500)	0	0	0	0.0
SB 16-102 (Repeal Certain Mandatory Minimum Sentences)	(4,703)	(4,703)	0	0	0	0.0
TOTAL	(\$293,731)	(342,203)	\$48,472	\$0	\$0	0.5

OTHER: The recommendation includes several relatively small changes totaling \$176,717 (mainly cash funds).

OTHER						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
CSP Contract Adjustment for Carr Center Security	\$147,224	\$0	\$147,224	\$0	\$0	0.0
OCR Federal grant adjustment	17,519	0	0	17,519	0	0.0
Annual Carr Center debt services payment adjustment	15,927	0	15,927	0	0	0.0
Inflation for payments to exonerated persons	3,104	3,104	0	0	0	0.0
Transfer of Westlaw funding	0	0	0	0	0	0.0
Adjustment based on recent actual expenditures	(7,057)	(7,057)	0	0	0	0.0
TOTAL	\$176,717	(3,953)	\$163,151	\$17,519	\$0	0.0

MAJOR DIFFERENCES FROM THE REQUEST

Staff's recommendations for FY 2017-18 are \$3.5 million lower than the request (including \$3.4 million General Fund), including the following significant differences:

- The recommendation includes \$214,114 (including \$170,000 General Fund) more than the amount requested for Courthouse Capital and Infrastructure Maintenance to reflect updated information about a Clear Creek county project that was delayed from FY 2016-17 to FY 2017-18. The Committee recently approved a staff recommendation to eliminate the funding that was provided for this project in FY 2016-17, and staff's recommendation reinstates this funding for FY 2017-18.
- The recommendation includes \$2,855,917 total funds (including \$2,674,905 General Fund) less than the amount requested to increase salaries for judicial officers and for certain Judicial Department employees. Staff's recommendation does not include funding to apply the proposed 3.15 percent increase in base salaries for judicial officers to the salaries of other Department employees, and staff's recommendation does not include funding to make base salary adjustments for several employee classifications that the Department considers to be below market.
- The total General Fund recommendation for mandated costs for three independent agencies is \$372,773 lower than the request in order to eliminate all appropriations for reimbursing the prosecution for providing discoverable materials as anticipated by S.B. 14-190.
- The total General Fund recommendation for the Office of the Respondent Parents' Counsel for court-appointed counsel and mandated costs is \$319,103 lower than the request based on more recent caseload and expenditure projections.

DECISION ITEMS AFFECTING MULTIPLE DIVISIONS

→ CDAC R2 eDISCOVERY/ ANNUALIZATION OF S.B. 14-190

REQUEST: This request involves two components.

First, the Department, on behalf of the Colorado District Attorneys' Council (CDAC), requests a total of \$3,240,000 (including \$3,170,000 General Fund and \$70,000 cash funds from the Statewide Discovery Sharing Surcharge Fund) to support the ACTION Case Management System (used by district attorneys) and the new Statewide Discovery Sharing System. The latter system is often called the "eDiscovery" system.

Second, the requests for certain Judicial agencies reflect a reduction in appropriations for the costs of reimbursing the prosecution for providing discoverable materials. While four agency requests should have reflected reductions to eliminate appropriations for reimbursing the prosecution for providing discoverable materials, only two did:

- Courts/Probation: -\$16,694
- Office of the State Public Defender: -\$1,143,310

RECOMMENDATION: **Staff recommends approving the request for \$3,240,000** (including \$3,170,000 General Fund and \$70,000 cash funds) **to support the ACTION case management system and the new eDiscovery system.** Table 1 summarizes project expenditures to date, estimated expenditures for FY 2016-17, and recommended funding for FY 2017-18.

	FY 2014-15 ACTUAL	FY 2015-16 ACTUAL	FY 2016-17 ESTIMATE	FY 2017-18 REQUEST/ RECOMMENDATION	CUMULATIVE TOTAL
ACTION Case Management System					
Personnel	\$885,706	\$1,171,341	\$1,780,000	\$1,830,000	\$5,667,047
Supplies & Operating	88,239	106,058	170,000	375,000	739,297
Travel/Meetings	6,619	7,619	20,000	20,000	54,238
Equipment	<u>143,544</u>	<u>103,298</u>	<u>330,000</u>	<u>130,000</u>	<u>706,842</u>
Other Costs	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Subtotal	\$1,124,108	\$1,388,316	\$2,300,000	\$2,355,000	7,167,424
Maintenance and Distribution of CDAC Charge Code Table	0	0	0	135,000	135,000
eDiscovery Consultants & Other Professional Services ^a	0	2,181,267	1,000,000	750,000	3,931,267
Total Expenditures	\$1,124,108	\$3,569,583	\$3,300,000	\$3,240,000	\$11,233,691

a/ FY 2017-18 figure reflects the maximum annual maintenance cost of the Xerox/PARC portion of the system; actual costs may be lower.

Staff's recommendation includes \$190,000 that is requested for items that were not anticipated last Spring:

- \$135,000 to support the cost of maintaining the “charge code tables” and annually distributing these tables to judicial agencies¹;
- \$50,000 to cover a 2.8 percent increase in CDAC staff salaries; and
- \$5,000 to provide and periodically replace external hard drives for the OSPD and the OADC for transferring extraordinarily large files from district attorney offices.

With respect to reductions to eliminate appropriations for reimbursing the prosecution for providing discoverable materials, staff recommends General Fund reductions totaling \$1,529,303. Table 2 details the appropriation reductions that occurred in FY 2016-17, and the additional reductions staff recommends for FY 2017-18.

DESCRIPTION	COURTS/ PROBATION	OFFICE OF THE STATE PUBLIC DEFENDER	OFFICE OF THE ALTERNATE DEFENSE COUNSEL	OFFICE OF THE CHILD'S REPRESENTATIVE	TOTAL	PERCENT OF TOTAL
Actual FY 2014-15 Reimbursements Paid	\$16,694	\$1,961,492	\$567,723	\$17,588	\$2,563,497	
FY 2016-17 – Initial Reduction	(3,474)	(806,506)	(216,815)	(7,399)	(1,034,194)	40.3%
FY 2017-18 - Additional Reduction	(13,220)	(1,154,986)	(350,908)	(10,189)	(1,529,303)	59.7%
Total Amounts Shifted to Support Ongoing ACTION and eDiscovery Operations	(\$16,694)	(\$1,961,492)	(\$567,723)	(\$17,588)	(\$2,563,497)	100.0%

Staff’s overall recommendation is \$372,773 lower than the request, including differences for three agencies:

- The Office of the Alternate Defense Counsel did not reflect any reduction for FY 2017-18. Staff recommends a reduction of \$350,908.
- The Office of the State Public Defender requested a reduction, but it excluded \$11,676 that relates to payments to the Department of Law. The Discovery Project Steering Committee has confirmed that eDiscovery will be used by the Department of Law and the Department of Law will not be allowed to charge for discovery.
- The Office of the Child’s Representative did not reflect any reduction for FY 2017-18. Staff recommends a reduction of \$10,189.

Based on the cumulative amount of General Fund that will be redirected to support the new system (\$2,563,497), \$606,503 “new” General Fund will be required for the first full year of system operations. Table 3 provides a summary of appropriations and adjustments for FY 2016-17 and FY 2017-18.

¹ These tables are used to code various criminal charges based on the statutory sentencing structure. These tables are updated annually to reflect legislative changes. The CDAC plans to share these tables with the State Court Administrator’s Office, the Office of the State Public Defender, the Office of the Alternate Defense Counsel, and various law enforcement agencies. This will allow each agency to utilize the same coding scheme, thereby making it easier to pull consistent data sets for purposes of estimating the impact of sentencing provisions. The requested funding would support 1.0 FTE dedicated to this effort.

TABLE 3: FUNDING FOR THE ACTION AND eDISCOVERY SYSTEMS,
FY 2016-17 AND FY 2017-18

DIVISION: LINE ITEM	FY 2016-17 APPROPRIATION			FY 2017-18 RECOMMENDATION AND CUMULATIVE ADJUSTMENTS		
	GENERAL FUND	CASH FUNDS	TOTAL	GENERAL FUND	CASH FUNDS	TOTAL
Trial Courts: ACTION and Statewide Discovery Sharing Systems	\$2,796,108	\$70,000	\$2,866,108	\$3,170,000	\$70,000	\$3,240,000
<u>Adjustments to Appropriations to Reimburse the Prosecution for Discovery^a:</u>						
Trial Courts: Court Costs, Jury Costs, and Court-appointed Counsel	(3,474)	0	(3,474)	(16,694)	0	(16,694)
Office of the State Public Defender: Mandated Costs	(806,506)	0	(806,506)	(1,961,492)	0	(1,961,492)
Office of the Alternate Defense Counsel: Mandated Costs	(216,815)	0	(216,815)	(567,723)	0	(567,723)
Office of the Child's Representative: Mandated Costs	<u>(7,399)</u>	<u>0</u>	<u>(7,399)</u>	<u>(17,588)</u>	<u>0</u>	<u>(17,588)</u>
Subtotal	(1,034,194)	0	(1,034,194)	(2,563,497)	0	(2,563,497)
TOTAL "NEW" FUNDING	\$1,761,914	\$70,000	\$1,831,914	\$606,503	\$70,000	\$676,503

a/ General Fund appropriation amounts that are shifted from state agencies to the eDiscovery project are based on actual FY 2014-15 payments to district attorneys and the Department of Law for discoverable materials. The amounts for FY 2016-17 reflect a portion of such payments (\$1,034,194), based on the scheduled system implementation in each judicial district during FY 2016-17. For FY 2017-18, the full amount of payments made in FY 2014-15 (\$2,563,497) is anticipated to be shifted to the eDiscovery project based on statewide implementation being completed by July 1, 2017.

For further information about the eDiscovery project and the authorizing legislation, see the JBC Staff Budget Briefing for the Judicial Branch, dated November 28, 2016 (starting on page 19).

➔ SALARY INCREASES FOR JUDICIAL OFFICERS AND EMPLOYEES

REQUEST: The Department's request for Salary Survey includes a total of \$11,440,343, including:

- \$6,719,595 to increase salaries for all employees, including judicial officers, by 2.5 percent;
- \$2,348,227 to increase salaries for certain employee classifications that are considered 3.0 percent or more below market;
- \$2,102,298 to increase all judicial officer salaries (including those for Magistrates and Water Referees) by an additional 3.15 percent; and
- \$270,223 to increase by an additional 3.15 percent the salaries of certain Judicial Department staff whose salaries are benchmarked to judicial officer salaries.

The following table summarizes the request by component, employee type, and fund source.

SALARY SURVEY: FUNDING REQUESTED FOR SALARY INCREASES			
	GENERAL FUND	CASH FUNDS	TOTAL FUNDS
<u>Judicial Officers</u>			
Common policy of 2.5 percent increase	\$1,619,687	\$9,672	\$1,629,359
Proposed 3.15 percent increase for judicial officers (phase one of two)	<u>2,089,820</u>	<u>12,478</u>	<u>2,102,298</u>
Subtotal	3,709,507	22,149	3,731,657
<u>Other Employees</u>			
Common policy of 2.5 percent increase	4,764,908	325,327	5,090,236
Proposed 3.15 percent increase for judicial officers (phase one of two)	251,430	18,792	270,223
Funding to align salaries for certain employee classifications that are considered 3.0 percent or more below market	<u>2,199,669</u>	<u>148,559</u>	<u>2,348,228</u>
Subtotal	7,216,008	492,678	7,708,686
Total	\$10,925,515	\$514,828	\$11,440,343

The Department's requests for centrally appropriated line items include additional funding totaling \$822,194 for the associated short-term disability and supplemental PERA payment expenses.

Judicial Officer salary increases

The Department proposes increasing judicial officer salaries by 6.3 percent over the next two fiscal years.

RECOMMENDATION: Staff recommends:

- Including funding to increase the salaries of all Judicial Department employees, including judges and justices, by applying the Committee’s common policies for Salary Survey and/or Merit Pay; and
- Including funding to increase the salaries of all judges and justices (including magistrates and water referees) by an additional 3.15 percent.

Staff does not recommend:

- Applying the proposed 3.15 percent increase for judges and justices to any other Judicial Department employees; or
- Providing the funding requested to align the salary ranges for certain Judicial Department employee classifications that are considered at least 3.0 percent below market based on a recent compensation study.

The following table summarizes the recommendation by component, employee type, and fund source.

SALARY SURVEY: FUNDING RECOMMENDED FOR SALARY INCREASES			
	GENERAL FUND	CASH FUNDS	TOTAL FUNDS
<u>Judicial Officers</u>			
Common policy of 2.5 percent increase	\$1,619,687	\$9,672	\$1,629,359
Proposed 3.15 percent increase for judicial officers (phase one of two)	<u>2,089,820</u>	<u>12,478</u>	<u>2,102,298</u>
Subtotal	3,709,507	22,149	3,731,657
<u>Other Employees</u>			
Common policy of 2.5 percent increase	4,764,908	325,327	5,090,236
Proposed 3.15 percent increase for judicial officers (phase one of two)	0	0	0
Funding to align salaries for certain employee classifications that are considered 3.0 percent or more below market	<u>0</u>	<u>0</u>	<u>0</u>
Subtotal	4,764,908	325,327	5,090,236
Total	\$8,474,415	\$347,477	\$8,821,892

Staff's recommendations for centrally appropriated line items include additional funding totaling \$584,728 for the associated short-term disability and supplemental PERA payment expenses.

ANALYSIS:

Establishing Salaries for Judges and Justices

Judicial Department employees are not part of the State classified system. Specifically, Sections 13 (2) and (3) of Article XII of the State Constitution state that:

- the State Personnel System excludes “members, officers, and employees of the legislative and judicial departments of the state, unless otherwise specifically provided in the constitution”; and
- “Officers and employees within the judicial department, other than judges and justices, may be included within the personnel system of the state upon a determination by the supreme court, sitting en banc, that such would be in the interests of the state.”

Section 18 of Article VI of the State Constitution states that, “Justices and judges of courts of record shall receive such compensation as may be provided by law, which may be increased but may not be decreased during their term of office and shall receive such pension or retirement benefits as may be provided by law”. In carrying out its responsibility to provide for judicial officer salaries, the General Assembly established the “Colorado Judicial Compensation Act”². Sections 13-30-103 and 104, C.R.S., established judicial salaries for various fiscal years during the 1990s. These provisions state that any salary increases above those set forth in statute “shall be determined by the general assembly as set forth in the annual general appropriations bill”. Thus, since FY 1999-00, the General Assembly has annually established judicial officer salaries through a footnote in the Long Bill. The footnote also establishes the salaries for the individuals who head the four of the independent judicial agencies by tying them to specific judicial salaries.

Recent Increases in Judicial Officer Salaries

Two years ago, the Department submitted a proposal to increase all judicial officer salaries by a total of 14.71 percent over two fiscal years (9.71 percent in FY 2015-16 and 5.0 percent in FY 2016-17).

² See Section 13-30-101, et seq., C.R.S.

The overall 14.71 percent increase was based on the gap between the salary for district court judges and the maximum of the pay ranges for attorney classifications in two other state agencies: Deputy Attorney General at the Department of Law and the Office Heads at the Office of the State Public Defender. The General Assembly approved the requested increase for FY 2015-16, but did not approve the proposed increase for FY 2016-17. Thus, the salaries listed in the above footnote for FY 2016-17 remain unchanged from FY 2015-16. The following table provides a history of salary increases that have been approved over the last ten years. A more complete history dating back to FY 1991-92 is provided in Appendix I of the JBC Staff Budget Briefing, dated November 28, 2016.

RECENT INCREASES IN JUDICIAL OFFICER SALARIES	
FISCAL YEAR	ANNUAL PERCENT CHANGE
2007-08	5.07%
2008-09	8.09%
2009-10	0.00%
2010-11	0.00%
2011-12	0.00%
2012-13	0.00%
2013-14	3.60%
2014-15	9.00%
2015-16	9.71%
2016-17	0.00%
<i>2017-18 Request</i>	<i>5.73%</i>

Department Proposal for Judicial Officer Salary Increases in FY 2017-18 and FY 2018-19

The budget request submitted by the Chief Justice of the Supreme Court for FY 2017-18 includes funding to increase all judge and justice salaries by 5.73 percent. The request includes a 2.5 percent increase based on the Governor's proposed across-the-board salary increase, plus a 3.15 percent increase. The latter increase is the first phase of a two-year proposal to increase all judicial officer salaries by a total of 6.3 percent over two fiscal years. The following table details the proposed salary increases for FY 2017-18 for each type of judicial officer.

PROPOSED CHANGE IN JUDICIAL OFFICER SALARIES				
JUDICIAL OFFICERS	FY 2016-17 SALARY	FY 2017-18 REQUEST		
		\$ INCREASE	% INCREASE	SALARY
Chief Justice, Supreme Court	\$176,799	\$10,128	5.73%	\$186,927
Associate Justice, Supreme Court	173,024	9,912	5.73%	182,936
Chief Judge, Court of Appeals	169,977	9,738	5.73%	179,715
Associate Judge, Court of Appeals	166,170	9,519	5.73%	175,689
District Court Judge, Denver Juvenile Court Judge, and Denver Probate Court Judge	159,320	9,127	5.73%	168,447
County Court Judge	152,466	8,734	5.73%	161,200

The Department's FY 2017-18 request for Salary Survey includes a 2.5 percent increase for all Department employees, including judicial officers. In addition, the request includes a total of \$2,372,520 (including \$2,341,250 General Fund and \$31,270 cash funds) for two types of salary increases:

- \$2,102,297 to increase all judicial officer salaries by an additional 3.15 percent in FY 2017-18; and
- \$270,223 to increase by an additional 3.15 percent the salaries of certain Judicial Department staff whose salaries are benchmarked to judicial officer salaries.

The Department proposes increasing judicial officer salaries by 6.3 percent over the next two fiscal years to address the following concerns:

- A recent decline in the number of judicial officer applicants in the metropolitan area³;
- An over-representation of nominees with public sector criminal law experience and a lack of nominees from a private practice background that involves civil cases and business issues⁴;
- A sharp decline in the average age⁵ and level of experience of new judicial appointments; and
- The retirement of nearly half (44 percent) of Colorado judicial officers in the next five to seven years.

The Department uses the district court judge position as its benchmark due to the ease in identifying similarly situated judicial officer positions in other states. All other justice, judge, and magistrate salaries are anchored to the district court judge salary. The Department's compensation philosophy is to target the district court judge salary to the average pay of comparable peer states, and to keep a five to ten percent difference between each type of judge, depending on the jurisdiction and authority given to each type of judge.

In response to some direction provided by the Joint Budget Committee last year, the Department contracted with two independent third party experts to study judicial officer compensation:

- Segal Waters, which was selected based on its extensive background studying government compensation plans, determined that Colorado should increase judge salaries by 6.3 percent to match those of comparable states. Specifically, the study identified suitable peer states based on the number of courts, caseloads, unification of court systems, and state population (Arkansas, Minnesota, Nebraska, Nevada, Tennessee, and Washington). The study then applied geographic adjustments for each peer state based on the cost of labor. This resulted in an average district court judge salary of \$169,984. Based on the current district court judge salary of \$159,320, the study recommends a 6.3 percent increase to \$169,357. The same percent increase would then be applied to other types of judicial officers.
- Fox Lawson, which analyzes attorney compensation for other Colorado agencies (the Department of Law, the Office of the State Public Defender, and the Office of Legislative Legal Services), determined that the Department's previous request for a 5.0 percent increase (for FY

³ The Department indicates that judicial officer positions in the metropolitan area represent 55 percent of state court system positions. This area includes the following judicial districts: 1st (Jefferson and Gilpin), 2nd (Denver district court), 4th (El Paso and Teller), 17th (Adams and Broomfield), 18th (Arapahoe, Douglas, Elbert, and Lincoln), and 20th (Boulder).

⁴ The Department indicates that civil and business case filings constitute approximately 52 percent of the overall caseload, but only a third of nominees for district court judge vacancies are from the private sector (which is where such experience is primarily gained).

⁵ The Department indicates that since 2013 the average age of incoming judicial officers has declined by 14.4 years.

2016-17) was appropriate and conservative given the salaries for comparable public sector positions in Colorado.

Based on the above two studies and taking into consideration the current financial environment facing the State, the Department is proposing a 6.3 percent increase in judicial officer salaries over the next two fiscal years.

Staff Recommendation

Staff recommends approving the request concerning changes in judicial officer salaries, including magistrates and water referees. The Department responded to the Committee's direction last year and contracted with two independent third party experts to study judicial officer compensation. In contrast to the proposal last year, the proposal does not benchmark judicial salaries to other state employees with salary ranges. Instead, the proposal benchmarks judicial officer salaries to those of judicial officers in suitable peer states. The Department also identified relevant and compelling policy reasons to increase judicial officer salaries. The request is aimed at ensuring that the pool of judicial officer applicants includes a sufficient number of individuals with relevant and sufficient experience in both the public sector and private sectors.

Staff does not, however, recommend applying the proposed 3.15 percent increase for judicial officers to any other Judicial Department employees. The Department provided a table (on the next page) to identify these positions in relation to the funding requested for salary increases for FY 2017-18.

Whenever the Department proposes an increase to all judicial officer salaries, it requests the same percentage increase for the benchmarked positions that are listed in the table on the next page. One of the challenges with this methodology is that all judicial officers within a classification are paid the same salary, regardless of how long they have served on the bench (which recently ranged from one month to more than 31 years). However, staff understands that the Department utilizes salary ranges for the benchmarked positions. In addition, these benchmarked positions are often cited as comparables when evaluating salaries for certain positions within the independent agencies, with the range maximum cited as the appropriate salary. This has resulted in a growing number of Judicial employees' salaries being linked to judicial officer salaries. Given the Judicial Department's interest in significantly increasing judicial officer salaries and the stated policy reasons for doing so, staff is not convinced that this practice should continue⁶. Staff only recommends applying the proposed judicial officer salary increases to magistrates and water referees.

⁶ Staff notes that the General Assembly has established a policy of linking the salaries of elected officials and legislators to judicial officer salaries. In this case, all individuals in each classification are paid the same salary, so it seems like a more consistent comparison.

	Current	Percentage Difference	FY18 Proposed Salary with 3.15% Adjustment	FY18 Salary with 2.5% Wage Survey
Chief Justice of the Supreme Court	\$176,799		\$182,368	\$186,927
Supreme Court Justice	\$173,024	2.18%	\$178,474	\$182,936
Chief Judge of the Court of Appeals	\$169,977	4.01% from Chief Justice 1.79% from Supreme Court Justice	\$175,331	\$182,936
State Court Administrator	\$169,977	4.01% from Chief Justice	\$175,331	\$179,714
Court of Appeals Judge	\$166,170	2.29% from Chief Judge Court of Appeals 4.12% from Supreme Court Justice	\$171,404	\$182,936
Chief of Staff	\$164,652	3.23% from State Court Administrator	\$169,839	\$174,085
District Court Judge	\$159,320	4.30% from Court of Appeals Judge	\$164,339	\$168,447
Judicial Legal Counsel	\$159,320	6.68% from State Court Administrator	\$164,339	\$168,447
Chief Information Officer	\$124,992- \$164,652	3.2% from State Court Administrator from range maximum	\$124,992- \$164,652	\$127,927- \$168,447
Clerk of the Appellate Court	\$120,996- \$159,320	6.68% from Chief Judge Court of Appeals	\$124,807- \$164,339	\$127,927- \$168,447
Director of Court Services	\$120,996- \$159,320	6.68% from State Court Administrator from range maximum	\$124,807- \$164,339	\$127,927- \$168,447
Director of Financial Services	\$120,996- \$159,320	6.68% from State Court Administrator from range maximum	\$124,807- \$164,339	\$127,927- \$168,447
Director of Human Resources	\$120,996- \$159,320	6.68% from State Court Administrator from range maximum	\$124,807- \$164,339	\$127,927- \$168,447
Director of Probation Services	\$120,996- \$159,320	6.68% from State Court Administrator from range maximum	\$124,807- \$164,339	\$127,927- \$168,447
Chief Probation Officer I-III	\$110,000- \$159,320	0-45% from District Court Judge	\$113,465- \$164,339	\$116,302- \$168,447
District Administrator I-III	\$110,000- \$159,320	0-45% from District Court Judge	\$113,465- \$164,339	\$116,302- \$168,447
County Court Judge	\$152,466	4.50% from District Court Judge	\$157,269	\$161,201
Magistrate/Water Referee	\$136,320	11.84% from County Court Judge	\$140,614	\$144,129

Finally, staff does not recommend providing the funding requested to align the salary ranges for certain Judicial Department employee classifications that are considered at least 3.0 percent below market based on a recent compensation study. The Department regularly submits these requests, and the General Assembly generally approves them. The Governor proposed increasing the range minimums and maximums for all occupational groups by 2.2 percent in FY 2017-18. However, staff understands that the Governor did not request additional funding over and above the 2.5 percent across-the-board salary increase request, to implement these range adjustments. The Judicial Department’s annual compensation report indicates that it uses the median salary ranges of each position to determine whether Judicial Department classifications are 3.0

percent or more below the market. Staff is concerned that this methodology is not consistent with the funding requests for the Executive Branch. Absent any information indicating otherwise, staff is not recommending approving this portion of the request.

BACKGROUND INFORMATION - PERSONNEL CLASSIFICATION PLAN FOR JUDICIAL DEPARTMENT EMPLOYEES

Judicial Department employees are not part of the State classified system. Specifically, Sections 13 (2) and (3) of Article XII of the State Constitution state that:

- the State Personnel System excludes “members, officers, and employees of the legislative and judicial departments of the state, unless otherwise specifically provided in the constitution”; and
- “Officers and employees within the judicial department, other than judges and justices, may be included within the personnel system of the state upon a determination by the supreme court, sitting en banc, that such would be in the interests of the state.”

Pursuant to Section 13-3-101 (1), C.R.S., the justices of the Supreme Court appoint and determine the compensation for the State Court Administrator. With regard to all other employees, Section 13-3-105, C.R.S., requires the Supreme Court to prescribe by rule a personnel classification plan for all courts that are funded by the State. Such plan shall include:

- A basic compensation plan of pay ranges to which classes of positions are assigned and may be reassigned;
- The qualifications for each position or class of positions, including education, experience, special skills, and legal knowledge;
- An outline of the duties to be performed in each position or class of positions;
- The classification of all positions based on the required qualifications and the duties to be performed, taking into account, where applicable, the amount and kinds of judicial business in each court of record subject to the provisions of this section;
- The number of full-time and part-time positions, by position title and classification, in each court of record subject to the provisions of this section;
- The procedures for and the regulations governing the appointment and removal of court personnel; and
- The procedures for and regulations governing the promotion or transfer of court personnel.

The Supreme Court is also required to prescribe by rule the amount, terms, and conditions of sick leave and vacation time for court personnel, and the hours of work and other conditions of employment.

Finally, this provision indicates that in order to treat all state employees in a similar manner, the Supreme Court is to "take into consideration the compensation and classification plans, vacation and sick leave provisions, and other conditions of employment applicable to employees of the executive and legislative departments".

The Judicial Department's personnel system excludes employees of the following agencies or offices:

- Agencies involved in the regulation of the practice of law, including Attorney Regulation and Judicial Discipline, Continuing Legal and Judicial Education, and the State Board of Law Examiners;
- The Office of Judicial Performance Evaluation;

- The Office of the State Public Defender;
- The Office of the Alternate Defense Counsel;
- The Office of the Child's Representative;
- The Office of the Respondent Parents' Counsel;
- The Office of the Child Protection Ombudsman; and
- The Independent Ethics Commission.

→ CORRECTIONAL TREATMENT CASH FUND ALLOCATION

REQUEST: The Department does not request any changes in appropriations related to the Correctional Treatment Cash Fund (CTCF). Specifically, the Department requests a \$15,200,000 General Fund appropriation to the CTCF, a \$1,550,000 cash funds appropriation from the Marijuana Tax Cash Fund (MTCF) to the CTCF, and a total of \$21,787,292 in spending authority from the CTCF to allow the Department to use these funds to provide treatment services to offenders on probation, and to transfer a portion of the moneys to other state agencies for the provision of services to offenders in other settings.

The Correctional Treatment Board's recommended allocation includes one adjustment to shift funding between programs administered by the Department of Human Services (DHS), including the following:

- Reduce the allocation for “Strategies for Self-improvement and Change” programs by \$200,000;
- Increase the allocation for Short-term Intensive Residential Remediation and Treatment (STIRRT) Programs by \$100,000; and
- Increase the allocation for Jail-based Behavioral Health Services by \$100,000.

RECOMMENDATION: **Staff recommends approving the Judicial Department request and the Board's proposed allocation plan, with a few minor changes.** The Board's plan notes that the allocations for administration and indirect costs will be adjusted during the figure setting process when more information is available. Staff's recommendation reflects updated information for each of these items based on the Judicial Department's indirect cost plan as well as the Committee common policies adopted to date concerning employee benefits. As the Committee has not yet established a common policy concerning salary increases, staff's recommendations reflect the Governor's proposed 2.5 percent salary increase. Once the Committee establishes a common policy, these amounts will be adjusted accordingly in the relevant line items in this Department and in the Department of Public Safety.

First, the requested General Fund appropriation to the CTCF is consistent with current law, which requires the General Assembly to appropriate at least \$15,200,000 General Fund annually to the CTCF. The appropriation requested from the MTCF maintains existing funding levels. This amount is transferred to the Department of Human Services for the Jail-based Behavioral Health Services Program. This source of funding was originally authorized through S.B. 14-215 with a \$2,000,000 appropriation. This amount was reduced mid-year in FY 2014-15 to reflect actual allocations to sheriffs' offices. House Bill 15-1367 modified the format of this appropriation, requiring that the funding from the MTCF be appropriated to the CTCF. This appropriation has been maintained at that level (\$1,550,000) for the last two fiscal years.

Second, as detailed in the following table, staff recommends appropriations from the CTCF totaling \$21,771,622 to provide the spending authority recommended by the Correctional Treatment Board, and to cover the estimated salary and benefits for state employees that are currently supported by the CTCF.

Third, consistent with the following table, staff recommends appropriating the following amounts (from reappropriated funds transferred from the Judicial Department's Offender Treatment and Services line item appropriation) to allow other state agencies to receive and spend moneys transferred from this line item:

- DOC: \$3,457,227
- DHS: \$6,671,156
- Public Safety: \$5,302,042

STAFF WORKING DOCUMENT – DOES NOT REPRESENT COMMITTEE DECISION

APPROPRIATIONS FROM THE CORRECTIONAL TREATMENT CASH FUND								
DEPARTMENT/ LINE ITEM	FY 2016-17				FY 2017-18			
	CTCF (CF)	CTCF (RF)	TRANSFER FROM JUDICIAL (RF)	TOTAL	CTCF (CF)	CTCF (RF)	TRANSFER FROM JUDICIAL (RF)	TOTAL
JUDICIAL								
Courts Administration <i>Administration and Technology</i>								
General Courts Administration	\$97,116			\$97,116	\$96,757			\$96,757
Indirect Cost Assessment	181,125			181,125	168,232			168,232
<i>Central Appropriations</i>								
Various line items	13,826			13,826	8,940			8,940
<i>Centrally Administered Programs</i>								
District Attorney Adult Pretrial Diversion Programs	77,000			77,000	77,000			77,000
Probation and Related Services								
Offender Treatment and Services	4,668,225	1,322,043		5,990,268	4,670,693	1,319,575		5,990,268
Total: Judicial	\$5,037,292	\$1,322,043	\$0	\$6,359,335	\$5,021,622	\$1,319,575	\$0	\$6,341,197
<i>Annual \$ Change</i>				<i>(\$44,788)</i>				<i>(\$18,138)</i>
<i>Annual % Change</i>				<i>-0.7%</i>				<i>-0.3%</i>
CORRECTIONS								
Inmate Programs <i>Drug and Alcohol Treatment Subprogram</i>								
Services for Substance Abuse and Co-occurring Disorders			995,127	995,127			995,127	995,127
Contract Services			350,000	350,000			350,000	350,000
Community Services <i>Parole Subprogram</i>								
Contract Services			2,112,100	2,112,100			2,112,100	2,112,100
Total: Corrections	\$0	\$0	\$3,457,227	\$3,457,227	\$0	\$0	\$3,457,227	\$3,457,227
<i>Annual \$ Change</i>				<i>\$0</i>				<i>\$0</i>
<i>Annual % Change</i>				<i>0.0%</i>				<i>0.0%</i>
HUMAN SERVICES:								
Behavioral Health Services <i>Substance Abuse Treatment and Prevention</i>								
Treatment and Detoxification Contracts			1,064,688	1,064,688			864,688	864,688
Strategies for Self-improvement and Change (SSIC)								
Short-term Intensive Residential Remediation and Treatment (STIRRT)			522,946	522,946			622,946	622,946
<i>Integrated Behavioral Health Services</i>								
Jail-based Behavioral Health Services			5,083,522	5,083,522			5,183,522	5,183,522
Total: Human Services	\$0	\$0	\$6,671,156	\$6,671,156	\$0	\$0	\$6,671,156	\$6,671,156
<i>Annual \$ Change</i>				<i>\$50,000</i>				<i>\$0</i>
<i>Annual % Change</i>				<i>0.8%</i>				<i>0.0%</i>

STAFF WORKING DOCUMENT – DOES NOT REPRESENT COMMITTEE DECISION

APPROPRIATIONS FROM THE CORRECTIONAL TREATMENT CASH FUND								
DEPARTMENT/ LINE ITEM	FY 2016-17				FY 2017-18			
	CTCF (CF)	CTCF (RF)	TRANSFER FROM JUDICIAL (RF)	TOTAL	CTCF (CF)	CTCF (RF)	TRANSFER FROM JUDICIAL (RF)	TOTAL
PUBLIC SAFETY								
Executive Director's Office Various line items			12,196	12,196			14,664	14,664
Division of Criminal Justice <i>Administration</i>								
DCJ Administrative Services <i>Community Corrections</i>			89,609	89,609			89,609	89,609
Community Corrections Placements			2,643,869	2,643,869			2,643,869	2,643,869
Services for Substance Abuse and Co-occurring Disorders			2,553,900	2,553,900			2,553,900	2,553,900
Total: Public Safety	\$0	\$0	\$5,299,574	\$5,299,574	\$0	\$0	\$5,302,042	\$5,302,042
<i>Annual \$ Change</i>				(\$5,510)				\$2,468
<i>Annual % Change</i>				-0.1%				0.0%
GRAND TOTAL	\$5,037,292	\$1,322,043	\$15,427,957	\$21,787,292	\$5,021,622	\$1,319,575	\$15,430,425	\$21,771,622
<i>Annual \$ Change</i>				(\$298)				(\$15,670)
<i>Annual % Change</i>				0.0%				-0.1%

NOTE: Shaded items indicate a change from FY 2016-17 to FY 2017-18.

BACKGROUND INFORMATION:

State Funding for Substance Abuse Treatment for Offenders

Over the past decade, the General Assembly has made changes to offenses related to the use and possession of controlled substances. To the extent that these changes reduce the number of offenders who are incarcerated, or the length of time that offenders are incarcerated, these statutory changes have reduced state expenditures. The General Assembly has reinvested the estimated General Fund savings to increase the availability of substance abuse treatment for offenders.

Through H.B. 12-1310, the General Assembly consolidated the major sources of state funding for offender substance abuse treatment, and consolidated the associated oversight boards into a single Correctional Treatment Board. Specifically, H.B. 12-1310 continued to require the General Assembly to annually appropriate a minimum amount of General Fund related to the estimated savings that resulted from the enactment of S.B. 03-318 (\$2.2 million) and H.B. 10-1352 (\$9.5 million). These amounts are to be credited to the Correctional Treatment Cash Fund (CTCF). For FY 2013-14, the General Assembly was required to appropriate at least \$11.7 million General Fund to the CTCF. Pursuant to S.B. 13-250, the General Assembly is required to appropriate an additional \$3.5 million General Fund related to the estimated savings from S.B. 13-250. Thus, the General Assembly is required to appropriate at least \$15.2 million General Fund annually to the CTCF⁷.

In addition, the budget now includes an appropriation from the Marijuana Tax Cash Fund (MTCF) to the CTCF (\$1,550,000 since FY 2015-16) pursuant to S.B. 14-215 and H.B. 15-1367. These funds are transferred to the Department of Human Services to support jail-based behavioral health services.

The Judicial Branch budget thus includes a General Fund appropriation to the CTCF, along with a corresponding amount of spending authority from the CTCF to allow the Department to use these moneys to provide treatment services to offenders on probation, and to transfer a portion of the moneys to other state agencies for the provision of services to offenders in other settings. Moneys transferred to other state agencies are reflected a third time in the other three agencies' budgets (as reappropriated funds). While this structure is transparent and allows one to easily identify the total amount of funding devoted to offender substance abuse treatment, it does overstate annual funding increases within the Judicial Branch and the state as a whole if one does not exclude reappropriated amounts.

The CTCF consists of annual appropriations from the General Fund and the MTCF to the CTCF, drug offender surcharge revenues, and interest income. Moneys from the CTCF may be used for the following purposes:

- Alcohol and drug screening, assessment, and evaluation;
- Alcohol and drug testing;
- Substance abuse education and training;
- An annual statewide conference regarding substance abuse treatment;
- Treatment for assessed substance abuse and co-occurring disorders;
- Recovery support services; and
- Administrative support to the Correctional Treatment Board.

⁷ See Sections 18-19-103 (3.5)(b) and (c) and (4)(a), C.R.S.

Money from the CTCF may be used to serve adults and juveniles who are:

- serving a diversion sentence;
- serving a probation sentence (including Denver county);
- on parole;
- sentenced or transitioned to a community corrections program; or
- serving a sentence in a county jail, on a work-release program supervised by the county jail, or receiving after-care treatment following release from jail if the offender participated in a jail treatment program.

The Correctional Treatment Board is charged with assessing the availability and effectiveness of adult and juvenile offender substance abuse services statewide. The Board is required to prepare an annual treatment funding plan that the Judicial Department includes in its annual budget request. This plan is included as an appendix to the JBC Staff Budget Briefing for the Judicial Branch.

Correctional Treatment Board

The Correctional Treatment Board consists of the seven members representing: the Department of Corrections, the Division of Probation and the Office of the State Public Defender within the Judicial Branch, the Department of Public Safety, the Department of Human Services, district attorneys, and county sheriffs⁸. The Board's responsibilities include:

- Working with local drug treatment boards to identify judicial district-specific treatment and programmatic needs;
- Reviewing existing treatment services and their effectiveness;
- Identifying funding and programmatic barriers to effective treatment; and
- Developing a comprehensive annual funding plan that meets the identified statewide needs and effectively treats substance abuse offenders in Colorado.

Allocations from the Correctional Treatment Cash Fund

Currently, CTCF moneys are allocated among four state agencies.

- The *Judicial Branch* uses funds to provide substance use testing, and mental health and substance use treatment for offenders on probation and those participating in problem-solving courts. In addition, funding is used to support adult pre-trial diversion programs administered by district attorneys' offices. The Judicial Department also uses funds to support 1.0 FTE that supports the Correction Treatment Board.
- The *Department of Public Safety (DPS)* allocates funds to local community corrections boards for intensive residential treatment (IRT), therapeutic community programs, and outpatient treatment vouchers. The DPS also uses funds to support 1.0 FTE in the Division of Criminal Justice responsible for research and training related to substance abuse and risk/need assessments.
- The *Department of Human Services* uses these funds for three purposes. First, the Department allocates funds to county sheriffs for the jail-based behavioral health services (JBBS) program. These programs screen for and provide care for adult inmates with a substance use disorder – both while in jail and following the inmate's release from jail. Second, funds are allocated to managed service organizations (MSOs) so support community-based outpatient substance abuse

⁸ See Section 18-19-103 (5 (b)), C.R.S.

treatment services. Third, funds are used to support the Short-term Intensive Residential Remediation Treatment (STIRRT) program, which serves adult offenders who have been unsuccessful in community treatment for drug and alcohol abuse and continue to commit offenses.

- The *Department of Corrections* uses funds to support case management, substance use testing, and outpatient treatment for parole clients.

→ JUD BA4 LONG BILL CLEAN-UP AND FTE TRUE-UP

REQUEST: The Department requests several adjustments to reflect changes in staffing requirements related to federal grants and the Office of Attorney Regulation Counsel. The requested changes result in a \$361,823 increase in reappropriated funds and a net zero change in FTE.

RECOMMENDATION: Staff recommends approving the request, with one additional adjustment. Specifically, staff recommends reducing 2.0 FTE associated with two “Federal Funds and Other Grants” line items to better reflect the fact that two existing positions will no longer be directly charged to grants and will instead be reflected in the General Courts Administration line item and paid through federal indirect cost recoveries. The requested adjustments are described below, followed by a table summarizing staff’s recommended adjustments.

The Department requests the following adjustments to reflect changes in staffing requirements:

- Increase the FTE associated with the Office of Attorney Regulation Counsel by 2.0 to reflect the Office’s plans to add two positions for equal access and investigations.
- The Office of the State Court Administrator will be taking over accounting responsibilities for the Office of the Attorney Regulation Counsel to improve supervision and professional oversight. This requires a decrease of 1.0 FTE from the Office of Attorney Regulation Counsel, and an increase of 1.0 FTE in the General Courts Administration line item along with an increase of \$84,123 reappropriated funds transferred from the Office of Attorney Regulation Counsel.
- The Office of the State Court Administrator plans to pay for two existing positions responsible for grant management and statewide accounting and oversight using federal indirect cost recoveries rather than directly charging grants. This requires an increase in the General Courts Administration line item of 2.0 FTE and \$180,722 reappropriated funds from federal indirect cost recoveries rather than charging the costs directly to federal grants.
- To respond to recent federal audit findings concerning the Department’s time keeping practices, the Department plans to utilize the Kronos system that is being deployed by the Executive Branch. The Department needs to add 1.0 FTE to perform duties that are not part of the Executive Branch contract and that are specific to the Judicial Department’s personnel rules. The Department requests an increase of \$96,978 reappropriated funds from federal indirect cost recoveries to support this position.

- The Department requests a reduction of 5.0 FTE from the Trial Court Programs line item to more accurately reflect filled FTE positions. These positions relate to annual leave payouts that are made upon termination of employment. Under the current statutory definition for full-time equivalent, these payouts should be excluded from the computation of FTE.

JUD BA4 LONG BILL CLEAN-UP/ FTE TRUE-UP: STAFF RECOMMENDATION

DIVISION AND LINE ITEM	REQUEST COMPONENT	SOURCE OF REAPPROPRIATED FUNDS			FTE
		FEDERAL INDIRECT COST RECOVERIES	TRANSFER FROM THE OFFICE OF ATTORNEY REGULATION COUNSEL	TOTAL FUNDS	
(1) SUPREME COURT/COURT OF APPEALS Office of Attorney Regulation Counsel	Add staff for equal access and investigations	\$0	\$0	\$0	2.0
	Shift accounting responsibilities	0	0	0	(1.0)
(2) COURTS ADMINISTRATION (A) Administration and Technology General Courts Administration	Shift accounting responsibilities	0	84,123	84,123	1.0
	Fund grant management staff through indirect cost recoveries rather than direct charges to grants	180,722	0	180,722	2.0
	Add position for timekeeping system improvements	96,978	0	96,978	1.0
(3) TRIAL COURTS Trial Court Programs	Fund grant management staff through indirect cost recoveries rather than direct charges to grants	0	0	0	(1.0)
Federal Funds and Other Grants	Eliminate FTE associated with leave payouts	0	0	0	(5.0)
(4) PROBATION AND RELATED SERVICES	Fund grant management staff through indirect cost recoveries rather than direct charges to grants	0	0	0	(1.0)
TOTALS		\$277,700	\$84,123	\$361,823	(2.0)

→ STAFF-INITIATED R1 COMPENSATION ALIGNMENT

RECOMMENDATION: During the JBC Staff Budget Briefing for the Judicial Branch, staff discussed the challenges with the various processes that are currently used to evaluate and approve salary adjustments for Judicial Branch employees. In response, three of the independent agencies have been meeting and discussing potential solutions to coordinate some of these efforts. These agencies have been working cooperatively to benchmark their staff positions to other positions within the Judicial and Executive Branches. On February 3 these agencies provided information to staff that aligns salaries for positions within the accountant series, administrative specialist series, support services, auxiliary services, and marketing and communication specialists among the agencies and with the other personnel systems. The agencies require funding in FY 2017-18 to implement this alignment plan. **Staff would like to honor the work that has been accomplished to date, and recommends appropriating \$21,974 General Fund to implement this alignment plan for FY 2017-18.** The plan details, provided by the agencies, are provided on the next page.

STAFF WORKING DOCUMENT – DOES NOT REPRESENT COMMITTEE DECISION

Indep. Agency	Independent Agency Title	Proposed Position Title to Align With	Aligning Agency	Salary			10.15% PERA	5% AED	5% SAED	1.45% Medicare	0.19% Disability	Total Fringe	Total Cost
				Realign.	Adj. for Range Min.	Total Salary							
OCR	Administrative Assistant	Auxiliary Services	SCAO	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
OCR	Administrative Assistant	Auxiliary Services	SCAO	\$0	\$2,060	\$2,060	\$209	\$103	\$103	\$30	\$4	\$449	\$2,509
OCR	Atty Reimb. and HR Mgr.	Administrative Specialist III	SCAO	\$1,761	\$0	\$1,761	\$179	\$88	\$88	\$26	\$3	\$384	\$2,145
OCR	Staff Accountant	Accountant II	SCAO	\$1,954	\$0	\$1,954	\$198	\$98	\$98	\$28	\$4	\$426	\$2,380
OCR	Staff Assistant	Administrative Specialist I	SCAO	\$564	\$0	\$564	\$57	\$28	\$28	\$8	\$1	\$122	\$686
OCR	Administrative Assistant	Support Services	SCAO	\$1,345	\$0	\$1,345	\$137	\$67	\$67	\$20	\$3	\$294	\$1,639
ORPC	Admin. Specialist I	Administrative Specialist I	SCAO	\$883	\$0	\$883	\$90	\$44	\$44	\$13	\$2	\$193	\$1,076
ORPC	Admin. Specialist I	Administrative Specialist I	SCAO	\$633	\$0	\$633	\$64	\$32	\$32	\$9	\$1	\$138	\$771
ORPC	Marketing Specialist II	Marketing & Comm. Spec. II	Exec	\$453	\$0	\$453	\$46	\$23	\$23	\$7	\$1	\$100	\$553
ORPC	Attorney Payment Specialist	Administrative Specialist III	SCAO	\$1,761	\$0	\$1,761	\$179	\$88	\$88	\$26	\$3	\$384	\$2,145
ORPC	Accountant I	Accountant I	SCAO	\$1,037	\$0	\$1,037	\$105	\$52	\$52	\$15	\$2	\$226	\$1,263
OADC	Billing Administrator	Administrative Specialist III	SCAO	\$1,818	\$0	\$1,818	\$185	\$91	\$91	\$26	\$3	\$396	\$2,214
OADC	Senior Office Manager	Accountant II	SCAO	\$2,121	\$0	\$2,121	\$215	\$106	\$106	\$31	\$4	\$462	\$2,583
OADC	Accountant	Accountant I	SCAO	\$1,650	\$0	\$1,650	\$167	\$83	\$83	\$24	\$3	\$360	\$2,010
	Total			\$15,980	\$2,060	\$18,040	\$1,831	\$903	\$903	\$263	\$34	\$3,934	\$21,974
	Cost by Agency												
	OADC			\$5,589	\$0	\$5,589	\$567	\$280	\$280	\$81	\$10	\$1,218	\$6,807
	OCR			\$5,624	\$2,060	\$7,684	\$780	\$384	\$384	\$112	\$15	\$1,675	\$9,359
	ORPC			\$4,767	\$0	\$4,767	\$484	\$239	\$239	\$70	\$9	\$1,041	\$5,808
	Total			\$15,980	\$2,060	\$18,040	\$1,831	\$903	\$903	\$263	\$34	\$3,934	\$21,974

Based on the above proposal, staff recommends adding funding to each relevant line item for each of the above three agencies, including:

- \$20,134 for Salary Survey;
- \$34 for short-term disability;
- \$903 for AED; and
- \$903 for SAED.

(1) SUPREME COURT/ COURT OF APPEALS

This section provides funding for the Colorado Supreme Court and the Colorado Court of Appeals. The Supreme Court is the court of last resort, and its decisions are binding on the Court of Appeals and all county and district courts. Requests to review decisions of the Court of Appeals constitute the majority of the Supreme Court's filings. The Supreme Court also has direct appellate jurisdiction over cases in which a statute has been held to be unconstitutional, cases involving the Public Utilities Commission, writs of habeas corpus,⁹ cases involving adjudication of water rights, summary proceedings initiated under the Elections Code, and prosecutorial appeals concerning search and seizure questions in pending criminal proceedings. The Supreme Court also oversees the regulation of attorneys and the practice of law. The Supreme Court is composed of seven justices who serve renewable 10-year terms. The Chief Justice, selected by the justices of the Court, is the executive head of the Department.¹⁰

Created by statute, the Court of Appeals is generally the first court to hear appeals of judgments and orders in criminal, juvenile, civil, domestic relations, and probate matters. The Court of Appeals also has initial jurisdiction to review actions and decisions of several state agencies, boards, and commissions. Its determination of an appeal is final unless the Colorado Supreme Court agrees to review the matter. The Court of Appeals is currently composed of 22 judges who serve renewable 8-year terms¹¹.

Sources of cash funds include the Judicial Stabilization Cash Fund and various fees and cost recoveries.

SUPREME COURT AND COURT OF APPEALS						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2016-17 Appropriation						
HB 16-1405 (Long Bill)	\$25,763,271	\$14,171,683	\$11,518,691	\$72,897	\$0	215.5
TOTAL	\$25,763,271	\$14,171,683	\$11,518,691	\$72,897	\$0	215.5
FY 2017-18 RECOMMENDED APPROPRIATION						
FY 2016-17 Appropriation	\$25,763,271	\$14,171,683	\$11,518,691	\$72,897	\$0	215.5
JUD BA4 Long Bill clean-up and FTE true-up	0	0	0	0	0	1.0
Indirect cost assessment	(37,804)	0	(37,804)	0	0	0.0
Annualize prior year budget actions	246,716	246,716	0	0	0	0.0
TOTAL	\$25,972,183	\$14,418,399	\$11,480,887	\$72,897	\$0	216.5

⁹ A "writ of habeas corpus" is a judicial mandate to a prison official ordering that an inmate be brought to the court so it can be determined whether or not that person is imprisoned lawfully and whether or not he or she should be released from custody.

¹⁰ See Article VI, Sections 2 through 8, Colorado Constitution; and Section 13-2-101 et seq., C.R.S.

¹¹ See Section 13-4-101 et seq., C.R.S.

SUPREME COURT AND COURT OF APPEALS						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
INCREASE/(DECREASE)	\$208,912	\$246,716	(\$37,804)	\$0	\$0	1.0
Percentage Change	0.8%	1.7%	(0.3%)	0.0%	n/a	0.5%
FY 2017-18 EXECUTIVE REQUEST	\$25,972,183	\$14,418,399	\$11,480,887	\$72,897	\$0	216.5
Request Above/(Below) Recommendation	\$0	\$0	\$0	\$0	\$0	0.0

DECISION ITEMS – SUPREME COURT/ COURT OF APPEALS (NONE)

The Judicial Department did not submit any decision items for this division.

LINE ITEM DETAIL — SUPREME COURT/ COURT OF APPEALS

APPELLATE COURT PROGRAMS

This line item includes funding for both personal services and operating expenses. This line item also includes funding to purchase volumes of the *Colorado Reporter*, the official publication of opinions of the Colorado Supreme Court and Court of Appeals, for distribution to various state offices, including district and county judges’ offices, county court law libraries, district attorneys’ offices, and state libraries. The following table details the types of employees that are supported by this line item.

STAFFING SUMMARY				
APPELLATE COURT PROGRAMS	15-16 ACTUAL	16-17 APPROP.	17-18 REQUEST	17-18 RECOMMEND.
<u>Supreme Court</u>				
Chief Justice and Supreme Court Justices	7.0	7.0	7.0	7.0
Counsel to the Chief Justice	1.0	1.0	1.0	1.0
Law Clerks	20.0	20.0	20.0	20.0
Staff Attorneys	2.5	2.6	2.6	2.6
Other Support Staff	<u>5.0</u>	<u>5.0</u>	<u>5.0</u>	<u>5.0</u>
Subtotal	35.5	35.6	35.6	35.6
<u>Court of Appeals</u>				
Chief Judge and Court of Appeals Judges	22.0	22.0	22.0	22.0
Law Clerks	35.0	35.0	35.0	35.0
Reporter of Decisions and Assistant Reporter of Decisions	1.9	2.0	2.0	2.0
Staff Attorneys	22.0	22.0	22.0	22.0
Other Support Staff	<u>21.0</u>	<u>21.0</u>	<u>21.0</u>	<u>21.0</u>
Subtotal	101.9	102.0	102.0	102.0
<u>Staff That Support Both Appellate Courts</u>				
Clerk of Court	1.0	1.0	1.0	1.0
Library Staff	3.4	3.4	3.4	3.4
Self-represented Litigant Coordinator	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>
Subtotal	5.4	5.4	5.4	5.4
Total	142.8	143.0	143.0	143.0

STATUTORY AUTHORITY: Article VI of the State Constitution [Vestment of judicial power]; Section 13-2-101 *et seq.*, C.R.S. [Supreme Court]; Section 13-2-125, C.R.S. [Colorado Reporter] Section 13-4-101 *et seq.*, C.R.S. [Court of Appeals]

REQUEST: The Department requests a total of \$14,490,399, including \$14,418,399 General Fund and \$72,000 cash funds from various fees and cost recoveries, and 143.0 FTE.

RECOMMENDATION: **Staff recommends approving the request**, which simply reflects salary increases awarded in FY 2016-17 (\$246,716 General Fund).

OFFICE OF ATTORNEY REGULATION COUNSEL

This line item reflects anticipated expenditures related to the regulation of the practice of law. These activities are supported by attorney registration fees and law examination application fees. This line item is shown for informational purposes only, as these funds are continuously appropriated under the Judicial Branch's constitutional authority to regulate and control the practice of law. This line item reflects expenditures related to three types of activities:

- The investigation of allegations of attorney misconduct by the Attorney Regulation Committee, the Attorney Regulation Counsel, the Presiding Disciplinary Judge, the Appellate Discipline Commission, the Advisory Committee, and the Colorado Supreme Court. A Client Protection Fund compensates persons who suffer certain monetary losses because of an attorney's dishonest conduct.
- The administration of mandatory continuing legal education for attorneys and judicial officers by the Board of Continuing Legal and Judicial Education.

The administration of the Colorado bar exam by the State Board of Law Examiners administers the Colorado bar exam.

STATUTORY AUTHORITY: Section 1 of Article VI of the State Constitution [Vestment of judicial power]; Section 13-2-119, C.R.S. [Disposition of fees]

REQUEST: The request reflects \$10,650,000 cash funds and 70.0 FTE, which simply reflects an increase of 1.0 FTE. This line item is impacted by JUD BA4 Long Bill clean-up/ FTE true-up, which is discussed at the beginning of this packet.

RECOMMENDATION: **Staff recommends reflecting the amounts requested.**

LAW LIBRARY

The Supreme Court Library is a public library located in the Ralph L. Carr Colorado Judicial Center. The library is supported by appellate filing and other fees deposited in the Supreme Court Library Fund. The cash funds in this line item are shown for informational purposes only, as these funds are continuously appropriated under the Judicial Branch's constitutional authority. In addition, this line item includes reappropriated funds that are transferred from the Department of Law.

STATUTORY AUTHORITY: Section 13-2-120, C.R.S. [Supreme Court Library Fund]

REQUEST: The Department requests a total of \$572,897, including \$500,000 cash funds from the Supreme Court Library Fund and 2.5 FTE, and \$72,897 reappropriated funds transferred from the Department of Law and 1.0 FTE. There are no changes requested for FY 2016-17.

RECOMMENDATION: **Staff recommends approving the request.**

INDIRECT COST ASSESSMENT

Indirect cost assessments are charged to cash and federally-funded programs for departmental and statewide overhead costs, and then the assessments are used in the Courts Administration section to offset General Fund appropriations.

STATUTORY AUTHORITY: Colorado Fiscal Rules #8-3; Section 24-75-1401, C.R.S. [Indirect Costs Excess Recovery Fund]

REQUEST: The Department requests \$258,887 cash funds.

RECOMMENDATION: **Staff recommends approving the request.** The amounts recommended for this line item and the other two Indirect Cost Assessment line items in this department are calculated based on the indirect cost assessment methodology that is described at the end of this document.

(2) COURTS ADMINISTRATION

The justices of the Supreme Court appoint a State Court Administrator to oversee the daily administration of the Department and provide technical and administrative support to the courts and probation.¹² The Courts Administration section of the budget is comprised of four subsections:

- (A) “Administration and Technology” - funding and staff associated with central administration of the State’s Judicial system, including information technology systems
- (B) “Central Appropriations” - funding related to employee benefits, leased space, and services purchased from other agencies
- (C) “Centrally Administered Programs” - funding supporting specific functions, grant programs, and distributions that are administered by the Office of the State Court Administrator
- (D) "Ralph L. Carr Colorado Judicial Center" - spending authority to support operations of the new Judicial Center

COURTS ADMINISTRATION						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2016-17 Appropriation						
HB 16-1405 (Long Bill)	\$195,225,354	\$91,189,729	\$93,057,875	\$10,977,750	\$0	431.3
Other legislation	23,515	4,703	18,812	0	0	0.0
SB 17-164 (Supplemental bill)	(355,509)	82,043	(437,552)	0	0	0.0
TOTAL	\$194,893,360	\$91,276,475	\$92,639,135	\$10,977,750	\$0	431.3
FY 2017-18 RECOMMENDED APPROPRIATION						
FY 2016-17 Appropriation	\$194,893,360	\$91,276,475	\$92,639,135	\$10,977,750	\$0	431.3
Reverse supplemental action	1,299,988	739,732	560,256	0	0	0.0
JUD R1/BA2 Courthouse capital and infrastructure maintenance	3,230,056	2,639,800	590,256	0	0	0.0
JUD R2/BA7 Language access caseload and contractor rate increase	307,916	307,916	0	0	0	0.0
JUD BA4 Long Bill clean-up and FTE true-up	361,823	0	0	361,823	0	4.0
Centrally appropriated line items	16,211,485	15,486,451	725,034	0	0	0.0
Non-prioritized requests	504,083	504,083	0	0	0	0.0
Indirect cost assessment	98,550	(55,998)	84,709	69,839	0	0.0
Annualize prior year legislation	6,485	(4,703)	11,188	0	0	0.0
Correctional Treatment Cash Fund allocation adjustment	601	0	601	0	0	0.0

¹² See Article VI, Section 5 (3) of the Colorado Constitution; Section 13-3-101, C.R.S.

COURTS ADMINISTRATION						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
Fund source adjustment	0	(102,160)	0	102,160	0	0.0
Annualize prior year budget actions	(11,866,449)	(2,915,661)	(8,950,788)	0	0	0.5
Other	166,255	3,104	163,151	0	0	0.0
TOTAL	\$205,214,153	\$107,879,039	\$85,823,542	\$11,511,572	\$0	435.8
INCREASE/(DECREASE)	\$10,320,793	\$16,602,564	(\$6,815,593)	\$533,822	\$0	4.5
Percentage Change	5.3%	18.2%	(7.4%)	4.9%	n/a	1.0%
FY 2017-18 EXECUTIVE REQUEST	\$207,855,412	\$110,384,012	\$85,959,828	\$11,511,572	\$0	435.8
Request Above/(Below) Recommendation	\$2,641,259	\$2,504,973	\$136,286	\$0	\$0	0.0

DECISION ITEMS – COURTS ADMINISTRATION

→ JUD R1/BA2: COURTHOUSE CAPITAL AND INFRASTRUCTURE MAINTENANCE

REQUEST: The Department requests a total of \$3,015,942 for FY 2017-18 for the State's share of the costs for new, expanded, and remodeled courthouse facilities (including probation facilities). This request includes \$1,919,800 for new projects and \$1,096,142 for projects that were originally funded in FY 2016-17 but were delayed.

RECOMMENDATION: **Staff recommends appropriating a total of \$3,230,056 (including \$2,639,800 General Fund and \$590,256 cash funds) based on recent Committee action on mid-year adjustments for FY 2016-17 related to delayed projects.**

ANALYSIS:

Department Request

The request includes funding for two sets of projects. First, the Department requests \$1,919,800 General Fund for courthouse and probation facility furnishings and infrastructure in 10 of the state's 22 judicial districts. This request includes:

- \$456,800 for new furnishings and to replace or refurbish existing furniture that is no longer usable;
- \$809,000 for courtroom phone systems, court docketing systems, and courtroom information technology infrastructure; and
- \$654,000 for courtroom audiovisual equipment.

The individual requests and their associated costs are detailed in the following table (prepared by the Department).

District	County	Project	Furniture (GF)	IT & Phone (GF)	A/V (GF)
1st Courts	Jefferson	Sound systems for courtrooms, ADA hearing impaired headsets, and digital recording.			\$138,000
2nd Probation	Denver	New phone system for adult and juvenile Probation.		\$250,000	
4th Courts	El Paso	Sound systems for courtrooms.			\$225,000
4th Courts	El Paso	Addition of five new offices and one courtroom.	\$71,000		
4th Courts	El Paso	Addition of five new offices and one courtroom.			\$25,000
4th Courts	El Paso	Addition of five new offices and one courtroom.		\$60,000	
4th Courts	El Paso	Redesign layout of front counter in Clerk's Office.	\$63,750		
4th Probation	El Paso	Reconfigure reception work area.	\$17,700		
4th Probation	El Paso	New intercom/speaker system for two lobby/reception windows.			\$5,000
4th Probation	El Paso	Addition of eight new offices and one conference room.	\$49,200		
4th Probation	El Paso	Addition of eight new offices and one conference room.			\$8,000
5th Courts	Clear Creek	Upgrade AV systems.			\$79,000
5th Courts	Summit	Upgrade AV systems.			\$69,000
7th Courts	Delta	Upgrade phone/network system.		\$147,000	
7th Courts	Delta	Upgrade sound system in county courtroom.			\$23,000
7th Courts	Montrose	Upgrade phone/network system.		\$22,000	
7th Courts	Montrose	Two mobile AV units.			\$26,000
9th Courts	Pitken	New phone system.		\$67,000	
9th Courts	Garfield	New phone system.		\$80,000	
9th Courts	Rio Blanco	Remodel Ranglely courthouse.	\$70,000		
9th Courts	Rio Blanco	Remodel Ranglely courthouse.			\$10,000
9th Courts	Rio Blanco	Remodel Ranglely courthouse.		\$28,000	
11th Courts	Fremont	Sound systems for courtrooms.			\$46,000
13th Courts	Phillips	New phone system.		\$28,000	
13th Courts	Kit Carson	New phone system.		\$44,000	
13th Probation	Phillips	Addition of one new office.	\$3,500		
16th Courts	Crowley	New phone system.		\$35,000	
16th Courts	Bent	New phone system.		\$38,000	
18th Courts	Douglas	Clerk's Office remodel - expand front counter and add 11 offices and conference room.	\$181,650		
18th Courts	Douglas	Clerk's Office remodel - expand front counter and add 11 offices and conference room.		\$10,000	
TOTAL FURNISHINGS & INFRASTRUCTURE			\$456,800	\$809,000	\$654,000

Second, the Department requests a \$1,096,142 (including \$550,000 General Fund and \$546,142 cash funds from the Judicial Department Information Technology Cash Fund) for projects that were originally funded for FY 2016-17 but have been delayed. Specifically, Montezuma County planned a project that county commissioners believed would be completed in FY 2016-17. The Department learned that this project will not be completed until FY 2017-18, and therefore the Judicial Department requested that \$926,824 for this project be shifted to FY 2017-18. In addition, the

Department has three phone system installations in Routt, Moffatt, and Grand Counties that will not be completed until FY 2017-18, and requested that \$169,318 be shifted to FY 2017-18.

Staff Recommendation

Staff recommends appropriating a total of \$3,230,056 (including \$2,639,800 General Fund and \$590,256 cash funds) for FY 2017-18 including:

- \$1,919,800 for new projections in 10 judicial districts; and
- \$1,310,256 for projects that were delayed from FY 2016-17 to FY 2017-18.

The Committee recently acted on the Department’s supplemental request related to the delayed projects. Based on updated information provided at that time by the Department, the Committee approved a staff recommendation to decrease the FY 2016-17 appropriation by a total of \$1,345,256. Of this amount, \$1,310,256 relates to delayed projects that now require funding in FY 2017-18. The updated information related to delayed projects is detailed in the following table (prepared by the Department).

<u>District</u>	<u>County</u>	FY2016-17			FY2017-18		
		<u>Total</u>	<u>General Fund</u>	<u>Cash Funds</u>	<u>Total</u>	<u>General Fund</u>	<u>Cash Funds</u>
5th	Clear Creek	(214,114)	(170,000)	\$ (44,114)	214,114	170,000	44,114
6th	La Plata	(35,000)	(65,000)	\$ 30,000	-	-	-
14th	Routt	(77,044)		\$ (77,044)	77,044	-	77,044
14th	Moffatt	(48,283)		(48,283)	48,283	-	48,283
14th	Grand	(43,991)		(43,991)	43,991	-	43,991
22nd	Montezuma	(550,000)	(550,000)		550,000	550,000	-
22nd	Montezuma	(280,000)		(280,000)	280,000	-	280,000
22nd	Montezuma	(96,824)		(96,824)	96,824	-	96,824
		<u>\$ (1,345,256)</u>	<u>\$ (785,000)</u>	<u>\$ (560,256)</u>	<u>\$ 1,310,256</u>	<u>\$ 720,000</u>	<u>\$ 590,256</u>

The Department indicates that in addition to meeting its statutory responsibility to furnish court facilities, this request will prevent infrastructure system failure, improve employee efficiency, enhance customer service, and achieve long-term savings for the State. The Department indicates that these outcomes will help it provide equal access to the legal system; treat all with dignity, respect, and concern for their rights and cultural backgrounds; and to cultivate public trust and confidence through the thoughtful stewardship of public resources (Principles 1, 2, and 5, respectively, of the Department's SMART Act plan).

Staff also recommends making format changes to the FY 2017-18 Long Bill, including:

- Renaming this line item “Courthouse Furnishings and Infrastructure Maintenance”; and
- Discontinuing the practice of including funding for capital outlay for central office staff in this line item.

First, during the Department’s December 12, 2016, hearing with the Department, the Chief Justice mentioned that the existing name for this line item causes confusion, particularly since the General Assembly established the “Underfunded Courthouse Facilities Grant Program”. Staff has worked

with the Department and recommends a line item that more clearly describes the purpose of this appropriation.

Second, since FY 2010-11, this line item has also included funds appropriated for capital outlay expenses associated with new staff for the State Court Administrator's Office, the courts, probation programs, and for the Office of the Child Protection Ombudsman. Over the last seven fiscal years, a total of \$1,080,298 was included in this line item for such purpose. Prior to FY 2010-11, such funding appeared in a separate line item in each respective division. This consolidated format has reflected the Department's method of administering these appropriations, as it uses the same purchasing process for both types of expenditures. However, the inclusion of capital outlay funding for state staff makes this line item more difficult to describe and track expenditure patterns. Staff recommends including any such funding in a separate "Capital Outlay" line item directly below this line item. No capital outlay funding is requested for FY 2017-18.

BACKGROUND INFORMATION – STATE ROLE RELATED TO COURTHOUSE FACILITIES

Section 13-3-108, C.R.S., requires each county to provide and maintain adequate courtrooms and other court facilities. However, Section 13-3-104, C.R.S., requires that the State pay 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." Pursuant to the latter provision, the General Assembly annually appropriates funds for courthouse facilities, including the following types of expenditures:

- furnishings for new, expanded, and remodeled courthouse facilities (including probation facilities);
- costs associated with the temporary relocation of a court;
- shelving;
- phone and communication systems;
- audiovisual systems; and
- wireless access.

In addition, the State Court Administrator's Office provides technical support and information for Judicial Department managers and county officials with regard to the planning, design, and construction of new or remodeled court and probation facilities. Staff is available to provide support throughout the design process including the selection of design professionals and contractors, space planning, conceptual design, schematic design, design development, and construction administration. Staff also offers technical assistance and consultation regarding courthouse security issues, courtroom technology, furnishings, fixtures, and associated equipment.

Finally, the General Assembly provides state funding to assist some counties with facility-related expenditures through the Courthouse Security Grant Program and the Underfunded Courthouse Facilities Grant Program.

BACKGROUND INFORMATION - HISTORY OF STATE APPROPRIATIONS FOR COURTHOUSE FACILITIES

The annual appropriation for courthouse capital and infrastructure maintenance varies significantly depending on the number and size of county construction projects. Historically, General Fund moneys were appropriated for this purpose. From FY 2009-10 through FY 2013-14, the General Fund appropriation was temporarily replaced with cash funds from the Judicial Stabilization Fund. This financing was made possible by delaying the implementation of the last 15 district and county court judgeships authorized by H.B. 07-1054. The one-time cash funds savings resulting from this delay were allocated to meet the State's obligation to furnish new and remodeled courthouses.

Beginning in FY 2015-16, the Department's budget request has included cash funds from the Judicial Department Information Technology Cash Fund to cover information technology-related components of the request.

The following table provides a history of recent expenditures, the FY 2017-18 appropriation (including the mid-year reduction in S.B. 17-164), and the staff recommendation for FY 2017-18.

RECENT EXPENDITURES AND APPROPRIATIONS FOR COURTHOUSE CAPITAL AND INFRASTRUCTURE MAINTENANCE			
FISCAL YEAR	GENERAL FUND	CASH FUNDS	TOTAL FUNDS ^{1/}
2000-01	\$5,808,916	\$0	\$5,808,916
2001-02	2,317,321	0	2,317,321
2002-03	317,302	0	317,302
2003-04	433,463	0	433,463
2004-05	1,027,533	0	1,027,533
2005-06	910,616	0	910,616
2006-07	1,103,359	0	1,103,359
2007-08	948,680	0	948,680
2008-09	1,000,000	0	1,000,000
2009-10	0	3,064,041	3,064,041
2010-11	80,791	2,351,276	2,432,067
2011-12	143,406	473,526	616,932
2012-13	0	1,621,173	1,621,173
2013-14	172,550	3,417,571	3,590,121
2014-15	2,194,603	24,212	2,218,815
2015-16	1,308,619	877,090	2,185,709
Average Annual Expenditures			1,849,753
FY 2016-17 <i>Amended</i> Approp.	1,616,541	1,782,287	3,398,828
FY 2017-18 <i>Recommendation</i>	2,639,800	590,256	3,230,056

1/ Since FY 2010-11, this line item has also included funds appropriated for capital outlay expenses associated with new staff for the State Court Administrator's Office, the courts, and probation programs. Prior to FY 2010-11, such funding appeared in a separate line item in each respective division.

→ JUD R2/BA7 LANGUAGE ACCESS CASELOAD AND CONTRACTOR RATE INCREASE

REQUEST: The Committee recently approved a requested mid-year increase of \$821,775 General Fund for language interpreter services for individuals who are not proficient in English to address increases in the number of court proceedings requiring such services. The Department has requested continuation of this funding in FY 2017-18, plus an increase of \$307,916 to increase the hourly rate for independent contract court interpreters by \$5.00.

RECOMMENDATION: Staff recommends approving the request.

ANALYSIS:

Language interpreter services are provided for individuals who are “limited English proficient” (LEP), meaning that they do not speak English as their primary language and have a limited ability to read, speak, write, or understand English.

Judicial officers rely on court interpreters to understand testimony and communicate with LEP parties. These services are critical for a judge to understand a party’s response, hear a victim’s concerns, and be assured that the parties understand the terms and conditions of their sentence. Interpreters are vital to reaching case resolution, reducing the number of future appearances in court, communicating requirements for an LEP individual, making informed and appropriate rulings, and ensuring that court proceedings are fair and understandable.

The need for language interpreter services continues to increase, along with the associated costs. The Department has attempted to manage these increased costs in recent years by requesting additional court interpreter and translator employees as well as requesting additional funding for contract services. However, despite this additional funding, the Department experienced a funding shortfall of \$602,611 in FY 2015-16. This shortfall was covered through fiscal year-end transfers from other appropriations within the Judicial Branch (primarily from the Office of the Child’s Representative appropriation for court-appointed counsel). The following table provides a recent history of expenditures for language interpreter and translator services.

RECENT EXPENDITURES FOR LANGUAGE INTERPRETERS AND TRANSLATORS ^{1/}				
FISCAL YEAR	GENERAL FUND	CASH FUNDS	TOTAL FUNDS	ANNUAL % CHANGE
2006-07	\$3,138,162	\$43,087	\$3,181,249	
2007-08	3,511,231	9,752	3,520,983	10.7%
2008-09	3,669,243	46,638	3,715,881	5.5%
2009-10	3,319,350	28,149	3,347,499	-9.9%
2010-11	3,429,145	27,600	3,456,745	3.3%
2011-12	3,660,068	264,130	3,924,198	13.5%
2012-13	3,853,411	258,865	4,112,276	4.8%
2013-14	4,193,965	263,750	4,457,715	8.4%
2014-15	4,635,029	30,876	4,665,905	4.7%
2015-16	5,214,470	25,295	5,239,765	12.3%

^{1/} Figures include expenses for state employee benefits.

The Committee recently approved a request for a mid-year increase of \$821,775 General Fund for FY 2016-17 to address a projected shortfall due to increases in the number of court proceedings requiring such services. For FY 2017-18, the Department requests continuation of this funding, plus an increase of \$307,916 to increase the hourly rates for certain independent contract court interpreters. Specifically, the Department proposes the following hourly rate increases:

- Certified Spanish language interpreters: Increase from \$35 to \$40
- Qualified interpreters for languages other than Spanish: Increase from \$40 to \$45
- Certified interpreters for languages other than Spanish: Increase from \$45 to \$50¹³

¹³ It can be hard to find interpreters for some languages, so the rate may be higher than \$50 in some circumstances. These are handled on a case by case basis.

No rate increases are proposed for “registered” interpreters, and no rate increases are proposed for Spanish language interpreters who are not certified.

The last time that any of the Department’s hourly rates for independent contract court interpreters were adjusted was in FY 2011-12, when the hourly rate for certified Spanish language interpreters increased from \$30 to \$35. Prior to that, the rates had not been adjusted since at least FY 2001-02. The Department’s human resources unit conducted a compensation study of independent contract court interpreters, including data from Denver county, Colorado public schools, federal courts, other states, and private agencies in both the legal sector and other sectors. The study concluded that rate increases for certified interpreters for both Spanish and other languages is warranted. During the Department’s recent budget hearing, the Chief Justice specifically referenced the challenged posed by the higher hourly rate that is currently paid by the Denver County Court (\$40 for Spanish language interpreters).

Staff recommends approving this request. There has only been one rate increase since at least FY 2001-02, and that increase did not apply to interpreters for languages other than Spanish. A reduction of qualified independent contract court interpreters will result in limited availability when interpreters are required and will slow down case processing.

BACKGROUND INFORMATION - REQUIREMENT TO PROVIDE LANGUAGE INTERPRETER SERVICES

Foreign language interpreter services are required under Title VI of the federal Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from discriminating based upon national origin by, among other things, failing to provide meaningful access to individuals who are limited English proficient (LEP). Federal Executive Order 13166 requires that all recipients of federal funding develop a plan for providing that access, and Colorado’s plan for providing access to LEP persons is reflected in Chief Justice Directive 06-03. This Directive, as amended in 2011, ensures that approved language assistance is provided at no charge for LEP persons in all court proceedings, services and programs, thereby ensuring access to justice and due process for all parties irrespective of case type or indigence status.

Concurrent with the amendment of CJD 06-03 the Department entered into a memorandum of agreement with the U.S. Department of Justice to meet a number of monitoring requirements and to implement the Judicial Department’s Language Access Plan. In March 2012, the Judicial Department published its “Strategic Plan for Implementing Enhanced Language Access in the Colorado State Courts.” This plan identified 35 projects designed to improve language access statewide. These projects addressed court policies, standards, infrastructure and training. In early 2016, the Judicial Department completed the 35 projects and met all monitoring requirements. In June 2016, Chief Justice Nancy Rice and Vanita Gupta, U.S. Department of Justice Principal Deputy Assistant Attorney, agreed to terminate the agreement, and the Justice Department closed its case.

This Chief Justice Directive indicates that the court shall pay for interpreter services for all parties in interest during or ancillary to a court proceeding, including:

- Facilitation of communication outside of a judicial officer's presence in order to allow a court proceeding to continue as scheduled, including pre-trial conferences between defendants and district attorneys in order to relay a plea offer immediately prior to a court appearance or to discuss a continuance;

- Facilitation of communication between client and state funded counsel;
- Facilitation of communication with parties of interest in court mandated programs (e.g., family court facilitations and mediations); and
- Completion of evaluations and investigations ordered by and performed for the purpose of aiding the court in making a determination.

The court may provide and pay for language interpretation for limited English proficient persons other than parties in interest directly impacted by a court proceeding.

The court shall not arrange, provide, or pay for language interpretation during or ancillary to a court proceeding to facilitate communication with attorneys, prosecutors, or other parties related to a case involving LEP individuals for the purpose of gathering background information, investigation, trial preparation, witness interviews, or client representation at a future proceeding; for communications relating to probation treatment services. Prosecutors and parties' attorneys are expected to arrange for language interpretation for case preparation and general communication with parties outside of court proceedings at their own expense.

→ JUD BA1 RESTORATIVE JUSTICE

REQUEST: The Department requests a \$122,704 increase in spending authority from the Restorative Justice Surcharge Fund to expand funding available to three local restorative justice programs (\$72,450) and expand training and technical assistance (\$50,254) for other judicial districts. The Department recently requested a mid-year increase of the same amount for FY 2016-17; this mid-year adjustment was approved. This request for ongoing funding thus reflects \$0 change compared to the adjusted FY 2016-17 appropriation.

RECOMMENDATION: **Consistent with the Committee action on the supplemental request, staff recommends approving of this request.**

ANALYSIS:

In 2013 the General Assembly established a \$10 surcharge on each person convicted of a crime and each juvenile adjudicated of a crime to provide revenue to support restorative justice programs [H.B. 13-1254]¹⁴. Surcharge revenues are credited to the Restorative Justice Surcharge Fund and are appropriated annually to support restorative justice programs operated by judicial districts and to support the Restorative Justice Coordinating Council. The Council:

- Supports the development of restorative justice programs;

¹⁴ See Section 18-25-101 (3) (a), C.R.S. [Restorative justice surcharge] and Section 19-2-213, C.R.S. [Restorative Justice Coordinating Council]. As defined in Section 18-1-901 (3) (o.5), C.R.S., "restorative justice practices" emphasize repairing the harm caused to victims and the community by offenses. Restorative justice practices include victim-offender conferences, family group conferences, circles, community conferences, and other similar victim-centered practices. Restorative justice practices are facilitated meetings attended voluntarily by the victim or victim's representatives, the victim's supporters, the offender, and the offender's supporters and may include community members. By engaging the parties to the offense in voluntary dialogue, restorative justice practices provide an opportunity for the offender to accept responsibility for the harm caused to the victim and community, promote victim healing, and enable the participants to agree on consequences to repair the harm, to the extent possible, including but not limited to apologies, community service, reparation, restoration, and counseling. Restorative justice practices may be used in addition to any other conditions, consequences, or sentence imposed by the court.

- Serves as a central repository for information on restorative justice programs; and
- Assists in the development and provision of relevant education, technical assistance, and training to entities engaged in or wishing to engage in restorative justice as resources permit.

The surcharge generates about \$950,000 in annual revenues, and existing appropriations (including employee benefits and indirect costs) total about \$920,000. In the three years since the creation of the surcharge, however, a balance has grown within the Restorative Justice Surcharge Fund; at the end of FY 2015-16, this balance was \$902,080.

The Department's supplemental request (and continuation funding requested for FY 2017-18) is designed to utilize this fund balance to expand funding for local restorative justice programs and expand the availability of training and technical assistance for judicial districts. The Department currently supports restorative justice programs in six judicial districts, including:

- 6th (Archuleta, La Plata, and San Juan counties);
- 8th (Jackson and Larimer counties);
- 11th (Chaffee, Custer, Fremont, and Park counties);
- 12th (Alamosa, Conejos, Costilla, Mineral, Rio Grande, and Saguache counties);
- 19th (Weld county); and
- 20th (Boulder county).

The Department requests a \$122,704 increase in spending authority for FY 2016-17, and continuing in FY 2017-18. Of this amount, \$72,450 would be used to expand funding available to restorative justice programs in the 6th, 8th, and 11th judicial districts. The remaining \$50,254 would be used for the statewide restorative justice conference and for training and technical assistance in the following judicial districts:

- 1st (Gilpin and Jefferson counties);
- 6th (Archuleta, La Plata, and San Juan counties);
- 9th (Garfield, Pitkin and Rio Blanco counties);
- 13th (Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, and Yuma counties); and
- 16th (Bent, Crowley, and Otero counties).

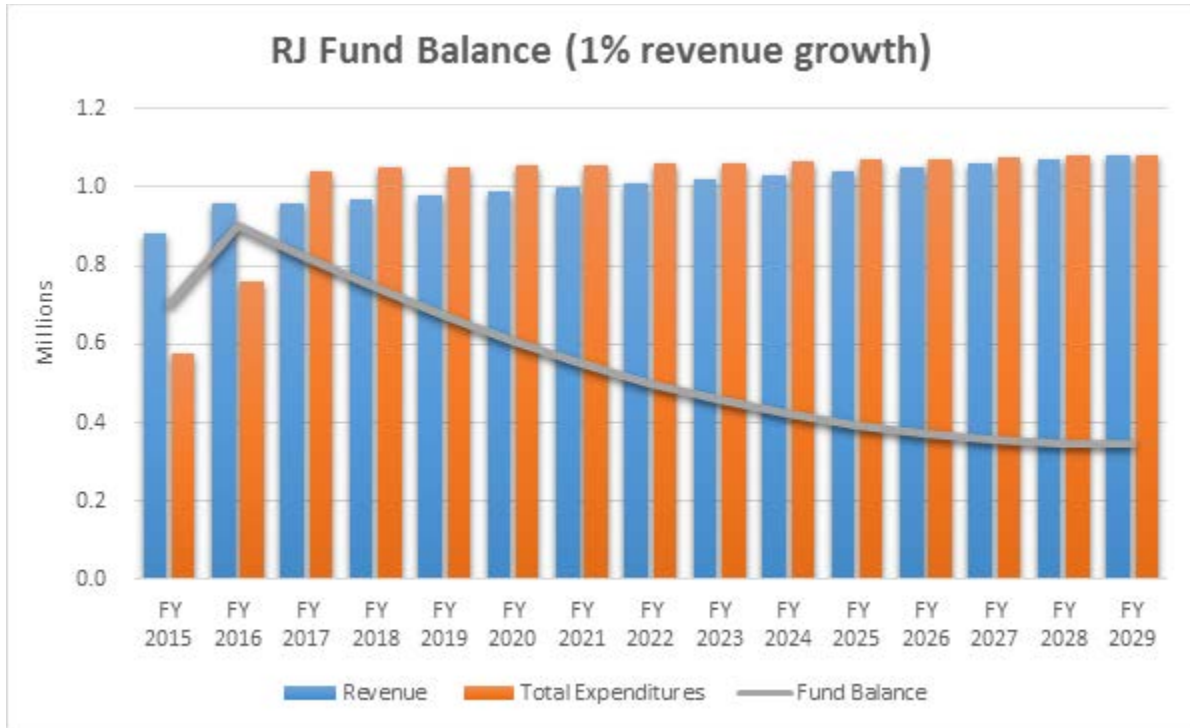
Staff recommends approving the request to allow the Restorative Justice Coordinating Council to increase financial support for those programs that have been most recently approved, and to increase outreach efforts to educate and support the use of restorative justice practices among judges, prosecutors, and defense attorneys.

In the supplemental request write-up, staff expressed concern that the surcharge revenues may not be sufficient to support restorative justice programs in additional judicial district unless allocations for other existing programs or for training are reduced. As requested, the Department responded to this concern as follows:

“Even assuming no revenue growth and modest (2.5%) payroll increases, the fund should remain above a 23% fund balance by FY23. The Judicial Department is sensitive to keeping judicial districts up to date on the health of program budgets. The State Court Administrator's Office regularly provides program managers and judicial district leadership with information on the financial stability of cash funds.

This regular feedback mitigates the impact that declines in the Restorative Justice Cash Fund may have on future program funding.

A more likely conservative scenario of 1% revenue growth (revenue is tied to a surcharge on criminal convictions) and 2.5% payroll cost increase, shows an annual decrease in the decline in fund balance between FY17 and FY29. At which time revenues would roughly equal expenditures and would still retain a \$348,000 (32.3%) fund balance.”



LINE ITEM DETAIL – COURTS ADMINISTRATION

(A) ADMINISTRATION AND TECHNOLOGY

This subsection funds the activities of the Office of the State Court Administrator, including the following central administrative functions: accounting and budget; human resources; facilities management; procurement; information technology; public information; and legal services. Line items in this section are primarily supported by General Fund and the Judicial Department Information Technology Cash Fund.

GENERAL COURTS ADMINISTRATION

This line item provides funding for personal services and operating expenses for the Office of the State Court Administrator's central administrative functions (e.g., human resources, accounting and budget, courts and probation administration and technical assistance, etc.). This line item also supports staff that develops and maintains information technology systems used by court and probation staff in all 22 judicial districts, as well as systems used by other agencies and individuals to file information with the courts and access court information. Staff also provides training and technical assistance to system users. In addition, this line item provides funding for the costs of the Judicial Nominating Commission and the Jury Instruction Revision Committee, the printing of civil and criminal jury instructions, and the Branch's membership in the National Center for State Courts.

Sources of cash funds that support this line item include: the Judicial Department Information Technology Cash Fund; the Correctional Treatment Cash Fund; the Restorative Justice Surcharge Fund; and various sources of cash funds. Reappropriated funds that support this line item are from indirect cost recoveries.

The following table details the types of employees that are supported by this line item.

Staffing Summary				
General Courts Administration	15-16 Actual	16-17 Approp.	17-18 Request	17-18 Recommend.
<u>General Courts Administration</u>				
Executive	13.0	12.0	12.0	12.0
Probation Services	23.0	22.0	22.0	22.0
Financial Services	28.0	25.3	29.3	29.3
Court Services	28.3	33.5	33.5	33.5
Human Resources	<u>24.0</u>	<u>27.0</u>	<u>27.0</u>	<u>27.0</u>
Subtotal	116.3	119.8	123.8	123.8
<u>Information Technology Services</u>				
Administration/Management	16.2	16.8	17.0	17.0
Computer Technical Support	31.0	43.7	44.0	44.0
Court Services	0.0			
Support Center	8.0	9.0	9.0	9.0
Public Access/ Efile	17.0	17.0	17.0	17.0
Programming Services	<u>34.6</u>	<u>33.0</u>	<u>33.0</u>	<u>33.0</u>
Subtotal	106.8	119.5	120.0	120.0
Total	223.1	239.3	243.8	243.8

STATUTORY AUTHORITY: Section 13-3-101 *et seq.*, C.R.S. [Judicial Department]

REQUEST: The Department requests a total of \$26,341,657, including \$17,907,163 General Fund, \$5,747,813 cash funds, \$2,686,681 reappropriated funds, and 243.8 FTE. This line item is impacted by: JUD BA4 (Long Bill clean-up/ FTE true-up), and the Correctional Treatment Cash Fund allocation adjustment; both of these items are discussed at the beginning of this packet.

RECOMMENDATION: **Staff recommends approving the request, with one modification.** Staff's recommendation for Correctional Treatment Cash Fund allocation adjustment includes a \$601 increase in the appropriation from this fund source to cover the \$96,757 costs associated with the position that supports the Correctional Treatment Board.

Indirect cost assessment: The amount of reappropriated funds recommended equals the sum of the three Indirect Cost Assessment line items in this packet (\$2,049,858), plus \$552,700 from indirect cost recoveries from federal grants. [A detailed description of the calculation of indirect cost assessments is included at the end of this document.]

COURTS ADMINISTRATION, ADMINISTRATION AND TECHNOLOGY, GENERAL COURTS ADMINISTRATION						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2016-17 APPROPRIATION						
HB 16-1405 (Long Bill)	\$25,614,792	\$17,598,119	\$5,747,813	\$2,268,860	\$0	239.3
TOTAL	\$25,614,792	\$17,598,119	\$5,747,813	\$2,268,860	\$0	239.3
FY 2017-18 RECOMMENDED APPROPRIATION						
FY 2016-17 Appropriation	\$25,614,792	\$17,598,119	\$5,747,813	\$2,268,860	\$0	239.3
Annualize prior year budget actions	365,042	365,042	0	0	0	0.5
JUD BA4 Long Bill clean-up and FTE true-up	361,823	0	0	361,823	0	4.0
Correctional Treatment Cash Fund allocation adjustment	601	0	601	0	0	0.0
Indirect cost assessment	0	(55,998)	0	55,998	0	0.0
TOTAL	\$26,342,258	\$17,907,163	\$5,748,414	\$2,686,681	\$0	243.8
INCREASE/(DECREASE)	\$727,466	\$309,044	\$601	\$417,821	\$0	4.5
Percentage Change	2.8%	1.8%	0.0%	18.4%	n/a	1.9%
FY 2017-18 EXECUTIVE REQUEST	\$26,341,657	\$17,907,163	\$5,747,813	\$2,686,681	\$0	243.8
Request Above/(Below) Recommendation	(\$601)	\$0	(\$601)	\$0	\$0	0.0

INFORMATION TECHNOLOGY INFRASTRUCTURE

This line item provides funding for the following information technology-related expenses:

- The majority of the Department's data line charges;
- Hardware replacement (personal computers, servers, routers, switches, etc.); and
- Software and hardware maintenance, including: licenses, updates and maintenance; hardware/software maintenance agreements related to the Department's voice/data network; anti-virus software; and the ongoing costs associated with the maintenance and upkeep of all of the Department's hardware (personal computers, terminals, printers, and remote controllers).

STATUTORY AUTHORITY: Section 13-3-101 *et seq.*, C.R.S. [Judicial Department]; Section 13-32-114, C.R.S. [Judicial Department Information Technology Cash Fund]

REQUEST: The Department requests a total of \$9,256,268, including \$403,094 General Fund and \$8,853,174 cash funds from the Judicial Department Information Technology Cash Fund. The

request reflects the elimination of one-time cash funds spending authority that was provided to replace servers and to equip, implement, and configure a fully functional disaster recovery site (FY 2016-17 JUD R1).

RECOMMENDATION: Staff recommends approving the request.

COURTS ADMINISTRATION, ADMINISTRATION AND TECHNOLOGY, INFORMATION TECHNOLOGY INFRASTRUCTURE						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2016-17 APPROPRIATION						
HB 16-1405 (Long Bill)	\$15,879,211	\$403,094	\$15,476,117	\$0	\$0	0.0
TOTAL	\$15,879,211	\$403,094	\$15,476,117	\$0	\$0	0.0
FY 2017-18 RECOMMENDED APPROPRIATION						
FY 2016-17 Appropriation	\$15,879,211	\$403,094	\$15,476,117	\$0	\$0	0.0
Annualize prior year budget actions	(6,622,943)	0	(6,622,943)	0	0	0.0
TOTAL	\$9,256,268	\$403,094	\$8,853,174	\$0	\$0	0.0
INCREASE/(DECREASE)	(\$6,622,943)	\$0	(\$6,622,943)	\$0	\$0	0.0
Percentage Change	(41.7%)	0.0%	(42.8%)	n/a	n/a	n/a
FY 2017-18 EXECUTIVE REQUEST	\$9,256,268	\$403,094	\$8,853,174	\$0	\$0	0.0
Request Above/(Below) Recommendation	\$0	\$0	\$0	\$0	\$0	0.0

INDIRECT COST ASSESSMENT

Statewide indirect cost assessments are charged to cash and federal programs for statewide overhead costs (such as those generated by the Department of Personnel and Administration or DPA), and then the assessments are used in administrative divisions to offset General Fund appropriations. This department’s share of statewide costs is primarily related to the DPA’s archive services, DPA’s Office of the State Controller, and the State Treasurer’s Office.

Departmental indirect cost assessments are charged to cash and federally-funded programs for departmental overhead costs, and then the assessments are used in the Courts Administration section to offset General Fund appropriations.

STATUTORY AUTHORITY: Colorado Fiscal Rules #8-3; Section 24-75-1401, C.R.S. [Indirect Costs Excess Recovery Fund]

REQUEST: The Department requests \$855,005, including \$832,072 cash funds and \$22,933 reappropriated funds.

RECOMMENDATION: Staff recommends approving the request, which is consistent with Committee policy.

(B) CENTRAL APPROPRIATIONS

This Long Bill group includes various centrally appropriated line items. Unless otherwise noted, the sources of cash funds include: the Offender Services Fund, the Judicial Department Information Technology Cash Fund, the Fines Collection Cash Fund, the Judicial Collection Enhancement Fund, the Correctional Treatment Cash Fund, the Alcohol and Drug Driving Safety Program Fund, and the State Commission on Judicial Performance Cash Fund.

HEALTH, LIFE AND DENTAL

This is the first of several line items that provide funding for the employer's share of the cost of group benefit plans providing health, life, and dental insurance for state employees. Each of the independent agencies submits a separate budget request, and has the authority to employ and determine the compensation of their staff. Thus, each independent agency receives a separate appropriation to fund the salaries and the benefits for its employees. This line item provides funds for Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation staff.

STATUTORY AUTHORITY: Pursuant to Section 24-50-611, C.R.S., and defined in Section 24-50-603 (9), C.R.S.

REQUEST: The Department requests a total of \$33,150,585, including \$30,465,688 General Fund and \$2,684,897 cash funds.

RECOMMENDATION: Staff recommends appropriating a total of \$33,150,528 for this line item, consistent with Committee policy with respect to employer contribution rates (these were the adjusted rates proposed by the Department of Personnel through a budget amendment). **The following table summarizes all of staff's recommendations in this packet for Health, Life and Dental:**

SUMMARY OF FY 2017-18 RECOMMENDATIONS FOR HEALTH, LIFE, AND DENTAL			
	GENERAL FUND	CASH FUNDS	TOTAL FUNDS
Courts Administration (for courts and probation)	\$30,465,620	\$2,684,908	\$33,150,528
Office of the State Public Defender	6,781,728	0	6,781,728
Office of the Alternate Defense Counsel	163,134	0	163,134
Office of the Child's Representative	226,640	0	226,640
Office of the Respondent Parents' Counsel	84,338	0	84,338
Office of the Child Protection Ombudsman	74,937	0	74,937
Independent Ethics Commission	16,737	0	16,737
Total	\$37,813,134	\$2,684,908	\$40,498,042

In addition, staff recommends including a new request for information that asks the State Court Administrator's Office to work with the independent agencies to explore the feasibility of establishing a single appropriation for Health, Life, and Dental benefits for all Judicial Branch employees:

N JUDICIAL DEPARTMENT, COURTS ADMINISTRATION, CENTRAL APPROPRIATIONS, HEALTH, LIFE, AND DENTAL; OFFICE OF THE STATE PUBLIC DEFENDER, HEALTH, LIFE, AND DENTAL; OFFICE OF THE ALTERNATE DEFENSE COUNSEL, HEALTH, LIFE, AND DENTAL; OFFICE OF THE CHILD'S REPRESENTATIVE, HEALTH, LIFE, AND DENTAL; OFFICE OF THE RESPONDENT PARENTS' COUNSEL, HEALTH, LIFE, AND DENTAL; OFFICE OF THE CHILD PROTECTION OMBUDSMAN, PROGRAM COSTS; AND INDEPENDENT ETHICS COMMISSION, PROGRAM COSTS – THE STATE COURT ADMINISTRATOR'S OFFICE IS REQUESTED TO PROVIDE BY NOVEMBER 1, 2017, A REPORT CONCERNING THE FEASIBILITY OF INCLUDING A SINGLE LINE ITEM APPROPRIATION IN THE FY 2018-19 LONG BILL FOR JUDICIAL BRANCH EMPLOYEE HEALTH, LIFE, AND DENTAL INSURANCE BENEFITS. THE OFFICE IS REQUESTED TO DISCUSS THIS PROPOSAL WITH EACH OF THE SIX INDEPENDENT JUDICIAL AGENCIES, AND SEEK INPUT CONCERNING THE ASSOCIATED BENEFITS AND CHALLENGES.

A single line item appropriation format would be more consistent with Executive Branch agencies, and it would be consistent with the current format used for other centrally appropriated line items that are administered for the entire Branch by the State Court Administrator's Office (including: Workers' Compensation, Payment to Risk Management and Property Funds, Ralph L. Carr Colorado Judicial Center, Payments to OIT, and CORE Operations).

Staff believes that a single line item appropriation for employee health, life, and dental benefits would significantly reduce the of time required for Judicial agency, Department of Personnel, and Joint Budget Committee staff to calculate and administer the appropriation. These benefits are not tied to employee salaries, and individual agencies do not have any control over an employee's choice of insurance. The Committee recently approved a proposal that differentiates the employer share of costs for healthcare coverage based on both the type of coverage (i.e., individual employee, employee plus spouse, employee plus children, or employee plus family) as well as the type of provider (e.g., United Healthcare High Deductible, United Healthcare Copay, Kaiser High Deductible, or Kaiser Copay). This significantly increases the complexity of preparing the annual budget request and calculating the annual appropriation. The current structure of the Judicial Branch Long Bill requires this work to be performed by or on behalf of seven agencies to calculate seven line item appropriations.

SHORT-TERM DISABILITY

This is the first of several line items that provide funding for the employer's share of state employees' short-term disability insurance premiums. Each of the independent agencies submits a separate budget request, and has the authority to employ and determine the compensation of their staff. Thus, each independent agency receives a separate appropriation to fund the salaries and the benefits for its employees. This line item provides funds for Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation staff. Please note that the Department does not provide short-term disability for justices and judges, so the premium calculation excludes base salaries for judges and justices. It is staff's understanding that this is due to the constitutional prohibition on decreasing compensation for a judge or justice during their term of office.¹⁵ If a judge or justice becomes disabled, he or she is either paid a full salary while on short-term leave or is paid under long-term disability provisions.

¹⁵ See Section 18 of Article VI of the State Constitution.

STATUTORY AUTHORITY: Pursuant to Section 24-50-611, C.R.S., and defined in Section 24-50-603 (13), C.R.S.

REQUEST: The Department requests a total of \$359,779, including \$330,190 General Fund and \$29,589 cash funds. This calculation is based on applying a rate of 0.19 percent to base salaries (excluding judicial officers), plus requested salary survey increases (excluding those for judicial officers).

RECOMMENDATION: **Staff's recommendation for this line item is pending** the Committee's common policy for Salary Survey and Merit Pay. The recommendation reflects \$4,458 less than the request based on staff's recommendation concerning Salary Increases for Judicial Officers and Employees, which is discussed at the beginning of this packet.

S.B. 04-257 AMORTIZATION EQUALIZATION DISBURSEMENT (AED)

Pursuant to S.B. 04-257, this is the first of several line items that provide additional funding to increase the state contribution for Public Employees' Retirement Association (PERA). Each of the independent agencies submits a separate budget request, and has the authority to employ and determine the compensation of their staff. Thus, each independent agency receives a separate appropriation to fund the salaries and the benefits for its employees. This line item provides funds for Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation staff.

STATUTORY AUTHORITY: Pursuant to Section 24-51-411, C.R.S.

REQUEST: The Department requests \$10,784,599, including \$9,998,150 General Fund and \$786,449 cash funds, based on applying a 5.0 percent for most staff and a rate of 2.2 percent for judicial officers.

RECOMMENDATION: **Staff's recommendation for this line item is pending** the Committee's common policy for Salary Survey and Merit Pay. The recommendation reflects \$116,504 less than the request based on staff's recommendation concerning Salary Increases for Judicial Officers and Employees, which is discussed at the beginning of this packet.

S.B. 06-235 SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT (SAED)

Pursuant to S.B. 06-235, this is the first of several line items that provide additional funding to increase the state contribution for PERA. Each of the independent agencies submits a separate budget request, and has the authority to employ and determine the compensation of their staff. Thus, each independent agency receives a separate appropriation to fund the salaries and the benefits for its employees. This line item provides funds for Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation staff.

STATUTORY AUTHORITY: Pursuant to Section 24-51-411, C.R.S.

REQUEST: The Department requests \$10,365,572, including \$9,581,610 General Fund and \$783,962 cash funds, based on applying a blended rate of 5.0 percent for most staff and a rate of 1.5 percent for judicial officers.

RECOMMENDATION: **Staff's recommendation for this line item is pending** the Committee's common policy for Salary Survey and Merit Pay. The recommendation reflects \$116,504 less than the request based on staff's recommendation concerning Salary Increases for Judicial Officers and Employees, which is discussed at the beginning of this packet.

SALARY SURVEY

The Department uses this line item to pay for annual salary increases. Each of the independent agencies submits a separate budget request, and has the authority to employ and determine the compensation of their staff. Thus, each independent agency receives a separate appropriation to fund the salaries and the benefits for its employees. This line item provides funds for Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation staff.

STATUTORY AUTHORITY: Pursuant to Section 24-50-104, C.R.S.

REQUEST: The Department requests a total of \$11,440,344 total funds for salary increases to be awarded in FY 2017-18, including:

- \$6,719,595 for a 2.5 percent across-the-board salary increases for all Branch employees, including judicial officers;
- \$2,348,229 to align salary ranges for several Judicial Department employee classifications that are considered at least 3.0 percent below market based on a recent compensation study;
- \$2,102,297 for the Judicial Department to increase the salaries of all judges and justices by 3.15 percent;
- \$270,223 to increase salaries by an additional 3.15 percent for certain judicial employee classifications that are benchmarked to judicial officer salaries¹⁶.

RECOMMENDATION: **Staff's recommendation for this line item is pending** the Committee's common policy for Salary Survey and Merit Pay. The recommendation reflects \$2,618,451 less than the request based on staff's recommendation concerning Salary Increases for Judicial Officers and Employees, which is discussed at the beginning of this packet.

MERIT PAY

The Department uses this line item to pay for performance-related pay increases. Each of the independent agencies submits a separate budget request, and has the authority to employ and determine the compensation of their staff. Thus, each independent agency receives a separate appropriation to fund the salaries and the benefits for its employees. This line item provides funds for Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation staff.

STATUTORY AUTHORITY: Pursuant to Section 24-50-104 (1) (c), C.R.S.

¹⁶ These positions include: Magistrates, Water Referees, the State Court Administrator, the Clerk of the Appellate Courts, Judicial Legal Counsel, District Administrators, Chief Probation Officers, the Chief of Staff, the Chief Information Officer, the Director of Court Services, the Director of Financial Services, the Director of Human Resources, and the Director of Probation Services.

REQUEST: The Department requests \$0 General Fund for merit pay increases.

RECOMMENDATION: **Staff's recommendation is pending** the Committee's common policy for this line item.

WORKERS' COMPENSATION

This line item is used to pay the Branch's estimated share for inclusion in the state's workers' compensation program for state employees (including funding associated with the independent agencies). This program is administered by the Department of Personnel and Administration.

STATUTORY AUTHORITY: Pursuant to Section 24-30-1510.7, C.R.S.

REQUEST: The Department requests \$1,508,352 General Fund.

RECOMMENDATION: **Staff's recommendation is pending** the Committee's common policy for this line item.

LEGAL SERVICES

This line item provides funding for the Department to purchase legal services from the Department of Law. The State Court Administrator's Office (SCAO) indicates that it primarily requires services from the Department of Law for litigation-related matters because SCAO attorneys cannot appear in front of judicial officers that they advise as clients. Some examples of the types of cases in which the Department of Law provides legal counsel are listed below:

- Representing the Judicial Department in procurement disputes;
- Represent the Judicial Department's interests as a creditor in bankruptcy matters;
- Performing contract review and other transactional matters for the Judicial Department (*e.g.*, the contracts for the Carr building);
- Obtaining temporary and permanent restraining orders for Judicial Department employees who are being harassed or threatened for performing their official duties;
- Representing the judicial employees when confidential records are subpoenaed;
- Representing judicial employees who are sued and injunctive relief is sought against them;
- Representing the Judicial Department in certain matters before the PERA board; and
- Representing judges who are subpoenaed into actions, by filing a motion to quash on their behalf.

STATUTORY AUTHORITY: Pursuant to 24-31-101 (1) (a), C.R.S., and defined in Section 24-75-112 (1) (i), C.R.S.

REQUEST: The Department requests \$208,870 General Fund to purchase 2,000 hours of legal services. The Department requested, and the Committee approved, a request for a temporary increase in funding for legal services (\$42,268 for an additional 350 hours of services and expert witness expenses) for FY 2016-17 for one pending case. The Department has not requested continuation of this funding, so the request for FY 2017-18 represents continuation of the base level of funding.

RECOMMENDATION: Staff recommends providing funding sufficient to purchase 2,000 hours of legal services. This appropriation has been decreased significantly in recent years, reducing the number of hours that can be purchased from 4,227 in FY 2007-08 to 2,000 in FY 2015-16. While the Department required mid-year increases in both FY 2015-16 and FY 2016-17 for two specific cases, it has not requested that this higher level of funding be sustained. The associated appropriation will be calculated after the Committee sets the common policy for the legal services rate. The following table summarizes all of staff's recommendations in this packet for Legal Services:

SUMMARY OF FY 2017-18 RECOMMENDATIONS FOR LEGAL SERVICES	
JUDICIAL AGENCY	HOURS
Courts Administration (for courts and probation)	2,000.0
Office of the Respondent Parents' Counsel	20.0
Office of the Child Protection Ombudsman	80.0
Independent Ethics Commission	1,800.0
Total	3,900.0

PAYMENT TO RISK MANAGEMENT AND PROPERTY FUNDS

This line item provides funding for the Branch's share of the statewide costs for two programs operated by the Department of Personnel and Administration: (1) the liability program, and (2) the property program. The state's liability program is used to pay liability claims and expenses brought against the State. The property program provides insurance coverage for state buildings and their contents. This line item includes funding for the independent agencies.

STATUTORY AUTHORITY: Pursuant to Section 24-30-1510 and 24-30-1510.5, C.R.S.

REQUEST: The Department requests \$1,131,265 General Fund.

RECOMMENDATION: **Staff's recommendation is pending** the Committee's common policy for this line item.

VEHICLE LEASE PAYMENTS

This line item provides funding for annual payments to the Department of Personnel and Administration for the cost of administration, loan repayment, and lease-purchase payments for new and replacement motor vehicles [see Section 24-30-1117, C.R.S.]. The current appropriation covers costs associated with a total of 25 vehicles which are shared by probation and trial court staff within each judicial district. The Department indicates that these vehicles travel a little over 475,000 miles per year, which represents a fraction of the total miles driven by court and probation employees. Most of the miles driven for judicial business are in personal vehicles. State vehicles are primarily used by rural judges traveling to courthouses within their judicial district, computer technicians, and some probation officers performing home visits.

STATUTORY AUTHORITY: Pursuant to Section 24-30-1104 (2), C.R.S.

REQUEST: The Department requests \$166,036 General Fund.

RECOMMENDATION: **Staff's recommendation is pending** the Committee's common policy for this line item.

RALPH L. CARR COLORADO JUDICIAL CENTER LEASED SPACE

This line item provides funding to cover the leased space expenses for the following Judicial Branch agencies that are located in the Carr Center:

- The Office of the State Court Administrator;
- The Office of the State Public Defender (central administrative and appellate offices only);
- The Office of the Alternate Defense Counsel;
- The Office of the Child's Representative (central administrative office only);
- The Office of the Respondent Parents' Counsel;
- The Office of the Child Protection Ombudsman; and
- The Independent Ethics Commission.

STATUTORY AUTHORITY: Section 13-32-101 (7), C.R.S. [State Justice Center]

REQUEST: The Department requests \$2,579,918 General Fund.

RECOMMENDATION: **Staff recommends approving the request.** The amounts are based on the actual leased space occupied by each agency and the applicable leased space rates for FY 2017-18. Please note that these rates include amounts paid to the Colorado State Patrol for security services.

PAYMENTS TO OIT

This line item was first included in the FY 2014-15 Long Bill, consolidating funding that was previously included in four separate line items: Purchase of Services from Computer Center; Colorado State Network; Communication Services Payments; and Information Technology Security. This line item covers the Judicial Branch's share of funding for the various services provided by the Governor's Office of Information Technology.

STATUTORY AUTHORITY: Section 24-37.5-104, C.R.S.

REQUEST: The Department requests a total of \$5,330,538 General Fund.

RECOMMENDATION: **Staff's recommendation is pending** the Committee's common policy for this line item.

CORE OPERATIONS

This line item provides the Branch's share of funding the new CORE system that is used to record all state revenues and expenditures. This line item includes funding associated with the independent agencies.

STATUTORY AUTHORITY: Pursuant to Section 24-30-209, C.R.S.

REQUEST: The Department requests \$792,563 General Fund.

RECOMMENDATION: **Staff's recommendation is pending** the Committee's common policy for this line item.

LEASE PURCHASE

The Judicial Department manages phone systems across the state in most of its 83 locations (in a few locations, the county owns and operates the system and the court and/or probation office pay a monthly usage charge). This line item provides funding for the lease purchase of its telephone systems. This line item was eliminated in FY 2016-17.

STATUTORY AUTHORITY: Section 13-3-106, C.R.S. [Judicial Department operating budget]; Section 24-82-801, C.R.S. [Lease-purchase agreements]

(C) CENTRALLY ADMINISTERED PROGRAMS

This Long Bill group includes various programs and distributions that are administered by the Office of the State Court Administrator for the benefit of the courts, probation, and administrative functions.

VICTIM ASSISTANCE

VICTIM COMPENSATION

These line items represent funds that are collected by the courts from offenders and then transferred to local governments for compensation and assistance of victims. These amounts are included for informational purposes only, as they are continuously appropriated under the Judicial Branch's constitutional authority. The sources of cash funds are the Victims and Witnesses Assistance and Law Enforcement Funds (for Victim Assistance) and Crime Victim Compensation Funds (for Victim Compensation).

STATUTORY AUTHORITY: Articles 4.1 and 4.2 of Title 24, C.R.S.

REQUEST: The Department requests a continuation level of funding, including \$16,375,000 cash funds for Victim Assistance and \$13,400,000 cash funds for Victim Compensation.

RECOMMENDATION: **Staff recommends approving the requests for both line items.**

COLLECTIONS INVESTIGATORS

Collection investigators located in each judicial district are responsible for maximizing the collection of court-imposed fines, fees, and restitution. Recoveries are credited to the General Fund, victim restitution, victims compensation and support programs, and various law enforcement, trial court, probation, and other funds. Investigators are supported from cash funds (the Judicial Collection Enhancement Fund and the Fines Collection Cash Fund), as well as grants from local Victims and Witness Assistance Law Enforcement Boards.

STATUTORY AUTHORITY: Section 16-11-101.6, C.R.S. [Collection of fines and fees]; Section 16-18.5-104, C.R.S. [Initial collections investigation]; Section 18-1.3-401 (1) (a) (III) (C), C.R.S. [Investigators in each judicial district]; Section 18-1.3-602, C.R.S. [Restitution]

REQUEST: The Department requests a total of \$7,023,075, including \$6,125,534 cash funds and \$897,541 reappropriated funds, and 104.2 FTE.

RECOMMENDATION: **Staff recommends approving the request**, which reflects salary increases that were awarded in FY 2016-17 (\$265,873 cash funds).

PROBLEM-SOLVING COURTS

This line item provides state funding for all adult drug treatment courts, mental health treatment courts, family dependency treatment courts, and veterans treatment courts that have been implemented by various judicial districts. This line item also provides funding for all DUI treatment courts except for the Denver County Sobriety Court. This line item appropriation is intended to encourage districts to implement and operate problem-solving courts in a manner that has been proven effective in reducing the need for jail and prison beds, reducing crime rates, increasing treatment participation and effectiveness, and increasing employment among offenders.

STATUTORY AUTHORITY: Article VI of the State Constitution [Vestment of judicial power]; Sections 13-3-101 (9) and 13-5-144, C.R.S. [Veterans treatment courts]; Section 13-5-101 et seq., C.R.S. [District courts]; Section 13-6-101 et seq., C.R.S. [County courts]

REQUEST: The Department requests a total of \$3,605,925, including \$401,339 General Fund and \$3,204,586 cash funds from the Judicial Stabilization Cash Fund, and 44.3 FTE.

RECOMMENDATION: **Staff recommends approving the request**, which reflects salary increases that were awarded in FY 2016-17 (\$2,893 General Fund).

LANGUAGE INTERPRETERS AND TRANSLATORS

This is one of several line item appropriations for "mandated costs". These are costs associated with activities, events, and services that accompany court cases that are required in statute and/or the U.S. and Colorado Constitutions to ensure a fair and speedy trial, and to ensure the right to legal representation. This is one of two line items administered by the Office of the State Court Administrator that provides funding for mandated costs.

This line item provides funding for foreign language interpreter services. This line item supports a total of 33.0 FTE, including: 2.0 FTE Court Programs Analysts that administer the program; 2.0 FTE Court Translators who provide direct translation of written text (i.e., forms, instructional documentation, signage, and communications of the court) from Spanish to English and vice versa, and coordinate requests for translations in languages other than Spanish as needed; and the following 29.0 FTE in judicial districts who provide interpreter services:

- 14 Managing Interpreters (certified Spanish interpreters who provide interpretation services, perform administrative duties, and support their assigned district by providing subject matter expertise);
- One Interpreter Scheduler (an individual who provides many of the same services as Managing Interpreters but is currently in the process of achieving certification); and
- 14 Court Interpreters (certified Spanish interpreters whose primary function is to interpret for their assigned district and, when their services are not required, provide administrative support for the local interpreter offices).

In addition, the 20th judicial district houses the Center for Telephone Interpreting, which provides on-demand over-the-phone Spanish interpretation for in-court proceedings and customer service needs of the courts and probation offices statewide. Interpreting assistance is both scheduled in advance and provided when the need arises. The Center also coordinates interpretation for languages other than Spanish upon request.

Finally, this line item also supports payments to certified language interpreters who provide contract services. The Department contracts with independent certified Spanish interpreters as well as interpreters of other languages. Certified Spanish interpreters are paid \$35 per hour, plus compensation for travel time (at half the hourly rate) and mileage. This rate was most recently increased from \$30 to \$35 in FY 2011-12. Certified interpreters working in languages other than Spanish are paid at \$45/hour.

BACKGROUND INFORMATION – NEED FOR LANGUAGE INTERPRETER SERVICES

Language interpreter services are critical for a judge to understand a party's response, to hear a victim's concerns, and to be assured that the parties understand the terms and conditions of their sentence. Executive Order 13166 requires that all recipients of federal funding develop a plan for providing that access, and Colorado's plan for providing access to LEP persons is Chief Justice Directive 06-03.

This Chief Justice Directive indicates that the court shall pay for interpreter services for all parties in interest during or ancillary to a court proceeding, including:

- Facilitation of communication outside of a judicial officer's presence in order to allow a court proceeding to continue as scheduled, including pre-trial conferences between defendants and district attorneys in order to relay a plea offer immediately prior to a court appearance or to discuss a continuance;
- Facilitation of communication between client and state funded counsel;
- Facilitation of communication with parties of interest in court mandated programs (*e.g.*, family court facilitations and mediations); and
- Completion of evaluations and investigations ordered by and performed for the purpose of aiding the court in making a determination.

The court may provide and pay for language interpretation for limited English proficient persons other than parties in interest directly impacted by a court proceeding.

The court shall not arrange, provide, or pay for language interpretation during or ancillary to a court proceeding to facilitate communication with attorneys, prosecutors, or other parties related to a case involving LEP individuals for the purpose of gathering background information, investigation, trial

preparation, witness interviews, or client representation at a future proceeding; for communications relating to probation treatment services. Prosecutors and parties' attorneys are expected to arrange for language interpretation for case preparation and general communication with parties outside of court proceedings at their own expense.

STATUTORY AUTHORITY: Title VI of the federal Civil Rights Act of 1964 [prohibits recipients of federal financial assistance from discriminating based upon national origin by, among other things, failing to provide meaningful access to individuals who are limited English proficient (LEP)¹⁷]; Sections 13-90-113 and 114, C.R.S. [Payment of language interpreters]

REQUEST: The Department requests \$5,344,508, including \$5,294,508 General Fund and \$50,000 cash funds, and 33.0 FTE. The source of requested cash funds is fees and cost recoveries. This line item is impacted by: JUD R2/BA7 (Language access caseload and contractor rate increase), which is discussed at the beginning of this division.

RECOMMENDATION: **Staff recommends approving the request**, which reflects the salary increases that were awarded in FY 2016-17 (\$3,502 General Fund) and the amount requested through JUD R2/BA7.

COURTS ADMINISTRATION, CENTRALLY ADMINISTERED PROGRAMS, LANGUAGE INTERPRETERS AND TRANSLATORS						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2016-17 APPROPRIATION						
HB 16-1405 (Long Bill)	\$4,211,315	\$4,161,315	\$50,000	\$0	\$0	33.0
SB 17-164 (Supplemental bill)	\$821,775	\$821,775	\$0	\$0	\$0	0.0
TOTAL	\$5,033,090	\$4,983,090	\$50,000	\$0	\$0	33.0
FY 2017-18 RECOMMENDED APPROPRIATION						
FY 2016-17 Appropriation	\$5,033,090	\$4,983,090	\$50,000	\$0	\$0	33.0
JUD R2/BA7 Language access caseload and contractor rate increase	307,916	307,916	0	0	0	0.0
Annualize prior year budget actions	3,502	3,502	0	0	0	0.0
TOTAL	\$5,344,508	\$5,294,508	\$50,000	\$0	\$0	33.0
INCREASE/(DECREASE)	\$311,418	\$311,418	\$0	\$0	\$0	0.0
Percentage Change	6.2%	6.2%	0.0%	n/a	n/a	0.0%
FY 2017-18 EXECUTIVE REQUEST	\$5,344,508	\$5,294,508	\$50,000	\$0	\$0	33.0
Request Above/(Below) Recommendation	\$0	\$0	\$0	\$0	\$0	0.0

¹⁷ Individuals who are LEP do not speak English as their primary language and have a limited ability to read, speak, write, or understand English.

COURTHOUSE SECURITY

Established in 2007 (S.B. 07-118), the Courthouse Security Grant Program provides grant funds to counties for use in improving courthouse security efforts. Such efforts include security staffing, security equipment, training, and court security emergency needs. Grants for personnel are limited to those counties with:

- population below the state median;
- per capital income below the state median;
- tax revenues below the state median; and/or
- total population living below the federal poverty level greater than the state median.

A court security specialist (1.0 FTE) administers the grant program, and the Court Security Cash Fund Commission evaluates grant applications and makes recommendations to the State Court Administrator concerning grant awards.

The program is supported by the Court Security Cash Fund, which consists of a \$5 surcharge on: docket fees and jury fees for certain civil actions; docket fees for criminal convictions, special proceeding filings, and certain traffic infraction penalties; filing fees for certain probate filings; and fees for certain filings on water matters. Moneys in the Fund are to be used for grants and related administrative costs. County-level local security teams may apply to the State Court Administrator's Office for grants.

STATUTORY AUTHORITY: Section 13-1-201, et seq., C.R.S.

REQUEST: The Department requests a total of \$2,477,567, including \$503,468 General Fund and \$1,974,099 cash funds from the Court Security Cash Fund and 1.0 FTE.

RECOMMENDATION: **Staff recommends approving the request**, which reflects the salary increases that were awarded in FY 2016-17 (\$3,468 General Fund).

APPROPRIATION TO THE UNDERFUNDED COURTHOUSE FACILITY CASH FUND UNDERFUNDED COURTHOUSE FACILITIES GRANT PROGRAM

Established in 2014 (H.B. 14-1096), this program provides supplemental funding for courthouse facility projects in certain counties. The Underfunded Courthouse Facility Cash Fund Commission evaluates grant applications and makes grant award recommendations to the State Court Administrator. Grant funds must be used for master planning services, matching funds, leveraging grant funding opportunities, or addressing emergency needs due to the imminent closure of a court facility. In order to be considered for a grant award, a county must meet specified financial and demographic factors. The act included an appropriation of \$700,000 General Fund to the newly created Underfunded Courthouse Facility Cash Fund, and also provided the authority for the Department to spend up to \$700,000 from the cash fund to administer the program and provide grant awards. The Legislative Council Staff fiscal note for the act anticipated annual appropriations of \$3.0 million General Fund to the Cash Fund to support the program. However, for the last two fiscal years the General Assembly appropriated \$2.0 million General Fund to the cash fund.

STATUTORY AUTHORITY: Section 13-1-301 et seq., C.R.S.

REQUEST: The Department requests a \$2,000,000 General Fund appropriation to the Underfunded Courthouse Facility Cash Fund, and a continuation of the \$2,600,000 spending authority out of the cash fund and 1.0 FTE.

RECOMMENDATION: **Staff recommends approving the request for a \$2,000,000 General Fund appropriation to the cash fund. Staff also recommends approving the request for authority to spend \$2,600,000 out of the cash fund,** which allows the Department to spend the \$2.0 million in new General Fund credited to the cash fund as well as \$600,000 out of the fund balance. The Department indicates that this level of spending authority should be sufficient for FY 2017-18 based on projected reimbursements to be paid to counties that have received grant awards.

COURTHOUSE CAPITAL AND INFRASTRUCTURE MAINTENANCE

Statute requires each county to provide and maintain adequate courtrooms and other court facilities. However, the State is statutorily required pay 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." Pursuant to the latter provision, the General Assembly annually appropriates funds for courthouse facilities, including the following types of expenditures:

- furnishings for new, expanded, and remodeled courthouse facilities (including probation facilities);
- costs associated with the temporary relocation of a court;
- shelving;
- phone and communication systems;
- audiovisual systems; and
- wireless access.

In addition, staff in the State Court Administrator's Office provides technical support and information for Judicial Department managers and county officials with regard to the planning, design, and construction of new or remodeled court and probation facilities. Staff is available to provide support throughout the design process including the selection of design professionals and contractors, space planning, conceptual design, schematic design, design development, and construction administration. Staff also offers technical assistance and consultation regarding courthouse security issues, courtroom technology, furnishings, fixtures, and associated equipment. The annual appropriation for courthouse capital/ infrastructure maintenance varies significantly depending on the number and size of county construction projects.

STATUTORY AUTHORITY: Section 13-3-104, C.R.S. [State shall fund state courts]; Section 13-3-108, C.R.S. [Maintenance of court facilities]

REQUEST: The Department requests \$3,015,942, including \$2,469,800 General Fund and \$546,142 cash funds from the Judicial Department Information Technology Cash Fund. The request includes \$1,096,142 for JUD R1/BA2 (Courthouse capital and infrastructure maintenance). This decision item is discussed at the beginning of this division.

RECOMMENDATION: Staff recommends appropriating a total of **\$3,230,056**, as detailed in the following table.

COURTS ADMINISTRATION, CENTRALLY ADMINISTERED PROGRAMS, COURTHOUSE CAPITAL/ INFRASTRUCTURE MAINTENANCE						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2016-17 APPROPRIATION						
HB 16-1405 (Long Bill)	\$4,720,569	\$2,396,838	\$2,323,731	\$0	\$0	0.0
Other legislation	\$23,515	\$4,703	\$18,812	\$0	\$0	0.0
SB 17-164 (Supplemental bill)	(1,345,256)	(785,000)	(560,256)	0	0	0.0
TOTAL	\$3,398,828	\$1,616,541	\$1,782,287	\$0	\$0	0.0
FY 2017-18 RECOMMENDED APPROPRIATION						
FY 2016-17 Appropriation	\$3,398,828	\$1,616,541	\$1,782,287	\$0	\$0	0.0
JUD R1/BA2 Courthouse capital and infrastructure maintenance	3,230,056	2,639,800	590,256	0	0	0.0
Reverse supplemental action	1,345,256	785,000	560,256	0	0	0.0
Annualize prior year budget actions	(4,720,569)	(2,396,838)	(2,323,731)	0	0	0.0
Annualize prior year legislation	(23,515)	(4,703)	(18,812)	0	0	0.0
TOTAL	\$3,230,056	\$2,639,800	\$590,256	\$0	\$0	0.0
INCREASE/(DECREASE)	(\$168,772)	\$1,023,259	(\$1,192,031)	\$0	\$0	0.0
Percentage Change	(5.0%)	63.3%	(66.9%)	n/a	n/a	n/a
FY 2017-18 EXECUTIVE REQUEST	\$3,015,942	\$2,469,800	\$546,142	\$0	\$0	0.0
Request Above/(Below) Recommendation	(\$214,114)	(\$170,000)	(\$44,114)	\$0	\$0	0.0

SENIOR JUDGE PROGRAM

Upon written agreement with the Chief Justice prior to retirement, a justice or judge may perform temporary judicial duties for between 60 and 90 days a year. These agreements may not exceed three years (most are currently one-year contracts), but a retiree may enter into subsequent agreements for a maximum of 12 years. These retired judges cover sitting judges in case of disqualifications, vacations, sick leave, over-scheduled dockets, judicial training and education, and conflicts of interest. Retired judges provide flexibility in coverage as they can fill a temporary need anywhere in the state. The State Court Administrator's Office or the Chief Justice may also call upon Senior Judges to perform special duties related to specific types of cases or needs, and the Court of Appeals may ask Senior Judges to handle overscheduled dockets, write opinions, and operate the court's pre-argument settlement program.

A retired judge receives reimbursement for travel expenses for out-of-town assignments, and is compensated by receiving a retirement benefit increase equal to 20 percent of the current monthly

salary of individuals serving in the same position as that held by the retiree at the time of retirement. The Judicial Branch is required to reimburse the PERA Judicial Division Trust Fund for the payment of retired judges' additional benefits during the previous fiscal year (i.e., costs incurred in FY 2015-16 will be reimbursed by the Branch in FY 2016-17). Travel expenditures are reimbursed in the fiscal year in which they are incurred.

STATUTORY AUTHORITY: Section 24-51-1105, C.R.S.

REQUEST: The Department requests a total of \$1,640,750, including \$340,750 General Fund and \$1,300,000 cash funds from the Judicial Stabilization Cash Fund.

RECOMMENDATION: **Staff recommends approving the request**, which remains unchanged from FY 2016-17. This program is a cost-effective way of managing dockets and covering judges' leave time. The following table provides a recent history of appropriations and actual expenditures for this program.

RECENT HISTORY OF FUNDING FOR THE SENIOR JUDGE PROGRAM						
FISCAL YEAR	APPROPRIATION	ACTUAL EXPENDITURES				APPROPRIATION - EXPENDITURES
		PERA PAYMENT	TRAVEL/OTHER EXPENSES	TOTAL	ANNUAL % CHANGE	
2002-03	\$882,825	\$788,018	\$94,807	\$882,825		\$0
2003-04*	1,121,775	1,026,968	40,408	1,067,376	20.9%	54,399
2004-05	1,384,006	1,292,979	103,991	1,396,970	30.9%	(12,964)
2005-06	1,384,006	1,433,085	90,383	1,523,468	9.1%	(139,462)
2006-07*	1,523,468	1,432,441	97,940	1,530,381	0.5%	(6,913)
2007-08*	1,665,571	1,574,544	121,411	1,695,955	10.8%	(30,384)
2008-09*	1,894,006	1,775,613	141,873	1,917,486	13.1%	(23,480)
2009-10	1,894,006	1,838,902	104,298	1,943,200	1.3%	(49,194)
2010-11	1,635,326	1,485,564	107,309	1,592,873	-18.0%	42,453
2011-12	1,500,000	1,216,211	132,319	1,348,530	-15.3%	151,470
2012-13	1,500,000	1,137,703	117,514	1,255,217	-6.9%	244,783
2013-14	1,400,000	1,123,911	132,533	1,256,444	0.1%	143,556
2014-15	1,300,000	1,204,468	112,949	1,317,417	4.9%	(17,417)
2015-16	1,504,384	1,300,000	115,218	1,415,218	7.4%	89,166
2016-17 (Approp)	1,640,750					
2017-18 (Request)	1,640,750					

* Appropriation includes a mid-year increase.

JUDICIAL EDUCATION AND TRAINING

This line item supports the provision education and training for judicial officers. New judges attend a five-day orientation training which addresses the transition from lawyer to judge, followed by a 2 ½-day advanced orientation session which addresses some specific case type issues and topics such as jury management, court security, evidentiary issues, findings and conclusions of law, etc. For all judges, the Department's overall goal was to provide timely and structured learning experiences, operational training, and developmental activities that support judicial officers' continuing educational and professional needs in leadership, case management, and legal matter subject expertise.

This line item also supports training and technical assistance on procedural fairness to judges, district administrators, chief probation officers, and senior staff in the Office of the State Court Administrator. The four basic expectations that encompass procedural fairness include:

- Voice – the ability to participate in the case by expressing one's viewpoint;
- Neutrality – consistently applied legal principles, unbiased decision makers, and a "transparency" about how decisions are made;
- Respectful treatment – individuals are treated with dignity and their rights are obviously protected; and
- Trustworthy authorities – authorities are benevolent, caring, and sincerely trying to help the litigants – this trust is garnered by listening to individuals and by explaining or justifying decisions that address the litigants' needs.

According to the Department, substantial research suggests that public perception of procedural fairness is associated with higher levels of compliance with court orders and lower levels of recidivism.

This line item is supported by General Fund and the Judicial Stabilization Cash Fund.

STATUTORY AUTHORITY: Section 13-3-102, C.R.S.

REQUEST: The Department requests a total of \$1,460,283, including \$8,289 General Fund and \$1,451,994 cash funds, and 2.0 FTE. The requested increase simply reflects salary increases awarded in FY 2016-17 (\$3,477).

RECOMMENDATION: **Staff recommends approving the request.**

OFFICE OF JUDICIAL PERFORMANCE EVALUATION

In January 1967, Colorado's Constitution was amended to repeal a provision providing for the election of judges, and to add a provision enacting a system of judicial nominating commissions, Governor-appointed judges, and retention elections for justices and judges. This line item provides funding for the State Commission on Judicial Performance, which is responsible for developing and administering the judicial performance evaluation system. Specifically, this office is responsible for:

- Staffing the state and district commissions, and training their members;
- Collecting and distributing data on judicial performance evaluations;
- Conducting public education efforts concerning the performance evaluation process;
- Measuring public awareness of the process through regular polling; and
- Other duties as assigned by the State Commission.

The Office is supported by the State Commission on Judicial Performance Cash Fund, which consists of revenues from a \$5 docket fee on certain criminal actions in district courts and a \$3 docket fee on certain traffic infractions.

STATUTORY AUTHORITY: Section 13-5.5-101 et seq., C.R.S.

REQUEST: The Department requests a total of \$804,255, including \$290,000 General Fund and \$514,255 cash funds, and 2.0 FTE. The request is essentially a continuation level of funding, including the amount appropriated in FY 2016-17, plus \$30,000 for a contract with a market research firm to conduct a bi-annual public awareness poll pursuant to S.B. 08-054, plus funding for salary increases awarded in FY 2016-17 (\$2,614).

RECOMMENDATION: **Staff recommends approving the request.**

FAMILY VIOLENCE JUSTICE GRANTS

This line item provides funding for the State Court Administrator to award grants to qualifying organizations providing civil legal services to indigent Colorado residents. This program is the only state-funded grant program for civil legal services in Colorado. Grant funds may be used to provide legal advice, representation, and advocacy for and on behalf of indigent clients who are victims of family violence (i.e., typically assistance with restraining orders, divorce proceedings, and custody matters). Colorado Legal Services, which provides legal services in almost every county, typically receives more than 80 to 90 percent of grant moneys each year.

In addition to General Fund appropriations for this grant program, the State Court Administrator is authorized to receive gifts, grants, and donations for this program; such funds are credited to the Family Violence Justice Fund. Further, S.B. 09-068 increased the fees for petitions and responses in divorce proceedings by \$10 each (from \$220 and \$106, respectively); half of the resulting revenue is credited to the Family Violence Justice Fund (providing an estimated \$155,033 in new fund revenues).¹⁸ The act directs the Judicial Department to use this fee revenue to award grants to qualifying organizations that provide services for or on behalf of indigent persons and their families who are married, separated, or divorced.

STATUTORY AUTHORITY: Section 14-4-107, C.R.S.

REQUEST: The Department requests a total of \$2,670,000, including \$2,500,000 General Fund and \$170,000 cash funds from the Family Violence Justice Fund.

RECOMMENDATION: **Staff recommends approving the request,** which is the same amount appropriated for FY 2016-17. The following table provides a recent history of appropriations for this program.

RECENT HISTORY OF STATE APPROPRIATIONS FOR FAMILY VIOLENCE JUSTICE GRANTS			
FISCAL YEAR	GENERAL FUND	CASH FUNDS	TOTAL
2002-03	\$500,000	\$0	500,000
2003-04	0	0	0
2004-05	0	0	0
2005-06	500,000	0	500,000
2006-07	500,000	0	500,000
2007-08	500,000	0	500,000
2008-09	750,000	0	750,000

¹⁸ The other half of fee revenue is credited to the Colorado Domestic Abuse Program Fund, administered by the Department of Human Services.

RECENT HISTORY OF STATE APPROPRIATIONS FOR FAMILY VIOLENCE JUSTICE GRANTS			
FISCAL YEAR	GENERAL FUND	CASH FUNDS	TOTAL
2009-10	750,000	143,430	893,430
2010-11	750,000	143,430	893,430
2011-12	458,430	216,570	675,000
2012-13	458,430	170,000	628,439
2013-14	1,000,000	170,000	1,170,000
2014-15	2,000,000	170,000	2,170,000
2015-16	2,500,000	170,000	2,670,000
2016-17	2,500,000	170,000	2,670,000
2017-18 Request	2,500,000	170,000	2,670,000

RESTORATIVE JUSTICE PROGRAMS

This line item provides funding for a pilot program in four judicial districts to facilitate and encourage diversion of juveniles from the juvenile justice system to restorative justice practices. This line item also supports related research and data collection efforts by the Restorative Justice Coordinating Council (Council). This line item is supported by the Restorative Justice Surcharge Fund, which consists of revenues from a \$10 surcharge on each person convicted of a crime and each juvenile adjudicated of a crime (less five percent that is retained by the clerk of the court for administrative costs).

STATUTORY AUTHORITY: Section 18-25-101 (3) (a), C.R.S. [Restorative justice surcharge]; Section 19-2-213 [Restorative Justice Coordinating Council]

REQUEST: The Department requests \$1,000,842 cash funds and 1.0 FTE. This line item is impacted by: JUD BA1 (Restorative justice), which is discussed at the beginning of this division.

RECOMMENDATION: **Staff recommends approving the request**, which reflects the salary increases that were awarded in FY 2016-17 (\$2,505 cash funds).

DISTRICT ATTORNEY ADULT PRETRIAL DIVERSION PROGRAMS

This line item provides funding for district attorneys' adult pretrial diversion programs. A five-member Diversion Funding Committee¹⁹ is responsible for:

- developing funding guidelines and an application process for district attorneys to request state funds to support an adult pretrial diversion program;
- reviewing funding requests; and
- allocating state funding for adult pretrial diversion programs that meet the established statutory guidelines.

District attorneys that receive funding are required to collect data and provide a status report to the Judicial Department concerning its adult pretrial diversion program.

¹⁹ The Diversion Funding Committee consists of: (a) the Attorney General or his or her designee; (b) the Executive Director of the statewide organization representing district attorneys or his or her designee; (c) the State Public Defender or his or her designee; (d) the Director of the Division of Criminal Justice in the Department of Public Safety; and (e) the State Court Administrator or his or her designee.

The act that created this program (H.B. 13-1156) provided funding for 0.5 FTE to develop guidelines and procedures for distribution of funding and to perform regular oversight activities associated with monitoring and expenditure of funds. This position continues to be supported through the “General Courts Administration” line item. In FY 2013-14, \$387,223 General Fund was made available for grants. Since FY 2014-15, a total of \$477,000 has been made available annually for grants through this line item.

STATUTORY AUTHORITY: Section 13-3-115, C.R.S. [Diversion Funding Committee]; Section 18-1.3-101, C.R.S. [Pretrial diversion programs, including requirements for district attorneys that receive state funds for such program]

REQUEST: The Department requests a continuation level of funding, consisting of \$400,000 General Fund and \$77,000 cash funds from the Correctional Treatment Cash Fund.

RECOMMENDATION: **Staff recommends approving the request.** While the amount available for grants to date has not been fully utilized, current year allocations (\$384,429) and the total amount requested for FY 2016-17 (\$570,324) indicate that \$477,000 could be utilized in FY 2017-18.

The following table, prepared by the Judicial Department, provides a history of amounts requested, allocated, and spent since the inception of this program.

ADULT DIVERSION GRANT REQUEST AND ALLOCATION HISTORICAL SUMMARY*			
<i>State Fiscal Year 2016-17</i>			
<i>Judicial District</i>	<i>Amount Requested</i>	<i>Amount Allocated</i>	<i>Jul. – Dec. 2016 Expenses</i>
6	\$43,370.00	\$34,470.00	\$12,049.70
9	\$32,909.92	\$25,409.92	\$11,215.64
15	\$59,154.56	\$44,156.56	\$22,333.51
16	\$99,317.38	\$99,317.38	\$39,763.55
20	\$200,002.00	\$85,175.00	\$29,717.55
21	\$135,570.16	\$96,000.00	\$30,657.11
Total	\$570,324.02	\$384,428.86	\$145,737.16
<i>State Fiscal Year 2015-16</i>			
<i>Judicial District</i>	<i>Amount Requested</i>	<i>Amount Allocated</i>	<i>Amount Expended</i>
6	\$80,170.00	\$80,170.00	\$32,075.30
9	\$21,418.90	\$21,418.90	\$21,626.51
15	\$69,154.56	\$69,154.56	\$51,304.56
16	\$73,450.00	\$73,450.00	\$74,922.05
20	\$27,730.00	\$27,730.00	\$25,231.71
Total	\$271,923.46	\$271,923.46	\$205,160.13
<i>State Fiscal Year 2014-15</i>			
<i>Judicial District</i>	<i>Amount Requested</i>	<i>Amount Allocated</i>	<i>Amount Expended</i>
6	\$70,000.00	\$70,000.00	\$1,690.00
9	\$29,460.00	\$29,460.00	\$20,794.90
15	\$75,000.00	\$75,000.00	\$42,105.71
16	\$65,600.00	\$65,600.00	\$78,617.47
Total	\$240,060.00	\$240,060.00	\$143,208.08

ADULT DIVERSION GRANT REQUEST AND ALLOCATION HISTORICAL SUMMARY*			
<i>State Fiscal Year 2013-14</i>			
<i>Judicial District</i>	<i>Amount Requested</i>	<i>Amount Allocated</i>	<i>Amount Expended</i>
6	\$20,000.00	\$20,000.00	\$0.00
9	\$13,350.00	\$13,350.00	\$6,169.94
15	\$55,000.00	\$55,000.00	\$15,155.21
16	\$56,000.00	\$56,000.00	\$8,235.92
Total	\$144,350.00	\$144,350.00	\$29,561.07

** Programs that serve counties with sparse populations (e.g. populations of less than 50,000) are located in the 6th, 9th, 15th, and 16th judicial districts.*

In each of the first three fiscal years of the grant program, a significant portion of the appropriation for grants has not been spent:

- FY 2013-14: \$357,662 reverted
- FY 2014-15: \$333,792 reverted
- FY 2015-16: \$271,840 reverted

The Department projects FY 2016-17 expenditures of approximately \$300,000. The funding application period for FY 2017-18 closes on February 16, 2017. A total of \$570,000 was requested by six judicial districts for FY 2016-17, and the Department anticipates that programs will continue to request additional funds to help increase capacity and services. The Department indicates that an appropriation of \$600,000 would likely cover the amount that could be allocated in FY 2017-18 for new programs and to enhance the service capabilities in those programs that are currently receiving state funds. This level of funding would require an increase of \$123,000 General Fund.

ADDITIONAL INFORMATION – PRETRIAL SERVICES PROGRAMS

Please note that this program supports local adult diversion programs, which are different from local pretrial services programs. Pretrial services programs can allow a defendant to be released on bond with appropriate conditions that reasonably assure court appearance and public safety. Section 16-4-106, C.R.S., encourages counties to develop pretrial services programs “that support the work of the court and evidenced-based decision-making in determining the type of bond and conditions of release”. This statutory provision outlines a process for establishing pretrial services programs through the involvement of the Chief Judge of a judicial district and a community advisory board, and specifies certain criteria that such programs must meet (screening procedures, risk assessment tools, etc.). Each pretrial services program that is established pursuant to this statutory provision is required to report annually to the Judicial Department, and the Department is required to submit an annual report to the House and Senate Judiciary Committees. The most recent report was submitted November 1, 2016. However, there is currently no state funding available to support pretrial services programs.

FAMILY FRIENDLY COURT PROGRAM

The Family-friendly Court Program provides funding for courts to create facilities or services designed to meet the needs of families navigating the court system. The program is funded with a \$1.00 surcharge on traffic violations. The Judicial Department allocates money from the Family-friendly Court Program Cash Fund to judicial districts that apply for funding for the creation, operation, and enhancement of family-friendly court facilities. These programs primarily provide

child care services for families attending court proceedings (either through on-site centers and waiting rooms located in courthouses or through vouchers for private child care services). Programs may also provide supervised parenting time and transfer of the physical custody of a child from one parent to another, as well as information and referral for relevant services (*e.g.*, youth mentoring, crime prevention, and dropout prevention; employment counseling and training; financial management; legal counseling; substance abuse programs; etc.).

STATUTORY AUTHORITY: Section 13-3-113, C.R.S.

REQUEST: The Department requests \$225,943 cash funds and 0.5 FTE.

RECOMMENDATION: **Staff recommends approving the request**, which is the same amount that is appropriated for FY 2016-17.

COMPENSATION FOR EXONERATED PERSONS

This line item provides funding to compensate persons who are found actually innocent of felony crimes after serving time in jail, prison, or juvenile placement. If found actually innocent, the exonerated person is eligible to receive the following benefits:

- monetary compensation in the amount of \$70,000 for each year incarcerated, plus an additional \$25,000 for each year he or she served on parole and \$50,000 for each year he or she was incarcerated and awaited execution;
- tuition waivers at state institutions of higher education, if the exonerated person was incarcerated for at least three years;
- compensation for child support payments and associated interest owed by the exonerated person that were incurred during his or her incarceration;
- reasonable attorney fees; and
- the amount of any fine, penalty, court costs, or restitution imposed as a result of the exonerated person's wrongful conviction.

The act requires the State Court Administrator to make an annual payment of \$100,000 to an exonerated person (this amount will be adjusted annually to account for inflation) until the total amount of compensation owed by the State is paid.

STATUTORY AUTHORITY: Sections 13-3-114 and 13-65-101, et seq., C.R.S.

REQUEST: The Department requests \$110,124 General Fund, which includes a 2.9 percent inflationary adjustment.

RECOMMENDATION: **Staff recommends approving the request.**

CHILD SUPPORT ENFORCEMENT

This line item supports 1.0 FTE to coordinate the courts' role in child support enforcement with state and county child support enforcement offices. The purpose is to increase the collection of court-ordered child support payments. This individual acts as a liaison between the courts and

federal and state offices of child support enforcement, and is a member of the Child Support Commission.

STATUTORY AUTHORITY: Section 13-5-140, C.R.S.

REQUEST: The Department requests \$95,339 (including \$32,415 General Fund and \$62,924 federal funds) and 1.0 FTE.

RECOMMENDATION: **Staff recommends approving the request**, which is the same amount that is appropriated for FY 2016-17.

(D) RALPH L. CARR COLORADO JUDICIAL CENTER

This Long Bill subsection includes appropriations related to the operations of the Ralph L. Carr Colorado Judicial Center. The line items in this section are supported by the Justice Center Cash Fund, which consists of docket fees, tenant lease payments, and parking fees paid by employees and members of the public who utilize the Carr Center parking garage. In addition, the cash funds appropriation for Debt Service Payments includes the federal share of annual debt service payments associated with "Build America" certificates of participation.

Reappropriated funds reflect transfers of appropriations to the Department of Law and to the State Court Administrator's Office for leased space in the Carr Center. The remainder of the money tenant lease payments is reflected a cash funds. For purposes of simplicity, the General Fund and reappropriated funds are only reflected in the Debt Service Payments line item.

The following table details staff's recommendation for this subsection.

RALPH L. CARR COLORADO JUDICIAL CENTER						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2016-17 APPROPRIATION						
HB 16-1405 (Long Bill)	\$29,094,357	\$4,806,525	\$18,548,499	\$5,739,333	\$0	2.0
TOTAL	\$29,094,357	\$4,806,525	\$18,548,499	\$5,739,333	\$0	2.0
FY 2017-18 RECOMMENDED APPROPRIATION						
FY 2016-17 Appropriation	\$29,094,357	\$4,806,525	\$18,548,499	\$5,739,333	\$0	2.0
CSP security contract adjustment	147,224	0	147,224	0	0	0.0
Annual adjustment per amortization schedule	15,927	0	15,927	0	0	0.0
Fund source adjustment	0	(102,160)	0	102,160	0	0.0
TOTAL	\$29,257,508	\$4,704,365	\$18,711,650	\$5,841,493	\$0	2.0
INCREASE/(DECREASE)	\$163,151	(\$102,160)	\$163,151	\$102,160	\$0	0.0
Percentage Change	0.6%	(2.1%)	0.9%	1.8%	n/a	0.0

RALPH L. CARR COLORADO JUDICIAL CENTER						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2017-18 EXECUTIVE REQUEST	\$29,257,508	\$4,704,365	\$18,711,650	\$5,841,493	\$0	2.0
Request Above/(Below) Recommendation	\$0	\$0	\$0	\$0	\$0	0.0

BACKGROUND INFORMATION: In 2008 (S.B. 08-206) the General Assembly authorized the State to enter into lease-purchase agreements for the development and construction of a new history museum and a state justice center. The act established the following limits on these projects:

- **Museum:** Principal component of the lease-purchase agreements may not to exceed \$85 million. The annual rental and lease-purchase payments may not exceed \$4,998,000 and the associated term may not exceed 37 years.
- **Justice Center:** Principal component of the lease-purchase agreements may not exceed \$275 million. The annual rental and lease-purchase payments may not exceed \$19,000,000 and the associated term may not exceed 38 years.

In July 2009, project financing was secured through a single issuance for both projects totaling \$338.8 million. This issuance included two components: \$39.0 million in traditional tax-exempt certificates of participation (COPs); and \$299.8 million in taxable "Build America" COPs, a new financing mechanism made available through the federal American Recovery and Reinvestment Act. Build America COPs offered lower costs to public entities because the federal government subsidizes about a third of the interest paid on the project. This financing resulted in debt payments of less than \$19 million per year for 33 years (September 2012 through September 2045). Thus, total annual payments for both projects are more than \$5 million lower than the caps established in SB 08-206, and these payments will be made for 33 years rather than the 37 and 38 year terms allowed by SB 08-206.

PERSONAL SERVICES

This line item supports three types of expenditures, which are described below.

- *Colorado State Patrol Services.* The Department purchases security services from the Colorado State Patrol. The appropriation covers the costs of a total of 15.0 FTE (11.0 FTE security officers, 3.0 FTE troopers, and 1.0 FTE supervisor) that provide weapons screening at two public entrances during business hours, 24-hour roving coverage, and the staffing of an information/security desk.
- *Facility Staff.* Two state employees manage and oversee the operational and engineering aspects of the Carr Center. A Building Manager is responsible for handling all tenant inquiries, and coordinating maintenance work among building staff, vendors, and contractors. The Building Manager also oversees the shared services within the Center, such as a copy center, mail room, food services, fitness center, and conference/training facility. The Building Manager also monitors performance of all third party vendor contracts, and reviews price quotes for the procurement of parts, services, and labor for the building. A Building Engineer is responsible for

the supervision of engineering operations, including mechanical, electrical, plumbing, and life/safety equipment and systems, as well as all inspections and licensing matters. The Building Engineer also directs the activities of contract engineering staff.

- *Contract Services* Related to Facility Management.

STATUTORY AUTHORITY: Section 13-32-101 (7), C.R.S.

REQUEST: The Department requests a total of \$1,612,743 cash funds from the Justice Center Cash Fund and 2.0 FTE.

RECOMMENDATION: **Staff recommends approving the request**, which reflects an increase of \$147,224 for the increased cost of contracting with the Colorado State Patrol (CSP) to provide security services for the Carr Center.

OPERATING EXPENSES

This line item supports three types of expenditures, which are described below.

- *Various Contract Services.* The Department contracts with Cushman Wakefield to act as the management company, providing contract engineering staff, first floor reception services in the office tower, and related administrative costs. The Department also contracts with Standard Parking to operate and maintain the parking garage, which is located between the ING building and the Colorado History Museum. Finally, the Department also contracts with a variety of other private vendors for various services, including custodial, maintenance contracts and supplies, grounds maintenance, and the copy center.
- *Utilities.* This line item covers electricity, gas, water, and sewer expenditures, which are monitored and managed by the Building Manager.
- *Operating Expenses* for the 2.0 FTE Facility Staff.

STATUTORY AUTHORITY: Section 13-32-101 (7), C.R.S.

REQUEST: The Department requests a continuation level of funding, or \$4,026,234 cash funds the Justice Center Cash Fund.

RECOMMENDATION: **Staff recommends approving the request.**

CONTROLLED MAINTENANCE

Senate Bill 08-206 envisioned that the ongoing maintenance costs for the Judicial Center would be covered by court fees, lease payments, and parking fees. This line item authorizes the Judicial Department to spend a portion of these revenues for controlled maintenance needs.

STATUTORY AUTHORITY: Section 13-32-101 (7), C.R.S.

REQUEST: The Department requests a continuation level of funding, or \$2,025,000 cash funds the Justice Center Cash Fund.

RECOMMENDATION: Staff recommends approving the request. In addition, staff recommends including a new request for information that asks the State Court Administrator’s Office to submit a report concerning its plans for addressing current and future controlled maintenance expenses:

N JUDICIAL DEPARTMENT, COURTS ADMINISTRATION, RALPH L. CARR COLORADO JUDICIAL CENTER, CONTROLLED MAINTENANCE – THE STATE COURT ADMINISTRATOR’S OFFICE IS REQUESTED TO PROVIDE BY NOVEMBER 1, 2017, A REPORT CONCERNING ITS PLANS FOR ADDRESSING THE CONTROLLED MAINTENANCE NEEDS OF THE CARR CENTER, CONSISTENT WITH S.B. 08-206. THE REPORT SHOULD INCLUDE ANY RECOMMENDED STATUTORY CHANGES OR CHANGES TO THE APPROPRIATION STRUCTURE TO ENSURE THAT REVENUES FROM COURT FEES, LEASE PAYMENTS, AND PARKING FEES CAN BE USED TO COVER BOTH CURRENT AND FUTURE CONTROLLED MAINTENANCE EXPENSES.

The Department provided the following written response, dated November 18, 2010 (see page 39), to a Joint Budget Committee hearing question about how the controlled maintenance needs of the Carr Center will be addressed and financed:

“SB 08-206 envisioned all costs associated with the debt service, operating expenses and controlled maintenance of the new judicial center to be paid for from court fees, rent and parking fees. The amount of controlled maintenance funds deposited in a trust fund will start at about \$900,000 annually and increase 2.5% per year. At 20 years there will be about \$25 million (or \$11 million in today’s dollars) which will then be available for large controlled maintenance projects such as roof or boiler replacements.”

Staff understands that the Department does not currently have a fund structure in place to set aside money from the annual “Controlled Maintenance” appropriation to cover future controlled maintenance needs. If the General Assembly wants to ensure that the controlled maintenance needs of the Carr Center do not become a General Fund obligation in the future, it would be prudent to ask the Department to identify any actions that need to be taken in 2018 to ensure that revenues are set aside for such purpose.

DEBT SERVICE PAYMENTS

This line item was added to this section of the budget in FY 2015-16, when appropriations for lease purchase payments (certificates of participation) were moved from the capital construction section of the Long Bill to the operating section. Senate Bill 08-206 authorized the State to enter into lease-purchase agreements for the development and construction of a new museum and a state justice center. This line item appropriation covers the lease purchase payments that are due in September and March each fiscal year.

STATUTORY AUTHORITY: Section 13-32-101 (7), C.R.S.

REQUEST: The Department requests an appropriation of \$21,593,531, including \$4,704,365 General Fund, \$11,047,673 cash funds from the Justice Center Cash Fund, and \$5,841,493 reappropriated funds from the Justice Center Cash Fund. The cash funds appropriation includes an estimated

\$5,913,165 in federal revenues made available through the federal American Recovery and Reinvestment Act. These funds cover a portion of the interest costs associated with the project financing that was secured through taxable “Build America” certificates of participation. The reappropriated funds amount is categorized as reappropriated funds as it reflects appropriations to state agencies for Carr Center leased space that will be credited to the Justice Center Cash Fund, including \$3,261,575 from the Department of Law and \$2,579,918 from the Central Appropriations subsection above.

RECOMMENDATION: Staff recommends approving the request, which reflects an increase of \$15,927 based on the amortization schedule. The following tables, provided by the Department, detail the projected debt service payments through FY 2045-46, along with the associated sources of funds.

RALPH L. CARR COLORADO JUDICIAL CENTER: DEBT SERVICE PAYMENTS						
FISCAL YEAR	DEBT SERVICE PAYMENT			SOURCES OF FUNDS FOR TOTAL PAYMENT		
	TOTAL PAYMENT	FEDERAL SUBSIDY	NET PAYMENT	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS
2016-17	\$21,577,604	(\$5,899,159)	\$15,678,445	\$4,806,525	\$11,031,746	\$5,739,333
2017-18	21,593,531	(5,913,165)	15,680,366	4,704,365	11,047,673	5,841,493
2018-19	21,565,990	(5,925,946)	15,640,044	4,571,677	11,047,673	5,946,640
2019-10	21,840,338	(5,927,368)	15,912,970	4,571,677	11,214,982	6,053,679
2020-21	21,687,647	(5,828,426)	15,859,221	4,310,020	11,214,982	6,162,646
2021-22	20,811,564	(5,458,797)	15,352,767	3,323,009	11,214,982	6,273,573
2022-23	20,707,408	(5,354,093)	15,353,315	3,105,929	11,214,982	6,386,498
2023-24	20,592,716	(5,238,701)	15,354,015	2,876,280	11,214,982	6,501,455
2024-25	20,471,435	(5,117,502)	15,353,933	2,637,973	11,214,982	6,618,481
2025-26	20,342,505	(4,988,377)	15,354,129	2,389,911	11,214,982	6,737,613
2026-27	19,745,330	(4,690,116)	15,055,215	1,671,458	11,214,982	6,858,890
2027-28	19,603,826	(4,549,589)	15,054,237	1,406,495	11,214,982	6,982,350
2028-29	19,454,666	(4,401,133)	15,053,533	1,131,652	11,214,982	7,108,033
2029-30	19,299,603	(4,247,111)	15,052,492	848,644	11,214,982	7,235,977
2030-31	19,139,982	(4,086,244)	15,053,738	558,775	11,214,982	7,366,225
2031-32	18,653,659	(3,804,031)	14,849,628	0	11,154,842	7,498,817
2032-33	18,474,251	(3,625,738)	14,848,513	0	10,840,455	7,633,796
2033-34	18,290,026	(3,437,009)	14,853,017	0	10,518,822	7,771,204
2034-35	18,095,052	(3,242,768)	14,852,284	0	10,183,966	7,911,086
2035-36	17,890,517	(3,039,931)	14,850,586	0	9,837,032	8,053,485
2036-37	16,905,212	(2,556,824)	14,348,388	0	8,706,764	8,198,448
2037-38	16,682,208	(2,335,273)	14,346,935	0	8,336,188	8,346,020
2038-39	16,450,297	(2,103,604)	14,346,693	0	7,954,049	8,496,248
2039-40	15,491,570	(1,610,550)	13,881,021	0	6,842,389	8,649,181
2040-41	15,236,686	(1,356,840)	13,879,846	0	6,431,820	8,804,866
2041-42	14,965,869	(1,085,304)	13,880,565	0	6,002,516	8,963,354
2042-43	14,684,220	(802,977)	13,881,243	0	5,559,526	9,124,694
2043-44	14,389,742	(509,160)	13,880,582	0	5,100,804	9,288,939
2044-45	14,085,276	(203,096)	13,882,179	0	4,629,136	9,456,139
2045-46	4,902,771	(55,220)	4,847,551	0	0	4,902,771

(3) TRIAL COURTS

This section of the budget provides funding for operation of the State trial courts, which include district courts in 22 judicial districts, water courts, and county courts.

District courts preside over felony criminal matters, civil claims, juvenile matters, probate, mental health, and divorce proceedings. In addition, district courts handle appeals from municipal and county courts, and review decisions of administrative boards and agencies. The General Assembly establishes judicial districts and the number of judges for each district in statute; these judges serve renewable 6-year terms.²⁰

The General Assembly established seven *water divisions* in the State based on the drainage patterns of major rivers in Colorado. Each water division is staffed by a division engineer, a district court judge who is designated as the water judge by the Colorado Supreme Court, a water referee appointed by the water judge, and a water clerk assigned by the district court. Water judges have exclusive jurisdiction over cases involving the determination of water rights and the use and administration of water.²¹

County courts have limited jurisdiction, handling civil actions involving no more than \$15,000, misdemeanor cases, civil and criminal traffic infractions, and felony complaints. County courts also issue search warrants and protection orders in cases involving domestic violence. In addition, county courts handle appeals from municipal courts. The General Assembly establishes the number of judges for each county in statute; these judges serve renewable 4-year terms.²²

The following table summarizes the staff recommendations for the Trial Courts. The only difference between staff's recommendation and the request is staff's recommended reduction of 1.0 FTE (supported by federal funds) per JUD BA4 (this request is discussed at the beginning of this document).

²⁰ See Article VI, Sections 9 through 12 of the Colorado Constitution; and Section 13-5-101 et seq., C.R.S.

²¹ See Sections 37-92-203 and 204, C.R.S.

²² See Article VI, Sections 16 and 17 of the Colorado Constitution; Section 13-6-101 et seq., C.R.S.

TRIAL COURTS						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2016-17 Appropriation						
HB 16-1405 (Long Bill)	\$167,883,842	\$134,392,678	\$30,316,164	\$1,550,000	\$1,625,000	1,873.6
Other legislation	(208,639)	(368,000)	159,361	0	0	3.5
TOTAL	\$167,675,203	\$134,024,678	\$30,475,525	\$1,550,000	\$1,625,000	1,877.1
FY 2017-18 RECOMMENDED APPROPRIATION						
FY 2016-17 Appropriation	\$167,675,203	\$134,024,678	\$30,475,525	\$1,550,000	\$1,625,000	1,877.1
JUD BA4 Long Bill clean-up and FTE true-up	0	0	0	0	0	(6.0)
CDAC R1 District attorney mandated costs	67,420	67,420	0	0	0	0.0
CDAC R2 eDiscovery and annualization of SB 14-190	360,672	360,672	0	0	0	0.0
Annualize prior year budget actions	315,664	315,664	0	0	0	0.0
Annualize prior year legislation	37,284	0	37,284	0	0	0.5
TOTAL	\$168,456,243	\$134,768,434	\$30,512,809	\$1,550,000	\$1,625,000	1,871.6
INCREASE/(DECREASE)	\$781,040	\$743,756	\$37,284	\$0	\$0	(5.5)
Percentage Change	0.5%	0.6%	0.1%	0.0%	0.0%	(0.3%)
FY 2017-18 EXECUTIVE REQUEST						
Request Above/(Below) Recommendation	\$0	\$0	\$0	\$0	\$0	1.0

DECISION ITEMS – TRIAL COURTS

→ CDAC R1 DISTRICT ATTORNEY MANDATED COSTS

REQUEST: The District Attorney Mandated Costs line item provides state funding to reimburse Colorado's district attorneys' offices (DAs) for costs incurred for prosecution of state matters, as required by state statute (e.g., expert witness fees and travel expenses, witness travel expenses, mailing subpoenas, service of process, and court reporter fees for transcripts). The Colorado District Attorneys' Council (CDAC) is responsible for allocating the available funding among DAs, and for submitting the budget request for this line item each year.

The CDAC requests \$2,484,770, which represents a \$67,420 (2.8 percent) increase compared to the FY 2016-17 appropriation.

RECOMMENDATION: Staff recommends approving the request. Based on FY 2015-16 expenditure data provided by the CDAC, DAs' mandated costs consist of the following:

- Witness fees and travel expenses (\$594,555 or 26.8 percent)
- Expert witness fees and travel expenses (\$558,615 or 25.2 percent)
- Mailing subpoenas²³ (\$457,672 or 20.6 percent)
- Service of process²⁴ (\$402,888 or 18.2 percent)
- Court reporter fees for transcripts (\$205,854 or 9.3 percent)

The following table provides a history of appropriations and actual expenditures for this line item, as well as the request for FY 2017-18.

DISTRICT ATTORNEYS' MANDATED COSTS								
FISCAL YEAR	APPROPRIATION			ACTUAL EXPENDITURES			ANNUAL % CHANGE	OVER/ (UNDER) BUDGET
	GENERAL FUND	CASH FUNDS	TOTAL	GENERAL FUND	CASH FUNDS	TOTAL		
2000-01	\$1,938,724	\$0	\$1,938,724	\$1,889,687	\$0	\$1,889,687		(\$49,037)
2001-02	1,938,724	0	1,938,724	1,978,963	0	1,978,963	4.7%	40,239
2002-03	2,025,199	125,000	2,150,199	1,833,410	71,117	1,904,527	-3.8%	(245,672)
2003-04	2,025,199	125,000	2,150,199	1,847,369	59,334	1,906,703	0.1%	(243,496)
2004-05	1,911,899	0	1,911,899	1,911,970	0	1,911,970	0.3%	71
2005-06	1,911,899	0	1,911,899	1,772,849	106,325	1,879,174	-1.7%	(32,725)
2006-07	1,841,899	125,000	1,966,899	1,928,795	99,090	2,027,885	7.9%	60,986
2007-08	1,837,733	125,000	1,962,733	2,092,974	130,674	2,223,648	9.7%	260,915
2008-09	2,101,052	125,000	2,226,052	2,063,785	125,000	2,188,785	-1.6%	(37,267)
2009-10	2,101,052	125,000	2,226,052	2,101,050	125,000	2,226,050	1.7%	(2)
2010-11 ^a	2,005,324	125,000	2,130,324	2,005,507	125,000	2,130,507	-4.3%	183
2011-12	2,073,494	125,000	2,198,494	2,061,883	125,000	2,186,883	2.6%	(11,611)
2012-13 ^b	2,389,549	140,000	2,529,549	2,164,497	140,000	2,304,497	5.4%	(225,052)
2013-14 ^c	2,491,916	160,000	2,651,916	2,152,067	160,000	2,312,067	0.3%	(339,849)
2014-15 ^d	2,527,153	170,000	2,697,153	2,374,178	160,865	2,535,043	9.6%	(162,110)
2015-16 ^e	2,322,350	170,000	2,492,350	2,177,581	170,000	2,347,581	-7.4%	(144,769)
2016-17								
Appropriation	2,247,350	170,000	2,417,350					
2017-18								
Request	2,314,770	170,000	2,484,770					

a/ Appropriation reflects reduction of \$17,300 pursuant to H.B. 10-1291.

b/ The appropriation included \$265,100 to reimburse costs in the *Holmes* and *Sigg* cases; a total of \$111,993 was spent.

c/ The appropriation included \$353,500 specifically for the *Holmes* and *Sigg* cases; a total of \$146,660 was spent.

d/ The appropriation included \$300,000 specifically for the *Holmes* case; a total of \$303,820 was spent.

e/ The appropriation included \$75,000 specifically for the *Holmes* case; a total of \$78,275 was spent.

In the last three fiscal years, a total of \$646,728 has been reverted from this appropriation. However, almost half of this reversion (\$298,939) was from additional funding that was included to cover

²³ A subpoena is a writ by a government agency, most often a court, which has authority to compel testimony by a witness or production of evidence under a penalty for failure.

²⁴ Service of process is the general term for the legal document (usually a summons) by which a lawsuit is started and the court asserts its jurisdiction over the parties and the controversy.

expenditures associated with two large, complex cases. When funding for these two cases is excluded, the reversions represent five to six percent of the base appropriation. The FY 2016-17 appropriation essentially maintained the FY 2015-16 base appropriation. In FY 2015-16, \$148,044 (5.9 percent) of this base appropriation was reverted.

Staff believes that the request for a 2.8 percent increase in the appropriation for FY 2017-18 is reasonable for two reasons:

- The appropriation remained flat for FY 2016-17. Based on actual expenditures in FY 2015-16, this would cover up to 5.9 percent growth in expenditures in the current fiscal year.
- The Office of the Alternate Defense Counsel requested a significant increase in funding for Mandated Costs for FY 2016-17 and FY 2017-18 primarily due to an increase in the number of higher level felony cases (F1, F2, and F3) as well as anticipated increased litigation in death penalty and juvenile life without parole cases. The Office of the State Public Defender requested an increase in funding for Mandated Costs due to increases in the number of cases involving a public defender and the severity of the cases.

Finally, staff's recommendation continues to include \$170,000 from cost recoveries. If cost recoveries exceed the appropriation, the excess is credited to the General Fund.

LINE ITEM DETAIL – TRIAL COURTS

TRIAL COURT PROGRAMS

This line item provides funding for personal services and operating expenses for judges, magistrates, court staff, and the Office of Dispute Resolution. Cash fund sources include the Judicial Stabilization Cash Fund, various court fees and cost recoveries, grants, and the sale of jury pattern instructions. Reappropriated funds reflect federal funds transferred from the Departments of Public Safety and Human Services. The following table details the types of employees that are supported by this line item.

STAFFING SUMMARY				
TRIAL COURT PROGRAMS	15-16 ACTUAL	16-17 APPROP.	17-18 REQUEST	17-18 RECOMM.
District Court Judges	181.0	181.0	181.0	181.0
County Court Judges	88.8	90.4	90.4	90.4
Magistrates/ Water Referees	64.7	63.9	63.9	63.9
District Administrators	22.0	22.0	22.0	22.0
Clerks of Court	61.7	69.0	69.0	69.0
Law Clerks/ Legal Research Attorneys (JUD BA4)	87.2	181.9	180.6	180.6
Jury Commissioners	13.5	12.5	12.5	12.5
Court Reporters	95.1	184.4	184.4	184.4
Probate Examiners/ Protective Proceedings Monitor	19.3	19.0	19.0	19.0
Self-Represented Litigant Coordinators	34.8	34.0	34.0	34.0
Family Court Facilitators	34.9	35.0	35.0	35.0
Court Judicial Assistants (JUD BA4)	882.1	795.4	791.7	791.7
Specialists	63.0	56.8	56.8	56.8
Supervisors	68.0	66.8	66.8	66.8
Other Support Staff (S.B. 16-116)	70.0	51.0	51.5	51.5

STAFFING SUMMARY				
TRIAL COURT PROGRAMS	15-16 ACTUAL	16-17 APPROP.	17-18 REQUEST	17-18 RECOMM.
Total	1,786.1	1,863.1	1,858.6	1,858.6

STATUTORY AUTHORITY: Article VI of the State Constitution [Vestment of judicial power]; Section 13-5-101 et seq., C.R.S [District courts]; Section 13-6-101 et seq., C.R.S. [County courts]

REQUEST: The Department requests \$151,942,955, including \$121,560,395 General Fund, \$29,132,560 cash funds, and \$1,250,000 reappropriated funds, and 1,858.6 FTE. The request is impacted by JUD BA4 (Long Bill clean-up and FTE true-up).

RECOMMENDATION: **Staff recommends approving the request**, as detailed in the following table.

TRIAL COURTS, TRIAL COURT PROGRAMS						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2016-17 APPROPRIATION						
HB 16-1405 (Long Bill)	\$151,430,646	\$121,244,731	\$28,935,915	\$1,250,000	\$0	1,859.6
Other legislation	159,361	0	159,361	0	0	3.5
TOTAL	\$151,590,007	\$121,244,731	\$29,095,276	\$1,250,000	\$0	1,863.1
FY 2017-18 RECOMMENDED APPROPRIATION						
FY 2016-17 Appropriation	\$151,590,007	\$121,244,731	\$29,095,276	\$1,250,000	\$0	1,863.1
Annualize prior year budget actions	315,664	315,664	0	0	0	0.0
Annualize prior year legislation	37,284	0	37,284	0	0	0.5
JUD BA4 Long Bill clean-up and FTE true-up	0	0	0	0	0	(5.0)
TOTAL	\$151,942,955	\$121,560,395	\$29,132,560	\$1,250,000	\$0	1,858.6
INCREASE/(DECREASE)						
	\$352,948	\$315,664	\$37,284	\$0	\$0	(4.5)
Percentage Change	0.2%	0.3%	0.1%	0.0%	n/a	(0.2%)
FY 2017-18 EXECUTIVE REQUEST						
Request Above/(Below) Recommendation	\$0	\$0	\$0	\$0	\$0	0.0

COURT COSTS, JURY COSTS, AND COURT-APPOINTED COUNSEL

This is currently the largest of several line item appropriations for mandated costs, and one of two that are administered by the State Court Administrator’s Office. Mandated costs are associated with activities, events, and services that accompany court cases that are required in statute and the U.S. and Colorado Constitutions to ensure a fair and speedy trial, and to ensure the right to legal representation.

BACKGROUND INFORMATION – MANDATED COSTS APPROPRIATIONS

Prior to January of 2000, funding for mandated costs was appropriated through a single line item to the Judicial Department. A judge presiding over a case had the responsibility to approve expenditures by the defense and the prosecution, and to give both sides a fair hearing. There was a concern that this created an inherent conflict in which the judge, by his or her decision about expenditures, could compromise a case.

An ad hoc committee on mandated costs established by Chief Justice Vollack issued a report recommending that the responsibility for managing these costs of prosecution and defense be transferred to the entities responsible for incurring the costs. Thus, since FY 1999-00²⁵, the General Assembly has provided multiple appropriations for mandated costs.

Currently, the Long Bill includes six appropriations for mandated costs, including three to the Judicial Department, and individual appropriations to the Office of the State Public Defender, the Office of the Alternate Defense Counsel, the Office of the Child's Representative, and the Office of the Respondent Parents' Counsel (first included in FY 2016-17). The following table provides a summary of recent actual expenditures for all mandated costs, by line item.

MANDATED COSTS: ACTUAL EXPENDITURES FOR JUDICIAL BRANCH						
	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15	FY 15-16
Courts Administration, Centrally Administered Programs - Language Interpreters	\$3,456,745	\$3,924,198	\$4,112,276	\$4,457,715	\$4,665,905	\$5,239,765
Trial Courts - Court Costs, Jury Costs, and Court-appointed Counsel	15,472,347	15,181,494	15,521,672	15,814,487	18,011,639	18,885,187
Trial Courts - District Attorney Mandated Costs (excluding CDAC administrative fee)	2,026,627	2,050,295	2,181,277	2,122,760	2,323,857	2,219,584
Office of the State Public Defender	3,516,379	3,758,631	4,126,488	4,777,888	5,177,716	5,360,590
Office of the Alternate Defense Counsel	1,429,874	1,469,945	1,764,603	1,938,282	2,238,702	2,198,305
Office of the Child's Representative	29,290	40,405	43,607	54,486	35,997	35,609
Total	\$25,931,262	\$26,424,968	\$27,749,922	\$29,165,618	\$32,453,816	33,939,040
<i>Annual Percent Change</i>	<i>0.1%</i>	<i>1.9%</i>	<i>5.0%</i>	<i>5.1%</i>	<i>11.3%</i>	<i>4.6%</i>

Since FY 2010-11, the most significant increases in mandated costs include:

- An increase of \$2.8 million for court-appointed counsel for respondent parents involved in dependency and neglect cases;
- An increase of \$1.8 million for language interpreter and translation services;
- An increase of \$0.9 million for the discovery-related expenses for Office of the State Public Defender and the Office of Alternate Defense Counsel; and
- An increase of \$0.7 million for court-appointed counsel for individuals involved in mental health cases (e.g., imposition of a legal disability, involuntary admittance to a treatment or evaluation facility, medication refusal, etc.).

The Court Costs, Jury Costs, and Court-appointed Counsel line item provides funding for three types of costs, described below.

²⁵ This budget format change was implemented through mid-year adjustments in H.B. 00-1403.

Court Costs. Similar to mandated costs incurred by other agencies, this line item provides funding for transcripts, expert and other witness fees and expenses, interpreters, psychological evaluations, sheriffs' fees, subpoenas, and other costs mandated by statute. For the Judicial Department, these expenses are primarily related to expert witness/evaluation fees, and transcripts.

Jury Costs. This line item also covers fees and expenses for jurors. Statutorily, jurors must be compensated \$50 daily,²⁶ beginning on their fourth day of service. These provisions also allow self-employed jurors to be compensated for their lost wages and unemployed jurors to be reimbursed for their travel, child care, and other necessary out-of-pocket expenses for the first three days of service; such compensation is limited to \$50 per day. In addition, this line item provides funding for printing, preparing, and mailing summons.

Court-appointed Counsel. Currently, three independent agencies within the Judicial Branch provide or pay for court-appointed counsel in certain circumstances:

- (1) The Office of the State Public Defender (OSPD) provides legal representation for indigent defendants who are facing incarceration;
- (2) The Office of the Alternate Defense Counsel (OADC) pays for private attorneys to provide legal representation for indigent defendants in criminal and juvenile delinquency cases in which the OSPD is precluded from doing so because of an ethical conflict of interest; and
- (3) The Office of the Child's Representative (OCR) provides or pays for private attorneys to provide legal representation for children involved in the court system due to abuse or neglect, delinquency, truancy, high conflict divorce, alcohol or drug abuse, mental health issues, and probate matters.
- (4) The Office of the Respondent Parents' Counsel (ORPC) pays for private attorneys to provide legal representation for indigent parents or guardians who are involved in dependency and neglect proceedings.

The State Court Administrator's Office pays for court-appointed counsel in all other circumstances. This line item covers the costs of providing representation for indigent parties who:

- Require mental health, probate, or truancy counsel;
- Are adults requiring a guardian ad litem in mental health, probate, or dependency and neglect actions; or
- Require contempt of court counsel.

Prior to July 1, 2016, this appropriation also covered the cost of representing respondent parents in a dependency and neglect action (unless the individual was a child).

This appropriation also supports the provision of counsel in juvenile delinquency matters when the party is not indigent, but a family member is a victim or the parents refuse to hire counsel (in the latter case, reimbursement to the State is ordered against the parents).

²⁶ This dollar amount has not changed since at least 1989.

The following table details recent actual expenditures for this line item.

TRIAL COURTS - COURT COSTS, JURY COSTS, AND COURT-APPOINTED COUNSEL						
	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15	FY 15-16
Court-appointed Counsel:						
Respondent Parent Counsel Attorney	\$8,344,476	\$8,374,063	\$8,410,578	\$8,630,020	\$10,048,669	\$11,126,382
Mental Health Attorney	1,377,864	1,593,328	1,600,474	1,761,992	2,042,279	2,102,317
Other Counsel/Investigators a/	2,053,164	1,291,976	1,177,495	1,142,786	1,440,362	1,265,702
Attorney Guardian Ad Litem	397,510	482,784	590,240	609,507	691,542	745,650
Parental Refusal (FMV) a/	0	402,033	338,341	363,158	292,771	11,943
Truancy Attorney a/	56,502	124,792	165,968	145,030	228,051	223,026
Non-Attorney Child and Family Investigator	71,725	64,012	72,737	113,101	0	101,234
Other Appointments b/	51,493	52,926	63,808	74,985	182,620	188,640
Court-appointed Counsel Programming			22,730	30,942	98,122	101,849
Attorney Fee Collection Costs	22,312	22,483	18,321	18,713	4,399	10,387
Other Counsel per S.B. 06-061	1,101	1,635	206	0	14,742	5,542
Interpreter	0	0	0	0	0	0
Subtotal: Court-appointed Counsel	12,376,147	12,410,032	12,460,898	12,890,236	15,043,557	15,882,671
<i>Annual Percent Change</i>	<i>-1.7%</i>	<i>0.3%</i>	<i>0.4%</i>	<i>3.4%</i>	<i>16.7%</i>	<i>5.6%</i>
Court Costs:						
Evaluations/Expert Witness Fees	935,168	830,071	1,017,257	919,049	1,065,289	916,033
Transcripts	180,452	137,760	150,970	180,803	172,253	225,158
Discovery & Process Fees	25,549	35,458	35,515	36,072	65,638	43,292
Forms	22,500	12,175	9,542	11,087	9,986	3,826
Advertising	7,189	9,084	8,115	7,109	6,810	7,497
Interpreters	335	1,933	2,928	56	110	0
Experts/Witness Travel	992	1,550	1,558	1,760	916	0
Postage (moved to TC Operating)	198	209	494	265	0	0
Investigators	2,488	0	4,796	3,469	0	0
Death Penalty Costs	795	0	7,196	2,454	26,579	12,538
Misc.	43,538	28,686	43,088	52,105	19,274	19,713
Subtotal: Court Costs	1,219,203	1,056,925	1,281,459	1,214,228	1,366,854	1,228,057
<i>Annual Percent Change</i>	<i>-7.9%</i>	<i>-13.3%</i>	<i>21.2%</i>	<i>-5.2%</i>	<i>12.6%</i>	<i>-10.2%</i>
Jury Costs	1,876,998	1,714,537	1,779,315	1,710,023	1,601,228	1,774,459
<i>Annual Percent Change</i>	<i>-2.5%</i>	<i>-8.7%</i>	<i>3.8%</i>	<i>-3.9%</i>	<i>-6.4%</i>	<i>10.8%</i>
Total	\$15,472,347	\$15,181,494	\$15,521,672	\$15,814,487	\$18,011,639	18,885,187
a/ Prior to FY 2011-12, expenditures for counsel in parent refusal and certain truancy cases were included in the "Other Counsel/Investigators" category.						
b/ "Other Appointments" includes: Guardian ad litem for adults, court visitors, investigators, and associated mileage, copies, and postage.						

STATUTORY AUTHORITY: Several provisions concerning court-appointed counsel, including: Titles 13 [Court procedures], 14 [Domestic relations], 15 [Probate], 19 [Children's Code], 22 [Education], 25 [Health], and 27 [Behavioral health]; Section 13-3-104, C.R.S. [State funding for courts]; Sections 13-71-125 through 13-71-131, C.R.S. [Juror compensation]; Section 16-18-101, C.R.S. [Costs in criminal cases paid by the State]; Section 18-1.3-701 (2), C.R.S. [Judgement for costs and fines]

REQUEST: The Department requests a total of \$7,888,518, including \$7,723,269 General Fund and \$165,249 cash funds from various fees, cost recoveries, and grants. This line item is impacted by CDAC R2 (eDiscovery and annualization of S.B. 14-190), which is discussed at the beginning of this packet.

RECOMMENDATION: **Staff recommends approving the request.** The only requested change is a reduction of \$13,220 to eliminate funding for reimbursing the prosecution for providing discoverable material (S.B. 14-190).

DISTRICT ATTORNEY MANDATED COSTS

This is one of several line item appropriations for "mandated costs". This line item provides state funding to reimburse Colorado's district attorneys' offices (DAs) for costs incurred for prosecution of state matters, as required by state statute.

Based on FY 2015-16 expenditure data provided by the Colorado District Attorneys' Council (CDAC),²⁷ DAs' mandated costs consist of the following:

- Witness fees and travel expenses (\$594,555 or 26.8 percent);
- Expert witness fees and travel expenses (\$558,615 or 25.2 percent);
- Mailing subpoenas²⁸ (\$457,672 or 20.6 percent);
- Service of process²⁹ (\$402,888 or 18.2 percent); and
- Court reporter fees for transcripts (\$205,854 or 9.3 percent).

Prior to FY 2000-01, funding for DAs' mandated costs was included within the "Mandated Costs" line item appropriation to the Judicial Department. In 1999, an ad hoc committee on mandated costs released a report recommending that responsibility for managing court costs be transferred to the entities that incur them. Thus, beginning in FY 2000-01, the General Assembly has provided a separate appropriation for DAs' mandated costs. This line item has been accompanied by a footnote or a request for information indicating that DAs in each judicial district are responsible for allocations made by an oversight committee (currently the CDAC). Any increases in the line item are to be requested and justified in writing by the CDAC, rather than the Judicial Department.

The CDAC allocates funds among the 22 judicial districts (including those districts that are not members of the CDAC) based on historical spending. However, the CDAC excludes from this initial allocation: a portion of the appropriation to cover its costs of administering the allocation (5.0 percent of the appropriation or \$120,868 in FY 2016-17); and another amount (typically \$300,000) to cover any unanticipated district needs. District attorneys submit information quarterly concerning costs incurred, as well as projections of annual expenditures. The CDAC has a special process for requesting additional funds above the allocated amount. In order to limit state expenditures, the CDAC has limited expert witness fees to \$1,500 per expert. Fees paid in excess of this limit are only reimbursed if funds remain available at the end of the fiscal year. In FY 2015-16, DAs' incurred \$70,312 above this limit.

STATUTORY AUTHORITY: Section 13-3-104, C.R.S. [State funding for courts]; Section 16-18-101, C.R.S. [Costs in criminal cases paid by the State]; Section 18-1.3-701 (2), C.R.S. [Judgement for costs and fines].

REQUEST: The CDAC requests \$2,484,770, which represents a \$67,420 (2.8 percent) increase compared to the FY 2016-17 appropriation.

²⁷ The CDAC is a quasi-government agency, supported by assessments charged to each member's office (through an intergovernmental agreement).

²⁸ A subpoena is a writ by a government agency, most often a court, which has authority to compel testimony by a witness or production of evidence under a penalty for failure.

²⁹ Service of process is the general term for the legal document (usually a summons) by which a lawsuit is started and the court asserts its jurisdiction over the parties and the controversy.

RECOMMENDATION: Staff recommends approving the request. For more information, see the narrative for CDAC R1, at the beginning of this division..

BACKGROUND INFORMATION CDAC'S ROLE:

Since FY 1999-00, the General Assembly has provided a separate appropriation for DAs' mandated costs. This line item has been accompanied by a footnote or a request for information (e.g., RFI #3 for FY 2016-17) indicating that DAs in each judicial district are responsible for allocations made by an oversight committee (currently the CDAC). Any increases in the line item are to be requested and justified in writing by the CDAC, rather than the Judicial Department.

Two statutory provisions appear to provide statutory authority for CDAC to play this role. First, Section 20-1-110, C.R.S., authorizes DAs to participate in an intergovernmental cooperative relationship concerning criminal prosecution and to enter into contracts on behalf of his or her judicial district for cooperation with other DAs concerning such prosecution and prosecution-related services. Second, Section 20-1-111, C.R.S., authorizes DAs to cooperate or contract with one another to provide any function or service lawfully authorized to each of the cooperating or contracting DAs, "including the sharing of costs and the administration and distribution of moneys received for mandated costs." This provision also authorizes DAs to "allocate up to five percent of the moneys received for mandated costs authorized by the general assembly for administrative expenses." Consistent with this provision, the CDAC annually receives 5.0 percent of the appropriation (\$120,858 in FY 2016-17) to cover the administrative costs associated with allocating and managing this appropriation.

Please note, however, that the Judicial Department (not the CDAC) actually pays out the reimbursements to DAs and makes the related accounting entries in the state accounting system. Individual DAs make payments related to any mandated costs, and submit a list of such payments to the local district court administrator each month in order to receive reimbursement.

ACTION AND STATEWIDE DISCOVERY SHARING SYSTEMS

Pursuant to S.B. 14-190 (a JBC bill), the Colorado District Attorneys' Council (CDAC) is required to develop and maintain a statewide system that would enable the sharing and transfer of information electronically between law enforcement agencies, district attorneys' offices, and the defense. This statewide discovery sharing system (often called the "eDiscovery" system) is to be integrated with CDAC's existing ACTION system, a case management system that is maintained and operated by CDAC for district attorneys. Once eDiscovery is fully implemented, the defense will no longer be required to reimburse district attorneys for duplicating discoverable materials. This will allow existing General Fund appropriations for such reimbursements to be repurposed to support the ongoing operations of the eDiscovery and ACTION systems.

This line item provides funding for both the eDiscovery and ACTION systems. Fund sources include General Fund and cash fund revenues from a new criminal surcharge for persons who are represented by private counsel or appear without legal representation.

STATUTORY AUTHORITY: Section 16-9-701 et seq., C.R.S.

REQUEST: The Judicial Department, on behalf of the CDAC, requests \$3,240,000 (including \$3,170,000 General Fund and \$70,000 cash funds from the Statewide Discovery Sharing Surcharge Fund). This line item is impacted by CDAC R2 eDiscovery and annualization of S.B. 14-190, which is discussed at the beginning of this packet.

RECOMMENDATION: **Staff recommends approving the request.**

FEDERAL FUNDS AND OTHER GRANTS

This line item reflects miscellaneous grants and federal funds associated with the trial courts. The FTE shown in the Long Bill are not permanent employees of the Department, but instead represent the Department's estimates of the full-time equivalent employees who are working under the various grants.

STATUTORY AUTHORITY: Section 13-3-101 (9), C.R.S.

REQUEST: The Department requests a continuation level of spending authority (\$2,900,000 and 14.0 FTE), including \$975,000 cash funds, \$300,000 reappropriated funds, and \$1,625,000 federal funds. The source of reappropriated funds is federal funds transferred from the Departments of Human Services and Public Safety.

RECOMMENDATION: **Staff recommends approving the request, except for staff recommends reducing the FTE associated with federal funds by 1.0.** For more information, see JUD BA4 Long Bill clean-up/ FTE true-up at the beginning of this packet. Please note that the FTE that are shown with this line item are actually contract staff (in some cases these may be long-term contracts), and are not reflected as FTE within the Department's payroll system. For purposes of providing actual FTE data, the Department uses its payroll system to determine the number of hours worked by these contract staff and calculate an equivalent number of FTE.

(4) PROBATION AND RELATED SERVICES

This section provides funding for probation officers and staff, as well as services that are provided to offenders on probation or related to the probation function. Cash fund sources include: the Offender Services Fund, the Alcohol and Drug Driving Safety Program Fund, the Correctional Treatment Cash Fund, the Sex Offender Surcharge Fund, the Offender Identification Fund, and various fees, cost recoveries, and grants. Sources of reappropriated funds include transfers from the Education, Human Services, and Public Safety Departments.

Persons convicted of certain offenses are eligible to apply to the court for probation. If the court determines that "the ends of justice and the best interests of the public, as well as the defendant, will be served thereby," the court may grant the defendant probation³⁰. The offender serves a sentence in the community under the supervision of a probation officer, subject to conditions imposed by the court. The length of probation is at the discretion of the court and it may exceed the maximum period of incarceration authorized for the offense of which the defendant is convicted, but it cannot exceed five years for any misdemeanor or petty offense. The conditions of probation should ensure that the defendant will lead a law-abiding life and assist the defendant in doing so. These conditions always include requirements that the defendant:

- will not commit another offense;
- will make full restitution;
- will comply with any court orders regarding substance abuse testing and treatment and/or the treatment of sex offenders; and
- will not harass, molest, intimidate, retaliate against, or tamper with the victim.

Managed by the Chief Probation Officer in each judicial district, 1,180 employees prepare assessments and provide pre-sentence investigation services to the courts, supervise offenders sentenced to community programs, and provide notification and support services to victims. The Chief Probation Officer is supervised by the Chief Judge in each district. Investigation and supervision services are provided based on priorities established by the Chief Justice and each offender's risk of re-offending. Adult and juvenile offenders are supervised in accordance with conditions imposed by the courts. A breach of any imposed condition may result in revocation or modification of probation, or incarceration of the offender.

The following table summarizes the staff recommendations for the Probation and Related Services.

³⁰ See Section 18-1.3-202 (1), C.R.S.

PROBATION AND RELATED SERVICES						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2016-17 Appropriation						
HB 16-1405 (Long Bill)	\$145,570,669	\$91,434,241	\$29,701,250	\$21,635,178	\$2,800,000	1,247.8
Other legislation	61,085	61,085	0	0	0	0.9
TOTAL	\$145,631,754	\$91,495,326	\$29,701,250	\$21,635,178	\$2,800,000	1,248.7
FY 2017-18 RECOMMENDED APPROPRIATION						
FY 2016-17 Appropriation	\$145,631,754	\$91,495,326	\$29,701,250	\$21,635,178	\$2,800,000	1,248.7
JUD BA4 Long Bill clean-up and FTE true-up	0	0	0	0	0	(1.0)
Indirect cost assessment	(4,748)	0	(4,748)	0	0	0.0
Fund source adjustment	0	0	0	0	0	0.0
Annualize prior year budget actions	17,954	13,840	4,114	0	0	0.0
Other	2,468	0	2,468	0	0	0.0
TOTAL	\$145,647,428	\$91,509,166	\$29,703,084	\$21,635,178	\$2,800,000	1,247.7
INCREASE/(DECREASE)	\$15,674	\$13,840	\$1,834	\$0	\$0	(1.0)
Percentage Change	0.0%	0.0%	0.0%	0.0%	0.0%	(0.1%)
FY 2017-18 EXECUTIVE REQUEST						
Request Above/(Below) Recommendation	(\$2,468)	\$0	(\$2,468)	\$0	\$0	1.0

DECISION ITEMS – PROBATION AND RELATED SERVICES (NONE)

The Judicial Department did not submit any decision items for this division.

LINE ITEM DETAIL – PROBATION AND RELATED SERVICES

PROBATION PROGRAMS

This line item provides funding for both personal services and operating expenses for probation programs in all judicial districts. Cash funds sources include: the Offender Services Fund, the Alcohol and Drug Driving Safety Program Fund, the Correctional Treatment Cash Fund (drug offender surcharge fee revenues), various fees and cost recoveries, and the Offender Identification Fund. The following table details the types of employees that are supported by this line item.

STAFFING SUMMARY				
PROBATION PROGRAMS	ACTUAL	APPROPRIATION	REQUEST	RECOMMENDATION
Chief Probation Officers/ Deputy Chief Probation Officers	29.0	28.0	28.0	28.0
Probation Supervisors	138.7	136.1	136.1	136.1
Probation Officers	820.6	850.9	850.9	850.9
Administrative/ Support Staff	169.7	169.7	169.7	169.7
Total	1,158.0	1,184.7	1,184.7	1,184.7

STATUTORY AUTHORITY: Sections 16-11-214 [Offender Services Fund]; 18-1.3-201 et seq., C.R.S. [Probation as a sentencing option]; Section 24-33.5-415.6 (1), C.R.S. [Offender ID Fund]; 42-4-1301.3, C.R.S. [Alcohol and Drug Driving Safety (ADDS) Program]

REQUEST: The Department requests \$84,543,930, including \$75,384,289 General Fund and \$9,159,641 cash funds, and 1,184.7 FTE.

RECOMMENDATION: **Staff recommends approving the request.** The only change to the appropriation is the transfer of money from the FY 2016-17 centrally appropriated line items for salary increases to be awarded in FY 2016-17. These amounts are identified as “Annualize prior year budget actions” in the table at the beginning of this division.

OFFENDER TREATMENT AND SERVICES

This line item provides funding for the purchase of treatment and services for offenders on probation, as well as funding that is transferred to other state agencies to provide treatment for substance abuse and co-occurring disorders for adult and juvenile offenders who are: on diversion; on parole; sentenced or transitioned to a community corrections program; or serving a sentence in a county jail.

The portion of funding that is spent by the Judicial Department for offenders on probation is generally allocated among judicial districts based on each district's relative share of FTE and probationers under supervision. Each probation department then develops a local budget to provide treatment and services, including the following:

- Substance abuse treatment and testing;
- Sex offender assessment, treatment, and polygraphs;
- Domestic violence treatment;
- Mental health services;
- Electronic home monitoring;
- Emergency housing;
- Transportation assistance;
- Day reporting³¹;
- Educational/vocational assistance;
- Global positioning satellite (GPS) tracking;

³¹ Day reporting centers provide intensive, individualized support and treatment services (e.g., employment assistance, substance abuse monitoring, and substance abuse treatment) for offenders who are at risk of violating terms of community placement.

- Incentives;
- General medical assistance;
- Restorative justice; and
- Interpreter services.

The local allocation of funds depends on the availability of treatment and services and the particular needs of the local offender population. The Department annually reports on allocations and expenditures, by treatment and type of services [see pages 102 through 104 in the FY 2016-17 JBC Staff Budget Briefing for the Judicial Branch, dated November 18, 2015]. The Department is also using some existing funding for state-level initiatives, including researching evidence-based practices and building capacity in rural/under-served parts of the state.

The General Assembly has also included appropriations for two specific purposes. First, the appropriation includes \$624,877 General Fund for the purpose of providing treatment and services for offenders participating in veterans trauma courts (and this intent was expressed through Long Bill footnote #51). Second, the appropriation includes \$300,000 General Fund for day reporting services; however, if these funds are not required for day reporting services they may be used for other types of offender treatment and services.

Cash fund sources that support this line item include the following:

- Offender Services Fund (\$10,597,255);
- Correctional Treatment Cash Fund (\$4,668,225 from drug offender surcharge fee revenues credited to the Correctional Treatment Cash Fund (CTCF) and from the CTCF balance),
- Sex Offender Surcharge Fund (\$302,029); and
- various fees and cost recoveries (\$350,000).

Reappropriated funds include General Fund moneys that are appropriated to the Correctional Treatment Cash Fund (\$15,200,000), cash fund moneys from the Marijuana Tax Cash Fund that are appropriated to the CTCF (\$1,550,000), and moneys transferred from the Department of Human Services out of the Persistent Drunk Driver Cash Fund to pay a portion of the costs for intervention and treatment services for persistent drunk drivers who are unable to pay (\$888,341).

STATUTORY AUTHORITY: Sections 16-11-214 [Offender Services Fund]; Section 18-1.3-201 et seq., C.R.S. [Probation as a sentencing option]; Section 18-19-103, C.R.S. [Drug offender surcharge]; Section 18-21-103, C.R.S. [Sex offender surcharge]

REQUEST: The Department requests a continuation level of funding, or a total of \$34,480,727, including \$924,877 General Fund, \$15,917,509 cash funds, and \$17,638,341 reappropriated funds.

RECOMMENDATION: **Staff recommends appropriating a total of \$34,483,195**, a slightly higher amount than requested. **Staff's recommendation includes a small increase in cash funds spending authority from the Correctional Treatment Cash Fund (CTCF)** to ensure that the total amount allocated from the CTCF for probation and problem-solving court clients is consistent with staff's recommended allocations from the CTCF (this allocation is discussed at the beginning of this document). This adjustment is necessary due to a small increase in the CTCF amount

anticipated to be transferred to the Department of Public Safety (for administrative costs). The following table details the components of this appropriation.

CALCULATION OF OFFENDER TREATMENT AND SERVICES APPROPRIATION: FY 2017-18				
SOURCE OF FUNDS/ PURPOSE	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	TOTAL FUNDS
<i>Existing Appropriations for FY 2016-17:</i>				
General Fund appropriated to the Correctional Treatment Cash Fund (CTCF)			15,200,000	15,200,000
Offender Services Fund		10,597,255		10,597,255
Drug offender surcharge revenues credited to the CTCF, interest earnings, and CTCF fund balance		4,668,225		4,668,225
Marijuana Tax Cash Fund appropriated to the CTCF			1,550,000	1,550,000
Transfer from the Department of Human Services' Persistent Drunk Driver Programs line item			888,341	888,341
Appropriation for treatment and services for offenders participating in veterans treatment courts	624,877			624,877
Various fees and cost recoveries		350,000		350,000
Sex Offender Surcharge Fund		302,029		302,029
Appropriation for day reporting services	300,000			300,000
Subtotal	\$924,877	\$15,917,509	\$17,638,341	34,480,727
<i>Recommended changes for FY 2017-18:</i>				
Adjustment to reflect change in cash fund appropriations from the CTCF for administrative costs and indirect cost assessment		2,468		2,468
Total Recommendation for FY 2017-18	924,877	15,919,977	17,638,341	34,483,195

Staff also recommends continuing to appropriate \$25,000 reappropriated funds to the Department of Corrections to allow it to receive and spend \$25,000 from the Judicial Department's Offender Treatment and Services line item for the provision of day reporting services to parolees.

Finally, at the end of this packet, staff has recommended continuation of the Long Bill footnote that expresses the General Assembly's intent that \$624,877 of the appropriation be used to provide treatment and services for offenders in veterans treatment courts.

APPROPRIATION TO THE CORRECTIONAL TREATMENT CASH FUND

This line item provides an annual appropriation from the General Fund and the Marijuana Tax Cash Fund to be credited to the Correctional Treatment Cash Fund (CTCF). Money in the CTCF is used to fund the treatment of substance abuse or co-occurring disorders of adult and juvenile offenders. The Offender Treatment and Services line item in this budget provides the Judicial Department with a corresponding appropriation (from reappropriated funds) to spend a portion of this money for the provision of services to offenders on probation, and to transfer the remainder of these moneys to the Department of Corrections, Department of Human Services, and the Department of Public Safety to provide services to offenders in other settings.

STATUTORY AUTHORITY: Sections 19-19-103 (3.5) (b) and (c) and (4) (a), C.R.S.

REQUEST: The Department requests a continuation level of funding, including \$15,200,000 General Fund and \$1,550,000 cash funds from the Marijuana Tax Cash Fund.

RECOMMENDATION: **Staff recommends approving the request.** For more information, see the discussion of the CTCF allocation recommendation at the beginning of this document.

S.B. 91-094 JUVENILE SERVICES

The General Assembly annually appropriates General Fund moneys to the Department of Human Services' Division of Youth Corrections (DYC) for the provision of service alternatives to placing juveniles in the physical custody of the DYC. Generally, the types of services provided include individual and family therapy, substance abuse treatment, mental health treatment, education, vocational and life skills training, mentoring, electronic monitoring, community service programs, gang intervention, mediation services, and anger management classes.

The DYC annually contracts with the Judicial Department to provide some of these services, and this line item authorizes the Judicial Department to receive and spend these moneys. For example, for FY 2015-16, this line item authorized the Department to receive and spend up to \$2,496,837 (16.9 percent) of the \$14,792,805 that was appropriated to DYC. The total amount of S.B. 91-094 funding that the Judicial Department receives depends on a number of factors including: the number of available treatment providers, the structural organization of the districts' programs, and the level and types of treatment services required per district each year. When the amount of funding need is determined, each district submits its request directly to DHS. Once all district requests have been received, the Judicial Department and DYC execute the annual contract.

STATUTORY AUTHORITY: Section 19-2-310, C.R.S.

REQUEST: The Department requests a continuation level of funding (\$2,496,837 reappropriated funds and 25.0 FTE).

RECOMMENDATION: **Staff recommends approving the request.** Please note that the FTE that are shown with this line item are actually contract staff (in some cases these may be long-term contracts), and are not reflected as FTE within the Department's payroll system. For purposes of providing actual FTE data, the Department uses its payroll system to determine the number of hours worked by these contract staff and calculate an equivalent number of FTE.

REIMBURSEMENTS TO LAW ENFORCEMENT AGENCIES FOR THE COSTS OF RETURNING A PROBATIONER

This line item provides funding for the Judicial Department to reimburse law enforcement agencies for the costs of returning a probationer to Colorado. The source of funding is the Interstate Compact Probation Transfer Cash Fund, a new fund that consists of revenue from a new \$100 filing fee paid by an estimated 2,500 offenders who apply for out-of-state probation supervision (it is assumed that approximately 25 percent of these offenders will be indigent and have their fee waived).

STATUTORY AUTHORITY: Section 18-1.3-204 (4) (b), C.R.S.

REQUEST: The Department requests a continuation level of funding (\$187,500 cash funds).

RECOMMENDATION: **Staff recommends approving the request.**

VICTIMS GRANTS

These grants are used to provide program development, training, grant management, and technical assistance to probation departments in each judicial district as they continue to improve their victim services programs and provide direct services and notification to victims of crime. The source of funding is victim assistance surcharges collected from offenders and administered by the State Victim Assistance and Law Enforcement (VALE) Board, grants from local VALE boards, and a federal Victims of Crime Act (VOCA) grant that are received by the Division of Criminal Justice and transferred to the Judicial Department.

STATUTORY AUTHORITY: Section 24-4.2-105 (2.5), C.R.S.

REQUEST: The Department requests a continuation level of spending authority (\$650,000 reappropriated funds and 6.0 FTE).

RECOMMENDATION: **Staff recommends approving the request.**

FEDERAL FUNDS AND OTHER GRANTS

This line item reflects miscellaneous grants and federal funds associated with probation programs and services. The FTE shown in the Long Bill are not permanent employees of the Department, but represent the Department's estimates of the full-time equivalent employees who are working under the various grants (often in judicial districts).

STATUTORY AUTHORITY: Section 18-1.3-202, C.R.S.

REQUEST: The Department requests a continuation level of spending authority (\$5,600,000 and 33.0 FTE), including \$1,950,000 cash funds, \$850,000 reappropriated funds (funds transferred from other state agencies), and \$2,800,000 federal funds.

RECOMMENDATION: **Staff recommends approving the request, except for staff recommends reducing the FTE associated with federal funds by 1.0.** For more information, see JUD BA4 Long Bill clean-up/ FTE true-up at the beginning of this packet.

INDIRECT COST ASSESSMENT

Indirect cost assessments are charged to cash and federally-funded programs for departmental and statewide overhead costs, and then the assessments are used in the Courts Administration section to offset General Fund appropriations.

STATUTORY AUTHORITY: Colorado Fiscal Rules #8-3; Section 24-75-1401, C.R.S. [Indirect Costs Excess Recovery Fund]

REQUEST: Department requests \$935,966 cash funds.

RECOMMENDATION: **Staff recommends approving the request,** which is consistent with Committee policy.

(5) OFFICE OF THE STATE PUBLIC DEFENDER

The federal³² and state³³ constitutions provide that an accused person has the right to be represented by counsel in criminal prosecutions. This constitutional right has been interpreted to mean that counsel will be provided at state expense for indigent persons in all cases in which actual incarceration is a likely penalty. The Office of the State Public Defender (OSPD) is established by Section 21-1-101, et seq., C.R.S., as an independent agency within the Judicial Branch for the purpose of providing legal representation for indigent defendants who are facing incarceration. This provision requires the OSPD to provide legal representation to indigent defendants "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." The OSPD provides representation through employees located around the state.

The OSPD is governed by the five-member Public Defender Commission, whose members are appointed by the Supreme Court. The Commission appoints an individual to serve as the State Public Defender. The State Public Defender's compensation is fixed by the General Assembly (through a Long Bill footnote) and may not be reduced during his or her five-year term of appointment. The State Public Defender employs and fixes the compensation for deputy public defenders, investigators, and other necessary support staff. However, all salaries are to be reviewed and approved by the Colorado Supreme Court.

The OSPD is the largest independent agency within the Judicial Branch. The OSPD's central administrative office is located in the Ralph L. Colorado Judicial Center, and the associated lease payment is covered through a single line item appropriation in the Courts Administration section of the Judicial Branch budget. The Office of the State Court Administrator provides a limited amount of administrative support, including: fiscal year-end transfers; workers' compensation and risk management; and a server room. With the exception of a small amount of cash funds from training registration fees and grants, the OSPD is supported by General Fund appropriations.

OFFICE OF THE STATE PUBLIC DEFENDER						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2016-17 Appropriation						
HB 16-1405 (Long Bill)	\$86,426,501	\$86,276,501	\$150,000	\$0	\$0	785.9
SB 17-164 (Supplemental bill)	146,820	146,820	0	0	0	0.0
TOTAL	\$86,573,321	\$86,423,321	\$150,000	\$0	\$0	785.9
FY 2017-18 RECOMMENDED APPROPRIATION						
FY 2016-17 Appropriation	\$86,573,321	\$86,423,321	\$150,000	\$0	\$0	785.9
OSPD R1 Deferred support staff	1,113,027	1,113,027	0	0	0	23.4

³² See Amendment VI of the U.S. Constitution (Rights of accused).

³³ See Article II, Section 16 of the Colorado Constitution (Criminal prosecutions - rights of defendant).

OFFICE OF THE STATE PUBLIC DEFENDER						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
OSPD R2 Mandated and electronic data management expenses	585,831	585,831	0	0	0	0.0
OSPD R3 New criminal judge in the 12th	110,084	110,084	0	0	0	1.8
OSPD BA1 Bandwidth	(99,963)	(99,963)	0	0	0	0.0
OSPD R4 Vehicles	(2,282)	(2,282)	0	0	0	0.0
CDAC R2 eDiscovery and annualization of SB 14-190	(1,154,986)	(1,154,986)	0	0	0	0.0
Centrally appropriated line items	2,275,294	2,275,294	0	0	0	0.0
Non-prioritized requests	(36,832)	(36,832)	0	0	0	0.0
TOTAL	\$89,363,494	\$89,213,494	\$150,000	\$0	\$0	811.1
INCREASE/(DECREASE)	\$2,790,173	\$2,790,173	\$0	\$0	\$0	25.2
Percentage Change	3.2%	3.2%	0.0%	n/a	n/a	3.2%
FY 2017-18 EXECUTIVE REQUEST	\$89,446,071	\$89,296,071	\$150,000	\$0	\$0	808.8
Request Above/(Below) Recommendation	\$82,577	\$82,577	\$0	\$0	\$0	(2.3)

DECISION ITEMS – OFFICE OF THE STATE PUBLIC DEFENDER

➔ OSPD R1 DEFERRED SUPPORT

STAFF

REQUEST: The OSPD requests \$1,118,718 General Fund to add 21.3 FTE investigators, paralegals, and administrative staff to improve the ratio of support staff to attorneys.

RECOMMENDATION: **Staff recommends approving the request, with some calculation modifications to comply with Committee policy for funding new FTE (a difference of \$5,690).**

ANALYSIS: In FY 2009-10, the OSPD requested and received funding for 36.8 FTE attorneys. This request was part of a multi-year plan to address regional office staffing concerns. Staff has provided an excerpt from the associated JBC Staff figures setting document, dated February 26, 2009:

“Joint Budget Committee staff records indicate that this office has been chronically understaffed. A review of appropriations for this office reveal only modest staffing increases to address a growing caseload from FY 1994-95 through FY 2005-06. The General Assembly has taken steps in recent years to address this situation, including adding 20.0 FTE in FY 2006-07 (including 12.0 FTE attorneys), and another 81.1 FTE in FY 2007-08 (including 48.8 FTE attorneys). The Office has also received funding to hire staff to cover the dockets added through multiple bills that have added judges at the county, district, and court of appeals levels. Most recently, a total of 24.1 FTE have been funded to cover the new dockets added through the first two years of implementing H.B. 07-1054.

For FY 2009-10, the Public Defender has only requested funding to add attorneys, with no additional funding requested for the associated support and supervisory staff. When asked why support and supervisory staff were not included as part of the request, the Office responded as follows:

‘The current breakdown is so bad that even a 7 to 8 year plan will not get us to 100% of attorney staffing with appropriate/recommended levels of support staffing. The workload of the attorneys in support of their current cases and the number of cases they must carry so far exceeds what is responsible and ethical, that the need to fulfill the attorney requirements first and to ensure we have attorneys to serve our clients, new dockets, and new court rooms as they are created drastically outweighs the benefits of a few support staff in terms of direct client and caseload impact.’

...Staff recommends approving this request. The Public Defender is statutorily required to conduct the office in accordance with the Colorado Rules of Professional Conduct and with American Bar Association standards relating to the defense function. An individual public defender has an ethical and professional obligation to refuse further Court appointments if his or her caseload is too high to provide competent and diligent representation. In addition, the State Public Defender and his supervisors have a duty to assure that staff attorneys do not have excessive caseloads. If they fail to take steps to remedy this situation, they are committing disciplinary violations. Based on the most recent weighted caseload study, the Public Defender estimates that even if this request is approved, his staff will fall 289 FTE short of minimum staffing standards -- a deficit of over 33 percent.”

The OSPD had intended to request the associated support staff in a subsequent year, but the economic downturn delayed this request.

Staff recommends approving the request for additional support staff to improve the ratio of support staff to attorneys. Support staff complete a wide range of essential tasks including:

- Processing applications and determining eligibility for services;
- Conducting initial review of cases to identify potential conflicts of interest;
- Case management such as extensive file maintenance and statistical data entry;
- Receiving discovery;
- Filing motions and timely dissemination of a wide range of documents received from opposing counsel and other criminal justice agencies;
- General case research;
- Document management of large volume discovery cases;
- Conducting witness interviews;
- Subpoenaing witnesses; and
- Assisting attorneys during trials to manage the appearance of witnesses and exhibits.

The OSPD’s current workload model assumes that there is an adequate number of support staff to complete the above types of tasks. Based on this workload model, the FY 2016-17 appropriation

supports 86.4 percent of the full need for attorneys, but only 74.4 percent of the full need for support staff. Approval of this request would support 80.2 percent of the full need for support staff. The requested increase in support staff should help to make attorneys more efficient and ensure that the workload is allocated in a more cost-effective manner.

Staff's calculations are based on Legislative Council Staff common policies for fiscal notes. Staff's calculations are slightly lower than those in the OSPD request, and are detailed in the following table. Please note that staff reflects the full number of FTE requested, without adjusting the FTE figures in FY 2017-18 to reflect the impact of the paydate shift. Thus, staff's recommended FTE appears to be higher than the request.

OSPD R1 DEFERRED SUPPORT STAFF: RECOMMENDATION					
LINE ITEM AND DESCRIPTION	COST/RATE	FY 2017-18		FY 2018-19	
		FTE	AMOUNT	FTE	AMOUNT
<u>Personal Services</u>					
<i>Months of salary</i>			11		12
Investigator	\$4,007	12.3	\$542,147	12.3	\$591,433
Administrative Support Assistant	\$2,359	10.1	262,085	10.1	285,911
Central Office Support	\$6,099	1.0	67,089	1.0	73,188
Subtotal		23.4	871,321	23.4	950,532
PERA	10.15%		88,439		96,479
Medicare	1.45%		12,634		13,783
Subtotal			972,394		1,060,794
<u>Operating Expenses</u>					
Operating	\$950	23.4	22,230	23.4	22,230
Travel (Investigators only)	\$832	12.3	10,234	23.4	19,469
Subtotal			\$32,464		41,699
<u>Capital Outlay</u>					
Office Furniture	\$3,473	23.0	79,879	23.0	0
Computer/Software	\$1,230	23.0	28,290	23.0	0
Subtotal			108,169		0
Attorney Registration Fees	190		0		0
TOTAL			\$1,113,027		\$1,102,493

→ **OSPD R2 MANDATED AND ELECTRONIC DATA MANAGEMENT EXPENSES**

REQUEST: The OSPD requests a total of \$585,831 General Fund, including:

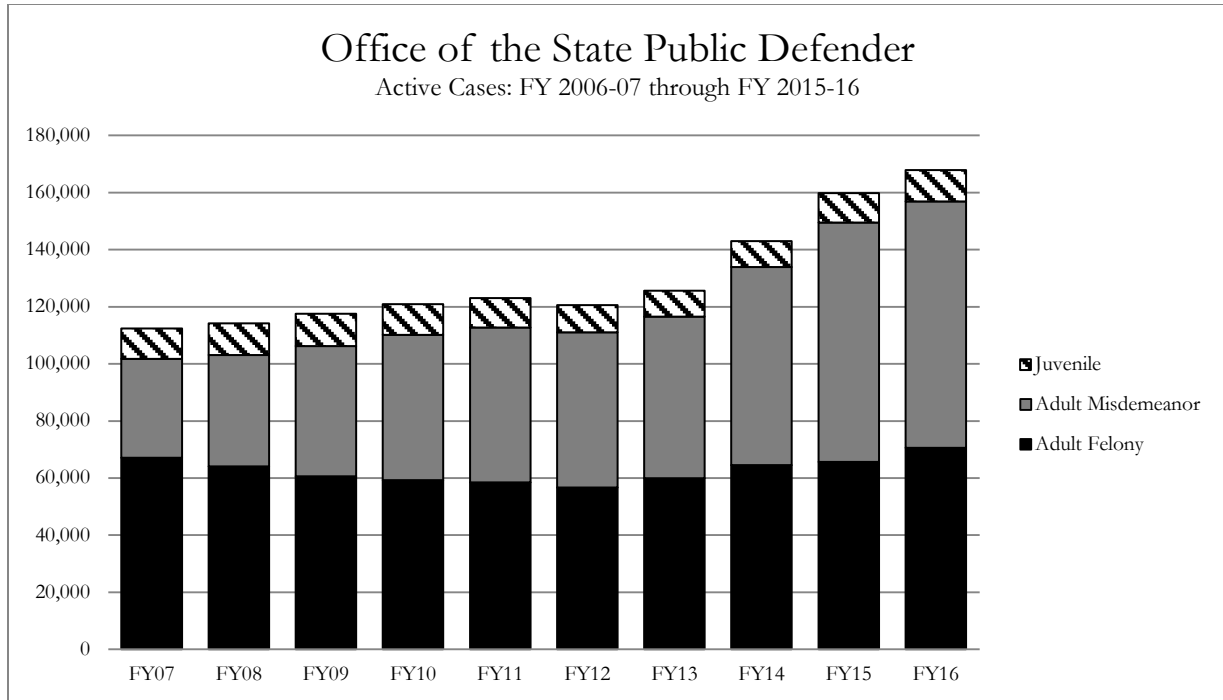
- \$469,585 to adjust the Mandated Costs appropriation based on recent caseload increases; and
- A one-time appropriation of \$116,246 to acquire the hardware and software necessary to receive and manage the electronic discovery that will be made available through the new Statewide Discovery Sharing System.

RECOMMENDATION: Staff recommends approving the request.

ANALYSIS:

The request includes two components. First, the OSPD requests an increase of \$469,585 for Mandated Costs due to increases in the number of cases involving a public defender and the severity

of the cases. As depicted in the following chart, the total number of cases requiring public defender involvement has increased in every year but one since FY 2006-07. In the last three fiscal years alone the total number of cases increased by 42,208 (33.6 percent). This primarily includes an increase of 29,655 (52.4 percent) adult misdemeanor cases largely due to the passage of H.B. 13-1210, which repealed a statute that required an indigent person charged with a misdemeanor or other minor offense to meet with the prosecuting attorney for plea negotiations before legal counsel is appointed³⁴. However, the number of adult felony cases has increased by 10,696 (17.9 percent) since FY 2012-13, and by nearly 5,000 (7.6 percent) in FY 2015-16 alone.



In each of the last three fiscal years the OSPD has used its fiscal year-end transfer authority to cover over expenditures in the Mandated Costs line item:

- \$450,000 in FY 2013-14
- \$625,000 in FY 2014-15
- \$542,724 in FY 2015-16

The following table provides a history of OSPD mandated cost expenditures since FY 2009-10.

OSPD MANDATED COSTS							
DESCRIPTION	FY 09-10	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15	FY 15-16
Transcripts	\$1,267,820	\$1,343,846	\$1,408,864	\$1,320,864	\$1,416,697	\$1,556,613	\$1,659,337
Discovery	1,125,966	1,514,957	1,623,452	1,751,829	1,932,652	2,103,438	2,299,822
Experts	516,403	474,661	485,145	785,941	1,054,820	1,209,391	1,010,174
Travel	58,254	74,700	65,471	119,749	214,709	142,972	195,280
Interpreters	106,661	93,239	117,828	126,459	128,349	147,371	164,975
Misc.	17,497	14,976	57,871	21,646	30,660	17,931	31,003

³⁴ These changes apply to misdemeanors, petty offenses, class 2 and class 3 misdemeanor traffic offenses, and municipal or county ordinance violations committed on or after January 1, 2014.

OSPД MANDATED COSTS							
DESCRIPTION	FY 09-10	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15	FY 15-16
Total	\$3,092,601	\$3,516,379	\$3,758,631	\$4,126,488	\$4,777,888	\$5,177,716	\$5,360,590
<i>Annual % change</i>	<i>4.7%</i>	<i>13.7%</i>	<i>6.9%</i>	<i>9.8%</i>	<i>15.8%</i>	<i>8.4%</i>	<i>3.5%</i>
Active cases	120,816	122,949	120,498	125,606	142,907	159,814	167,814
Average cost per case	\$25.60	\$28.60	\$31.19	\$32.85	\$33.43	\$32.40	\$31.94
<i>Annual % change</i>	<i>1.8%</i>	<i>11.7%</i>	<i>9.1%</i>	<i>5.3%</i>	<i>1.8%</i>	<i>-3.1%</i>	<i>-1.4%</i>

As detailed in the above table, OSPD mandated costs have increased by \$2.3 million (73.3 percent) since FY 2009-10. A portion of this increase is due to caseload growth; the number of active cases increased by 38.9 percent over the same time period. Total mandated costs per case have declined since FY 2013-14 from \$33.43 to \$31.94 (4.5 percent). This decrease is primarily due to a decrease in the average cost of expert witnesses (from \$7.38 to \$6.02). This decrease is partially offset by increases in the average cost of discovery per case (from \$13.52 to \$13.70) and the average cost of interpreters per case (from \$0.90 to \$0.98).

Staff recommends approving this portion of the request to ensure that the FY 2017-18 appropriation is sufficient to cover Mandated Costs.

The second portion of the request is for a one-time increase of \$116,246 in the OSPD’s “Automation” line item to ensure that the OSPD has the capacity to carry out the new procedures and processes associate with the implementation of the eDiscovery system. The requested funds would be used to purchase the necessary hardware and software for servers in OSPD regional offices to manage the increase in data management requirements. The OSPD indicates that these services should provide adequate functionality for the next five years.

Staff recommends approving this portion of the request to ensure successful implementation of the eDiscovery system in judicial districts across the state.

→ OSPD R3 NEW CRIMINAL JUDGE IN THE 12TH

REQUEST: The OSPD requests \$121,653 General Fund for 1.6 FTE to address the workload impact of adding a new district court judge in the 12th judicial district (H.B. 15-1034) and the subsequent decisions to reallocate criminal cases and add a new adult criminal drug court in this jurisdiction.

RECOMMENDATION: Staff recommends approving the request, with some calculation modifications to comply with Committee policy for funding new FTE (a difference of \$11,568).

ANALYSIS: House Bill 15-1034 increased the number of judges in the 12th judicial district (Alamosa, Conejos, Costilla, Mineral, Rio Grande, and Saguache counties) from three to four. At the time the bill was under consideration, the Judicial Department indicated that this additional judge would not preside over a criminal docket, and the Department did not project the number of criminal cases increasing. Based on these assumptions, the Legislative Council Staff fiscal note for the bill indicated that the OSPD workload may be impacted by the bill, but based on a lack of information available at that time, the note assumed that if and when the OSPD experiences a workload impact it could request associated resources through the annual budget process. Specifically, the note stated:

“At present, the Office of the State Public Defender (OSPD), Office of the Child's Representative (OCR), and the Office of Alternate Defense Counsel (OADC), have adequate appropriations to address current caseload in the Twelfth Judicial District. These other Judicial Branch agencies are impacted by the bill to the extent that it changes workload in criminal and juvenile cases. Workload impacts to OSPD and other agencies, such as scheduling conflicts and travel, may result when another full time courtroom is added to the Twelfth Judicial District.

No specific impact to the OSPD can be quantified for this analysis, and minimal impacts to other Judicial Branch agencies are expected in FY 2015-16 based on the Judicial Department's resource allocation plan. In future fiscal years, the Judicial Department's plan to minimize impacts to criminal and juvenile cases may diminish or change at the discretion of trial court personnel. If significant workload impacts become evident, these agencies may adjust staffing and other resource levels through the annual budget process.”.

The OSPD is now requesting additional resources to address significant increases in criminal case filings in this district and the adoption of an Adult Criminal Drug Court last summer. A letter from Chief Judge Pattie Swift to the Amanda Hopkins, the OSPD Office Head for the Alamosa regional office, dated October 4, 2016, indicates that felony case filings increased from 426 in CY 2015 to 493 in the first nine months of CY 2016. Judge Swift indicates that the increase is likely related to the epidemic of heroin use in communities in the San Luis Valley. In an attempt to try to reduce recidivism for those who have committed crimes as a result of their abuse of and addiction drugs, she started an Adult Criminal Drug Court in Alamosa County; this court became operational last summer. She has also increased the amount of judge time and docket time devoted to criminal cases.

Staff recommends approving the request for additional staff to cover the additional workload in the 12th judicial district. Staff's calculations are based on Legislative Council Staff common policies for fiscal notes, except that staff has utilized the unit costs provided by the OSPD for operating, travel, and capital outlay expenses for employees who are required to travel significant distances based on the geographic characteristics of this region. Staff's calculations are slightly lower than those in the OSPD request, and are detailed in the following table. Please note that staff reflects the full number of FTE requested, without adjusting the FTE figures in FY 2017-18 to reflect the impact of the payday shift. Thus, staff's recommended FTE appears to be higher than the request.

OSPD R3 NEW CRIMINAL JUDGE IN 12TH: RECOMMENDATION					
LINE ITEM AND DESCRIPTION	COST/RATE	FY 2017-18		FY 2018-19	
		FTE	AMOUNT	FTE	AMOUNT
<u>Personal Services</u>					
<i>Months of salary</i>			<i>11</i>		<i>12</i>
Attorney	\$4,773	1.1	\$57,753	1.1	\$63,004
Investigator	\$4,007	0.4	17,631	0.4	19,234
Administrative Support Assistant	\$2,359	<u>0.3</u>	<u>7,785</u>	<u>0.3</u>	<u>8,492</u>
Subtotal		1.8	83,169	1.8	90,730
PERA	10.15%		8,442		9,209
Medicare	1.45%		<u>1,206</u>		<u>1,316</u>
Subtotal			92,816		101,254
<u>Operating Expenses</u>					

OSPD R3 NEW CRIMINAL JUDGE IN 12TH: RECOMMENDATION					
LINE ITEM AND DESCRIPTION	COST/RATE	FY 2017-18		FY 2018-19	
		FTE	AMOUNT	FTE	AMOUNT
Operating (for high travel employee)	\$1,706	1.8	3,071	1.8	3,071
Travel (for high travel employee)	\$1,879	1.8	<u>3,382</u>	1.8	<u>3,382</u>
Subtotal			\$6,453		6,453
Capital Outlay					
Office Furniture	\$3,473	2.0	6,946	2.0	0
Computer/Software (for high travel employee)	\$1,830	2.0	<u>3,660</u>	2.0	<u>0</u>
Subtotal			10,606		0
Attorney Registration Fees	190	1.1	209	1.1	209
TOTAL			\$110,084		\$107,916

→ OSPD R4 VEHICLES

REQUEST: The OSPD requests a reduction of \$2,282 General Fund based on a plan to increase its fleet of state-owned vehicles by four (from 26 to 30). The request includes an increase of \$5,552 for Vehicle Lease Payments and a decrease of \$7,834 for Operating Expenses (for employee mileage reimbursements). Savings are projected to increase to \$6,845 in subsequent fiscal years.

RECOMMENDATION: **Staff recommends approving the request.** The OSPD plans to add fleet vehicles in four locations where the average monthly personal mileage reimbursements are relatively high: Grand Junction, Pueblo, Greeley, and Steamboat Springs. Staff in these offices cover exceptionally large regions and regularly drive many miles as part of their regular duties. The proposed solution results in a net cost savings for the State.

→ OSPD BA1 BANDWIDTH

REQUEST: The OSPD requests \$46,857 General Fund for the ongoing costs of upgraded circuits that will accommodate the significantly increased bandwidth needs. The OSPD recently requested a mid-year increase of \$146,820 General Fund for FY 2016-17 to increase the bandwidth for its regional offices to the level of service needed to support the new statewide discovery sharing system (called “eDiscovery”). The Colorado District Attorneys’ Council (CDAC) is in the process of implementing eDiscovery in judicial districts across the State, and the system is scheduled to be implemented statewide by June 30, 2017. This mid-year adjustment was approved. This request for ongoing funding thus reflects a reduction of \$99,963 General Fund compared to the adjusted FY 2016-17 appropriation.

RECOMMENDATION: Consistent with the Committee’s action on the associated supplemental request, **staff recommends approving this request.** The OSPD plans to upgrade all circuits to its 21 regional offices and its data center. To facilitate downloads of multi-gigabyte files from the eDiscovery system, the minimum speed for all offices will be increased to 50 Mbps, with the larger offices scaling up to 100 Mbps based on size. The primary Internet connection at eFort will also need to be increased to 500 Mbps to accommodate the increased traffic. The increased costs for each circuit range from \$200 to \$400 per month for each regional office and \$1,500 per month for the primary Internet connection at eFort.

LINE ITEM DETAIL – OFFICE OF THE STATE PUBLIC DEFENDER

PERSONAL SERVICES

This line item provides funding to support staff in the central administrative and appellate offices in Denver, as well as the 21 regional trial offices. The following table details the staffing composition of these offices.

STAFFING SUMMARY					
OFFICE OF THE STATE PUBLIC DEFENDER	15-16 ACTUAL	16-17 APPROP.	17-18 REQUEST	17-18 RECOMM.	
State Public Defender, General Counsel and Chief Deputies	3.4	3.4	3.4	3.4	
Statewide Complex Case Management	9.1	10.0	10.0	10.0	
Finance/ Operations	5.8	6.0	6.0	6.0	
Human Resources	4.0	4.0	4.0	4.0	
Information Technology	10.0	10.0	10.0	10.0	
Training	3.0	3.0	3.0	3.0	
Administrative and Executive Assistants (OSPD R1)	<u>3.0</u>	<u>4.0</u>	<u>4.8</u>	<u>5.0</u>	
Total - Central Office	38.3	40.4	41.2	41.4	
Appellate Attorneys	43.7	46.3	46.3	46.3	
Office Head	1.0	1.0	1.0	1.0	
Investigators/ Legal Assistants	6.5	8.0	8.0	8.0	
Administrative Support Staff	6.2	6.0	6.0	6.0	
Office Manager	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	
Subtotal - Support Staff	13.7	15.0	15.0	15.0	
<i>Ratio of Support Staff to Attorneys</i>	<i>30.6%</i>	<i>31.7%</i>	<i>31.7%</i>	<i>31.7%</i>	
Total - Appellate Office	58.4	62.3	62.3	62.3	
Trial Attorneys (OSPD R3)	394.4	417.2	418.2	418.3	
Office Heads	20.9	21.0	21.0	21.0	
Investigators/ Legal Assistants (OSPD R1, R3)	129.2	131.0	142.5	143.7	
Social Workers	7.9	8.0	8.0	8.0	
Administrative Support Staff (OSPD R1, R3)	81.8	83.0	92.6	93.4	
Office Managers	20.6	21.0	21.0	21.0	
Subtotal - Support Staff	239.5	243.0	264.1	266.1	
<i>Ratio of Support Staff to Attorneys</i>	<i>57.7%</i>	<i>55.5%</i>	<i>60.1%</i>	<i>60.6%</i>	
Total - Regional Trial Offices	654.8	681.2	703.3	705.4	
Total	751.5	783.9	806.8	809.1	

STATUTORY AUTHORITY: Section 21-1-101 et seq., C.R.S.

REQUEST: The OSPD requests \$62,173,038 General Fund and 806.8 FTE. This line item is impacted by OSPD R1 (Deferred support staff), OSPD R3 (New criminal judge in the 12th), and OSPD R4 (Vehicles), which are discussed at the beginning of this division.

RECOMMENDATION: **Staff recommends appropriating \$62,188,595 General Fund and 809.1 FTE.** Staff's recommendation is slightly higher than the request based on a minor difference in calculations for OSPD R1 and R3.

OFFICE OF THE STATE PUBLIC DEFENDER, PERSONAL SERVICES		
	GENERAL FUND	FTE
FY 2016-17 APPROPRIATION		
HB 16-1405 (Long Bill)	\$61,123,385	783.9
TOTAL	\$61,123,385	783.9
FY 2017-18 RECOMMENDED APPROPRIATION		
FY 2016-17 Appropriation	\$61,123,385	783.9
OSPD R1 Deferred support staff	972,394	23.4
OSPD R3 New criminal judge in the 12th	92,816	1.8
TOTAL	\$62,188,595	809.1
INCREASE/(DECREASE)	\$1,065,210	25.2
Percentage Change	1.7%	3.2%
FY 2017-18 EXECUTIVE REQUEST	\$62,173,038	806.8
Request Above/(Below) Recommendation	(\$15,557)	(2.3)

HEALTH, LIFE, AND DENTAL

This line item provides funding for the employer's share of the cost of group benefit plans providing health, life, and dental insurance for OSPD employees.

STATUTORY AUTHORITY: Pursuant to Section 24-50-611, C.R.S., and defined in Section 24-50-603 (9), C.R.S.

REQUEST: The OSPD requests \$6,829,036 General Fund.

RECOMMENDATION: **Staff recommends appropriating \$6,781,728 General Fund**, which is consistent with Committee policy with respect to employer contribution rates (these were the adjusted rates proposed by the Department of Personnel through a budget amendment). Please note that staff has included funding for employee benefits for 35 currently authorized attorney positions. These positions were not filled at the time position-by-position detail was collected for purposes of calculating employee benefits. The cost of providing health, life, and dental insurance benefits for positions that were filled when the position-by-position detail was collected (an average of \$729 per month) is used to estimate the cost of providing benefits for these positions.

The OSPD's traditional hiring time line for attorneys is unique, and it results in a significant number of staff being hired after the first month of the fiscal year. The OSPD interviews law school students between their second and third years of law school. Offer letters are provided to those students the OSPD is interested in hiring in December and January. These letters make the offer of employment contingent on the individual passing the bar exam. Once these individuals take the bar exam in August, they can begin working for the OSPD as a temporary employee. Bar exam results are

received in October, and those individuals who pass the bar exam are hired as permanent employees; those who fail the bar exam are no longer employed by the OSPD.

The method used to estimate employee benefit expenses excludes costs associated with those attorneys who are hired after July. This causes the OSPD to spend in excess of their annual appropriation. For example, in FY 2014-15, the OSPD spent \$233,360 more than the amounts appropriated for employee benefits. Staff's recommendation is intended to eliminate the shortfall that is caused by the hiring time frame for attorneys. This portion of the recommendation for this line item adds \$306,272 General Fund for FY 2017-18. Please note that this recommendation only makes an adjustment for 35 existing attorney positions that will be filled after July 2017. The recommendation still reflects the current vacancy rate of 1.3 percent.

Finally, please note that the OSPD has recently changed its hiring practices with a goal of reducing its vacancy rate. The OSPD has begun actively pursuing new attorney hires during the late fall and early spring in addition to its standard hiring timeframe of late summer and early fall. The OSPD has increased its targeted number of attorney hires from the 55 that were hired last year to 76 for the current year. The OSPD also notes that many states have recently implemented the Uniform Bar Exam, which allows attorneys to practice law in multiple states. The OSPD is hopeful that this will increase the number of attorneys it are able to hire. With these changes, the OSPD has indicated that the adjustment that staff has included for this line item should not be necessary starting in FY 2018-19.

SHORT-TERM DISABILITY

This line item provides funding for the employer's share of OSPD employees' short-term disability insurance premiums.

STATUTORY AUTHORITY: Pursuant to Section 24-50-611, C.R.S., and defined in Section 24-50-603 (13), C.R.S.

REQUEST: The OSPD requests \$103,581 General Fund based on applying a rate of 0.19 percent to base salaries.

RECOMMENDATION: **Staff's recommendation for this line item is pending** the Committee's common policy for Salary Survey and Merit Pay.

S.B. 04-257 AMORTIZATION EQUALIZATION DISBURSEMENT (AED)

Pursuant to S.B. 04-257, this line item provides additional funding to increase the state contribution for Public Employees' Retirement Association (PERA) for OSPD staff.

STATUTORY AUTHORITY: Pursuant to Section 24-51-411, C.R.S.

REQUEST: The OSPD requests \$2,725,817 General Fund based on applying a rate of 5.0 percent.

RECOMMENDATION: **Staff's recommendation for this line item is pending** the Committee's common policy for Salary Survey and Merit Pay.

S.B. 06-235 SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT (SAED)

Pursuant to S.B. 06-235, this line item provides additional funding to increase the state contribution for PERA for OSPD staff.

STATUTORY AUTHORITY: Pursuant to Section 24-51-411, C.R.S.

REQUEST: The OSPD requests \$2,725,817 General Fund based on applying a rate of 5.0 percent.

RECOMMENDATION: **Staff's recommendation for this line item is pending** the Committee's common policy for Salary Survey and Merit Pay.

SALARY SURVEY

The OSPD uses this line item to pay for annual salary increases.

STATUTORY AUTHORITY: Pursuant to Section 24-50-104, C.R.S.

REQUEST: The OSPD requests \$1,192,946 General Fund for a 2.0 percent across-the-board salary increases for all Branch employees. Please note that this request was not updated to reflect the final proposal by the Governor for a 2.5 percent increase. A 2.5 percent increase would require \$1,491,182 – \$298,239 more than the request.

RECOMMENDATION: **Staff's recommendation is pending** the Committee's common policy for this line item (including, potentially, a common policy specific to salaries for practicing attorneys). In addition, staff requests permission to adjust this line item to maintain the alignment of the salary for the State Public Defender with that of an associate judge of the Court of Appeals.

BACKGROUND INFORMATION – SALARIES FOR PRACTICING ATTORNEYS

OSPD employees are not part of the State classified system, nor are they part of the Judicial Department's classified system (which covers court and probation personnel). Pursuant to Section 21-1-102 (3), C.R.S., the State Public Defender employs and fixes the compensation of a Chief Deputy, deputy state public defenders, investigators, and any other employees necessary to discharge the functions of the OSPD. All salaries are to be reviewed and approved the Colorado Supreme Court.

It is staff's understanding that similar to the other independent agencies within the Judicial Branch, the OSPD periodically reviews salaries paid by the Executive Branch and the Judicial Department in order to evaluate the salary ranges for OSPD staff who are not attorneys. For attorneys, the OSPD follows a process similar to the Department of Law.

The Department of Personnel's "Annual Compensation Survey Report" does not include compensation data related to attorneys. In order to evaluate the compensation for its attorneys, the OSPD periodically contracts with an independent compensation research and consulting firm to assess market compensation practices for attorneys in comparable positions in Colorado public

sector attorney organizations. For the 2016 survey, the Department of Law, the OSPD, and the Office of Legislative Legal Services contracted to conduct a joint salary survey.

The OSPD participates in the survey every year. However, the latest survey for which the OSPD paid for an individualized market analysis was prepared by the Gallagher Benefit Services, Inc., was published in October 2015. This study utilized data reported as of July 1, 2015, for a labor market that includes:

- Front Range City Attorney Offices (participants included the cities of: Arvada, Aurora, Boulder, Colorado Springs, Greeley, Lakewood, Littleton, and Westminster);
- Front Range County Attorney Offices (participants included the counties of: Arapahoe, Boulder, Broomfield, Denver, Douglas, and Jefferson);
- Judicial Districts (participants included the following districts: 1st (Jefferson and Gilpin counties); 4th (El Paso and Teller); 8th (Larimer and Jackson); 9th (Garfield, Pitkin, and Rio Blanco); 10th (Pueblo); 17th (Adams and Broomfield); 18th (Arapahoe and Douglas); and 20th (Boulder);
- The Colorado Attorney General's Office; and
- The United States Office of the Attorney General.

This study recommends a 3.0 percent increase in OSPD's attorney salaries. The OSPD indicates that such an increase would require an additional \$1,266,156 General Fund, to provide a 3.0 percent (rather than a 2.0 percent) salary increase for OSPD attorneys.

MERIT PAY

The OSPD uses this line item to pay for performance-related pay increases.

STATUTORY AUTHORITY: Section 21-1-101 et seq., C.R.S.

REQUEST: The OSPD requests \$0 General Fund for merit pay increases.

RECOMMENDATION: **Staff's recommendation is** pending the Committee's common policy for this line item.

OPERATING EXPENSES

This line item provides funding for basic office operational expenses, including:

- Travel and motor pool expenses;
- Equipment lifecycle replacement, rental, and maintenance;
- Office and printing supplies, postage, cleaning supplies, and other general operating expenses;
- Telephone; and
- Employee training expenses.

STATUTORY AUTHORITY: Section 21-1-101 et seq., C.R.S.

REQUEST: The OSPD requests a total of \$1,789,119, including \$1,759,119 General Fund and \$30,000 cash funds from training fees. This line item is impacted by OSPD R1 (Deferred support

staff), OSPD R3 (New criminal judge in the 12th, and OSPD R4 (Vehicles), which are discussed at the beginning of this division.

RECOMMENDATION: Staff recommends appropriating \$1,776,295, including \$1,746,295 General Fund and \$30,000 cash funds. Staff's recommendation is slightly lower than the request based on a minor difference in calculations for OSPD R1 and R3.

OFFICE OF THE STATE PUBLIC DEFENDER, OPERATING EXPENSES			
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS
FY 2016-17 APPROPRIATION			
HB 16-1405 (Long Bill)	\$1,745,212	\$1,715,212	\$30,000
TOTAL	\$1,745,212	\$1,715,212	\$30,000
FY 2017-18 RECOMMENDED APPROPRIATION			
FY 2016-17 Appropriation	\$1,745,212	\$1,715,212	\$30,000
OSPD R1 Deferred support staff	32,464	32,464	0
OSPD R3 New criminal judge in the 12th	6,453	6,453	0
OSPD R4 Vehicles	(7,834)	(7,834)	0
TOTAL	\$1,776,295	\$1,746,295	\$30,000
INCREASE/(DECREASE)	\$31,083	\$31,083	\$0
Percentage Change	1.8%	1.8%	0.0%
FY 2017-18 EXECUTIVE REQUEST			
Request Above/(Below) Recommendation	\$12,824	\$12,824	\$0

VEHICLE LEASE PAYMENTS

This line item provides funding for annual payments to the Department of Personnel and Administration for the cost of administration, loan repayment, and lease-purchase payments for new and replacement motor vehicles. The current appropriation covers costs associated with a total of 26 vehicles; the OSPD reimburses employees for mileage when using their own vehicles to conduct official business. These vehicles are used: by regional office staff for daily business (e.g., driving to a courthouse, visiting clients in jail, interviewing witnesses, etc.); by an investigator who does not have a physical office and whose responsibilities require him to drive statewide throughout the year; and by staff in the central administrative office for statewide support functions (e.g., information technology, audit, facility review, inventory).

STATUTORY AUTHORITY: Pursuant to Section 24-30-1104 (2), C.R.S.

REQUEST: The OSPD requests \$86,630 General Fund. The request includes \$5,552 to lease four new vehicles per OSPD R4 (Vehicles), which is discussed at the beginning of this Division. The request also includes a reduction of \$36,832 in the base appropriation for existing vehicle leases.

RECOMMENDATION: As indicated at the beginning of this Division, staff recommends providing the funding requested to lease an additional four vehicles. **The staff recommendation for this line item is pending** the development of the Committee's common policy for vehicle lease payments.

CAPITAL OUTLAY

This line item provides funding for the one-time costs associated with new employees (office furniture, a computer and software, etc.).

STATUTORY AUTHORITY: Section 21-1-101 et seq., C.R.S.

REQUEST: The OSPD requests \$138,787 General Fund. This line item is impacted by OSPD R1 Deferred support staff and OSPD R3 (New criminal judge in the 12th). which are discussed at the beginning of this division.

RECOMMENDATION: **Staff recommends appropriating \$118,775 General Fund.** Staff's recommendation is slightly lower than the request based on a minor difference in calculations for OSPD R1 and R3.

OFFICE OF THE STATE PUBLIC DEFENDER, CAPITAL OUTLAY	
	GENERAL FUND
FY 2016-17 APPROPRIATION	
HB 16-1405 (Long Bill)	\$0
TOTAL	\$0
FY 2017-18 RECOMMENDED APPROPRIATION	
FY 2016-17 Appropriation	\$0
OSPD R1 Deferred support staff	108,169
OSPD R3 New criminal judge in the 12th	10,606
TOTAL	\$118,775
INCREASE/(DECREASE)	\$118,775
Percentage Change	0.0%
FY 2017-18 EXECUTIVE REQUEST	\$138,787
Request Above/(Below) Recommendation	\$20,012

LEASED SPACE/ UTILITIES

This line item currently funds a full 12 months of lease payments for leased space in 22 locations statewide. This line item covers all OSPD leases except those associated with the OSPD's central

administrative and appellate offices that are located at the Ralph L. Carr Colorado Judicial Center. All Carr Center leased space costs for judicial agencies are included in the line item appropriation in the Courts Administration section of the budget.

Typically, the OSPD negotiates leases for ten years. The OSPD estimates future space needs for each office. For offices that are anticipated to grow, the intent is generally to fill the space in approximately seven years, and then expand into common spaces in the final three years of the lease agreement. The OSPD utilizes the State's lease consultant (a vendor selected by the Department of Personnel and Administration) to conduct market surveys and analysis concerning available space and to negotiate lease contracts.

STATUTORY AUTHORITY: Section 21-1-101 et seq., C.R.S.

REQUEST: The OSPD requests \$6,456,972 General Fund, which is the amount appropriated for FY 2015-16 and FY 2016-17.

RECOMMENDATION: **Staff recommends appropriating a slightly lower amount than requested (\$6,450,639 General Fund)** based on more recent information provided by the OSPD regarding lease obligations for FY 2017-18.

AUTOMATION PLAN

This line item funds the maintenance and lifecycle replacement of the following types of equipment for all 23 OSPD offices:

- Phone systems;
- Data circuits for electronic data transmission;
- Multifunction scanner/copier/fax/printers;
- Desktop computers, laptop/tablet computers, docking stations, and screens;
- Software licenses (includes Adobe Professional and specialized courtroom and case analysis software);
- Servers and network equipment (routers, switches, racks, etc.); and
- Presentation, analysis, and recording equipment (cameras, projectors, digital voice recorders, etc.).

In addition, this line item funds technology-related supplies and contractual expenses for online legal research resources.

STATUTORY AUTHORITY: Section 21-1-101 et seq., C.R.S.

REQUEST: The OSPD requests \$1,580,023 General Fund. This line item is impacted by OSPD R2 (Mandated and electronic data management expenses) and OSPD BA1 (Bandwidth), which are discussed at the beginning of this division.

RECOMMENDATION: **Staff recommends approving the request.**

OFFICE OF THE STATE PUBLIC DEFENDER, AUTOMATION PLAN	
	GENERAL FUND
FY 2016-17 APPROPRIATION	
HB 16-1405 (Long Bill)	\$1,416,920
SB 17-164 (Supplemental bill)	\$146,820
TOTAL	\$1,563,740
FY 2017-18 RECOMMENDED APPROPRIATION	
FY 2016-17 Appropriation	\$1,563,740
OSPD R2 Mandated and electronic data management expenses	116,246
OSPD BA1 Bandwidth	(99,963)
TOTAL	\$1,580,023
INCREASE/(DECREASE)	\$16,283
Percentage Change	1.0%
FY 2017-18 EXECUTIVE REQUEST	\$1,580,023
Request Above/(Below) Recommendation	\$0

ATTORNEY REGISTRATION

This line item covers the cost of annual attorney registration fees for OSPD staff.

STATUTORY AUTHORITY: Section 21-1-101 et seq., C.R.S.

REQUEST: The OSPD requests \$140,275 General Fund. This line item is impacted by OSPD R3 (New criminal judge in the 12th), which is discussed at the beginning of this division.

RECOMMENDATION: **Staff recommend appropriating \$140,294 General Fund.** Staff's recommendation is slightly higher than the request (\$19) based on a minor difference in calculations for OSPD R3.

CONTRACT SERVICES

This line item allows the OSPD to hire attorneys to represent the Public Defender's attorneys in grievance claims filed by former clients.

STATUTORY AUTHORITY: Section 21-1-101 et seq., C.R.S.

REQUEST: The OSPD requests a continuation level of funding (\$49,395 General Fund).

RECOMMENDATION: **Staff recommends approving the request.**

MANDATED COSTS

This is one of several line item appropriations for "mandated costs". These costs are associated with activities, events, and services that accompany court cases that are required in statute and/or the U.S. and Colorado Constitutions to ensure a fair and speedy trial, and to ensure the right to legal representation. For the OSPD, these costs primarily include reimbursing district attorney offices for duplicating discoverable materials and obtaining transcripts. The OSPD also incurs costs for expert witnesses, interpreter services (for activities outside the courtroom), and travel (both for witnesses and for public defender staff to conduct out-of-state investigations). The following table provides a history of OSPD mandated cost expenditures since FY 2009-10.

OSPD MANDATED COSTS							
DESCRIPTION	FY 09-10	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15	FY 15-16
Transcripts	\$1,267,820	\$1,343,846	\$1,408,864	\$1,320,864	\$1,416,697	\$1,556,613	\$1,659,337
Discovery	1,125,966	1,514,957	1,623,452	1,751,829	1,932,652	2,103,438	2,299,822
Experts	516,403	474,661	485,145	785,941	1,054,820	1,209,391	1,010,174
Travel	58,254	74,700	65,471	119,749	214,709	142,972	195,280
Interpreters	106,661	93,239	117,828	126,459	128,349	147,371	164,975
Misc.	17,497	14,976	57,871	21,646	30,660	17,931	31,003
Total	\$3,092,601	\$3,516,379	\$3,758,631	\$4,126,488	\$4,777,888	\$5,177,716	\$5,360,590
<i>Annual % change</i>	<i>4.7%</i>	<i>13.7%</i>	<i>6.9%</i>	<i>9.8%</i>	<i>15.8%</i>	<i>8.4%</i>	<i>3.5%</i>
Active cases	120,816	122,949	120,498	125,606	142,907	159,814	167,814
Average cost per case	\$25.60	\$28.60	\$31.19	\$32.85	\$33.43	\$32.40	\$31.94
<i>Annual % change</i>	<i>1.8%</i>	<i>11.7%</i>	<i>9.1%</i>	<i>5.3%</i>	<i>1.8%</i>	<i>-3.1%</i>	<i>-1.4%</i>

As detailed in the above table, OSPD mandated costs have increased by \$2.3 million (73.3 percent) since FY 2009-10. A portion of this increase is due to caseload growth; the number of active cases increased by 38.9 percent over the same time period. The average mandated costs per active case has increased from \$25.60 to \$31.94 (24.8 percent) since FY 2009-10. This increase is primarily driven by a 47.1 percent increase in the average cost of discovery per case (from \$9.32 to \$13.70).

STATUTORY AUTHORITY: Section 21-1-101 et seq., C.R.S.

REQUEST: The OSPD requests \$3,337,635 General Fund. This amount represents a reduction of \$673,725 General Fund compared to the FY 2016-76 appropriation. The request includes an increase of \$469,585 for OSPD R2 (discussed at the beginning of this division), and a reduction of \$1,143,310 to annualize S.B. 14-190 (discussed at the beginning of this document).

RECOMMENDATION: **Staff recommends appropriating \$3,325,959 General Fund.** The recommendation includes a reduction of \$1,154,986 as anticipated to annualize S.B. 14-190 (this reduction is discussed at the beginning of this packet). This reduction is \$11,676 larger than the requested reduction because it includes funding that is used to reimburse the Department of Law for discovery.

OFFICE OF THE STATE PUBLIC DEFENDER, MANDATED COSTS	
	GENERAL FUND
FY 2016-17 APPROPRIATION	
HB 16-1405 (Long Bill)	\$4,011,360
TOTAL	\$4,011,360
FY 2017-18 RECOMMENDED APPROPRIATION	
FY 2016-17 Appropriation	\$4,011,360
OSPD R2 Mandated and electronic data management expenses	469,585
CDAC R2 eDiscovery and annualization of SB 14-190	(1,154,986)
TOTAL	\$3,325,959
INCREASE/(DECREASE)	(\$685,401)
Percentage Change	(17.1%)
FY 2017-18 EXECUTIVE REQUEST	\$3,337,635
Request Above/(Below) Recommendation	\$11,676

GRANTS

This line item authorizes the OSPD to receive and expend various grants.

STATUTORY AUTHORITY: Section 21-1-101 et seq., C.R.S.

REQUEST: The OSPD's request for a continuation level of funding (\$120,000 cash funds and 2.0 FTE).

RECOMMENDATION: **Staff recommends approving the request** to allow the OSPD to continue to receive and spend grants made available from local organizations and problem-solving courts.

(6) OFFICE OF THE ALTERNATE DEFENSE COUNSEL

The Office of the Alternate Defense Counsel (OADC) provides legal representation for indigent defendants in criminal and juvenile delinquency cases in which the Office of the State Public Defender (OSPD) is precluded from doing so because of an ethical conflict of interest³⁵. Common types of conflicts include cases in which the OSPD represents co-defendants or represents both a witness and a defendant in the same case. Section 21-2-103, C.R.S., specifically states that case overload, lack of resources, and other similar circumstances shall not constitute a conflict of interest.

The OADC provides legal representation by contracting with licensed attorneys and investigators. Such contracts must provide for reasonable compensation (based on either a fixed fee or hourly rates) and reimbursement for expenses necessarily incurred (e.g., expert witnesses, investigators, legal assistants, and interpreters). The OADC is to establish a list of qualified attorneys for use by the court in making appointments in conflict cases³⁶.

The OADC is governed by the nine-member Alternate Defense Counsel Commission, whose members are appointed by the Supreme Court. Commission members serve on a voluntary basis and receive no compensation for their time. The Commission appoints an individual to serve as the Alternate Defense Counsel, who manages the Office. The compensation for this individual is fixed by the General Assembly (through a Long Bill footnote) and may not be reduced during his or her five-year term of appointment. The Alternate Defense Counsel employs and fixes the compensation for any employees necessary to carry out his or her duties, which include: selecting and assigning attorneys, executing contracts, examining attorney case assignments to evaluate nature of conflict of interest, reviewing attorney invoices for appropriateness, and approving payments.

The OADC is an independent agency within the Judicial Branch that employs 12.0 FTE. The OADC's office is located in the Ralph L. Colorado Judicial Center, and the associated lease payment is covered through a single line item appropriation in the Courts Administration section of the Judicial Branch budget. The Office of the State Court Administrator provides free administrative support to the OADC, including: fiscal year-end transfers; workers' compensation and risk management; payroll and benefits; and a server room. With the exception of a small amount of cash funds from training registration fees and DVD sales, the OADC is supported by General Fund appropriations.

OFFICE OF THE ALTERNATE DEFENSE COUNSEL						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2016-17 Appropriation						
HB 16-1405 (Long Bill)	\$31,403,173	\$31,363,173	\$40,000	\$0	\$0	12.0
SB 17-164 (Supplemental bill)	620,334	620,334	0	0	0	0.0
TOTAL	\$32,023,507	\$31,983,507	\$40,000	\$0	\$0	12.0

³⁵ See Section 21-2-101 *et seq.*, C.R.S.

³⁶ Please note that the court also has judicial discretion to appoint a private attorney who is not on the approved OADC list. However, the OADC is not required to pay for such representation.

OFFICE OF THE ALTERNATE DEFENSE COUNSEL						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2017-18 RECOMMENDED APPROPRIATION						
FY 2016-17 Appropriation	\$32,023,507	\$31,983,507	\$40,000	\$0	\$0	12.0
OADC BA1 Mandated costs	0	0	0	0	0	0.0
Reverse supplemental action	(37,931)	(37,931)	0	0	0	0.0
OADC R1 OADC Salary survey	24,203	24,203	0	0	0	0.0
OADC R2 Increase training cash funds spending authority	40,000	0	40,000	0	0	0.0
Staff-initiated R1 Compensation alignment	6,807	6,807	0	0	0	0.0
CDAC R2 eDiscovery and annualization of SB 14-190	(350,908)	(350,908)	0	0	0	0.0
Centrally appropriated line items	68,163	68,163	0	0	0	0.0
Annualize prior year budget actions	(4,703)	(4,703)	0	0	0	0.0
Other	0	0	0	0	0	0.0
TOTAL	\$31,769,138	\$31,689,138	\$80,000	\$0	\$0	12.0
INCREASE/(DECREASE)	(\$254,369)	(\$294,369)	\$40,000	\$0	\$0	0.0
Percentage Change	(0.8%)	(0.9%)	100.0%	n/a	n/a	0.0%
FY 2017-18 EXECUTIVE REQUEST						
Request Above/(Below) Recommendation	\$475,605	\$475,605	\$0	\$0	\$0	0.0

DECISION ITEMS – OFFICE OF THE ALTERNATE DEFENSE COUNSEL

→ OADC R1 OADC SALARY SURVEY

REQUEST: In addition to the funding requested to increase all employee salaries by 2.5 percent), the Office of the Alternate Defense Counsel (OADC) requests \$107,712 General Fund to adjust the salaries of four employees. The requested increases are based on a survey that was conducted by the OADC with the assistance of staff at the Department of Personnel.

Position Title	Position Number	Job Class	Current Monthly Base Salary	Proposed Monthly Base Salary	Incremental Monthly adjustment	% Change
Coordinator of Legal Research and Technology	92310	R43010	\$ 8,712.00	\$ 11,114.00	\$ 2,402.00	27.57%
Evaluation and Training Director	92307	R43010	\$ 8,712.00	\$ 10,000.00	\$ 1,288.00	14.78%
Juvenile Law Coordinator	92311	R43020	\$ 7,575.00	\$ 10,000.00	\$ 2,425.00	32.01%
Appellate Post-Conviction Coordinator	92306	R41671	\$ 5,424.71	\$ 6,500.00	\$ 1,075.29	19.82%

For the first three positions in the above table, the OADC reviewed salaries paid by two other state agencies for three positions:

- Department of Law – 1st Assistant Attorney General
- Office of the State Public Defender – Managing State Public Defender
- Office of the State Public Defender – Legal Division Director

These three positions are responsible for overseeing, evaluating, and advising contract attorneys in the areas of case strategy, agency policy, ethical questions, client relationships, court procedures, technology, training, performance evaluations, and changes in the law. Each position also supervises interns or other ancillary service providers, participate in state organizations, and assist with budget preparation and legislative efforts.

For the Appellate Post-conviction Coordinator, the OADC reviewed salaries paid by the Judicial Department for the Court Programs Analyst position.

The request includes the proposed base salary increases, plus a 2.5 percent cost of living increase, plus the associated employer contributions for PERA, Medicare, short-term disability, and supplemental PERA payment payments (AED and SAED).

RECOMMENDATION: Staff recommends appropriating a total of \$24,203, including:

- \$22,181 for base salary increases plus PERA and Medicare (Salary Survey line item)
- \$34 for short-term disability
- \$994 for AED
- \$994 for SAED

Staff's recommendation is based on smaller salary increases for three of the four positions, as detailed in the following table.

OADC R1: OADC Salary Survey						
Position	Current Monthly Salary	OADC Request			Staff Recommendation	
		Proposed Monthly Salary	Proposed Increase		Proposed Monthly Salary	Proposed Increase
Coordinator of Legal Research and Technology	\$8,712	\$11,114	\$2,402	27.6%	\$8,750	\$38 0.4%
Evaluation and Training Director	8,712	10,000	1,288	14.8%	8,712	0 0.0%
Juvenile Law Coordinator	7,575	10,000	2,425	32.0%	8,118	543 7.2%
Appellate Post-Conviction Coordinator	5,425	6,500	1,075	19.8%	6,500	1,075 19.8%

Staff's recommendation is based on a review of staff attorney salaries paid by the other two judicial agencies that, like OADC, are responsible for overseeing court appointed contract attorneys. Staff attorney monthly salaries currently range from \$7,334 to \$8,750, with an average of \$8,118. Staff recommends applying the maximum salary to the Coordinator of Legal Research and Technology, leaving the Evaluation and Training Director salary unchanged (to leave the separation based on experience reflected in the proposed salaries), and applying the average salary to the Juvenile Law Coordinator position.

Staff is not professionally qualified to benchmark the three positions above to those listed for the Attorney General's Office (AG) and the Office of the State Public Defender (OSPD). However, based on the information that is available from a study that is performed for the OSPD and the AG by an independent compensation research and consulting firm that assesses market compensation practices for attorneys in comparable positions in Colorado public sector attorney organizations, staff is not convinced that these are appropriate benchmarks. This study benchmarks attorney positions in each agency into five classification levels. The OSPD's "Deputy Public Defender – Managing Attorney/Office Head" is classified in the fifth (highest) "management" level, with primary duties of managing and administering an entire office of attorneys, investigators, paralegals, and support staff. The AG's "1st Assistant Attorney General" position is classified in the fourth "supervisory" level, with duties that include both performing attorney duties related to difficult and complex legal matters and day-to-day administrative duties of supervising other attorneys. These benchmarks are not ideal because they relate to offices that employ, train, and supervise their own attorneys.

Given the disparities between the salaries of the proposed position benchmarks, the existing OADC salaries, and the staff attorney salaries paid by the other two judicial agencies that have a similar role to OADC, staff is not comfortable recommending the amount requested. However, staff acknowledges that the OADC is concerned about attracting qualified professionals and maintaining expertise and experience. Staff thus recommends providing some funding for salary increases based on the range and average of salaries paid by the other two similar judicial agencies.

Staff's recommendation does not include additional funding for a 2.5 percent across-the-board increase for these four positions as that has already been included in the OADC's \$30,458 for a 2.5 percent across-the-board salary increase for all employees based on existing salaries. This portion of the request appears to be a duplication.

→ OADC R2 INCREASE TRAINING CASH FUNDS SPENDING AUTHORITY

REQUEST: The OADC requests a \$40,000 increase in its cash funds spending authority for Training and Conferences (from \$40,000 to \$80,000). The OADC indicates that it will use the additional funding to expand and enhance training opportunities for attorneys, investigators, paralegals, and social workers.

RECOMMENDATION: **Staff recommends approving the request.** The OADC requires five hours of continuing legal education annually in the areas of criminal and juvenile defense for attorneys to continue contracting with the OADC. The OADC offers training sessions, and it also provides opportunities through webcasts and DVDs. The OADC will use the additional fee revenue to cover the costs of these technologies.

→ OADC BA1 MANDATED COSTS

REQUEST: The OADC recently requested a mid-year increase of \$632,359 General Fund to cover higher than anticipated mandated costs, and the OADC requests that this increase continue for FY 2017-18. The OADC indicates that the most recent increases are primarily due to an increase in the

number of higher level felony cases (F1, F2, and F3) as well as anticipated increased litigation in death penalty and juvenile life without parole cases.

RECOMMENDATION: Staff recommended a slightly smaller mid-year increase (\$582,403) based on a more conservative methodology projecting reimbursements that will be paid to the prosecution in four judicial districts. The Committee approved this recommendation. **Staff recommends that this amount continue for FY 2017-18.**

LINE ITEM DETAIL – OFFICE OF THE ALTERNATE DEFENSE COUNSEL

PERSONAL SERVICES

This line item provides funding to support a central administrative office in Denver. The following table details the types of employees that are supported by this line item.

STAFFING SUMMARY				
OFFICE OF THE ALTERNATE DEFENSE COUNSEL	15-16 ACTUAL	16-17 APPROP.	17-18 REQUEST	17-18 RECOMMEND.
Alternate Defense Counsel (Director of Office)	1.0	1.0	1.0	1.0
Deputy Director	1.0	1.0	1.0	1.0
Attorney Oversight/ Training	1.0	1.0	1.0	1.0
Legal Resource and Technology Coordinator	1.0	1.0	1.0	1.0
Juvenile Law Coordinator	1.0	1.0	1.0	1.0
Budget Manager/ Controller/ Accountant	2.0	2.0	2.0	2.0
Social Worker Coordinator	0.0	1.0	1.0	1.0
Appellate Post-conviction Coordinator	1.0	1.0	1.0	1.0
Billing/ Administrative Support	2.9	3.0	3.0	3.0
Total	10.9	12.0	12.0	12.0

STATUTORY AUTHORITY: Section 21-2-101 et seq., C.R.S.

REQUEST: The OADC requests \$1,314,847 General Fund and 12.0 FTE. The request includes an increase of \$96,543 General Fund for a portion of the salary increases requested through OADC R1 (OADC salary survey), and an unexplained decrease of \$2,353.

RECOMMENDATION: **Staff recommends appropriating \$1,220,657 General Fund and 12.0 FTE,** which is the same as the *initial* FY 2016-17 appropriation. The OADC received a mid-year increase of \$37,931 General Fund to make employee leave payouts. This one-time funding is not required for FY 2017-18. Staff's recommendations for OADC R1 reflect all funding for FY 2017-18 base salary increases in the Salary Survey line item appropriation, rather than in this line item. Finally, staff requests permission to adjust this line item to maintain the alignment of the salary for the Alternate Defense Counsel with that of a district court judge.

HEALTH, LIFE, AND DENTAL

This line item provides funding for the employer's share of the cost of group benefit plans providing health, life, and dental insurance for OADC staff.

STATUTORY AUTHORITY: Pursuant to Section 24-50-611, C.R.S., and defined in Section 24-50-603 (9), C.R.S.

REQUEST: The OADC requests \$164,476 General Fund.

RECOMMENDATION: **Staff recommends appropriating \$163,134 General Fund**, consistent with Committee policy with respect to employer contribution rates (these were the adjusted rates proposed by the Department of Personnel through a budget amendment). Please note that this includes funding for the new Social Worker Coordinator position that was added in FY 2015-16.

SHORT-TERM DISABILITY

This line item provides funding for the employer's share of OADC employees' short-term disability insurance premiums.

STATUTORY AUTHORITY: Pursuant to Section 24-50-611, C.R.S., and defined in Section 24-50-603 (13), C.R.S.

REQUEST: The OADC requests \$2,294 General Fund based on applying a rate of 0.19 percent.

RECOMMENDATION: **Staff's recommendation for this line item is pending** the Committee's common policy for Salary Survey and Merit Pay. Staff's recommendation includes \$10 for Staff-initiated R1 (Compensation alignment), which is discussed at the beginning of this packet.

S.B. 04-257 AMORTIZATION EQUALIZATION DISBURSEMENT (AED)

Pursuant to S.B. 04-257, this line item provides additional funding to increase the state contribution for Public Employees' Retirement Association (PERA) for OADC staff.

STATUTORY AUTHORITY: Pursuant to Section 24-51-411, C.R.S.

REQUEST: The OADC requests \$60,370 General Fund based on applying a rate of 5.0 percent.

RECOMMENDATION: **Staff's recommendation for this line item is pending** the Committee's common policy for Salary Survey and Merit Pay. Staff's recommendation includes \$280 for Staff-initiated R1 (Compensation alignment), which is discussed at the beginning of this packet.

S.B. 06-235 SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT (SAED)

Pursuant to S.B. 06-235, this line item provides additional funding to increase the state contribution for PERA for OADC staff.

STATUTORY AUTHORITY: Pursuant to Section 24-51-411, C.R.S.

REQUEST: The OADC requests \$60,370 General Fund based on applying a rate of 5.0 percent.

RECOMMENDATION: **Staff's recommendation for this line item is pending** the Committee's common policy for Salary Survey and Merit Pay. Staff's recommendation includes \$280 for Staff-initiated R1 (Compensation alignment), which is discussed at the beginning of this packet.

SALARY SURVEY

The OADC uses this line item to pay for annual salary increases.

STATUTORY AUTHORITY: Pursuant to Section 24-50-104, C.R.S.

REQUEST: The OADC requests \$32,615 General Fund for salary increases for FY 2017-18. The request includes \$2,157 General Fund for a portion of the salary increases requested through OADC R1 (OADC salary survey), and \$30,458 for a 2.5 percent across-the-board salary increase for all employees based on existing salaries (including the Executive Director).

RECOMMENDATION: **Staff's recommendation for this line item is pending the Committee's common policy for Salary Survey.** Staff's recommendation includes \$6,237 for Staff-initiated R1 (Compensation alignment), which is discussed at the beginning of this packet. Staff's recommendation also includes \$22,181 for OADC R1 (OADC salary survey), which is discussed at the beginning of this division. In addition, staff requests permission to adjust this line item to maintain the alignment of the salary for the Executive Director with that of a District Court Judge.

MERIT PAY

The OADC uses this line item to pay for longevity or performance-related pay increases.

STATUTORY AUTHORITY: Pursuant to Section 24-50-104 (1) (c), C.R.S.

REQUEST: The OADC requests \$0 General Fund for merit pay increases.

RECOMMENDATION: **Staff's recommendation is pending** the Committee's common policy for this line item.

OPERATING EXPENSES

This line item provides funding for the operating expenses and information technology asset maintenance for the OADC, and for reimbursement of actual and necessary expenses incurred by Alternate Defense Counsel Commission members.

STATUTORY AUTHORITY: Section 21-2-101 et seq., C.R.S.

REQUEST: The OADC requests \$75,405 General Fund, which reflects a reduction of \$950 compared to FY 2016-17.

RECOMMENDATION: **Staff recommends appropriating \$106,439 General Fund.** Staff's recommendation is \$950 higher than the request because the request erroneously eliminated the funding that was provided to cover phone and operating expenses for a position that was added in

FY 2016-17. In addition, staff recommends transferring \$30,084 from the Mandated Costs line item to this line item. This is the amount that is used to pay for independent contractor access to Westlaw services. This expense does not appear to fall under the definition of “mandated costs” that staff has provided below, so staff recommends reflecting it with other OADC operating expenses.

CAPITAL OUTLAY

This line item provides funding for the one-time costs associated with new employees (office furniture, a computer and software, etc.).

STATUTORY AUTHORITY: Section 21-2-101 et seq., C.R.S.

REQUEST: The OADC requests \$0 General Fund.

RECOMMENDATION: **Staff recommends approving the request.**

TRAINING AND CONFERENCES

This line item is used to provide training opportunities for contract lawyers, investigators, and legal assistants. Training sessions are also open to attorneys from the Office of the Public Defender, as well as the private bar. The OADC conducts live training sessions, which are recorded and made available statewide via webcast and DVD reproductions for those who are unable to attend in person.

STATUTORY AUTHORITY: Section 21-2-101 et seq., C.R.S.

REQUEST: The OADC requests a total of \$100,000, including \$20,000 General Fund and \$80,000 cash funds. The source of cash funds is registration fees and DVD sales. The request includes an increase of \$40,000 requested through OADC R2, which is discussed at the beginning of this division.

RECOMMENDATION: **Staff recommends approving the request** to allow the OADC to meet the training needs for contractors.

CONFLICT OF INTEREST CONTRACTS

This line item provides funding for contract attorneys and investigators who are appointed to represent indigent defendants. Payments cover hourly rates and any associated PERA contributions for PERA retirees, as well as reimbursement for costs such as mileage, copying, postage, and travel expenses.

STATUTORY AUTHORITY: Section 21-2-101 et seq., C.R.S.

REQUEST: The OADC requests \$27,971,145 General Fund, which is the same as the amended FY 2016-17 appropriation.

RECOMMENDATION: Staff recommends approving the request, which assumes that total expenditures will remain flat through FY 2017-18. The FY 2016-17 appropriation is \$124,840 (0.4 percent) higher than actual expenditures incurred in FY 2015-16.

MANDATED COSTS

This is one of several line item appropriations for "mandated costs". These costs are associated with activities, events, and services that accompany court cases that are required in statute and/or the U.S. and Colorado Constitutions to ensure a fair and speedy trial, and to ensure the right to legal representation. For the OADC, these costs include the following:

- expert witnesses (\$972,940 or 44.3 percent of mandated costs in FY 2015-16)
- reimbursement of district attorney offices for discovery costs/ electronic replication grand jury proceedings (\$720,954 or 32.8 percent);
- transcripts (\$396,190 or 18.0 percent);
- Westlaw subscription (\$30,084 or 1.4 percent)
- interpreters - out of court (\$28,562 or 1.3 percent);
- PERA contributions for contractors with PERA benefits (\$25,333 or 1.1 percent); and
- expert witness travel reimbursement (\$24,242 or 1.1 percent).

The following table provides a history of OADC mandated cost expenditures since FY 2009-10.

OADC - MANDATED COSTS							
	FY 09-10	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15	FY 015-16
Transcripts	\$377,435	\$307,472	\$290,268	\$305,227	\$343,090	\$424,992	\$396,190
Discovery*	635,061	599,872	626,180	648,392	729,605	778,445	720,954
Experts	415,134	443,237	476,272	691,889	757,738	978,372	972,940
Travel	28,488	39,618	37,927	67,216	68,969	10,518	24,242
Interpreters	42,219	24,842	29,364	21,058	25,886	23,339	28,562
Misc.	15,245	14,833	9,934	30,820	12,994	23,036	55,417
OADC Total	\$1,513,582	\$1,429,874	\$1,469,945	\$1,764,603	\$1,938,282	\$2,238,702	\$2,198,305
<i>Annual Percent Change</i>	<i>-4.8%</i>	<i>-5.5%</i>	<i>2.8%</i>	<i>20.0%</i>	<i>9.8%</i>	<i>15.5%</i>	<i>-1.8%</i>

STATUTORY AUTHORITY: Section 21-2-101 et seq., C.R.S.

REQUEST: The OADC requests \$2,463,221 General Fund.

RECOMMENDATION: Staff recommends appropriating \$2,032,273 for FY 2017-18. The recommendation includes:

- continuation of the recently approved mid-year increase of \$582,403; and
- a reduction of \$350,908 as anticipated to annualize S.B. 14-190 (this reduction is discussed at the beginning of this packet).

In addition, staff recommends transferring \$30,084 from this line item to the Operating Expenses line item. This is the amount that is used to pay for independent contractor access to Westlaw services. This expenses does not appear to fall under the definition of "mandated costs" that staff has provided above, so staff recommends reflecting it with other OADC operating expenses.

(7) OFFICE OF THE CHILD’S REPRESENTATIVE

The Office of the Child's Representative (OCR) is responsible for "ensuring the provision of uniform, high-quality legal representation and non-legal advocacy to children involved in judicial proceedings in Colorado"³⁷. The OCR's responsibility to enhance the legal representation of children includes:

- enhancing the provision of services by attorneys who are appointed by the court to act in the best interests of the child involved in certain proceedings (known as *guardians ad-litem* or GALs);
- enhancing the provision of services by attorneys appointed to serve as a *child's legal representative* in matters involving parental responsibility when the parties are found to be indigent; and
- enhancing the *court-appointed special advocate* (CASA) program in Colorado.

The OCR provides legal representation for children involved in the court system due to abuse or neglect, delinquency, truancy, high conflict divorce, alcohol or drug abuse, mental health issues, and probate matters³⁸. The OCR was established as an agency of the Judicial Department by the General Assembly, effective July 1, 2000. Previously, these services were provided by the Judicial Department and supported by appropriations for trial courts and mandated costs.

In most judicial districts, OCR provides legal representation through contract attorneys. The OCR is required to maintain and provide to the courts, on an ongoing basis, a list of qualified attorneys to whom appointments may be given. In the 4th Judicial District (El Paso county only), the OCR employs attorneys and other staff to provide services through a centralized office rather than through contracted services. This office was established in response to S.B. 99-215, which directed the Judicial Department to pilot alternative methods of providing GAL services.

In addition, since January 2011 the OCR has contracted with three multi-disciplinary law offices in Denver and Arapahoe counties. These offices were awarded contracts following a request for proposal process. Two of these offices provide GAL services in new dependency and neglect (D&N) cases in all three divisions of Denver's Juvenile Court, and the remaining office provides GAL services in new D&N cases and juvenile delinquency cases in Arapahoe County. The OCR keeps a limited number of independent contractors in Denver and Arapahoe counties (as they do in El Paso) to handle any conflict cases and cases as necessary when the primary attorneys reach their caseload maximums.

³⁷ See Section 13-91-104 (1), C.R.S.

³⁸ Pursuant to Section 19-1-111, C.R.S., the court is required to appoint a GAL for a child in all dependency and neglect cases (including a child who is a victim of abuse or neglect, or who is affected by an adoption proceeding or paternity action), and the court may appoint a GAL for a child involved in: (a) a delinquency proceeding (if no parent appears at hearings, the court finds a conflict of interest exists between the child and the parent, or the court finds it in the best interests of the child); and (b) truancy proceedings. The court may appoint a GAL for a minor involved in certain probate or trust matters, mental health proceedings, or an involuntary commitment due to alcohol or drug abuse, or for a pregnant minor who elects not to allow parental notification concerning an abortion (see Chief Justice Directive 04-06). Finally, the court may appoint an attorney to serve as a child's legal representative in a domestic relations proceeding that involves allocation of parental responsibilities [Section 14-10-116 (1), C.R.S.].

The OCR is governed by the Child's Representative Board, which is comprised of nine members appointed by the Colorado Supreme Court. Board members serve on a voluntary basis and receive no compensation for their time. The Board appoints the OCR Director, provides fiscal oversight, participates in funding decisions related to the provision of OCR services, and assists with OCR training for GALs and court-appointed special advocates (CASAs). The Board currently meets every other month. The Director's compensation is fixed by the General Assembly (through a Long Bill footnote) and may not be reduced during his or her five-year term of appointment. The OCR is supported entirely by General Fund appropriations.

The OCR is an independent agency within the Judicial Branch that employs 29.1 FTE. The OCR's central administrative office is located in the Ralph L. Colorado Judicial Center, and the associated lease payment is covered through a single line item appropriation in the Courts Administration section of the Judicial Branch budget. The Office of the State Court Administrator provides free administrative support to the OCR, including: fiscal year-end transfers; workers' compensation and risk management; payroll and benefits; and a server room. With the exception of a small amount of federal grant funding that is transferred from the Department of Human Services, the OCR is supported entirely by General Fund appropriations.

OFFICE OF THE CHILD'S REPRESENTATIVE						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2016-17 Appropriation						
HB 16-1405 (Long Bill)	\$23,989,466	\$23,980,076	\$0	\$9,390	\$0	29.1
SB 17-164 (Supplemental bill)	1,726,331	1,726,331	0	0	0	0.0
TOTAL	\$25,715,797	\$25,706,407	\$0	\$9,390	\$0	29.1
FY 2017-18 RECOMMENDED APPROPRIATION						
FY 2016-17 Appropriation	\$25,715,797	\$25,706,407	\$0	\$9,390	\$0	29.1
OCR R1/BA1 Workload and caseload adjustment	281,689	281,689	0	0	0	0.0
OCR R2 Case management and billing system	803,000	803,000	0	0	0	0.0
OCR R3 El Paso GAL office relocation	16,408	16,408	0	0	0	0.0
OCR R4 FTE adjustment	41,914	41,914	0	0	0	0.4
OCR R5 Operating expenditure increase	0	0	0	0	0	0.0
Staff-initiated R1 Compensation alignment	9,359	9,359	0	0	0	0.0
CDAC R2 eDiscovery and annualization of SB 14-190	(10,189)	(10,189)	0	0	0	0.0
Centrally appropriated line items	84,340	84,340	0	0	0	0.0
Other	10,462	(7,057)	0	17,519	0	0.0
TOTAL	\$26,952,780	\$26,925,871	\$0	\$26,909	\$0	29.5
INCREASE/(DECREASE)	\$1,236,983	\$1,219,464	\$0	\$17,519	\$0	0.4
Percentage Change	4.8%	4.7%	n/a	186.6%	n/a	1.4%

OFFICE OF THE CHILD'S REPRESENTATIVE						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2017-18 EXECUTIVE REQUEST	\$26,987,397	\$26,960,488	\$0	\$26,909	\$0	29.5
Request Above/(Below) Recommendation	\$34,617	\$34,617	\$0	\$0	\$0	0.0

DECISION ITEMS – OFFICE OF THE CHILD'S REPRESENTATIVE

→ OCR R1/BA1 WORKLOAD AND CASELOAD ADJUSTMENT

REQUEST: The Committee recently approved a request for a mid-year increase of \$1,726,331 General Fund for FY 2016-17 to cover increases in the number and cost of court appointments. The OCR requests continuation of this increase for FY 2017-18, plus an additional \$281,689 General Fund for FY 2017-18 to align its appropriation with its projected caseload and workload for state-paid court-appointed counsel.

RECOMMENDATION: **Staff recommends approving the request.**

ANALYSIS:

The OCR is responsible for "ensuring the provision of uniform, high-quality legal representation and non-legal advocacy to children involved in judicial proceedings in Colorado"³⁹. The OCR provides legal representation for children involved in the court system due to abuse or neglect, delinquency, truancy, high conflict divorce, alcohol or drug abuse, mental health issues, and probate matters⁴⁰.

The OCR's most recent caseload and expenditure projections are based on actual caseload and expenditures in FY 2015-16 and in the first seven months of FY 2016-17. The following three tables provides a recent history of the number of court appointments for each case type, the associated expenditures for each case type, and the average cost per case for each case type. Each table also includes OCR's projections of this data for FY 2016-17 and FY 2017-18.

³⁹ See Section 13-91-104 (1), C.R.S.

⁴⁰ Pursuant to Section 19-1-111, C.R.S., the court is required to appoint a guardian ad litem (GAL) for a child in all dependency and neglect cases (including a child who is a victim of abuse or neglect, or who is affected by an adoption proceeding or paternity action), and the court may appoint a GAL for a child involved in: (a) a delinquency proceeding (if no parent appears at hearings, the court finds a conflict of interest exists between the child and the parent, or the court finds it in the best interests of the child); and (b) truancy proceedings. The court may appoint a GAL for a minor involved in certain probate or trust matters, mental health proceedings, or an involuntary commitment due to alcohol or drug abuse, or for a pregnant minor who elects not to allow parental notification concerning an abortion (see Chief Justice Directive 04-06). Finally, the court may appoint an attorney to serve as a child's legal representative in a domestic relations proceeding that involves allocation of parental responsibilities [Section 14-10-116 (1), C.R.S.].

CASE TYPE	FY 11-12	FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17 (UPDATED PROJECTION)	FY 17-18 (REQUEST)
Dependency & Neglect	7,817	7,890	7,750	7,347	7,814	8,455	9,047
Juvenile Delinquency	3,846	4,118	4,783	5,241	5,458	5,878	5,878
Domestic Relations	494	631	575	540	500	222	224
Truancy	426	697	856	995	1,076	1,149	1,149
Paternity	159	187	213	199	239	255	255
Probate	61	62	55	75	126	134	134
All Other Case Types	184	193	239	256	257	274	274
Total	12,987	13,778	14,471	14,653	15,470	16,367	16,961
<i>annual percent change</i>	<i>-4.9%</i>	<i>6.1%</i>	<i>5.0%</i>	<i>1.3%</i>	<i>5.6%</i>	<i>5.8%</i>	<i>3.6%</i>

CASE TYPE	FY 11-12	FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17 (UPDATED PROJECTION)	FY 17-18 (REQUEST)
Dependency & Neglect	\$12,003,497	\$12,836,142	\$14,038,393	\$14,751,647	\$14,698,141	\$17,011,952	\$17,596,415
Juvenile Delinquency	1,931,335	2,192,888	2,557,264	3,051,975	3,046,658	3,279,925	3,279,924
Domestic Relations	408,037	478,766	385,422	472,495	341,641	251,750	159,884
Truancy	133,341	220,342	293,163	321,818	297,915	334,413	318,273
Paternity	145,989	125,998	139,028	141,799	188,492	210,192	201,195
Probate	29,653	30,730	39,272	65,472	97,617	110,576	103,850
All Other Case Types	131,214	131,090	172,475	198,260	208,355	231,287	222,214
Total	\$14,783,066	\$16,015,956	\$17,625,017	\$19,003,466	\$18,878,819	\$21,430,095	\$21,881,755
<i>annual percent change</i>	<i>-7.7%</i>	<i>8.3%</i>	<i>10.0%</i>	<i>7.8%</i>	<i>-0.7%</i>	<i>13.5%</i>	<i>2.1%</i>

CASE TYPE	FY 11-12	FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17 (UPDATED PROJECTION)	FY 17-18 (REQUEST)
Dependency & Neglect	\$1,536	\$1,627	\$1,811	\$2,008	\$1,881	\$2,012	\$1,945
Juvenile Delinquency	502	533	535	582	558	558	558
Domestic Relations	826	759	670	875	683	1,134	714
Truancy	313	316	342	323	277	291	277
Paternity	918	674	653	713	789	824	789
Probate	486	496	714	873	775	825	775
All Other Case Types	713	679	722	774	811	844	811
Total	\$1,138	\$1,162	\$1,218	\$1,297	\$1,220	\$1,309	\$1,290
<i>annual percent change</i>	<i>-3.0%</i>	<i>2.1%</i>	<i>4.8%</i>	<i>6.5%</i>	<i>-5.9%</i>	<i>7.5%</i>	<i>-1.5%</i>

With respect to the number of active appointments, the total number of appointments decreased annually from FY 2008-09 through FY 2011-12. In FY 2012-13, the total number of appointments increased by 6.1 percent, and has increased in each subsequent fiscal year at rates ranging from 1.3 percent to 5.6 percent. The OCR is projecting an increase of 5.8 percent in the current fiscal year, and a 3.6 percent increase in FY 2017-18. Over the last four fiscal years, there has been a steady increase in the number of appointments in juvenile delinquency and truancy cases. The OCR's projections show these increases continuing through the current fiscal year and remaining steady in FY 2017-18. The number of appointments in dependency and neglect (D&N) cases increased steadily from FY 2006-07 through FY 2009-10, when it peaked at 9,038. In the five subsequent fiscal years the number of D&N appointments declined. In FY 2015-16, this trend abruptly reversed and

the OCR is projecting that the number of appointments will return to the level reached in FY 2009-10.

Tables 2 and 3, above, provide the associated expenditure and cost per case data for the same time period. This data indicates that D&N appointments continue to require the most time and are thus the most expensive type of case. While the cost per D&N case declined in FY 2015-16, the long-term trend has been an increase in the average cost and the data thus far for FY 2016-17 indicates that this trend is persisting. The OCR's projections for FY 2017-18 show this average cost declining slightly in FY 2017-18. Similarly, for juvenile delinquency cases, the average cost per appointment has increased in four of the last five fiscal years. The OCR is projecting that the average cost will flatten out in FY 2017-18.

Staff recommends approving the OCR request for FY 2017-18. Given recent caseload and expenditures trends, the overall projected caseload growth of 3.6 percent appears to be reasonable. The requested increase for FY 2017-18 is primarily based on a projected 7.0 percent increase in D&N case appointments, offset slightly by a 3.3 percent reduction in the average cost of such cases.

→ OCR R2 CASE MANAGEMENT AND BILLING SYSTEM

REQUEST: The OCR requests \$803,000 General Fund, including \$790,000 one-time funding, to replace its case management and billing system.

RECOMMENDATION: **Staff recommends approving the request.**

ANALYSIS:

Existing System

In FY 2006-07, in response to a performance audit recommendation, the OCR began evaluating the acquisition of an automated billing system that would allow a streamlined review of attorney performance measures. The OCR obtained its existing case management and billing system, called Colorado Attorney Reimbursement Electronic System (C.A.R.E.S.), in 2012 from a nonprofit legal entity representing children whose attorney staff had developed a system to assist in their own case management. Subsequently, that nonprofit marketed the system nationally as a practice innovation. A grant from a private foundation largely funded the acquisition of user licenses as well as significant modifications to the OCR's version of the system, which were necessary to accommodate guardian ad litem (GAL) practice in Colorado and OCR's attorney reimbursement procedures.

In terms of the billing functionality, contract attorneys have 30 days to enter billing activities and respond to staff disputes of billing submittals. OCR staff reviews attorney billing submittals in order to ensure that the work done meets minimum standards and the billing includes only allowable expenditures. OCR maintains presumptive maximum fees for each case type and OCR attorney staff must approve requests to exceed those fees within set parameters, as well as requests for expert witness testimony, travel expenses, interpreters, and other forms of litigation support. OCR also conducts random audits of attorney billing throughout the year using reports generated by C.A.R.E.S.

In terms of case management functionality, C.A.R.E.S. allows attorneys to maintain a comprehensive electronic file for each child who they represent. The file includes details about placement, visits with the child, contacts with other parties and professionals, outcomes of court appearances, school and treatment provider information, and duration of placements. Because it is web-based, it enables quick access to relevant information for each child. Through its “not billable” feature, the system also supports accountability in the El Paso GAL Office and OCR’s multidisciplinary law offices by allowing the input of time and activities. It promotes best practices in case coordination by allowing attorneys who use social workers in their practice to quickly access all social worker notes related to activities. The OCR staff run reports on key indicators of attorney performance, such as in-placement contact with children, time dedicated to initial investigation, and percentage of time spent on activity type.

Challenges of Current System

This system has become essential for OCR to perform its oversight function. However, the system presents significant challenges to attorney users and to OCR staff. Foremost among these challenges is the consistent and efficient compilation of relevant data, as queries are quite complex and dependent on users entering complete and accurate information despite minimum input controls. In addition, the system currently has no organized invoicing system, requiring extensive manual activity to pay bills. OCR staff manually generates submissions by pulling lines of billing activities, which can be as small as a few activities or upwards of 10,000 items that are neither grouped nor summarized. This submission is then submitted for payment and uploaded into the CORE accounting system. GAL users complain that the system is overly time-consuming and not user-friendly, and that slowness and down-time impedes their ability to efficiently enter billing and case management information.

In January 2013 the OCR acquired a perpetual license to the source code and subsequently engaged a series of developers to modify the system. Ongoing maintenance and repairs have consumed limited programmer time, and the OCR has experienced difficulties programming enhancements and reporting features within the system’s current architecture. After engaging with multiple programmers in attempts to stabilize and improve C.A.R.E.S. functionality and receiving consistent feedback regarding its faulty architecture, the OCR in FY 2014-15 began the process of planning for a new software system through a request for information (RFI), followed by a request for proposals (RFP). Both processes were unsuccessful in identifying an existing program or feasible contractor to develop a new system. Subsequently, the OCR engaged specialized staff at its IT support company to conduct a survey of existing commercial off the shelf applications; no suitable application was identified. Finally, the OCR obtained one final assessment from the programmers who are familiar with C.A.R.E.S., and they concluded that, “it is increasingly costly and risky to attempt updates at the programming level”; further, the database schema’s design flaws and lack of normalization contribute to “instability, slowness, frequent downtime, and risk of data corruption”.

Given the lack of success with its RFI and RFP process, the OCR decided to proactively engage with software development companies with existing State agreements to determine whether any of them could reasonably accomplish a solution tailored to the OCR’s unique needs. After reaching out to multiple state agencies and pursuing a number of potential options, the OCR has obtained a proposal for the development of a new system.

Proposed Solution

The new system would use an architecture that offers greater functionality, reduces support and operating costs, and provides open standards designed to allow for modifications and integrations that will be much less impactful as the system ages. The system would include an invoicing system specifically designed for the OCR's billing and payment procedures, eliminating the extensive manual component of the current system and providing for significantly greater pre-payment review and controls of attorney billing.

Recommendation

Staff recommends approving the request to ensure that the OCR has a functional, effective billing and case management system. The OCR has worked with the IT staff in the State Court Administrator's Office and staff in the Governor's Office of Information Technology (OIT) in the development of this proposal. The OCR entered into an eligible government entity agreement with the Statewide Internet Portal Authority (SIPA) so that it could contract with a SIPA-identified developer to create the product requirements for the new system. Based on this product requirements work, the OCR requests:

- \$790,000 for development costs;
- \$5,000 for maintenance costs; and
- \$8,000 for user license.

The OCR indicates that the latter two expenses would be ongoing.

→ OCR R3 EL PASO GAL OFFICE RELOCATION

REQUEST: The OCR requests \$16,408 General Fund to relocate its El Paso county office to a smaller but more efficient space that is closer to the courthouse.

RECOMMENDATION: **Staff recommends approving the request.** The new space will allow for better workflow and access, provide a safer and more professional environment, and will cost \$9,504 less than renewing their existing lease.

ANALYSIS:

The OCR's El Paso GAL office has been in its current location since September 2002. The current lease expires June 30, 2017, and the landlord intends to increase the rent by 2.25 percent. The OCR has an opportunity to move into a more modern and efficient location within one block of the El Paso County courthouse.

The OCR's current office space is very inefficient. Even though the current location provides over 9,000 square feet of space, the layout on three floors results in a significant amount of wasted space. Staff are located on two floors, including one below ground floor, resulting in poor workflow and reduced productivity. This location has three separate heating/cooling systems, making it nearly impossible to maintain consistent temperatures throughout the office. Furthermore, these energy inefficiencies increase the overall costs, as OCR is responsible for paying all utilities. Significant repairs and remodeling would be required to improve the existing space, and any improvements would likely be nominal. Additionally, the current space is in an area that is not secure and potentially unsafe for staff as well as visiting children and families.

The OCR has an opportunity to move to newer office space closer to the courthouse. Even though the square footage in the new location is lower, it provides much more efficient use of space that would allow all OCR staff to be on the same floor. Security is enhanced by limiting after-hours access to tenants only and providing several covered (and more secure) parking spaces. The new office space includes a larger meeting room than the current location, as well as access to a large shared meeting room on the lower level that can be used for training and other large meetings at no additional cost. Additionally, the new space provides better access for employees and visitors with physical limitations. Overall, the new office space increases efficiency and provides a cleaner, more professional work environment.

→ OCR R4 FTE ADJUSTMENT

REQUEST: The OCR requests \$41,914 General Fund to convert its part-time Staff Attorney position from 0.65 FTE to a full time position to reflect OCR attorney staff's true workload.

RECOMMENDATION: **Staff recommends approving the request.**

ANALYSIS: The existing appropriation for the OCR supports 3.4 FTE attorneys, including the following positions:

- Executive Director (1.0 FTE)
- Deputy Director (0.8 FTE)
- Staff Attorneys/ Legislative Liaison (1.6 FTE)

Each attorney serves as a liaison to specific judicial districts, providing a single point of contact for contractors and other stakeholders in each district. This liaison work involves:

- Fielding ongoing calls from attorneys and other stakeholders and proactively addressing district needs and policy or practice issues;
- Ensuring a sufficient number of contract attorneys are available in each district;
- Evaluating fee and travel requests that exceed established standards;
- Monitoring and addressing performance and billing issues through periodic and ad hoc reports;
- Investigating complaints concerning contract attorneys; and
- Conducting annual verifications and triannual evaluations for contract attorney.

Each attorney is also assigned to participate in one or more committees or task forces that are pertinent to the OCR's mission. Based on a recent workload analysis of the Staff Attorneys, the OCR indicates that the workload is equivalent to 2.0 FTE, rather than 1.6 FTE. The OCR thus requests funding to convert a part-time Staff Attorney position to a full-time position.

Finally, each position has unique responsibilities, such as supervising and coordinating with other OCR staff, monitoring appellate cases, preparing amicus briefs, participating in revisions to applicable Chief Justice Directives, managing contracts, maintaining billing policies and procedures, managing interns, preparing newsletters, assisting with preparation of budget requests, and preparing statutorily required reports.

The primary responsibility for the attorneys in the OCR central office is ensuring effective attorney practice and the efficient use of state funding. The attorney workload increases in proportion to the

number of court appointments and the number of contract attorneys. In addition, the OCR indicates that due to heightened policy interest in child protection, juvenile delinquency, and truancy, the OCR has experienced an increase in workload associated with participating in groups that shape policy and practice in these areas, as well as keeping up with statutory and practice developments. The OCR has instituted processes and procedures designed to streamline this increased workload to the extent possible. At this point, they believe that the workload has reached a level that a small increase in staffing is needed.

The OCR would use the additional funding to increase an existing part-time position to a full-time position. The attorney in this position serves as the content lead on OCR's statewide attorney evaluation process and assessment of alternative models of attorney services, including the OCR's multidisciplinary law office project. Given the Committee's recent questions about the effectiveness of the services purchased through this office in achieving positive outcomes for children and families, staff endorses this request to ensure that the OCR has sufficient resources for program evaluation and analysis.

→ OCR R5 OPERATING EXPENDITURE INCREASE

REQUEST: The OCR requests \$24,780 General Fund to acquire licenses to a commercial legal research tool for court-appointed counsel.

RECOMMENDATION: **Staff recommends approving the request with one modification.** Staff recommends reducing the appropriation for Court-appointed Counsel by the same amount (\$24,780) to recognize the contract attorney efficiencies that are anticipated to result.

ANALYSIS: The law relevant to case types in which OCR attorneys are appointed is constantly evolving. The OCR indicates that while it offers ongoing training on legal developments and provides periodic case updates and other supports such as the Guided Reference in Dependency (GRID) to ensure attorneys remain current in state and federal law and regulations, these supports do not replace the advantages offered by commercial online legal research tools. The OCR indicates that the use of such practice tools is standard for most law firms but is often deemed cost-prohibitive by OCR contractors, whose hourly rate falls far below the hourly rate billed by the vast majority of attorneys in private practice.

The OCR has learned that the Office of the Respondent Parents' Counsel pays for its contract attorneys to access a commercial online legal research tool. The inability to efficiently access the legal authority cited as the basis for a potentially opposing party's position places the guardian ad litem (GAL) at a significant disadvantage in his or her advocacy. The OCR also indicates that it has received feedback from several attorneys that access to such a tool would be beneficial to their practice and help them achieve efficiencies in ensuring the positions they take are grounded in the most updated legal arguments possible.

Staff recommends approving the request for \$24,780 General Fund to cover the cost of acquiring licenses to a commercial legal research tool for OCR's contract attorneys. However, given that the OCR believes that this tool will increase the efficiency of its contract attorneys, staff recommends recognizing these anticipated efficiencies by reducing the appropriation for Court-appointed Counsel by the same amount (\$24,780). This recommendation is consistent with a similar budget

initiative that was submitted by the Office of the Alternate Defense Counsel to improve contract attorney efficiency and the quality of their advocacy. Staff believes that while these types of adjustments are small, they underscore the expectation that such efficiencies should be realized. Based on the OCR’s projection of the number of court appointments in FY 2017-18, this reduction amounts to savings of \$1.46 per appointment.

LINE ITEM DETAIL – OFFICE OF THE CHILD'S REPRESENTATIVE

PERSONAL SERVICES

This line item provides funding to support a central administrative office in Denver, as well as the El Paso county office. The following table details the types of employees that are supported by this line item.

Staffing Summary				
Office of the Child's Representative	15-16 Actual	16-17 Approp.	17-18 Request	17-18 Recommend.
Executive Director	1.0	1.0	1.0	1.0
Deputy Director	0.8	0.8	0.8	0.8
Staff Attorneys/Legislative Liaison (OCR R4)	1.6	1.6	2.0	2.0
Training Coordinator	1.0	1.0	1.0	1.0
Budget/ Billing/ Office Administration	4.1	4.3	4.3	4.3
Subtotal - Administrative Office	8.5	8.7	9.1	9.1
Attorneys	12.0	12.0	12.0	12.0
Social Workers/ Case Coordinators	5.0	5.0	5.0	5.0
Administrative Support Staff	3.4	3.4	3.4	3.4
Subtotal - El Paso County Office	20.4	20.4	20.4	20.4
Total	28.9	29.1	29.5	29.5

STATUTORY AUTHORITY: Section 13-91-101 et seq., C.R.S.

REQUEST: The OCR requests \$3,275,521 General Fund and 29.5 FTE. This line item is affected by OCR R2 (Case management and billing system) and OCR R5 (Operating expenditure increase). These requests are discussed at the beginning of this division.

RECOMMENDATION: Staff recommends approving the request.

OFFICE OF THE CHILD'S REPRESENTATIVE, PERSONAL SERVICES		
	GENERAL FUND	FTE
FY 2016-17 APPROPRIATION		
HB 16-1405 (Long Bill)	\$2,442,114	29.1
TOTAL	\$2,442,114	29.1
FY 2017-18 RECOMMENDED APPROPRIATION		
FY 2016-17 Appropriation	\$2,442,114	29.1
OCR R2 Case management/billing system replacement	795,000	0.0

OFFICE OF THE CHILD'S REPRESENTATIVE, PERSONAL SERVICES		
	GENERAL FUND	FTE
OCR R4 FTE adjustment	38,407	0.4
TOTAL	\$3,275,521	29.5
INCREASE/(DECREASE)	\$833,407	0.4
Percentage Change	34.1%	1.4%
FY 2017-18 EXECUTIVE REQUEST	\$3,275,521	29.5
Request Above/(Below) Recommendation	\$0	(0.0)

HEALTH LIFE AND DENTAL

This line item provides funding for the employer's share of the cost of group benefit plans providing health, life, and dental insurance for OCR staff.

STATUTORY AUTHORITY: Pursuant to Section 24-50-611, C.R.S., and defined in Section 24-50-603 (9), C.R.S.

REQUEST: The OCR requests \$228,590 General Fund.

RECOMMENDATION: **Staff recommends appropriating \$226,640 General Fund**, which is consistent with Committee policy with respect to employer contribution rates (these were the adjusted rates proposed by the Department of Personnel through a budget amendment).

SHORT-TERM DISABILITY

This line item provides funding for the employer's share of OCR employees' short-term disability insurance premiums.

STATUTORY AUTHORITY: Pursuant to Section 24-50-611, C.R.S., and defined in Section 24-50-603 (13), C.R.S.

REQUEST: The OCR requests \$4,204 General Fund based on applying a rate of 0.19 percent.

RECOMMENDATION: **Staff's recommendation for this line item is pending** the Committee's common policy for Salary Survey and Merit Pay. Staff's recommendation includes \$15 for Staff-initiated R1 (Compensation alignment), which is discussed at the beginning of this packet.

S.B. 04-257 AMORTIZATION EQUALIZATION DISBURSEMENT (AED)

Pursuant to S.B. 04-257, this line item provides additional funding to increase the state contribution for Public Employees' Retirement Association (PERA) for OCR staff.

STATUTORY AUTHORITY: Pursuant to Section 24-51-411, C.R.S.

REQUEST: The OCR requests \$111,826 General Fund based on applying a rate of 5.0 percent.

RECOMMENDATION: **Staff's recommendation for this line item is pending** the Committee's common policy for Salary Survey and Merit Pay. Staff's recommendation includes \$384 for Staff-initiated R1 (Compensation alignment), which is discussed at the beginning of this packet.

S.B. 06-235 SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT (SAED)

Pursuant to S.B. 06-235, this line item provides additional funding to increase the state contribution for PERA for OCR staff.

STATUTORY AUTHORITY: Pursuant to Section 24-51-411, C.R.S.

REQUEST: The OCR requests \$111,826 General Fund based on applying a rate of 5.0 percent.

RECOMMENDATION: **Staff's recommendation for this line item is pending** the Committee's common policy for Salary Survey and Merit Pay. Staff's recommendation includes \$384 for Staff-initiated R1 (Compensation alignment), which is discussed at the beginning of this packet.

SALARY SURVEY

The OCR uses this line item to pay for annual salary increases.

STATUTORY AUTHORITY: Pursuant to Section 24-50-104, C.R.S.

REQUEST: The OCR requests \$59,941 General Fund for a 2.5 percent across-the-board salary increase for all employees based on existing salaries (including the Executive Director).

RECOMMENDATION: **Staff's recommendation is pending** the Committee's common policy for this line item. Staff's recommendation includes \$8,576 for Staff-initiated R1 (Compensation alignment), which is discussed at the beginning of this packet. In addition, staff requests permission to adjust this line item to maintain the alignment of the salary for the Executive Director with that of a District Court Judge.

MERIT PAY

The OCR uses this line item to pay for performance-related pay increases.

STATUTORY AUTHORITY: Pursuant to Section 24-50-104 (1) (c), C.R.S.

REQUEST: The OCR requests \$0 General Fund for merit pay increases for FY 2016-17.

RECOMMENDATION: **Staff's recommendation is pending** the Committee's common policy for this line item.

OPERATING EXPENSES

This line item provides funding for operating expenses and information technology asset maintenance in both the Denver and El Paso offices, and for reimbursement of actual and necessary expenses incurred by Child's Representative Board members.

STATUTORY AUTHORITY: Section 13-91-101 et seq., C.R.S.

REQUEST: The OCR requests \$252,046 General Fund. This line item is affected by OCR R5 (Operating expenditure increase). This request is discussed at the beginning of this division.

RECOMMENDATION: **Staff recommends approving the request.**

CAPITAL OUTLAY

This line item provides funding for the one-time costs associated with new employees (office furniture, a computer and software, etc.).

STATUTORY AUTHORITY: Section 13-91-101 et seq., C.R.S.

REQUEST: The OCR requests \$0 General Fund.

RECOMMENDATION: **Staff recommends approving the request.**

LEASED SPACE

This line item currently funds lease payments for OCR's the Colorado Springs office.

STATUTORY AUTHORITY: Section 13-91-101 et seq., C.R.S.

REQUEST: The OCR requests \$99,504 General Fund. The request reflects a decrease of \$7,716 based on approval of OCR R3 (El Paso GAL office relocation).

RECOMMENDATION: **Staff recommends approving the request.**

CASA CONTRACTS

This line item provides funding for grants to Colorado CASA, the nonprofit organization of court-appointed special advocate (CASA) volunteers. This funding is used to pay both personnel and operating costs. Prior to FY 2008-09, the General Assembly appropriated \$20,000 General Fund annually for this line item; this funding was distributed to Colorado CASA. The Joint Budget Committee initiated increases of \$500,000 in FY 2008-09 and another \$500,000 in FY 2013-14. Since FY 2008-09, Colorado CASA has continued to retain a portion of the funding for general operating costs, but the remainder has been allocated to local CASA Programs.

Background Information. Court-appointed special advocates (CASA) are trained volunteers who may be appointed to enhance the quality of representation for children⁴¹. Pursuant to Section 19-1-202, C.R.S., CASA programs may be established in each judicial district pursuant to a memorandum of understanding between the district's chief judge and a community-based CASA program. A CASA volunteer may: conduct an independent investigation regarding the best interests of the child; and determine if an appropriate treatment plan has been created for the child, whether appropriate services are being provided to the child and family, and whether the treatment plan is progressing in a timely manner. A CASA volunteer may also make recommendations consistent with the best interests of the child regarding placement, visitation, and appropriate services. The Judicial Department may contract with a nonprofit entity for the coordination and support of CASA activities in Colorado.

The OCR is charged with enhancing the CASA program in Colorado by cooperating with and serving as a resource to the contract entity to:

- ensure the development of local programs statewide;
- seek to enhance existing funding sources and developing private-public partnership funding for the provision of high-quality, volunteer local CASA programs;
- study the availability of or developing new funding sources for CASA programs;
- allocate moneys appropriated for CASA programs to local CASA programs based upon recommendations made by the contract entity;
- work cooperatively with the contract entity to ensure the provision and availability of high-quality, accessible training for CASA volunteers and for judges and magistrates; and
- accept grants, gifts, donations, and other governmental contributions to be used to fund the work of the OCR relating to CASA programs⁴².

STATUTORY AUTHORITY: Section 13-91-105, C.R.S.

REQUEST: The OCR requests a continuation level of funding (\$1,020,000 General Fund).

RECOMMENDATION: **Staff recommends approving the request.** The following two tables provide additional data concerning:

- the allocation of state funding by CASA; and
- data concerning the relevant court case filing data, the number of cases involving a CASA volunteer, the number of children receiving CASA services, the number of CASA volunteers, and the associated number of volunteer hours.

As indicated in the second table below, this appropriation helps to support nearly 1,900 volunteers who provide services to children in nearly one-third of dependency and neglect cases.

⁴¹ Pursuant to Section 19-1-206 (1), C.R.S., a judge or magistrate may appoint a CASA volunteer in any domestic, probate, or truancy matter when a child affected by the matter may require services that a CASA volunteer can provide.

⁴² Such funds are to be credited to the Court-appointed Special Advocate (CASA) Fund. This fund is subject to annual appropriation to the OCR for purposes of funding local CASA programs and the work of the OCR relating to the enhancement of CASA programs.

STAFF WORKING DOCUMENT – DOES NOT REPRESENT COMMITTEE DECISION

OCR: DISTRIBUTION OF GENERAL FUND APPROPRIATION FOR CASA PROGRAMS										
	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17
Colorado CASA - General Operating	\$20,000	\$120,000	\$100,000	\$100,000	\$91,200	\$70,000	\$105,000	\$130,001	\$130,001	\$130,001
Public Relations Activities		25,000								
Outcomes Development for Programs							25,000	0	0	0
Allocations to Local CASA Programs (currently 16)		375,000	420,000	420,000	383,800	450,000	890,000	889,999	889,999	889,999
Total Appropriation	\$20,000	\$520,000	\$520,000	\$520,000	\$475,000	\$520,000	\$1,020,000	\$1,020,000	\$1,020,000	\$1,020,000

OCR: STATEWIDE DATA RELATED TO LOCAL CASA PROGRAMS											
	FY 05-06	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15	FY 15-16
Dependency & Neglect Cases Filed (includes expedited permanency placement cases)	4,136	3,852	3,883	3,851	3,568	3,276	3,265	3,223	2,971	2,989	3,275
	CY 2006	CY 2007	CY 2008	CY 2009	CY 2010	CY 2011	CY 2012	CY 2013	CY 2014	FY 14-15	FY 15-16
New Cases Served by CASA	636	670	627	896	883	834	908	1,020	921	1,024	1,021
<i>New Cases Served/ Cases Filed</i>	<i>15.4%</i>	<i>17.4%</i>	<i>16.1%</i>	<i>23.3%</i>	<i>24.7%</i>	<i>25.5%</i>	<i>27.8%</i>	<i>31.6%</i>	<i>31.0%</i>	<i>34.3%</i>	<i>31.2%</i>
Total Number of Children Served	2,666	2,838	2,935	3,273	3,608	3,791	3,770	3,748	3,858	3,959	3,900
Total Volunteers	1,045	1,177	1,174	1,411	1,637	1,608	1,603	1,670	1,694	1,890	1,887
Volunteer Hours	81,266	100,034	77,481	158,820	140,618	120,640	137,834	125,067	132,351	127,851	126,289
Source: Case filing data provided by State Court Administrator's Office. Remaining data provided by Colorado CASA.											

TRAINING

The OCR is charged with "ensuring the provision and availability of high-quality, accessible training" for GALs, judges and magistrates who regularly hear matters involving children and families, CASA volunteers, and attorneys who are appointed to serve as a child's legal representative or a child and family investigator. The OCR is also charged with making recommendations to the Chief Justice concerning minimum practice standards for GALs and overseeing the practice of GALs to ensure compliance with all relevant statutes, orders, rules, directives, policies, and procedures. In addition to the individuals noted above, the OCR invites respondent parent counsel, county attorneys and social workers, foster parents, and law enforcement to their training programs.

STATUTORY AUTHORITY: Section 13-91-101 et seq., C.R.S.

REQUEST: The OCR requests a continuation level of funding (\$38,000 General Fund).

RECOMMENDATION: **Staff recommends approving the request.**

COURT-APPOINTED COUNSEL

This line item pays for contract attorneys appointed by the court to serve as GALs and child legal representatives in abuse or neglect, delinquency, truancy, high conflict divorce, alcohol or drug abuse, mental health issues, and probate matters. The OCR is charged with enhancing the provision of GAL services by "establishing fair and realistic state rates by which to compensate state-appointed guardians ad litem, which will take into consideration the caseload limitations place on guardians ad litem and which will be sufficient to attract and retain high-quality, experienced attorneys to serve as guardians ad litem".

STATUTORY AUTHORITY: Section 13-91-101 et seq., C.R.S.

REQUEST: The OCR requests \$21,711,784 General Fund for FY 2017-18. The request includes:

- continuation of the \$1,726,331 mid-year increase that was approved for FY 2016-17; and
- an increase of \$281,689 General Fund per OCR R1/BA1 (Workload and caseload adjustment).

RECOMMENDATION: **Staff recommends appropriating \$21,687,004 General Fund.** Staff's recommendation is \$24,780 lower than the request due to staff's recommendation for OCR R5 Operating expenditure increase, which is discussed at the beginning of this division. For more detail about the request and projected caseload and expenditures by case type, see the discussion for OCR R1/BA1 at the beginning of this division.

MANDATED COSTS

This is one of several line item appropriations for "mandated costs". These costs are associated with activities, events, and services that accompany court cases that are required in statute and/or the U.S. and Colorado Constitutions to ensure a fair and speedy trial, and to ensure the right to legal representation. For the OCR, these costs include the following:

- reimbursement to other entities such as hospitals and county departments of human services for discovery (\$12,362);
- expert witnesses (\$10,530);
- reimbursements to the prosecution for discovery (\$7,880);
- interpreters - out of court (\$2,238);
- transcripts (\$984); and
- process servers and other miscellaneous expenses (\$1,615).

STATUTORY AUTHORITY: Section 13-91-101 et seq., C.R.S.

REQUEST: The OCR requests \$47,246 General Fund, which is the same amount that was appropriated for FY 2016-17.

RECOMMENDATION: **Staff recommends appropriating \$30,000 for FY 2017-18.** The recommendation includes a reduction of \$10,189 as anticipated to annualize S.B. 14-190 (this reduction is discussed at the beginning of this packet), and a further reduction of \$7,057 based on recent actual expenditures. Specifically, based on actual expenditures in FY 2015-16 and expenditures in the first six months of the current fiscal years, an appropriation of \$30,000 should be adequate to cover this agency's mandated costs.

TITLE IV-E TRAINING GRANT (RENAMED "GRANTS")

This line item reflects anticipated expenditures from a federal Title IV-E training grant. This line item is included in the Long Bill for informational purposes only and is not intended to limit the OCR's expenditures of these federal funds. While these moneys originate as federal funds, they are transferred to the OCR from the Department of Human Services and are thus reflected as reappropriated funds.

STATUTORY AUTHORITY: Section 13-91-101 et seq., C.R.S.

REQUEST: The OCR request includes \$26,909 reappropriated funds based on the amount anticipated to be available for FY 2017-18.

RECOMMENDATION: **Staff recommends reflecting the amount requested. Staff also recommends renaming this line item "Grants",** consistent with similar line items in the OSPD and the Office of the Respondent Parents' Counsel.

(8) OFFICE OF THE RESPONDENT PARENTS' COUNSEL

Senate Bill 14-203 and H.B. 15-1149 established the Office of the Respondent Parents' Counsel (ORPC) as a new independent agency within the Judicial Branch, as of January 1, 2016. The ORPC is charged with ensuring the provision and availability of high-quality legal representation for respondent parents involved in dependency and neglect proceedings. All existing and new state paid respondent parent counsel appointments were transferred from the State Court Administrator's Office (SCAO) to the ORPC by July 1, 2016.

The ORPC is governed by the nine-member Respondent Parents' Counsel Governing Commission, whose members are appointed by the Supreme Court. Commission members serve on a voluntary basis and receive no compensation for their time. The Commission appoints an individual to serve as the Executive Director of the Office. The compensation for this individual is fixed by the General Assembly (through a Long Bill footnote) and may not be reduced during his or her five-year term of appointment.

The ORPC is an independent agency within the Judicial Branch that employs 10.0 FTE. The ORPC is located in the Ralph L. Colorado Judicial Center, and the associated lease payment is covered through a single line item appropriation in the Courts Administration section of the Judicial Branch budget. The Office of the State Court Administrator provides free administrative support to the ORPC, including: procurement; fiscal year-end transfers; workers' compensation and risk management; payroll and benefits; and a server room. With the exception of a small amount of cash funds from training-related fees and federal grant funding that is transferred from the Department of Human Services, the ORPC is supported by General Fund appropriations.

OFFICE OF THE RESPONDENT PARENTS COUNSEL						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2016-17 Appropriation						
HB 16-1405 (Long Bill)	\$12,879,472	\$12,849,472	\$30,000	\$0	\$0	10.0
SB 17-164 (Supplemental bill)	2,365,756	2,342,001	0	23,755	0	0.0
TOTAL	\$15,245,228	\$15,191,473	\$30,000	\$23,755	\$0	10.0
FY 2017-18 RECOMMENDED APPROPRIATION						
FY 2016-17 Appropriation	\$15,245,228	\$15,191,473	\$30,000	\$23,755	\$0	10.0
Reverse supplemental action	(6,890)	(6,890)	0	0	0	0.0
ORPC BA2 Social worker pilot program	301,033	301,033	0	0	0	0.0
ORPC BA3 Reflect grant expenditures	7,340	0	0	7,340	0	0.0
ORPC R1 Conversion to hourly billing	785,902	785,902	0	0	0	0.0
ORPC R2/BA1 Increase in case filings	219,354	219,354	0	0	0	0.0
Staff-initiated R1 Compensation alignment	5,808	5,808	0	0	0	0.0
Centrally appropriated line items	14,126	14,126	0	0	0	0.0
Annualize prior year legislation	(337,500)	(337,500)	0	0	0	0.0

OFFICE OF THE RESPONDENT PARENTS COUNSEL						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
TOTAL	\$16,234,401	\$16,173,306	\$30,000	\$31,095	\$0	10.0
INCREASE/(DECREASE)	\$989,173	\$981,833	\$0	\$7,340	\$0	0.0
Percentage Change	6.5%	6.5%	0.0%	30.9%	n/a	0.0%
FY 2017-18 EXECUTIVE REQUEST	\$16,523,901	\$16,462,806	\$30,000	\$31,095	\$0	10.0
Request Above/(Below) Recommendation	\$289,500	\$289,500	\$0	\$0	\$0	0.0

DECISION ITEMS – OFFICE OF THE RESPONDENT PARENTS’ COUNSEL

→ ORPC R1 CONVERSION TO HOURLY BILLING

REQUEST: The ORPC requests \$785,902 General Fund to convert to a consistent hourly payment system, eliminating flat fee payments to attorneys in eight jurisdictions.

RECOMMENDATION: **Staff recommends approving the request.**

ANALYSIS: The ORPC is statutorily charged with ensuring the provision and availability of high quality legal representation for parents in dependency and neglect proceedings, and establishing fair and realistic rates by which to compensate contract attorneys.

The ORPC inherited a mixed payment system that involves both hourly and flat-fee payments. In those jurisdictions where attorneys are paid hourly, they receive \$75 per hour, and these attorneys are required to submit invoices detailing the time spent on the appointment in order to be paid. In flat-fee jurisdictions, an attorney is paid a flat fee of \$1,125 when he or she is appointed to a case (the equivalent of 15 hours of work), and the attorney is paid an additional \$1,262 upon the filing of a motion for the termination of parental rights. These attorneys are not required to submit any invoiced accounting for their time or expenses. There are currently eight judicial districts in which attorneys are generally paid on a flat fee basis:

- 2nd (Denver)
- 4th (El Paso and Teller)
- 8th (Larimer and Jackson)
- 9th (Garfield, Pitkin, and Rio Blanco)
- 10th (Pueblo)
- 17th (Adams and Broomfield)
- 18th (Arapahoe, Douglas, Elbert, and Lincoln)
- 19th (Weld)
- 20th (Boulder)

In some cases, attorneys in the above jurisdiction may be paid hourly. For example, hourly payments are made for cases that qualify for a family treatment drug court.

The ORPC requests additional funding to implement a consistent hourly payment system that reimburses attorneys representing indigent parent clients for actual services rendered. The ORPC indicates that conversion to a consistent hourly payment method will:

- Result in better representation and better outcomes for families;
- Provide accountability measures for case billing; and
- Create parity with attorneys who contract with the OADC and the OCR, who are generally paid hourly for their work.

The ORPC notes that the flat-fee payment system makes it impossible to monitor compliance with minimum practice standards, such as regularly communicating with their client and attending all out-of-court meetings. The flat-fee system does not allow the ORPC to implement practices that have been proven effective in other states, or to track the impact of such practice changes on family outcomes. The ORPC also notes that the payment of a supplemental flat fee once a motion to terminate parental rights is filed (by the county department) is inconsistent with best practices of conducting thorough and early investigations and front-loading services. This practice incentivizes an attorney to adopt case strategies that might run counter to a client's interest. For example, if a client wishes to relinquish his or her parental rights, an attorney could delay filing a motion to relinquish until a motion to terminate has been filed in order to receive a second payment. This would unnecessarily delay the resolution of the case and delay permanency for the child in question.

The ORPC's request is based on comparing the average amount paid per appointment in FY 2015-16 under each payment system (\$1,421 for hourly cases compared to \$ 1,240 for flat-fee cases = a difference of \$181 per appointment). Based on the number of appointments paid in FY 2015-16 (4,342), this is anticipated to require \$785,902. The ORPC notes that if approval of this request is successful in reducing the amount of time that some children spend in foster care, it would reduce the costs incurred by counties for out-of-home care.

Staff recommends approving the request. This is one of the primary issues identified by the group that recommended the creation of this independent office. Converting to a consistent hourly payment method will allow the ORPC to monitor attorney activities and compliance with minimum practice standards. It will also allow the ORPC to collect consistent, statewide data to evaluate the relationship between attorney practice and case outcomes.

→ ORPC R2/BA1 INCREASE IN CASE FILINGS

REQUEST: The Committee recently approved mid-year increases totaling \$2,335,111 General Fund (including \$2,173,497 for Court-appointed Counsel and \$161,614 for Mandated Costs) to address an increase in the number of case filings, changes in appellate rules, and changes in respondent parent counsel practices and supports. The ORPC requests that this funding continue in FY 2017-18. In addition, the ORPC requests an additional \$513,069 General Fund (including \$491,787 for Court-appointed Counsel and \$21,282 for Mandated Costs) to address a projected 3.8 percent increase in case filings.

RECOMMENDATION: Based on more recent information provided by the ORPS staff, staff recommends an increase of \$219,354 General Fund (including \$100,281 for Court-appointed Counsel and \$119,253 for Mandated Costs). Based on more recent expenditures and caseload data, the ORPC is now projecting a 2.1 percent increase in case filings in FY 2017-18 (rather than 3.8 percent), which caused the ORPC projection of Court-appointed Counsel expenses to decrease by \$391,506 compared to the request that was submitted last month. The ORPC's projection for Mandated Costs increased by \$97,791, particularly in the areas of transcripts and expert witnesses.

Staff recommends approving the request for increases in each of these line items for FY 2017-18 to ensure that the ORPC has sufficient funding to cover the costs of court appointments and the associated mandated costs. However, staff recommends using the ORPC's most recent projections.

→ ORPC BA2 SOCIAL WORKER PILOT PROGRAM

REQUEST: The ORPC requests \$301,033 General Fund to implement a Social Worker Pilot Program.

RECOMMENDATION: Staff recommends approving the request.

ANALYSIS:

The ORPC is requesting funding for a Social Worker Pilot Program to be tested in the 1st (Gilpin and Jefferson counties) and the 21st (Mesa county) judicial districts. The program is based on a multidisciplinary approach to parent representation from other states, and is expected to improve outcomes for parents and children in Colorado.

The ORPC assumed oversight for respondent parent counsel (RPC) attorneys on July 1, 2016, and adopted formal billing policies in September 2016. The billing policies allowed RPCs in hourly jurisdictions to request access to social workers on individual cases. In flat-fee jurisdictions, RPCs were given access to social workers only as experts on a case. Although the ORPC was aware of the demand for social workers in child welfare cases at the time of the adoption of the billing policies, the presumption was that the cost for social workers would be absorbable in the court appointed counsel line.

In addition to the ability to request access to social workers, RPC attorneys were given the option to consult with the Social Worker Coordinator on staff with the ORPC to provide guidance and support related to a variety of case issues. Through this process, the ORPC has learned that there is a demand for access to well-trained social workers with familiarity of dependency law. On average, the Social Worker Coordinator has consulted on three cases a week.

As the demand for social workers grew, the ORPC began to research multidisciplinary models incorporating social workers in other states. As demonstrated in the narrative below, the research shows that a social worker must be part of a multidisciplinary family defense team from the inception of a child welfare case in order to make the greatest impact on outcomes for Colorado families. After conducting this research, the ORPC then came up with a plan for a pilot social worker program in Colorado. The costs for this plan would not be absorbable in the current budget for Court Appointed Counsel.

The ORPC indicates that research also shows that high-quality legal representation for parents in child welfare cases results not only in improved outcomes for families, but a potential cost savings for taxpayers because children spend less time in foster care and children are reunified with their families more quickly. The ORPC cites the Center for Family Representation (CFR) in New York City, which employs the “cornerstone advocacy approach” to family defense, meaning that each parent is represented by a multidisciplinary advocacy team, which includes a social worker, parent advocate, and attorney. Using this model of representation, which begins when the dependency petition is filed, CFR data shows that more than 50 percent of children of CFR clients avoided foster care altogether and, of the children who were in foster care, the median length of stay in foster care was 2.2 months—much lower than the New York state average of two years.

Further, the ORPC indicates that other available data from the National Council of Juvenile and Family Court Judges supports the conclusion that a family’s chance of successful reunification improves dramatically when provided with a multidisciplinary approach that includes a zealous attorney, an appropriate clinical assessment, timely and effective services, and strong advocacy within the child welfare system by a social worker.

The ORPC proposes contracting with social workers in two jurisdictions (the 1st and the 21st judicial districts) in FY 2017-18. The pilot program will focus on only “expedited permanency planning” cases, which reduce to 12 months the legal time frames for achieving permanency for children who are the subjects of a dependency case. Based on the EPP case filing numbers and an anticipated full-time case load, the ORPC anticipates that the pilot program for the 1st judicial district will incorporate two contract social workers, while the 21st judicial district will incorporate one contract social worker. All of the cases will be funneled through the ORPC Social Worker Coordinator, who will be responsible for supervision and oversight of all three social workers.

To request a social worker under the pilot program, attorneys will be asked to complete a social worker referral form for each of their cases that qualify as EPP immediately after appointment. The Social Worker Coordinator will then make a determination about which cases qualify for a referral to a social worker. The cases with the highest risk and need will receive social work intervention. The Social Worker Coordinator will manage the data for all of the cases in each district including cases that are not selected for participation in the program.

The Social Worker Pilot Program is anticipated to increase respondent parent engagement at the onset of the case, which will produce better permanency outcomes for families. The program will potentially reduce the time children spend in out-of-home placement, reduce the overall length of the case, increase the rates of reunification, and produce better permanency outcomes. These outcomes will be measured through the program evaluation that will be prepared by the Social Worker Coordinator at the conclusion of the fiscal year.

The program evaluation will utilize two separate hourly judicial districts to serve as the control group. The control group for the 1st Judicial District will be the 13th Judicial District and the control group for the 21st Judicial District will be the 7th Judicial District. The program evaluation will assess the efficacy of the program to determine if the anticipated outcomes are achieved. This will provide insight into whether expanding the program statewide would be beneficial and effective.

Staff recommends approving the request to allow the ORPC to evaluate whether and how the inclusion of social workers on certain cases affects case outcomes. The pilot program appears to be well designed, and will allow the existing Social Worker Coordinator to engage with contract attorneys, county departments of human services, and behavioral health providers in two judicial districts to evaluate the impact of this model. This model is consistent with previous actions taken by the General Assembly to allow the other independent agencies (OSPD, OADC, and OCR) to include social workers in certain types of cases.

→ ORPC BA3 REFLECT GRANT EXPENDITURES

REQUEST: The ORPC requests that the Long Bill include a line item to reflect anticipated training expenditures using federal grant funding that is transferred from the Department of Human Services (DHS). The ORPC estimates that it will spend \$31,095 grant funds in FY 2017-18 (an increase of \$7,340 compared to FY 2016-17).

RECOMMENDATION: **Consistent with the Committee’s action on a corresponding supplemental request, staff recommends reflecting \$31,095 reappropriated funds as requested.** This amount includes two grants:

- The DHS has earmarked \$40,000 of federal Children’s Justice Act funds for use by the ORPC. The ORPC is required to use \$24,500 in the period January through September 2017, and the remaining \$15,500 in the period October through December 2017. The ORPC will use the funds to: provide additional training for rural contract attorneys and ORPC staff; send staff to the American Bar Association (ABA) National Parent Attorney Conference; and provide scholarships for a limited number of contract attorneys to attend this ABA Conference.
- Federal Title IV-E funds are available to reimburse up to 33 percent of training-related expenditures. The ORPC estimates that it will have \$20,000 of qualified expenses in FY 2016-17 and \$25,000 of qualified expenses in FY 2017-18. The grant funds would allow the ORPC to provide additional training for contract attorneys.

Even though this amount is informational, the new line item provides a more accurate depiction of the total amount of funding that is available for the ORPC to carry out its statutory mandate to improve the quality of legal representation for parents involved in dependency and neglect proceedings. In future fiscal years, the new line item also provides a consistent and transparent way to track actual training-related expenditures.

LINE ITEM DETAIL – OFFICE OF THE RESPONDENT PARENTS' COUNSEL

PERSONAL SERVICES

This line item provides funding to support a central administrative office in Denver. The following table details the types of employees that are supported by this line item.

STAFFING SUMMARY				
OFFICE OF THE RESPONDENT PARENTS' COUNSEL	15-16 ACTUAL	16-17 APPROP.	17-18 REQUEST	17-18 RECOMMEND.
Executive Director	0.6	1.0	1.0	1.0
Deputy Director	0.3	1.0	1.0	1.0
Chief Financial Officer	0.4	1.0	1.0	1.0
Staff Attorneys	0.7	2.0	3.0	3.0
Social Worker Coordinator	0.2	0.0	1.0	1.0
Executive Assistant	0.2	1.0	0.0	0.0
Attorney Reimbursement Specialist	0.2	1.0	1.0	1.0
Paralegal	0.0	1.0	0.0	0.0
Accountant	0.0	0.0	0.6	0.6
Staff Assistant	0.0	1.0	1.0	1.0
IT Specialist	0.0	1.0	0.0	0.0
Marketing Specialist	0.2	0.0	0.4	0.4
Total	2.8	10.0	10.0	10.0

STATUTORY AUTHORITY: Section 13-92-101 et seq., C.R.S.

REQUEST: The ORPC requests \$1,177,365 General Fund and 10.0 FTE, which is the same as the FY 2016-17 appropriation.

RECOMMENDATION: **Staff recommends approving the request**

HEALTH, LIFE, AND DENTAL

This line item provides funding for the employer's share of the cost of group benefit plans providing health, life, and dental insurance for ORPC staff.

STATUTORY AUTHORITY: Pursuant to Section 24-50-611, C.R.S., and defined in Section 24-50-603 (9), C.R.S.

REQUEST: The request includes \$85,931 General Fund.

RECOMMENDATION: **Staff recommends appropriating \$84,338 General Fund**, consistent with Committee policy with respect to employer contribution rates (these were the adjusted rates proposed by the Department of Personnel through a budget amendment). This amount includes funding for two positions that were recently filled.

SHORT-TERM DISABILITY

This line item provides funding for the employer's share of ORPC employees' short-term disability insurance premiums.

STATUTORY AUTHORITY: Pursuant to Section 24-50-611, C.R.S., and defined in Section 24-50-603 (9), C.R.S.

REQUEST: The request includes \$1,609 General Fund, based on applying a rate of 0.19 percent.

RECOMMENDATION: **Staff's recommendation for this line item is pending** the Committee's common policy for Salary Survey and Merit Pay. Staff's recommendation includes \$9 for Staff-initiated R1 (Compensation alignment), which is discussed at the beginning of this packet.

S.B. 04-257 AMORTIZATION EQUALIZATION DISBURSEMENT (AED)

Pursuant to S.B. 04-257, this line item provides additional funding to increase the state contribution for Public Employees' Retirement Association (PERA) for ORPC staff.

STATUTORY AUTHORITY: Pursuant to Section 24-51-411, C.R.S.

REQUEST: The request includes \$42,332 General Fund, based on applying a rate of 5.0 percent.

RECOMMENDATION: **Staff's recommendation for this line item is pending** the Committee's common policy for Salary Survey and Merit Pay. Staff's recommendation includes \$239 for Staff-initiated R1 (Compensation alignment), which is discussed at the beginning of this packet.

S.B. 06-235 SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT (SAED)

Pursuant to S.B. 06-235, this line item provides additional funding to increase the state contribution for PERA for ORPC staff.

STATUTORY AUTHORITY: Pursuant to Section 24-51-411, C.R.S.

REQUEST: The request includes \$42,332 General Fund, based on applying a rate of 5.0 percent.

RECOMMENDATION: **Staff's recommendation for this line item is pending** the Committee's common policy for Salary Survey and Merit Pay. Staff's recommendation includes \$239 for Staff-initiated R1 (Compensation alignment), which is discussed at the beginning of this packet.

SALARY SURVEY

The ORPC uses this line item to pay for annual salary increases.

STATUTORY AUTHORITY: Pursuant to Section 24-50-104, C.R.S.

REQUEST: The request includes \$23,045 General Fund for a 2.5 percent across-the-board salary increase for all employees based on existing salaries (including the Executive Director).

RECOMMENDATION: **Staff's recommendation is pending** the Committee's common policy for this line item. Staff's recommendation includes \$5,321 for Staff-initiated R1 (Compensation alignment), which is discussed at the beginning of this packet. In addition, staff requests permission to adjust this line item to maintain the alignment of the salary for the Executive Director with that of a District Court Judge.

MERIT PAY

The ORPC uses this line item to pay for performance-related pay increases.

STATUTORY AUTHORITY: Pursuant to Section 24-50-104 (1) (c), C.R.S.

REQUEST: The request includes \$0 General Fund.

RECOMMENDATION: **Staff's recommendation for this line item is pending** the Committee's common policy for Salary Survey and Merit Pay.

OPERATING EXPENSES

This line item provides funding for operating and travel expenses, and for reimbursement of actual and necessary expenses incurred by members of the Respondent Parents' Counsel Governing Commission.

STATUTORY AUTHORITY: Section 13-92-101 et seq., C.R.S.

REQUEST: The request includes \$61,833 General Fund. The request includes \$1,033 for ORPC BA2 (Social worker pilot program).

RECOMMENDATION: **Staff recommends appropriating \$87,221 General Fund.** The recommendation includes \$1,033 for ORPC BA2. In addition, staff recommends transferring \$25,388 from the Mandated Costs line item to this line item. This is the amount that is used to pay for independent contractor access to Westlaw services. This expense does not appear to fall under the definition of "mandated costs" that staff has provided below, so staff recommends reflecting it with other ORPC operating expenses.

CAPITAL OUTLAY

This line item provides funding for the one-time costs associated with new employees (office furniture, a computer and software, etc.).

STATUTORY AUTHORITY: Section 13-92-101 et seq., C.R.S.

REQUEST: The request includes \$0 General Fund.

RECOMMENDATION: **Staff recommends approving the request.**

LEGAL SERVICES

This line item provides funding for the Department to purchase legal services from the Department of Law.

STATUTORY AUTHORITY: Pursuant to 24-31-101 (1) (a), C.R.S., and defined in Section 24-75-112 (1) (i), C.R.S.

REQUEST: The request includes \$1,901 General Fund to purchase 20.0 hours of legal services.

RECOMMENDATION: **Staff recommends approving the request**, which reflects a continuation level of funding. The actual dollar amount of the appropriation will be calculated after the Committee sets the common policy for the legal services rate.

CASE MANAGEMENT SYSTEM

This line item provides funding for the development and implementation of an information system that allows the ORPC to manage cases and billing functions.

STATUTORY AUTHORITY: Section 13-92-101 et seq., C.R.S.

REQUEST: The request includes \$0 General Fund.

RECOMMENDATION: **Staff recommends approving the request.**

TRAINING

This line item provides funding for the ORPC to offer training opportunities for contract attorneys and other individuals as appropriate to ensure the provision and availability of high-quality legal representation for parents involved in dependency and neglect proceedings.

STATUTORY AUTHORITY: Section 13-92-101 et seq., C.R.S.

REQUEST: The request includes \$60,000 total funds, including \$30,000 General Fund and \$30,000 cash funds from training fees.

RECOMMENDATION: **Staff recommends approving the request**, which is the same appropriation as for FY 2016-17.

COURT-APPOINTED COUNSEL

This line item provides funding for contract attorneys who are appointed to represent respondent parents. Payments cover flat payments or hourly rates, as well as reimbursement for costs such as mileage, copying, postage, and travel expenses.

STATUTORY AUTHORITY: Section 13-92-101 et seq., C.R.S.

REQUEST: The request includes \$14,219,440 General Fund. Compared to the amended FY 2016-17 appropriation, the request includes \$785,902 for ORPC R1 (Conversion to hourly billing) and \$491,787 for ORPC R2/BA1 (Increase in case filings).

RECOMMENDATION: **Staff recommends appropriating \$13,827,934 General Fund.** The recommendation includes:

- \$785,902 for ORPC R1; and
- \$100,281 for ORPC R2/BA1.

MANDATED COSTS

This is one of several line item appropriations for "mandated costs". These costs are associated with activities, events, and services that accompany court cases that are required in statute and/or the U.S. and Colorado Constitutions to ensure a fair and speedy trial, and to ensure the right to legal representation. For the ORPC, these costs are anticipated to include the following:

- expert witnesses and expert witness travel reimbursement;
- transcripts; and
- interpreters - out of court.

STATUTORY AUTHORITY: Section 13-92-101 et seq., C.R.S.

REQUEST: The ORPC requests \$777,018 General Fund. Compared to the amended FY 2016-17 appropriation, the request includes \$21,282 for ORPC R2/BA1 (Increase in case filings) and \$300,000 for ORPC BA2 (Social worker pilot program).

RECOMMENDATION: **Staff recommends appropriating \$849,421 General Fund.** The recommendation includes:

- \$119,073 for ORPC R2/BA1; and
- \$300,000 for ORPC BA2.

In addition, staff recommends transferring \$25,388 from this line item to the Operating Expenses line item. This is the amount that is used to pay for independent contractor access to Westlaw services. This expenses does not appear to fall under the definition of “mandated costs” that staff has provided above, so staff recommends reflecting it with other ORPC operating expenses.

GRANTS

This is a new line item that was added through the supplemental bill for the Judicial Branch to reflect federal grant funds that the ORPC receives from the Department of Human Services. Similar to the Title IV-E funds that are reflected in the Office of the Child’s Representative budget, this amount includes an “I” notation indicating that it is not an appropriation and is reflected for informational purposes only.

STATUTORY AUTHORITY: Section 13-92-101 et seq., C.R.S.

REQUEST: The ORPC estimates that it will spend \$31,095 grant funds in FY 2017-18.

RECOMMENDATION: **Staff recommends reflecting \$31,095 reappropriated funds as requested.**

(9) OFFICE OF THE CHILD PROTECTION OMBUDSMAN

The Office of the Child Protection Ombudsman was created in 2010 to serve 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 Office operated as a non-profit organization under contract with the Department of Human Services. Senate Bill 15-204 established the Office of the Child Protection Ombudsman (OCPO) in the Judicial Department as an independent agency, and it established the Child Protection Ombudsman Board to oversee personnel decisions, operating policies and procedures, and budget.

The OCPO currently employs 4.5 FTE, and it is located in the Ralph L. Colorado Judicial Center, and the associated lease payment is covered through a single line item appropriation in the Courts Administration section of the Judicial Branch budget. The Office of the State Court Administrator provides free administrative support to the OCPO, including: accounting; accounts payable; preparation of budget schedules and decision items; expenditure monitoring; fiscal year-end transfers; workers' compensation and risk management; payroll and benefits; and a server room. The OCPO is supported entirely by General Fund appropriations.

DECISION ITEMS – OFFICE OF THE CHILD PROTECTION OMBUDSMAN

→ OCPO R1 OCPO STAFF AND SALARIES

REQUEST: The OCPO requests \$147,755 General Fund for three staffing-related purposes. First, the request includes \$84,649 to add 1.0 FTE Child Protection System's Analyst to address a growing number of individual complainant cases and systemic complaints that implicate statewide child protection practices.

Second, the request includes \$48,716 to convert a half-time Communications Director position to a full-time position.

Third, the request includes \$14,390 to increase the salary for the Ombudsman. The request is based on increasing the base salary to \$120,996 (plus \$2,730 based on application of the across-the-board 2.5 percent increase in all employee salaries). However, the request proposes a salary within a range of \$120,996 to \$159,320.

RECOMMENDATION:

Staffing Increases

Staff recommends approving the request to add 1.0 FTE to address the increasing number of calls and complaints concerning child protection services. Staff also recommends approving the request for funding to make the Communications Director position full time. This position helps the OCPO educate the public about the child protection system, and to establish and maintain a statewide, well-publicized, easily accessible, and transparent grievance process.

Please note that the budget request reflects two different base salary amounts for the new Child Protection System's Analyst position (\$55,000 and \$60,000). Staff has utilized the higher base salary,

as this is the amount that is included in the narrative portion of the request which was prepared by the Ombudsman (rather than the associated budget schedules that were prepared by the State Court Administrator's Office). In addition, due to the small number of OCPO employees, staff's recommendation includes funding for employee health, life, and dental insurance benefits for this position. This is not consistent with the Committee's standard policy for new FTE.

Ombudsman Salary

With respect to the Ombudsman's base salary, staff recommends approving the request to increase the salary from \$109,000 (the amount that is included in the FY 2016-17 appropriation) to \$120,996. This is the minimum of the salary range recommended by the Child Protection Ombudsman Board (\$120,996 to \$159,320). The maximum of the recommended range is based on the existing salary for a District Court judge, which is also the existing salary for the Directors of three other independent Judicial agencies. Staff believes that the minimum of the salary range is reasonable for several reasons:

- The Legislative Council Staff fiscal note for S.B. 15-204 (the bill that transferred the Ombudsman program over to the Judicial Branch) assumed that the OCPO would "generally continue current operations at existing salary and budgeting levels", with modifications for space build-out and adjustments to conform employee benefits (e.g., PERA) and operating expenses with state common policies. The FY 2016-17 appropriation for the OCPO includes \$42,810 more than anticipated in the fiscal note for the base salaries for the four positions that were transferred over from the original Ombudsman program – an increase of 15.7 percent. The General Assembly also approved a request to add \$55,000 for a half-time Public Information Officer/Communications Director. The recommended Ombudsman salary for FY 2017-18 (\$120,996) represents an increase of \$14,996 (14.2 percent) compared to the Ombudsman salary in the fiscal note.
- The information provided to date identifies a wide variety of potentially comparable positions with varying salaries ranging from \$55,694 to \$197,000.
- The organizations associated with the potentially comparable positions vary significantly in size and complexity. The Ombudsman runs a relatively small office, which currently consists of four employees.
- The compensation for the directors of the four independent judicial agencies that provide legal representation are required to be "fixed by the general assembly" and may not be reduced during the director's term:
 - OSPD: Section 21-1-102 (2), C.R.S.
 - OADC: Section 21-2-102 (2), C.R.S.
 - OCR: Section 13-91-104 (3) (a) (III), C.R.S.
 - ORPC: Section 13-92-103 (4) (b), C.R.S.

The salaries for these Directors are established in the same Long Bill footnote that establishes judicial officer salaries. It is staff's understanding that this policy was established because these Directors work with judges all across the state, and they oversee hundreds of attorneys (either employees or contract attorneys) who regularly represent clients in district court. This rationale does not appear to correspond to the duties of the Ombudsman.

- The recommended Ombudsman salary is 9.8 percent higher than the existing salary for the Manager of the Administrative Review Unit in the Department of Human Services. This 26-person unit conducts federally required case reviews and quality assurance for both the Division of Child Welfare and the Division of Youth Corrections. This involves conducting on-site case review and face-to-face meetings with children in out of home placement, reviewing child

welfare assessments and cases where families are receiving in-home services, and providing independent assessment of requirements and practice related to the key decision making steps within the child welfare system.

BACKGROUND INFORMATION

General Assembly Requirement to Set Ombudsman Salary

Pursuant to S.B. 15-204, the General Assembly is also now required to “set” the Child Protection Ombudsman’s compensation, and such compensation may not be reduced during the term of the Ombudsman’s appointment⁴³. The role and mission of the Office of the Child Protection Ombudsman differs from that of the four agencies that provide legal representation, and it is unclear to staff what the General Assembly intended with respect to the process of setting the Ombudsman’s compensation. The appropriations that were included in S.B. 15-204 and the associated Legislative Counsel Staff fiscal note were based on the assumption that the Office would generally continue current operations at existing salary and budget levels.

Last March, the OCPO submitted a budget amendment to increase the salary of the Ombudsman to that of a district court judge (from \$109,000 to \$159,320), consistent with the Directors of OADC, OCR, and ORPC. Staff recommended denying this request because the rationale for tying the other Director’s salaries to that of a judge did not appear to correspond to the duties of the Ombudsman. Further, the existing salary of the Ombudsman was within one of the comparable ranges that was identified in a memo prepared by the State Court Administrator’s Office at the request of the Ombudsman. The salary was also equivalent to the salary for a position that appeared to be a comparable based on the individual’s role and level of responsibilities (the Manager of the Administrative Review Unit in the Department of Human Services). The Committee approved this recommendation, and the Long Bill appropriation was based on maintaining the Ombudsman salary of \$109,000. The FY 2017-18 budget request from the OCPO states that, “The Ombudsman’s salary has never been set by the Legislature as required by Senate Bill 15-204.” Staff assumed that the General Assembly set the Ombudsman’s salary when it acted on this request and approved a corresponding budget.

Information Provided Concerning Comparable Positions

The request indicates that the Child Protection Ombudsman Board recommends a salary range of \$120,996 to \$159,320 for the Ombudsman. The request includes \$14,390 based on the minimum salary of the recommended range, but the request clearly anticipates that the Joint Budget Committee will determine an appropriate salary within the range. The request includes an appendix that identifies three bodies of information that the Child Protection Board referenced:

- The International Ombudsman Association Survey of Ombudsman Compensation (2010).
- A memo from the human resources unit within the State Court Administrator’s Office, dated September 11, 2015, that recommends a salary range of \$120,996 to \$159,320. This memo discusses a variety of comparable salaries including:
 - A Judge on the Colorado Court of Appeals (\$166,170)
 - Associate Ombudsman for the Federal Reserve Bank (\$107,000 to \$197,000)
 - Associate Ombudsman for the U.S. State Department (\$55,694 to \$94,000)
 - Ombudsman Director for Baylor College of Medicine (\$160,000)

⁴³ See Section 19-3.3-102 (3) (a) (I), C.R.S.

- Legal Division Director for the OSPD (\$167,286)
- Director of the OCR (\$159,320)
- A second memo from the human resources unit within the State Court Administrator’s Office, dated October 12, 2016, that appears to recommend a salary range of \$115,000 to \$166,188. This memo identifies various director level and above positions within the Judicial Branch, including:
 - Attorney Regulation Counsel (\$167,994)
 - Legal Division Program Director for OSPD (\$134,808 to \$166,188))
 - Executive Directors of the OCR, OADC, ORPC, and Colorado Commission on Judicial Discipline (\$159,319)
 - Directors of Probation Services and Court Services (\$159,319)
 - Director of the Independent Ethics Commission (\$115,000)

LINE ITEM DETAIL – OFFICE OF THE CHILD PROTECTION OMBUDSMAN

PROGRAM COSTS

This is a consolidated line item that includes funding for OCPO operations, including personal services, employee benefits, and operating expenses.

STATUTORY AUTHORITY: Section 19-3.3-101 et seq., C.R.S.

REQUEST: The OCPO requests \$769,112 General Fund and 6.0 FTE.

RECOMMENDATION: Staff’s recommendation is pending Committee common policies for Salary Survey and Merit Pay for FY 2017-18. For these components, staff is currently reflecting the proposed 2.5 percent increase for Salary Survey. The following table details the components of this consolidated line item. Staff’s recommendation maintains funding for the existing 4.5 FTE, the requested increase of 1.5 FTE, plus \$10,000 for contractual services. Staff’s recommendation applies Committee policy concerning employer contribution rates for health, life, and dental insurance, short-term disability insurance, and supplemental PERA payments (AED and SAED).

ILLUSTRATION OF ALLOCATION OF RECOMMENDED APPROPRIATION TO THE OFFICE OF THE CHILD PROTECTION OMBUDSMAN FOR PROGRAM COSTS	
DESCRIPTION	AMOUNT
Personal Services	\$538,575
Health, Life, and Dental	74,937
Short-term Disability	920
S.B. 04-257 Amortization Equalization Disbursement	24,199
S.B. 06-235 Supplemental Amortization Equalization Disbursement	24,199
Salary Survey	11,540
Merit Pay	0
Operating Travel and Training Expenses	99,526
TOTAL	\$773,895

The next table provides more details about the calculation of the staff recommendation for this line item. Please note that the OCPO request reflects a \$15,000 increase in the base salary for

the Deputy Ombudsman (from \$83,664 to \$98,664, prior to the proposed across-the-board 2.5 percent increase). The FY 2016-17 appropriation was based on a salary of \$83,664, which was the minimum of the salary range for a Probation Services Analyst IV; this was identified as a comparable position by the State Court Administrator’s Office. The request does not address the reason for the \$15,000 increase. The request also reflects base salaries for two other positions that are slightly lower than anticipated in the FY 2016-17 appropriation. Consistent with Committee policy, staff has maintained the total base salaries that were funded for FY 2016-17. However, to more accurately reflect the likely allocation of funds, staff has shifted funding from the two positions with lower than anticipated salaries (a reduction of \$7,747) to the Deputy Ombudsman position.

CALCULATION OF STAFF RECOMMENDATION FOR OCPO PROGRAM COSTS LINE ITEM: FY 2017-18						
OCPO STAFF POSITIONS	FY 2016-17 APPROPRIATION		FY 2017-18 RECOMM.		CHANGE	
	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
Ombudsman (R1)	1.0	\$109,000	1.0	\$120,996	0.0	\$11,996
Deputy Ombudsman	1.0	83,664	1.0	91,411	0.0	7,747
Communications/ PIO (R1)	0.5	45,327	1.0	80,000	0.5	34,673
Child Protection System’s Analyst (previously called an Investigator)	1.0	64,420	1.0	62,000	0.0	(2,420)
Child Protection System’s Analyst (R1)			1.0	60,000	1.0	60,000
Intake Manager/ Intake and Administration Coordinator	<u>1.0</u>	<u>59,226</u>	<u>1.0</u>	<u>59,226</u>	<u>0.0</u>	<u>0</u>
Subtotal: Base Salaries	4.5	361,637	6.0	473,633	1.5	111,996
PERA (10.15%)		36,706		48,074		11,368
Medicare (1.45%)		5,244		6,868		1,624
Other Professional Services		<u>10,000</u>		<u>10,000</u>		<u>0</u>
Total Personal Services	4.5	\$413,587	6.0	\$538,575	1.5	\$124,988
Health, Life, and Dental		44,259		74,937		30,678
Short-term Disability		687		920		233
S.B. 04-257 Amortization Equalization Disbursement		17,359		24,199		6,840
S.B. 06-235 Supplemental Amortization Equalization Disbursement		17,178		24,199		7,021
Salary Survey (includes PERA and Medicare; assumes 2.5 percent)		0		11,540		11,540
Merit Pay		0		0		0
Operating Travel and Training Expenses		<u>98,576</u>		<u>99,526</u>		<u>950</u>
Program Costs		\$591,646		\$773,895		\$182,249
Legal Services (actual rate is pending)		22,812		7,941		(14,871)
Grand Total	4.5	614,458	6.0	781,836	(4.5)	167,378

LEGAL SERVICES

This line item provides funding for the OCPO to purchase legal services from the Department of Law.

STATUTORY AUTHORITY: Pursuant to 24-31-101 (1) (a), C.R.S., and defined in Section 24-75-112 (1) (i), C.R.S.

REQUEST: The OCPO requests funding sufficient to purchase 240 hours of legal services.

RECOMMENDATION: Staff recommends providing funding sufficient to allow the OCPO to purchase 80 hours of legal services in FY 2017-18. In FY 2016-17, the OCPO required legal services to facilitate the continuity of program operations as the program transitioned from the Department of Human Services to the Judicial Branch, as well as support for the new Board. Last year, the Ombudsman indicated that she did not anticipate the need for ongoing legal services in FY 2017-18. Based on recent discussions with the Ombudsman, staff recommends providing funding for 80 hours of legal services. The Ombudsman has identified the following ongoing needs for legal services:

- *Legal complexity of calls/CPO's increased need to do records requests:* Overall, the CPO has received an abundance of calls that are much more complex in nature than in previous years. These calls are regarding issues affecting children in the Division of Youth Corrections, the Intellectual and Developmental Disabilities community as well as significant concerns regarding adoptive family subsidies statewide. These cases require an extensive amount of research, as well as legal guidance regarding the interpretation of various federal and state laws. Further, these cases are requiring us to file a larger number of records requests from agencies that are not currently familiar with our office. Initially, I anticipate that some agencies will not be willing to release records—primarily because they are unfamiliar with our statutory authority to receive them. While our office intends to work cooperatively with these agencies, I do anticipate utilizing the Attorney General to guide our approach, review our record requests and assist in responding to agencies if and when we encounter difficulty.
- *Legal challenges to CPO authority to investigate:* As a new, independent agency, we are beginning to do more systemic investigations involving agencies outside of the child welfare arena. Despite tremendous educational outreach on our part, many agencies are unfamiliar with our jurisdiction at this time. I anticipate that the CPO will need to seek out legal guidance and assistance in responding to agency challenges to our statutory mandate and duty to investigate.
- *Legal guidance on CORA:* Beginning January 2016, the CPO became subject to the Colorado Open Records Act (CORA). In doing so, we anticipate an increase in requests for our records from the media and the public. At this time, our communications program is still in its building stage. Until we are able to secure resources and develop communications policies that allow for the consistent and regular posting of information, I anticipate the need to rely on the Attorney General for their guidance in our response to CORA requests.
- *Legal advice for the Advisory Board on Human Resource Laws/Open Meeting Laws/Confidentiality:* The Attorney General continues to meet with the Board bi-monthly as they navigate through their duties and responsibilities. The Board is responsible for evaluating the Ombudsman each year. As such, they rely heavily on the Attorney General to guide them through the proper procedures under OML and applicable human resource laws. This will be an ongoing need for the board.
- *Open Board Seats:* In August 2017, the Board will have 7 open seats. I anticipate the need for the Attorney General to assist and advise the new members on their legal duties and responsibilities including providing legal advice regarding Open Meeting Laws and federal and state confidentiality laws that govern the CPO's work.

(10) INDEPENDENT ETHICS COMMISSION

The Independent Ethics Commission (IEC) is a five-member body established through a constitutional amendment that was approved by voters in 2006⁴⁴. The purpose of the IEC is to give advice and guidance on ethics-related matters arising under the Colorado Constitution and any other standards of conduct or reporting requirements provided by law concerning public officers, members of the General Assembly, local government officials, or government employees. The IEC hears complaints, issues findings, assesses penalties and sanctions where appropriate, and issues advisory opinions. The members of the IEC are appointed by the Governor, the Chief Justice of the Supreme Court, the Senate, the House of Representatives, and the IEC itself. Commission members serve without compensation but are reimbursed for actual and necessary expenses incurred.

The IEC is an independent agency within the Judicial Branch, and it is currently supported by one employee. The IEC is located in the Ralph L. Colorado Judicial Center, and the associated lease payment is covered through a single line item appropriation in the Courts Administration section of the Judicial Branch budget. The Office of the State Court Administrator provides free administrative support to the IEC, including: accounting; accounts payable; preparation of budget schedules and decision items; expenditure monitoring; procurement; fiscal year-end transfers; workers' compensation and risk management; payroll and benefits; recruitment; and information technology support (e-mail, desktop support, and server room). The IEC is supported entirely by General Fund appropriations.

JUDICIAL DEPARTMENT						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2016-17 APPROPRIATION						
HB 16-1405 (Long Bill)	\$359,097	\$359,097	\$0	\$0	\$0	1.0
TOTAL	\$359,097	\$359,097	\$0	\$0	\$0	1.0
FY 2017-18 RECOMMENDED APPROPRIATION						
FY 2016-17 Appropriation	\$359,097	\$359,097	\$0	\$0	\$0	1.0
Centrally appropriated line items	12,655	12,655	0	0	0	0.0
TOTAL	\$371,752	\$371,752	\$0	\$0	\$0	1.0
INCREASE/(DECREASE)	\$12,655	\$12,655	\$0	\$0	\$0	0.0
Percentage Change	3.5%	3.5%	n/a	n/a	n/a	0.0%
FY 2017-18 EXECUTIVE REQUEST						
Request Above/(Below) Recommendation	\$313	\$313	\$0	\$0	\$0	0.0

⁴⁴ See Article XXIX of the Colorado Constitution and Section 24-18.5-101, C.R.S.

DECISION ITEMS – INDEPENDENT ETHICS COMMISSION (NONE)

The IEC did not submit any decision items.

LINE ITEM DETAIL – INDEPENDENT ETHICS COMMISSION

PROGRAM COSTS

This is a consolidated line item that includes funding for the 1.0 FTE that supports the Commission, including personal services, employee benefits, and operating expenses.

STATUTORY AUTHORITY: Article XXIX of the State Constitution and Section 24-18.5-101 *et seq.*, C.R.S.

REQUEST: The IEC requests a total of \$193,402 General Fund and 1.0 FTE.

RECOMMENDATION: **Staff's recommendation is pending Committee common policies for Salary Survey and Merit Pay for FY 2017-18.** For these components, staff is currently reflecting the requested 2.5 percent increase for Salary Survey. **The following table details the components of this consolidated line item. Staff's recommendation maintains funding for 1.0 FTE Director, plus \$10,000 for contractual services.** Staff's recommendation applies Committee policy concerning employer contribution rates for health, life, and dental insurance, short-term disability insurance, and supplemental PERA payments (AED and SAED).

Recommended Appropriations for the Independent Ethics Commission Program Costs			
Description	Current Appropriation	Adjustments	Recommended Appropriation
Personal Services	\$136,366	\$0	\$136,366
Health, Life, and Dental	15,613	1,124	16,737
Short-term Disability	215	6	221
S.B. 04-257 Amortization Equalization Disbursement (AED)	5,435	368	5,803
S.B. 06-235 Supplemental Amortization Equalization Disbursement (SAED)	5,378	425	5,803
Salary Survey (2.5%)	0	3,159	3,159
Merit Pay (0.0%)	0	0	0
Operating Expenses	25,000	0	25,000
TOTAL	\$188,007	\$5,082	\$193,089

LEGAL SERVICES

This line item provides funding for the IEC to purchase legal services from the Department of Law.

STATUTORY AUTHORITY: Pursuant to 24-31-101 (1)(a), C.R.S., and defined in Section 24-75-112 (1)(i), C.R.S.

REQUEST: The IEC requests funding sufficient to purchase 1,800 hours of legal services.

RECOMMENDATION: Staff recommends approving the request, which maintains the existing level of legal services and is the equivalent of 1.0 FTE at the Department of Law. The following table provides a recent history of appropriations and expenditures for IEC legal services.

INDEPENDENT ETHICS COMMISSION: LEGAL SERVICES					
FISCAL YEAR	APPROPRIATION		ACTUAL EXPENDITURES	ESTIMATED NUMBER OF HOURS PURCHASED	(REVERSION)/ SHORTFALL
	DOLLARS	HOURS			
2010-11	\$67,842	900	\$34,217	466	(\$33,625)
2011-12	68,139	900	54,315	717	(13,824)
2012-13	69,525	900	75,945	983	6,420
2013-14	81,972	900	150,252	1,650	68,280
2014-15	176,931	1,787	144,182	1,456	(32,749)
2015-16	171,018	1,800	135,725	1,429	(35,293)
2016-17	171,090	1,800			
2017-18 Recomm.	Pending	1,800			

LONG BILL FOOTNOTES AND REQUESTS FOR INFORMATION

LONG BILL FOOTNOTES

Staff recommends the following **NEW** footnotes:

None.

Staff recommends **CONTINUING** and **CONTINUING AND MODIFYING** the following footnotes:

- 56 Judicial Department, Supreme Court and Court of Appeals, Appellate Court Programs; Trial Courts, Trial Court Programs; Office of the State Public Defender, Personal Services; Office of the Alternate Defense Counsel, Personal Services; Office of the Child's Representative, Personal Services; Office of the Respondent Parents' Counsel, Personal Services -- In accordance with Section 13-30-104 (3), C.R.S., funding is provided for judicial compensation, as follows:

	FY 2016-17		FY 2017-18
	Salary	Increase	Salary
Chief Justice, Supreme Court	\$176,799	\$10,128	\$186,927
Associate Justice, Supreme Court	173,024	9,912	182,936
Chief Judge, Court of Appeals	169,977	9,738	179,715
Associate Judge, Court of Appeals	166,170	9,519	175,689
District Court Judge, Denver Juvenile Court Judge, and Denver Probate Court Judge	159,320	9,127	168,447
County Court Judge	152,466	8,734	161,200

Funding is also provided in the Long Bill to maintain the salary of the State Public Defender at the level of an associate judge of the Court of Appeals and to maintain the salaries of the Alternate Defense Counsel, the Executive Director of the Office of the Child's Representative, and the Executive Director of the Office of the Respondent Parents' Counsel at the level of a district court judge.

COMMENT: This footnote first appeared in the FY 1999-00 Long Bill. Sections 13-30-103 and 104, C.R.S., established judicial salaries for various fiscal years during the 1990s [through H.B. 98-1238]. These provisions state that any salary increases above those set forth in statute "shall be determined by the general assembly as set forth in the annual general appropriations bill." The General Assembly annually establishes judicial salaries through this footnote in the Long Bill. The footnote also establishes the salaries for the individuals who head four of the independent judicial agencies by tying them to specific judicial salaries.

Please note that pursuant to S.B. 15-288, the salaries listed in statute for certain state officials and state legislators will also be benchmarked to certain judicial officers' salaries beginning in January 2019.

Consistent with staff recommendation at the beginning of this packet, the salaries listed in the above footnote for FY 2017-18 reflect an increase of about 5.73 percent, based on application of the Governor's proposed 2.5 percent across-the-board increase and an additional 3.15 percent. Staff requests permission to adjust the footnote as appropriate once the Committee establishes a common policy for Salary Survey and Merit Pay. As judicial officers do not receive "merit" pay, staff proposed using the sum of any percent increases approved by the Committee to be included in Salary Survey and Merit Pay line item appropriations.

- 58 Judicial Department, Probation and Related Services, Offender Treatment and Services -- It is the intent of the General Assembly that \$624,877 of the General Fund appropriation for Offender Treatment and Services be used to provide treatment and services for offenders participating in veterans treatment courts, including peer mentoring services.

COMMENT: This footnote identifies the amount of funding within the Offender Treatment and Services line item appropriation that is intended to support treatment and services for offenders participating in veterans treatment courts. The Department has requested continuation of the full \$624,877 for FY 2017-18.

- 59 Judicial Department, Office of the State Public Defender -- 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 State Public Defender appropriation may be transferred between line items in the Office of the State Public Defender.

COMMENT: This is the first of six footnotes that authorize the independent agencies to transfer a limited amount of funding among their own line item appropriations, over and above transfers that are statutorily authorized. Section 24-75-108 (5), C.R.S., allows the Chief Justice of the Colorado Supreme Court to authorize transfers between items of appropriation made to the Judicial Branch, subject to certain limitations. One of these limitations is expressed in Section 24-75-110, C.R.S., which limits the total amount of over expenditures and moneys transferred within the Judicial Branch to \$1.0 million per fiscal year. This footnote provides the OSPD with the authority to transfer up to 2.5 percent of its total annual appropriation between line items.

- 60 Judicial Department, Office of the Alternate Defense 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 Alternate Defense Counsel appropriation may be transferred between line items in the Office of the Alternate Defense Counsel.

COMMENT: This footnote provides the OADC with the authority to transfer up to 2.5 percent of its total annual appropriation between line items.

- 61 Judicial Department, Office of the Child's Representative -- 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 Child's Representative's appropriation may be transferred between line items in the Office of the Child's Representative.

COMMENT: This footnote provides the OCR with the authority to transfer up to 2.5 percent of its total annual appropriation between line items.

- 62 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.

COMMENT: This footnote provides the Office of the Respondent Parents' Counsel (ORPC) with the authority to transfer up to 2.5 percent of its total annual appropriation between line items.

- 63 Judicial Department, Office of the Child Protection Ombudsman -- In addition to the transfer authority provided in Section 24-75-108 (5), C.R.S., up to 10.0 percent of the total Office of the Child Protection Ombudsman appropriation may be transferred between line items in the Office of the Child Protection Ombudsman.

COMMENT: This footnote provides the Office with the authority to transfer up to 10.0 percent of its total annual appropriation between line items.

- 64 Judicial Department, Independent Ethics Commission -- In addition to the transfer authority provided in Section 24-75-108 (5), C.R.S., up to 10.0 percent of the total Independent Ethics Commission appropriation may be transferred between line items in the Independent Ethics Commission.

COMMENT: This footnote provides the Commission with the authority to transfer up to 10.0 percent of its total annual appropriation between line items.

Staff recommends **DISCONTINUING** the following footnotes:

- 57 Judicial Department, Trial Courts, Court Costs, Jury Costs, and Court-appointed Counsel; Trial Courts, ACTION and Statewide Discovery Sharing Systems; Office of the State Public Defender, Mandated Costs; Office of the Alternate Defense Counsel, Mandated Costs; and Office of the Child's Representative, Mandated Costs -- In addition to the transfer authority provided in Section 24-75-108 (5), C.R.S., up to \$1,000,000 may be transferred among the five line item appropriations specified above if necessary based on changes to the statewide discovery sharing system implementation schedule. It is the General Assembly's intent that such transfers be made upon mutual agreement between the State Court Administrator's Office and the impacted independent agencies.

COMMENT: This footnote was first included in the 2016 Long Bill to allow the Judicial Branch some flexibility to shift resources among agencies, if warranted based on changes to the eDiscovery implementation schedule.

REQUESTS FOR INFORMATION

Staff recommends the following **NEW** requests for information:

N JUDICIAL DEPARTMENT, COURTS ADMINISTRATION, CENTRAL APPROPRIATIONS, HEALTH, LIFE, AND DENTAL; OFFICE OF THE STATE PUBLIC DEFENDER, HEALTH, LIFE, AND DENTAL; OFFICE OF THE ALTERNATE DEFENSE COUNSEL, HEALTH, LIFE, AND DENTAL; OFFICE OF THE CHILD’S REPRESENTATIVE, HEALTH, LIFE, AND DENTAL; OFFICE OF THE RESPONDENT PARENTS’ COUNSEL, HEALTH, LIFE, AND DENTAL; OFFICE OF THE CHILD PROTECTION OMBUDSMAN, PROGRAM COSTS; AND INDEPENDENT ETHICS COMMISSION, PROGRAM COSTS – THE STATE COURT ADMINISTRATOR’S OFFICE IS REQUESTED TO PROVIDE BY NOVEMBER 1, 2017, A REPORT CONCERNING THE FEASIBILITY OF INCLUDING A SINGLE LINE ITEM APPROPRIATION IN THE FY 2018-19 LONG BILL FOR JUDICIAL BRANCH EMPLOYEE HEALTH, LIFE, AND DENTAL INSURANCE BENEFITS. THE OFFICE IS REQUESTED TO DISCUSS THIS PROPOSAL WITH EACH OF THE SIX INDEPENDENT JUDICIAL AGENCIES, AND SEEK INPUT CONCERNING THE ASSOCIATED BENEFITS AND CHALLENGES.

COMMENT: As discussed more fully in the staff recommendation for the Health, Life, and Dental line item appropriation in the Courts Administration, Central Appropriations, section, staff recommends including a new request for information that asks the State Court Administrator’s Office to work with the independent agencies to explore the feasibility of establishing a single appropriation for Health, Life, and Dental benefits for all Judicial Branch employees.

N JUDICIAL DEPARTMENT, COURTS ADMINISTRATION, RALPH L. CARR COLORADO JUDICIAL CENTER, CONTROLLED MAINTENANCE – THE STATE COURT ADMINISTRATOR’S OFFICE IS REQUESTED TO PROVIDE BY NOVEMBER 1, 2017, A REPORT CONCERNING ITS PLANS FOR ADDRESSING THE CONTROLLED MAINTENANCE NEEDS OF THE CARR CENTER, CONSISTENT WITH S.B. 08-206. THE REPORT SHOULD INCLUDE ANY RECOMMENDED STATUTORY CHANGES OR CHANGES TO THE APPROPRIATION STRUCTURE TO ENSURE THAT REVENUES FROM COURT FEES, LEASE PAYMENTS, AND PARKING FEES CAN BE USED TO COVER BOTH CURRENT AND FUTURE CONTROLLED MAINTENANCE EXPENSES.

COMMENT: As discussed more fully in the staff recommendation for the Controlled Maintenance line item appropriation in the Courts Administration, Ralph L. Carr Colorado Judicial Center section, staff recommends including a new request for information that asks the State Court Administrator’s Office to report concerning its plans for addressing current and future controlled maintenance expenses.

Staff recommends **CONTINUING** and **CONTINUING AND MODIFYING** the following request for information:

Requests Applicable to Multiple Departments, Including Judicial Branch

4 Department of Corrections; Department of Human Services; Judicial Department; Department of Public Safety; and Department of Transportation -- State agencies involved in multi-agency programs requiring separate appropriations to each agency are requested to designate one lead agency to be responsible for submitting a comprehensive annual budget request for such programs to the Joint Budget Committee, including prior year, request year, and three year forecasts for revenues into the fund and expenditures from the fund by agency. The requests should be sustainable for the length of the forecast based on

anticipated revenues. Each agency is still requested to submit its portion of such request with its own budget document. This applies to requests for appropriation from: the Alcohol and Drug Driving Safety Program Fund, the Law Enforcement Assistance Fund, the Offender Identification Fund, the Persistent Drunk Driver Cash Fund, and the Sex Offender Surcharge Fund, among other programs.

COMMENT: This request is intended to ensure that state agencies coordinate requests that draw on the same cash fund. It is also intended to ensure that for each fund listed, one department includes a comprehensive annual budget request for that fund.

Requests Applicable to Judicial Branch Only

- 1 Judicial Department, Office of the State Public Defender – The State Public Defender is requested to provide by November 1, ~~2016~~, 2017, a report concerning the Appellate Division's progress in reducing its case backlog, including the following data for FY ~~2015-16~~: 2016-17: the number of new cases; the number of opening briefs filed by the Office of the State Public Defender; the number of cases resolved in other ways; the number of cases closed; and the number of cases awaiting an opening brief as of June 30, ~~2016~~, 2017.

COMMENT: In the Fall of 2013, the Office of the State Public Defender (OSPD) submitted a request to add 16.0 FTE to reduce a growing backlog of appellate cases. This funding request was submitted in response to a request for information from the General Assembly. The General Assembly approved the request and appropriated \$839,684 General Fund for FY 2014-15. The above request was included to allow the General Assembly to monitor the OSPD's progress in reducing the backlog. The Committee sends a similar request for information to the Department of Law to monitor that agency's progress in reducing the backlog of criminal appellate cases.

- 2 Judicial Department, Probation and Related Services – The State Court Administrator's Office is requested to provide by November 1 of each year a report on pre-release rates of recidivism and unsuccessful terminations and post-release recidivism rates among offenders in all segments of the probation population, including the following: adult and juvenile intensive supervision; adult and juvenile minimum, medium, and maximum supervision; and the female offender program. The Office is requested to include information about the disposition of pre-release failures and post-release recidivists, including how many offenders are incarcerated (in different kinds of facilities) and how many offenders return to probation as the result of violations.

COMMENT: This report provides useful information on the success of the various probation programs.

3. Judicial Department, Trial Courts, District Attorney Mandated Costs – District Attorneys in each judicial district shall be responsible for allocations made by the Colorado District Attorneys' Council's Mandated Cost Committee. Any increases in this line item shall be requested and justified in writing by the Colorado District Attorneys' Council, rather than the Judicial Department, through the regular appropriation and supplemental appropriation processes. The Colorado District Attorneys' Council is requested to submit an annual report by November 1 detailing how the District Attorney Mandated Costs appropriation is spent, how it is distributed, and the steps taken to control these costs.

COMMENT: This request indicates that the Colorado District Attorneys' Council (CDAC) is responsible for submitting the budget request related to the District Attorney Mandated Costs line item, and asks that the CDAC provide information annually concerning actual expenditures and steps taken to control costs.

Section 20-1-110, C.R.S., authorizes District Attorneys (DAs) to participate in an intergovernmental cooperative relationship concerning criminal prosecution (*e.g.*, the CDAC), and to enter into contracts on behalf of his or her judicial district for cooperation with other DAs concerning such prosecution and prosecution-related services. Further, Section 20-1-111, C.R.S., authorizes DAs to cooperate or contract with one another to provide any function or service lawfully authorized to each of the cooperating or contracting DAs, "including the sharing of costs and the administration and distribution of moneys received for mandated costs." This provision also authorizes DAs to "allocate up to five percent of the moneys received for mandated costs authorized by the general assembly for administrative expenses".

4. Judicial Department, Probation and Related Services, Offender Treatment and Services – The State Court Administrator's Office is requested to provide by November 1 of each year a detailed report on how this appropriation is used, including the amount spent on testing, treatment, and assessments for offenders.

COMMENT: This consolidated line item was created in FY 2006-07. The purpose of this format change was to: (a) provide increased flexibility to local probation departments to allocate funds for treatment and services for indigent offenders or those otherwise unable to pay; and (b) reduce year-end reversions of unspent cash funds. This request ensures that the General Assembly is informed of the actual allocation and expenditure of these funds.

INDIRECT COST ASSESSMENTS

DESCRIPTION OF INDIRECT COST ASSESSMENT METHODOLOGY

The Judicial Branch's indirect cost assessment methodology is based on an "*Indirect Cost Pool*", which is allocated among fund sources based on estimates of the relative benefit that each program area receives from each component of the Indirect Cost Pool.

The Branch's Indirect Cost Pool is comprised of the General Fund share of several line item appropriations that appear in three sections of the Long Bill, listed below.

Courts Administration

*General Courts Administration

Information Technology Infrastructure

Workers' Compensation

Legal Services

Payment to Risk Management and Property Funds

Leased Space

Payments to OIT

CORE Operations

One line item appropriation that is included in the Department's Indirect Cost Pool (noted with an asterisk above) supports personal services and operating expenses in the State Court Administrator's Office. The Department only includes that portion of the appropriation that relates to administrative positions. The Department also includes the associated costs of administrative employees' benefits. The Department's Indirect Cost Pool is based on appropriated amounts for the previous fiscal year (e.g., the Indirect Cost Pool for FY 2017-18 is based on FY 2016-17 appropriations).

Please note that in previous years the Department also included a portion of the appropriations for both Trial Court Programs and Probation Programs in the indirect cost pool. Beginning in FY 2016-17, the Department has excluded these amounts from the indirect cost pool. The Department also increased the portion of appropriations for personnel and operating expenses for General Courts Administration that are included in the indirect cost pool (from 64.6 percent to 79.6 percent). The net impact of these changes was to reduce the indirect cost pool by \$10.1 million. The Department indicates that Trial Court and Probation salaries and benefits are direct costs identified with a particular district and deemed part of the final cost objective for that district. The Department indicates that this change is based on the following two resources:

- Guidance for developing a Federal Indirect Cost Proposal outside of a State Allocation Plan - <https://rates.psc.gov/fms/dca/ASMBc-10.pdf>
- Updates for grant administration and cost principles are available under the Uniform Guidance. That website is <https://www.federalregister.gov/articles/2013/12/26/2013-30465/uniform-administrative-requirements-cost-principles-and-audit-requirements-for-federal-awards>.

INDIRECT COST POOL

Table 1 outlines which line items are included in the Department’s Indirect Cost Pool for FY 2017-18.

TABLE 1				
DIVISION	JUDICIAL DEPARTMENT: INDIRECT COST POOL LINE ITEM	FY 2016-17 GENERAL FUND APPROPRIATION	PERCENT OF COSTS INCLUDED IN INDIRECT COST POOL	FY 2017-18 INDIRECT COST POOL COMPONENTS
Courts Administration	General Courts Administration - Personal Services and Operating Expenses	\$17,598,119	81.8%	\$14,395,261
	Health, Life, and Dental - Administration	1,863,988	81.8%	1,524,742
	Short-term Disability - Administration	35,847	81.8%	29,323
	S.B. 04-257 AED - Administration	905,610	81.8%	740,789
	S.B. 06-235 SAED - Administration	896,176	81.8%	733,072
	Salary Survey - Administration	291,311	81.8%	238,293
	Information Technology Infrastructure	0	100.0%	0
	Workers’ Compensation	1,383,287	100.0%	1,383,287
	Legal Services	190,100	100.0%	190,100
	Purchase of Services from Computer Center	0	100.0%	0
	Multiuse Network Payments	0	100.0%	0
	Payment to Risk Management and Property Funds	873,467	100.0%	873,467
	Leased Space - State Court Administrator's Office	2,536,816	100.0%	2,536,816
	Communication Services	0	100.0%	0
	Payments to OIT	2,613,057	100.0%	2,613,057
	CORE Operations	856,852	100.0%	856,852
	Lease Purchase	0	100.0%	0
Trial Courts	Trial Court Programs - Personal Services and Operating Expenses	121,244,731	0.0%	0
	Health, Life, and Dental - Trial Courts	14,831,220	0.0%	0
	Short-term Disability - Trial Courts	132,207	0.0%	0
	S.B. 04-257 AED - Trial Courts	4,416,932	0.0%	0
	S.B. 06-235 SAED - Trial Courts	4,039,471	0.0%	0
	Salary Survey - Trial Courts	288,451	0.0%	0
Probation and Related Services	Probation Programs - Personal Services and Operating Expenses	75,370,449	0.0%	0
	Health, Life, and Dental - Probation	8,622,068	0.0%	0
	Short-term Disability - Probation	118,767	0.0%	0
	S.B. 04-257 AED - Probation	3,001,934	0.0%	0
	S.B. 06-235 SAED - Probation	2,970,664	0.0%	0
	Salary Survey - Probation	13,105	0.0%	0
Departmental Indirect Cost Pool				\$26,115,059

INDIRECT COST RATE

As detailed in **Table 2**, the Department calculates an *Indirect Cost Rate* for each general program area. The Department first allocates each component of the Indirect Cost Pool among general program areas. While most components are categorized as “general overhead” because they benefit all program areas in a similar manner, some components only benefit one program area. The Department then calculates an Indirect Cost Rate for each program area by comparing the program area’s allocation from the Indirect Cost Pool to total Long Bill appropriations for the Department (including all state fund sources, but excluding appropriations for each of the independent agencies). For example, the “general overhead” portion of the Indirect Cost Pool represents 2.13 percent of

total Department appropriations, and the “probation” portion of the Indirect Cost Pool represents 1.10 percent of total Department appropriations. Thus, the Department applies an Indirect Cost Rate of 3.23 percent ($2.13\% + 1.10\% = 3.23\%$) to each fund source that supports a probation-related program.

TABLE 2

JUDICIAL DEPARTMENT: CALCULATION OF BASIS FOR ALLOCATING INDIRECT COSTS

DIVISION	LINE ITEMS INCLUDED IN INDIRECT COST POOL	ALLOCATION OF COST POOL COMPONENTS BY PROGRAM AREA									
		TOTAL (FROM TABLE 1)	GENERAL OVERHEAD		TRIAL COURTS		PROBATION		ATTORNEY REGULATION		
			PERCENT	DOLLARS	PERCENT	DOLLARS	PERCENT	DOLLARS	PERCENT	DOLLARS	
Courts Administration	General Courts Administration - Personal Services and Operating Expenses, and Associated Benefits	\$17,661,480	16.0%	\$2,825,837	49.0%	\$8,654,125	33.0%	\$5,828,288	2.0%	\$353,230	
	Information Technology Infrastructure	0	100.0%	0	0.0%	0	0.0%	0	0.0%	0	
	Workers' Compensation	1,383,287	100.0%	1,383,287	0.0%	0	0.0%	0	0.0%	0	
	Legal Services	190,100	100.0%	190,100	0.0%	0	0.0%	0	0.0%	0	
	Purchase of Services from Computer Center	0	100.0%	0	0.0%	0	0.0%	0	0.0%	0	
	Multiuse Network Payments	0	100.0%	0	0.0%	0	0.0%	0	0.0%	0	
	Payment to Risk Management and Property Funds	873,467	100.0%	873,467	0.0%	0	0.0%	0	0.0%	0	
	Leased Space - State Court Administrator's Office	2,536,816	100.0%	2,536,816	0.0%	0	0.0%	0	0.0%	0	
	Communication Services	0	0.0%	0	0.0%	0	100.0%	0	0.0%	0	
	Payments to OIT	2,613,057	100.0%	2,613,057	0.0%	0	0.0%	0	0.0%	0	
	CORE Operations	856,852	100.0%	856,852	0.0%	0	0.0%	0	0.0%	0	
	Lease Purchase	0	100.0%	0	0.0%	0	0.0%	0	0.0%	0	
Trial Courts	Trial Court Programs - Personal Services and Operating Expenses, and Associated Benefits	0	0.0%	0	100.0%	0	0.0%	0	0.0%	0	
Probation and Related Services	Probation Programs - Personal Services and Operating Expenses, and Associated Benefits	0	0.0%	0	0.0%	0	100.0%	0	0.0%	0	
Total		\$26,115,059		\$11,279,416		\$8,654,125		\$5,828,288		\$353,230	
Total Budget for State Court Administrator's Office, Courts, and Probation - All Fund Sources Except Federal Funds		\$529,894,097									
Allocated Indirect Cost Pool / Total Budget			2.13%	1.63%		1.10%		0.11%			

INDIRECT COST BASE

The *Indirect Cost Base* is comprised of total Long Bill appropriations to the Department (including all state fund sources, but excluding appropriations for each of the independent agencies). Thus, the *Departmental Indirect Cost Assessment* for each fund source is calculated by multiplying the applicable Indirect Cost Rate by the total amount appropriated in the Long Bill from that fund source. Please note that the Department does not recover indirect costs from several non-General Fund sources of funding, which are listed on the following page.

- *Crime Victim-related funds:* Statutorily, a Victims and Witnesses Assistance and Law Enforcement Fund and a Crime Victim Compensation Fund are established in the office of the court administrator for each judicial district. Moneys anticipated to be expended from these funds are reflected in the Long Bill for informational purposes, but local court administrators and district attorneys may spend these funds without an appropriation. Statute requires that these funds be used for the implementation of the rights afforded to crime victims, services and compensation of crime victims, and certain related administrative costs incurred by local court administrators and district attorneys.
- *Judicial Stabilization Cash Fund:* Moneys in this fund may be appropriated for the “expenses of trial courts in the judicial department”. This fund was created through S.B. 03-186, a Joint Budget Committee sponsored bill that raised multiple docket, filing, and probation fees and used the revenues to reduce General Fund expenditures. As this fund is used in lieu of General Fund for certain trial court expenses, it has never been used to cover indirect costs.
- *Attorney law examination and continuing legal education fees:* The Colorado Supreme Court is authorized to collect fees from attorneys and judges to cover the costs of regulation of the practice of law. The Department currently assesses indirect costs on fees related to attorney regulation activities, but not on fees related to continuing legal education or the bar exam.
- *Fees credited to the Supreme Court Library Fund:* The Supreme Court Library is a public library that is supported by appellate filing and other fees deposited in the Supreme Court Library Fund.
- *Transfers from other state agencies:* The Department receives federal child support enforcement funding from the Department of Human Services, for persistent drunk driver programs, and for S.B. 91-94 juvenile service programs.

In addition, please note that the budget for the Judicial Branch includes funding for several independent agencies. Other than a small amount of revenue from training fees and occasional grants, these independent agencies are entirely supported by the General Fund. Thus, administrative costs incurred by these agencies are not included in the Indirect Cost Pool, and the budgets for these agencies do not reflect indirect cost assessments. These agencies do not currently use fees that are paid by attorneys attending training sessions to cover agency indirect costs. With respect to grants, if one of these agencies were to receive a grant that may be used to cover both direct and indirect costs, the agency would charge an appropriate amount to the grant, and then use that amount to cover an administrative expense that would otherwise be supported by General Fund. Thus, any indirect cost recoveries that may be collected by these agencies would be used to reduce General Fund expenditures.

Table 3 details the calculation of the Departmental Indirect Cost Assessment for FY 2017-18 among divisions and specific funding sources. The Department then allocates the Statewide Indirect Cost Assessment proportionally, based on Departmental Indirect Cost Assessments.

TABLE 3					
JUDICIAL DEPARTMENT: ALLOCATION OF INDIRECT COSTS AMONG DIVISIONS AND FUND SOURCES					
DIVISION	FUND SOURCE	INDIRECT COST RATE APPLIED TO APPROPRIATED AMOUNT	DEPT. INDIRECT COST ASSESSMENT	STATEWIDE INDIRECT COST ASSESSMENT	TOTAL INDIRECT COST ASSESSMENT
Supreme Court/ Court of Appeals	Annual attorney registration fees for Attorney Regulation	2.24%	\$238,090	\$20,797	\$258,887
	Judicial Stabilization Cash Fund		0	0	0
	Law examination application fees for the State Board of Law Examiners		0	0	0
	Annual attorney registration fees for Continuing Legal Education		0	0	0
	Subtotal		238,090	20,797	258,887
Courts Administration	Judicial Department Information Technology Cash Fund	2.13%	496,577	43,377	539,954
	Victims and Witnesses Assistance and Law Enforcement Fund		0	0	0
	Crime Victim Compensation Fund		0	0	0
	Court Security Cash Fund	3.76%	74,276	6,488	80,764
	Judicial Collection Enhancement Fund	2.13%	105,581	9,223	114,804
	Fines Collection Cash Fund	2.13%	19,159	1,674	20,833
	Judicial Stabilization Cash Fund		0	0	0
	Justice Center Cash Fund	2.13%	17,976	1,570	19,546
	State Commission on Judicial Performance Cash Fund	3.76%	18,122	1,583	19,705
	Family-friendly Court Program Cash Fund	3.76%	8,501	743	9,244
	Family Violence Justice Fund	3.76%	6,396	559	6,955
	Restorative Justice Surcharge Fund	3.76%	18,640	1,628	20,268
	Various Federal Grants			22,933	22,933
Transfer from DHS from the Child Support Enforcement line item		0	0	0	
Subtotal		765,228	89,777	855,005	
Trial Courts	Judicial Stabilization Cash Fund		0	0	0
	Transfer from DHS from the Child Support Enforcement line item		0	0	0
	Water Adjudication Cash Fund		0	0	0
Subtotal		0	0	0	
Probation and Related Services	Offender Services Fund	3.23%	522,593	45,649	568,242
	Correctional Treatment Cash Fund (previously Drug Offender Surcharge Fund and Drug Offender Treatment Fund)	3.23%	154,717	13,515	168,232
	Alcohol and Drug Driving Safety Program Fund	3.23%	175,516	15,332	190,848
	Offender Identification Fund	3.23%	1,896	166	2,062
	Interstate Compact Probation Transfer Cash Fund	3.23%	6,054	529	6,583
	Sex Offender Surcharge Fund		0	0	0
	Transfer from DHS from Persistent Drunk Driver Programs line item		0	0	0
	Transfer from DHS from S.B. 91-94 Programs line item		0	0	0
	Victims and Witnesses Assistance and Law Enforcement Board grants and transfer from DPS from State Victims Assistance and Law Enforcement Programs line item		0	0	0
Subtotal		860,776	75,190	935,966	
Total			\$1,864,094	\$185,764	\$2,049,858

FY 2017-18 INDIRECT COST ASSESSMENT REQUEST

The total of departmental and statewide indirect cost assessments is appropriated in the “General Courts Administration” line item in the Courts Administration section of the Long Bill, thereby reducing General Fund expenditures by the same amount. In addition, this line item includes an amount that is anticipated to be charged to various federal grants received by the Department to cover a portion of departmental and statewide indirect costs. These federal recoveries are treated differently than other indirect cost recoveries because they are less predictable, and the indirect cost assessment is calculated using a different methodology (e.g., the calculation uses lag data and the rates are not finalized until September of the fiscal year). If the total amount of indirect cost recoveries from federal grants exceeds the amount reflected in the Long Bill, the Department books the expenditure to the associated grants line item, and then applies such recoveries to the General Courts Administration line item. Thus, all indirect cost recoveries from federal grants reduce General Fund expenditures.

As detailed in the following *Table 4*, the Department's FY 2017-18 request includes a total of \$2,602,558 for indirect cost assessments and indirect cost recoveries from federal grants. The request for FY 2017-18 represents an increase of \$333,698 compared to FY 2016-17. This increase is due to the increase in indirect cost recoveries from federal grants (see JUD BA4 Long Bill Clean-up/FTE True-up at the beginning of this packet), and due to increases in the costs of personal services and employee benefits that are part of the indirect cost pool.

DIVISION	INDIRECT COST ASSESSMENTS			ESTIMATED INDIRECT COST RECOVERIES FROM FEDERAL GRANTS
	TOTAL	CASH FUNDS	OTHER FUNDS	
Supreme Court/Court of Appeals	\$258,887	\$258,887	\$0	\$0
Courts Administration	855,005	832,072	22,933	0
Trial Courts	0	0	0	0
Probation and Related Services	935,966	935,966	0	0
Amounts Reflected Within Grants Line Items	275,000	0	0	552,700
Total Indirect Cost Assessment for FY 2017-18	\$2,602,558	\$2,026,925	\$22,933	\$552,700
FY 2016-17 Indirect Cost Assessment	2,268,860	1,984,768	9,092	275,000
Difference (FY 17-18 less FY 16-17)	333,698	42,157	13,841	277,700

JBC Staff Staff Figure Setting - FY 2017-18
Staff Working Document - Does Not Represent Committee Decision

Appendix A: Number Pages

	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	FY 2017-18 Recommendation
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JUDICIAL DEPARTMENT
Nancy Rice, Chief Justice

(1) SUPREME COURT AND COURT OF APPEALS

This section provides funding for the Colorado Supreme Court and the Colorado Court of Appeals. The primary functions of the Supreme Court include: general supervisory control of lower courts; appellate review of lower court judgements; original jurisdiction for certain constitutional and other cases; rule-making for the state court system; and overseeing the regulation of attorneys and the practice of law. The Court of Appeals is generally the first court to hear appeals of judgments and orders in criminal, juvenile, civil, domestic relations, and probate matters. The Court of Appeals also has initial jurisdiction to review actions and decisions of several state agencies, boards, and commissions. Cash fund sources primarily include annual attorney registration fees, law examination application fees, appellate court filing fees, and various docket fees that are credited to the Judicial Stabilization Cash Fund. Reappropriated funds are transferred from the Department of Law.

Appellate Court Programs	<u>12,529,949</u>	<u>13,375,908</u>	<u>14,243,683</u>	<u>14,490,399</u>	<u>14,490,399</u>
FTE	142.7	142.8	143.0	143.0	143.0
General Fund	12,459,286	13,305,395	14,171,683	14,418,399	14,418,399
Cash Funds	70,663	70,513	72,000	72,000	72,000
Office of Attorney Regulation Counsel	<u>10,232,231</u>	<u>9,695,639</u>	<u>10,650,000</u>	<u>10,650,000</u>	<u>10,650,000</u>
FTE	67.0	69.0	69.0	69.0	70.0
Cash Funds	10,232,231	9,695,639	10,650,000	10,650,000	10,650,000
Attorney Regulation	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u> *
FTE	0.0	0.0	0.0	1.0	0.0
Cash Funds	0	0	0	0	0
State Board of Law Examiners	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
FTE	0.0	0.0	0.0	0.0	0.0
Cash Funds	0	0	0	0	0

JBC Staff Staff Figure Setting - FY 2017-18
Staff Working Document - Does Not Represent Committee Decision

	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	FY 2017-18 Recommendation
Law Library	<u>652,254</u>	<u>572,272</u>	<u>572,897</u>	<u>572,897</u>	<u>572,897</u>
FTE	3.5	3.5	3.5	3.5	3.5
Cash Funds	589,133	499,603	500,000	500,000	500,000
Reappropriated Funds	63,121	72,669	72,897	72,897	72,897
Indirect Cost Assessment	<u>177,001</u>	<u>221,332</u>	<u>296,691</u>	<u>258,887</u>	<u>258,887</u>
Cash Funds	177,001	221,332	296,691	258,887	258,887
Continuing Legal Education	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
FTE	0.0	0.0	0.0	0.0	0.0
Cash Funds	0	0	0	0	0
TOTAL - (1) Supreme Court and Court of Appeals	23,591,435	23,865,151	25,763,271	25,972,183	25,972,183
FTE	<u>213.2</u>	<u>215.3</u>	<u>215.5</u>	<u>216.5</u>	<u>216.5</u>
General Fund	12,459,286	13,305,395	14,171,683	14,418,399	14,418,399
Cash Funds	11,069,028	10,487,087	11,518,691	11,480,887	11,480,887
Reappropriated Funds	63,121	72,669	72,897	72,897	72,897

JBC Staff Staff Figure Setting - FY 2017-18
Staff Working Document - Does Not Represent Committee Decision

	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	FY 2017-18 Recommendation
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(2) COURTS ADMINISTRATION

The Justices of the Supreme Court appoint a State Court Administrator to oversee administrative functions of the Branch. The State Court Administrator and his staff provide leadership and technical and administrative support for judicial district staff. This section includes funding for: the State Court Administrator and his staff; information technology staff and infrastructure for courts and probation programs; employee benefits for all court and probation staff; multiple programs that are administrated centrally rather than at the judicial district level; and operations of the Ralph L. Carr Colorado Judicial Center.

(A) Administration and Technology

This subsection includes funding and staff associated with central administration of the State's judicial system, including budgeting, research, information technology systems and support, training, and technical assistance. Cash fund sources include the Judicial Department Information Technology Cash Fund, the Judicial Stabilization Cash Fund, and various fees and cost recoveries. Reappropriated funds include statewide and departmental indirect recoveries and funds transferred from other state agencies.

General Courts Administration	<u>22,270,391</u>	<u>24,443,176</u>	<u>25,614,792</u>	<u>26,341,657</u>	<u>26,342,258</u> *
FTE	206.8	223.1	239.3	243.8	243.8
General Fund	14,616,260	16,387,860	17,598,119	17,907,163	17,907,163
Cash Funds	5,591,151	5,740,889	5,747,813	5,747,813	5,748,414
Reappropriated Funds	2,062,980	2,314,427	2,268,860	2,686,681	2,686,681
Information Technology Infrastructure	<u>5,331,833</u>	<u>8,629,343</u>	<u>15,879,211</u>	<u>9,256,268</u>	<u>9,256,268</u>
General Fund	403,094	403,094	403,094	403,094	403,094
Cash Funds	4,928,739	8,226,249	15,476,117	8,853,174	8,853,174
Indirect Cost Assessment	<u>640,139</u>	<u>673,399</u>	<u>756,455</u>	<u>855,005</u>	<u>855,005</u>
Cash Funds	640,139	673,399	747,363	832,072	832,072
Reappropriated Funds	0	0	9,092	22,933	22,933

JBC Staff Figure Setting - FY 2017-18
Staff Working Document - Does Not Represent Committee Decision

	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	FY 2017-18 Recommendation
SUBTOTAL - (A) Administration and Technology	28,242,363	33,745,918	42,250,458	36,452,930	36,453,531
<i>FTE</i>	<u>206.8</u>	<u>223.1</u>	<u>239.3</u>	<u>243.8</u>	<u>243.8</u>
General Fund	15,019,354	16,790,954	18,001,213	18,310,257	18,310,257
Cash Funds	11,160,029	14,640,537	21,971,293	15,433,059	15,433,660
Reappropriated Funds	2,062,980	2,314,427	2,277,952	2,709,614	2,709,614

(B) Central Appropriations

This subsection includes centrally appropriated line items. While most of these line items cover expenses for the entire Judicial Branch, the following line items exclude funding associated with the six independent agencies: salary-related line items; appropriations for health, life, and dental, and short-term disability insurance; and vehicle lease payments. Cash fund sources include: the Judicial Stabilization Cash Fund, the State Commission on Judicial Performance Cash Fund, the Offender Services Fund, the Judicial Department Information Technology Cash Fund, the Fines Collection Cash Fund, the Correctional Treatment Cash Fund, and the Alcohol and Drug Driving Safety Program Fund.

Health, Life, and Dental	<u>24,238,342</u>	<u>29,574,072</u>	<u>30,022,769</u>	<u>33,150,585</u>	<u>33,150,528</u> *
General Fund	22,579,160	26,723,070	27,739,706	30,465,688	30,465,620
Cash Funds	1,659,182	2,851,002	2,283,063	2,684,897	2,684,908
Short-term Disability	<u>383,709</u>	<u>384,414</u>	<u>343,006</u>	<u>359,779</u>	<u>355,321</u>
General Fund	369,464	347,073	315,636	330,190	326,017
Cash Funds	14,245	37,341	27,370	29,589	29,304
S.B. 04-257 Amortization Equalization Disbursement	<u>7,869,827</u>	<u>8,928,410</u>	<u>9,880,982</u>	<u>10,784,599</u>	<u>10,668,095</u>
General Fund	7,677,392	8,168,699	9,083,579	9,998,150	9,888,334
Cash Funds	192,435	759,711	797,403	786,449	779,761

JBC Staff Staff Figure Setting - FY 2017-18
Staff Working Document - Does Not Represent Committee Decision

	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	FY 2017-18 Recommendation
S.B. 06-235 Supplemental Amortization Equalization					
Disbursement	<u>7,145,068</u>	<u>8,271,723</u>	<u>9,397,308</u>	<u>10,365,572</u>	<u>10,249,068</u>
General Fund	6,958,118	7,542,763	8,611,455	9,581,610	9,471,794
Cash Funds	186,950	728,960	785,853	783,962	777,274
Salary Survey	<u>12,003,152</u>	<u>8,711,251</u>	<u>1,172,311</u>	<u>11,440,344</u>	<u>8,821,893</u>
General Fund	11,786,542	8,395,379	897,205	10,925,517	8,474,417
Cash Funds	216,610	315,872	275,106	514,827	347,476
Reappropriated Funds	0	0	0	0	0
Workers' Compensation	<u>1,210,253</u>	<u>1,126,921</u>	<u>1,383,287</u>	<u>1,508,352</u>	<u>1,508,352</u>
General Fund	1,210,253	1,126,921	1,383,287	1,508,352	1,508,352
Legal Services	<u>171,825</u>	<u>302,933</u>	<u>235,368</u>	<u>208,870</u>	<u>208,870</u>
General Fund	171,825	302,933	235,368	208,870	208,870
Payment to Risk Management and Property Funds	<u>685,664</u>	<u>729,019</u>	<u>873,467</u>	<u>1,131,265</u>	<u>1,131,265</u> *
General Fund	685,664	729,019	873,467	1,131,265	1,131,265
Vehicle Lease Payments	<u>75,258</u>	<u>82,820</u>	<u>149,235</u>	<u>166,036</u>	<u>166,036</u> *
General Fund	75,258	82,820	149,235	166,036	166,036
Ralph L. Carr Colorado Judicial Center Leased Space	<u>2,384,393</u>	<u>2,491,754</u>	<u>2,536,816</u>	<u>2,579,918</u>	<u>2,579,918</u>
General Fund	2,384,393	2,491,754	2,536,816	2,579,918	2,579,918
Payments to OIT	<u>2,622,667</u>	<u>4,031,075</u>	<u>2,613,057</u>	<u>5,330,538</u>	<u>5,330,538</u> *
General Fund	2,622,667	4,031,075	2,613,057	5,330,538	5,330,538
Cash Funds	0	0	0	0	0

JBC Staff Staff Figure Setting - FY 2017-18
Staff Working Document - Does Not Represent Committee Decision

	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	FY 2017-18 Recommendation
CORE Operations	<u>2,101,598</u>	<u>1,619,424</u>	<u>856,852</u>	<u>792,563</u>	<u>792,563</u>
General Fund	2,101,598	1,619,424	856,852	792,563	792,563
Merit Pay	<u>1,907,291</u>	<u>2,556,586</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	1,841,214	2,360,879	0	0	0
Cash Funds	66,077	195,707	0	0	0
Lease Purchase	<u>119,878</u>	<u>111,427</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	119,878	111,427	0	0	0
Purchase of Services from Computer Center	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	0	0	0	0	0
Colorado State Network	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	0	0	0	0	0
Information Technology Security	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	0	0	0	0	0
SUBTOTAL - (B) Central Appropriations	62,918,925	68,921,829	59,464,458	77,818,421	74,962,447
<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	60,583,426	64,033,236	55,295,663	73,018,697	70,343,724
Cash Funds	2,335,499	4,888,593	4,168,795	4,799,724	4,618,723
Reappropriated Funds	0	0	0	0	0

JBC Staff Staff Figure Setting - FY 2017-18
Staff Working Document - Does Not Represent Committee Decision

	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	FY 2017-18 Recommendation
(C) Centrally Administered Programs					
This subsection includes funding and staff associated with specific functions, grant programs, and distributions that are administered by the Office of the State Court Administrator. Cash fund sources include: the Victims and Witnesses and Law Enforcement Fund; the Crime Victim Compensation Fund; the Judicial Collections Enhancement Fund; the Fines Collection Cash Fund; the Judicial Stabilization Cash Fund; the Court Security Cash Fund; the State Commission on Judicial Performance Cash Fund; the Family Violence Justice Fund; the Family-friendly Court Program Cash Fund; and various fees, cost recoveries, and grants. Reappropriated funds include Victims and Witnesses Assistance and Law Enforcement funds transferred from the Trial Courts section, and federal funds transferred from the Department of Human Services.					
Victim Assistance	<u>15,592,516</u>	<u>15,894,722</u>	<u>16,375,000</u>	<u>16,375,000</u>	<u>16,375,000</u>
Cash Funds	15,592,516	15,894,722	16,375,000	16,375,000	16,375,000
Victim Compensation	<u>13,252,814</u>	<u>10,365,445</u>	<u>13,400,000</u>	<u>13,400,000</u>	<u>13,400,000</u>
Cash Funds	13,252,814	10,365,445	13,400,000	13,400,000	13,400,000
Collections Investigators	<u>6,225,420</u>	<u>6,429,084</u>	<u>6,757,202</u>	<u>7,023,075</u>	<u>7,023,075</u>
FTE	95.9	104.2	104.2	104.2	104.2
Cash Funds	5,599,143	5,772,951	5,859,661	6,125,534	6,125,534
Reappropriated Funds	626,277	656,133	897,541	897,541	897,541
Problem-solving Courts	<u>3,112,859</u>	<u>3,509,361</u>	<u>3,603,032</u>	<u>3,605,925</u>	<u>3,605,925</u>
FTE	32.5	44.3	44.3	44.3	44.3
General Fund	0	375,376	398,446	401,339	401,339
Cash Funds	3,112,859	3,133,985	3,204,586	3,204,586	3,204,586
Language Interpreters and Translators	<u>3,894,614</u>	<u>4,715,905</u>	<u>5,033,090</u>	<u>5,344,508</u>	<u>5,344,508</u> *
FTE	25.5	32.9	33.0	33.0	33.0
General Fund	3,863,738	4,690,610	4,983,090	5,294,508	5,294,508
Cash Funds	30,876	25,295	50,000	50,000	50,000

JBC Staff Staff Figure Setting - FY 2017-18
Staff Working Document - Does Not Represent Committee Decision

	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	FY 2017-18 Recommendation
Courthouse Security	<u>2,071,661</u>	<u>2,156,409</u>	<u>2,474,099</u>	<u>2,477,567</u>	<u>2,477,567</u>
FTE	1.0	1.0	1.0	1.0	1.0
General Fund	0	500,000	500,000	503,468	503,468
Cash Funds	2,071,661	1,656,409	1,974,099	1,974,099	1,974,099
Appropriation to Underfunded Courthouse Facility					
Cash Fund	<u>700,000</u>	<u>2,000,000</u>	<u>2,000,000</u>	<u>2,000,000</u>	<u>2,000,000</u>
General Fund	700,000	2,000,000	2,000,000	2,000,000	2,000,000
Underfunded Courthouse Facilities Grant Program	<u>50,604</u>	<u>647,422</u>	<u>2,600,000</u>	<u>2,600,000</u>	<u>2,600,000</u>
FTE	1.0	1.0	1.0	1.0	1.0
Cash Funds	0	0	600,000	600,000	600,000
Reappropriated Funds	50,604	647,422	2,000,000	2,000,000	2,000,000
Courthouse Furnishings and Infrastructure					
Maintenance	<u>2,218,813</u>	<u>2,185,709</u>	<u>3,398,828</u>	<u>3,015,942</u>	<u>3,230,056</u> *
General Fund	2,194,601	1,308,619	1,616,541	2,469,800	2,639,800
Cash Funds	24,212	877,090	1,782,287	546,142	590,256
Senior Judge Program	<u>1,317,418</u>	<u>1,415,218</u>	<u>1,640,750</u>	<u>1,640,750</u>	<u>1,640,750</u>
General Fund	17,418	115,218	340,750	340,750	340,750
Cash Funds	1,300,000	1,300,000	1,300,000	1,300,000	1,300,000
Judicial Education and Training	<u>1,435,223</u>	<u>1,325,708</u>	<u>1,456,806</u>	<u>1,460,283</u>	<u>1,460,283</u>
FTE	2.0	2.0	2.0	2.0	2.0
General Fund	0	4,812	4,812	8,289	8,289
Cash Funds	1,435,223	1,320,896	1,451,994	1,451,994	1,451,994

JBC Staff Staff Figure Setting - FY 2017-18
Staff Working Document - Does Not Represent Committee Decision

	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	FY 2017-18 Recommendation
Office of Judicial Performance Evaluation	<u>617,248</u>	<u>678,956</u>	<u>771,641</u>	<u>804,255</u>	<u>804,255</u>
FTE	1.8	2.0	2.0	2.0	2.0
General Fund	290,000	290,000	290,000	290,000	290,000
Cash Funds	327,248	388,956	481,641	514,255	514,255
Family Violence Justice Grants	<u>2,150,063</u>	<u>2,642,026</u>	<u>2,670,000</u>	<u>2,670,000</u>	<u>2,670,000</u>
General Fund	2,000,000	2,500,000	2,500,000	2,500,000	2,500,000
Cash Funds	150,063	142,026	170,000	170,000	170,000
Restorative Justice Programs	<u>529,261</u>	<u>740,325</u>	<u>998,337</u>	<u>1,000,842</u>	<u>1,000,842</u> *
FTE	0.0	1.0	1.0	1.0	1.0
Cash Funds	529,261	740,325	998,337	1,000,842	1,000,842
District Attorney Adult Pretrial Diversion Programs	<u>122,906</u>	<u>215,515</u>	<u>477,000</u>	<u>477,000</u>	<u>477,000</u>
General Fund	122,906	215,515	400,000	400,000	400,000
Cash Funds	0	0	77,000	77,000	77,000
Family-friendly Court Program	<u>247,732</u>	<u>225,943</u>	<u>225,943</u>	<u>225,943</u>	<u>225,943</u>
FTE	0.5	0.5	0.5	0.5	0.5
Cash Funds	247,732	225,943	225,943	225,943	225,943
Compensation for Exonerated Persons	<u>102,771</u>	<u>105,751</u>	<u>107,020</u>	<u>110,124</u>	<u>110,124</u> *
General Fund	102,771	105,751	107,020	110,124	110,124
Child Support Enforcement	<u>85,404</u>	<u>95,004</u>	<u>95,339</u>	<u>95,339</u>	<u>95,339</u>
FTE	1.0	1.0	1.0	1.0	1.0
General Fund	28,564	33,202	32,415	32,415	32,415
Reappropriated Funds	0	0	62,924	62,924	62,924
Federal Funds	56,840	61,802	0	0	0

JBC Staff Staff Figure Setting - FY 2017-18
Staff Working Document - Does Not Represent Committee Decision

	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	FY 2017-18 Recommendation
SUBTOTAL - (C) Centrally Administered					
Programs	53,727,327	55,348,503	64,084,087	64,326,553	64,540,667
<i>FTE</i>	<u>161.2</u>	<u>189.9</u>	<u>190.0</u>	<u>190.0</u>	<u>190.0</u>
General Fund	9,319,998	12,139,103	13,173,074	14,350,693	14,520,693
Cash Funds	43,673,608	41,844,043	47,950,548	47,015,395	47,059,509
Reappropriated Funds	676,881	1,303,555	2,960,465	2,960,465	2,960,465
Federal Funds	56,840	61,802	0	0	0

(D) Ralph L. Carr Colorado Judicial Center

This subsection includes appropriations related to the operations of the Ralph L. Carr Colorado Judicial Center. Funding supports: various contractual services (including engineering, custodial, and maintenance services; parking garage operations and maintenance; and copy center operations); the purchase of security services from the Colorado State Patrol; utilities; operational and engineering facility staff; debt service payments (previously included in the Capital Construction section of the budget); and an annual appropriation for facility controlled maintenance needs. Cash funds are from the Justice Center Cash Fund. Reappropriated funds are transferred from Leased Space appropriations to the Judicial Branch and the Department of Law.

Personal Services	<u>1,371,181</u>	<u>1,383,300</u>	<u>1,465,519</u>	<u>1,612,743</u>	<u>1,612,743</u>
FTE	2.0	2.0	2.0	2.0	2.0
Cash Funds	11,283	1,383,300	1,465,519	1,612,743	1,612,743
Reappropriated Funds	1,359,898	0	0	0	0
Operating Expenses	<u>3,728,478</u>	<u>4,026,234</u>	<u>4,026,234</u>	<u>4,026,234</u>	<u>4,026,234</u>
General Fund	0	1,146,362	0	0	0
Cash Funds	0	2,879,872	4,026,234	4,026,234	4,026,234
Reappropriated Funds	3,728,478	0	0	0	0
Controlled Maintenance	<u>454,681</u>	<u>0</u>	<u>2,025,000</u>	<u>2,025,000</u>	<u>2,025,000</u>
Cash Funds	454,681	0	2,025,000	2,025,000	2,025,000
Reappropriated Funds	0	0	0	0	0

JBC Staff Staff Figure Setting - FY 2017-18
Staff Working Document - Does Not Represent Committee Decision

	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	FY 2017-18 Recommendation
Debt Service Payments	0	<u>15,661,472</u>	<u>21,577,604</u>	<u>21,593,531</u>	<u>21,593,531</u> *
General Fund	0	3,853,638	4,806,525	4,704,365	4,704,365
Cash Funds	0	6,281,842	11,031,746	11,047,673	11,047,673
Reappropriated Funds	0	5,525,992	5,739,333	5,841,493	5,841,493
SUBTOTAL - (D) Ralph L. Carr Colorado					
Judicial Center	5,554,340	21,071,006	29,094,357	29,257,508	29,257,508
<i>FTE</i>	<u>2.0</u>	<u>2.0</u>	<u>2.0</u>	<u>2.0</u>	<u>2.0</u>
General Fund	0	5,000,000	4,806,525	4,704,365	4,704,365
Cash Funds	465,964	10,545,014	18,548,499	18,711,650	18,711,650
Reappropriated Funds	5,088,376	5,525,992	5,739,333	5,841,493	5,841,493
TOTAL - (2) Courts Administration					
<i>FTE</i>	<u>370.0</u>	<u>415.0</u>	<u>431.3</u>	<u>435.8</u>	<u>435.8</u>
General Fund	84,922,778	97,963,293	91,276,475	110,384,012	107,879,039
Cash Funds	57,635,100	71,918,187	92,639,135	85,959,828	85,823,542
Reappropriated Funds	7,828,237	9,143,974	10,977,750	11,511,572	11,511,572
Federal Funds	56,840	61,802	0	0	0

JBC Staff Staff Figure Setting - FY 2017-18
Staff Working Document - Does Not Represent Committee Decision

	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	FY 2017-18 Recommendation
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(3) TRIAL COURTS

This section provides funding for the state trial courts, which consist of district courts in 22 judicial districts, water courts, and county courts. District courts: preside over felony criminal matters, civil claims, juvenile matters, and probate, mental health, and divorce proceedings; handle appeals from municipal and county courts; and review decisions of administrative boards and agencies. Water courts have exclusive jurisdiction over cases involving the determination of water rights and the use and administration of water. County courts: handle civil actions involving no more than \$15,000, misdemeanor cases, civil and criminal traffic infractions, and felony complaints; issue search warrants and protection orders in cases involving domestic violence; and hear municipal court appeals. Cash fund sources include the Judicial Stabilization Cash Fund, various court fees and cost recoveries, and the sale of jury pattern instructions. Reappropriated funds reflect federal funds transferred from the Departments of Public Safety and Human Services.

Trial Court Programs	<u>133,257,426</u>	<u>143,288,147</u>	<u>151,590,007</u>	<u>151,942,955</u>	<u>151,942,955</u> *
FTE	1,781.3	1,786.1	1,863.1	1,858.6	1,858.6
General Fund	100,553,453	113,564,342	121,244,731	121,560,395	121,560,395
Cash Funds	31,728,323	28,523,697	29,095,276	29,132,560	29,132,560
Reappropriated Funds	975,650	0	1,250,000	1,250,000	1,250,000
Federal Funds	0	1,200,108	0	0	0
 Court Costs, Jury Costs, and Court-appointed Counsel	 <u>18,020,657</u>	 <u>18,880,258</u>	 <u>7,901,738</u>	 <u>7,888,518</u>	 <u>7,888,518</u>
General Fund	17,891,865	18,803,386	7,736,489	7,723,269	7,723,269
Cash Funds	128,792	76,872	165,249	165,249	165,249
 District Attorney Mandated Costs	 <u>2,535,043</u>	 <u>2,347,581</u>	 <u>2,417,350</u>	 <u>2,484,770</u>	 <u>2,484,770</u> *
General Fund	2,374,178	2,177,581	2,247,350	2,314,770	2,314,770
Cash Funds	160,865	170,000	170,000	170,000	170,000
 ACTION and Statewide Discovery Sharing Systems	 <u>3,000,000</u>	 <u>2,300,000</u>	 <u>2,866,108</u>	 <u>3,240,000</u>	 <u>3,240,000</u> *
General Fund	3,000,000	2,300,000	2,796,108	3,170,000	3,170,000
Cash Funds	0	0	70,000	70,000	70,000

JBC Staff Staff Figure Setting - FY 2017-18
Staff Working Document - Does Not Represent Committee Decision

	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	FY 2017-18 Recommendation
Federal Funds and Other Grants	<u>2,414,125</u>	<u>2,974,971</u>	<u>2,900,000</u>	<u>2,900,000</u>	<u>2,900,000</u>
FTE	10.3	14.0	14.0	14.0	13.0
Cash Funds	162,783	149,083	975,000	975,000	975,000
Reappropriated Funds	0	0	300,000	300,000	300,000
Federal Funds	2,251,342	2,825,888	1,625,000	1,625,000	1,625,000
TOTAL - (3) Trial Courts	159,227,251	169,790,957	167,675,203	168,456,243	168,456,243
FTE	<u>1,791.6</u>	<u>1,800.1</u>	<u>1,877.1</u>	<u>1,872.6</u>	<u>1,871.6</u>
General Fund	123,819,496	136,845,309	134,024,678	134,768,434	134,768,434
Cash Funds	32,180,763	28,919,652	30,475,525	30,512,809	30,512,809
Reappropriated Funds	975,650	0	1,550,000	1,550,000	1,550,000
Federal Funds	2,251,342	4,025,996	1,625,000	1,625,000	1,625,000

JBC Staff Staff Figure Setting - FY 2017-18
Staff Working Document - Does Not Represent Committee Decision

	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	FY 2017-18 Recommendation
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(4) PROBATION AND RELATED SERVICES

This section provides funding for: the supervision of offenders sentenced to probation; the preparation of presentence investigation reports for the courts; victim notification and assistance; and community outreach programs. This section also provides funding for the purchase of treatment and services for offenders on probation, as well as funding that is transferred to other state agencies to provide treatment for substance use disorder and co-occurring disorders for adult and juvenile offenders. Cash funds include: fees paid by offenders for supervision, treatment, and restitution; the Marijuana Tax Cash Fund; and various cost recoveries. Reappropriated funds include: spending authority for General Fund moneys that are appropriated to the Correctional Treatment Cash Fund; Victims and Witnesses Assistance and Law Enforcement funds transferred from the Trial Courts section; and funds transferred from other Departments.

Probation Programs	<u>78,159,686</u>	<u>84,373,928</u>	<u>84,525,976</u>	<u>84,543,930</u>	<u>84,543,930</u>
FTE	1,111.0	1,158.0	1,184.7	1,184.7	1,184.7
General Fund	68,886,315	73,462,016	75,370,449	75,384,289	75,384,289
Cash Funds	9,273,371	10,911,912	9,155,527	9,159,641	9,159,641
Offender Treatment and Services	<u>29,259,857</u>	<u>29,311,131</u>	<u>34,480,727</u>	<u>34,480,727</u>	<u>34,483,195</u>
General Fund	791,272	834,151	924,877	924,877	924,877
Cash Funds	13,667,520	12,566,248	15,917,509	15,917,509	15,919,977
Reappropriated Funds	14,801,065	15,910,732	17,638,341	17,638,341	17,638,341
Appropriation to the Correctional Treatment Cash Fund	<u>15,200,000</u>	<u>16,750,000</u>	<u>16,750,000</u>	<u>16,750,000</u>	<u>16,750,000</u>
General Fund	15,200,000	15,200,000	15,200,000	15,200,000	15,200,000
Cash Funds	0	1,550,000	1,550,000	1,550,000	1,550,000
S.B. 91-94 Juvenile Services	<u>2,002,479</u>	<u>1,420,801</u>	<u>2,496,837</u>	<u>2,496,837</u>	<u>2,496,837</u>
FTE	13.1	25.0	25.0	25.0	25.0
Reappropriated Funds	2,002,479	1,420,801	2,496,837	2,496,837	2,496,837

JBC Staff Staff Figure Setting - FY 2017-18
Staff Working Document - Does Not Represent Committee Decision

	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	FY 2017-18 Recommendation
Reimbursements to Law Enforcement Agencies for the Costs of Returning a Probationer	<u>86,399</u>	<u>91,885</u>	<u>187,500</u>	<u>187,500</u>	<u>187,500</u>
Cash Funds	86,399	91,885	187,500	187,500	187,500
Victims Grants	<u>351,380</u>	<u>294,052</u>	<u>650,000</u>	<u>650,000</u>	<u>650,000</u>
FTE	3.6	6.0	6.0	6.0	6.0
Reappropriated Funds	351,380	294,052	650,000	650,000	650,000
Federal Funds and Other Grants	<u>4,227,633</u>	<u>3,438,543</u>	<u>5,600,000</u>	<u>5,600,000</u>	<u>5,600,000</u>
FTE	33.0	33.0	33.0	33.0	32.0
Cash Funds	673,616	652,007	1,950,000	1,950,000	1,950,000
Reappropriated Funds	216,882	104,780	850,000	850,000	850,000
Federal Funds	3,337,135	2,681,756	2,800,000	2,800,000	2,800,000
Indirect Cost Assessment	<u>1,103,840</u>	<u>1,144,696</u>	<u>940,714</u>	<u>935,966</u>	<u>935,966</u>
Cash Funds	1,103,840	1,144,696	940,714	935,966	935,966
TOTAL - (4) Probation and Related Services	130,391,274	136,825,036	145,631,754	145,644,960	145,647,428
FTE	<u>1,160.7</u>	<u>1,222.0</u>	<u>1,248.7</u>	<u>1,248.7</u>	<u>1,247.7</u>
General Fund	84,877,587	89,496,167	91,495,326	91,509,166	91,509,166
Cash Funds	24,804,746	26,916,748	29,701,250	29,700,616	29,703,084
Reappropriated Funds	17,371,806	17,730,365	21,635,178	21,635,178	21,635,178
Federal Funds	3,337,135	2,681,756	2,800,000	2,800,000	2,800,000

JBC Staff Staff Figure Setting - FY 2017-18
Staff Working Document - Does Not Represent Committee Decision

	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	FY 2017-18 Recommendation
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(5) OFFICE OF THE STATE PUBLIC DEFENDER

This independent agency provides legal counsel for indigent defendants in criminal and juvenile delinquency cases where there is a possibility of being jailed or imprisoned. Cash funds consist of training fees paid by private attorneys and grants.

Personal Services	<u>55,774,090</u>	<u>58,161,209</u>	<u>61,123,385</u>	<u>62,173,038</u>	<u>62,188,595</u> *
FTE	745.0	751.5	783.9	806.8	809.1
General Fund	55,774,090	58,161,209	61,123,385	62,173,038	62,188,595
Health, Life, and Dental	<u>5,355,507</u>	<u>6,232,846</u>	<u>6,159,824</u>	<u>6,829,036</u>	<u>6,781,728</u>
General Fund	5,355,507	6,232,846	6,159,824	6,829,036	6,781,728
Short-term Disability	<u>102,281</u>	<u>114,758</u>	<u>99,261</u>	<u>103,581</u>	<u>103,581</u>
General Fund	102,281	114,758	99,261	103,581	103,581
S.B. 04-257 Amortization Equalization Disbursement	<u>1,915,191</u>	<u>2,295,153</u>	<u>2,507,649</u>	<u>2,725,817</u>	<u>2,725,817</u>
General Fund	1,915,191	2,295,153	2,507,649	2,725,817	2,725,817
S.B. 06-235 Supplemental Amortization Equalization Disbursement	<u>1,795,395</u>	<u>2,216,909</u>	<u>2,481,528</u>	<u>2,725,817</u>	<u>2,725,817</u>
General Fund	1,795,395	2,216,909	2,481,528	2,725,817	2,725,817
Salary Survey	<u>1,303,106</u>	<u>583,552</u>	<u>0</u>	<u>1,192,946</u>	<u>1,192,946</u>
General Fund	1,303,106	583,552	0	1,192,946	1,192,946
Vehicle Lease Payments	<u>99,127</u>	<u>99,959</u>	<u>114,910</u>	<u>83,630</u>	<u>83,630</u> *
General Fund	99,127	99,959	114,910	83,630	83,630
Capital Outlay	<u>183,514</u>	<u>17,401</u>	<u>0</u>	<u>138,787</u>	<u>118,775</u> *
General Fund	183,514	17,401	0	138,787	118,775

JBC Staff Staff Figure Setting - FY 2017-18
Staff Working Document - Does Not Represent Committee Decision

	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	FY 2017-18 Recommendation
Operating Expenses	<u>1,705,567</u>	<u>1,547,749</u>	<u>1,745,212</u>	<u>1,789,119</u>	<u>1,776,295</u> *
General Fund	1,691,012	1,537,594	1,715,212	1,759,119	1,746,295
Cash Funds	14,555	10,155	30,000	30,000	30,000
Leased Space/Utilities	<u>5,598,781</u>	<u>5,846,298</u>	<u>6,456,972</u>	<u>6,456,972</u>	<u>6,450,639</u>
General Fund	5,598,781	5,846,298	6,456,972	6,456,972	6,450,639
Automation Plan	<u>1,515,437</u>	<u>1,399,107</u>	<u>1,563,740</u>	<u>1,580,023</u>	<u>1,580,023</u> *
General Fund	1,515,437	1,399,107	1,563,740	1,580,023	1,580,023
Attorney Registration	<u>134,260</u>	<u>133,615</u>	<u>140,085</u>	<u>140,275</u>	<u>140,294</u> *
General Fund	134,260	133,615	140,085	140,275	140,294
Contract Services	<u>45,825</u>	<u>10,545</u>	<u>49,395</u>	<u>49,395</u>	<u>49,395</u>
General Fund	45,825	10,545	49,395	49,395	49,395
Mandated Costs	<u>5,177,715</u>	<u>5,360,590</u>	<u>4,011,360</u>	<u>3,337,635</u>	<u>3,325,959</u> *
General Fund	5,177,715	5,360,590	4,011,360	3,337,635	3,325,959
Grants	<u>35,928</u>	<u>59,129</u>	<u>120,000</u>	<u>120,000</u>	<u>120,000</u>
FTE	0.3	0.3	2.0	2.0	2.0
Cash Funds	35,928	59,129	120,000	120,000	120,000
Merit Pay	<u>528,200</u>	<u>576,242</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	528,200	576,242	0	0	0
TOTAL - (5) Office of the State Public Defender	81,269,924	84,655,062	86,573,321	89,446,071	89,363,494
FTE	<u>745.3</u>	<u>751.8</u>	<u>785.9</u>	<u>808.8</u>	<u>811.1</u>
General Fund	81,219,441	84,585,778	86,423,321	89,296,071	89,213,494
Cash Funds	50,483	69,284	150,000	150,000	150,000

JBC Staff Staff Figure Setting - FY 2017-18
Staff Working Document - Does Not Represent Committee Decision

	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	FY 2017-18 Recommendation
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JBC Staff Staff Figure Setting - FY 2017-18
Staff Working Document - Does Not Represent Committee Decision

	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	FY 2017-18 Recommendation
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(6) OFFICE OF THE ALTERNATE DEFENSE COUNSEL

This independent agency provides legal representation for indigent defendants in cases where the State Public Defender is precluded from doing so because of an ethical conflict of interest. Cash funds are received from private attorneys and investigators for training.

Personal Services	<u>916,445</u>	<u>1,063,023</u>	<u>1,258,588</u>	<u>1,314,847</u>	<u>1,220,657</u> *
FTE	9.1	10.9	12.0	12.0	12.0
General Fund	916,445	1,063,023	1,258,588	1,314,847	1,220,657
Health, Life, and Dental	<u>105,484</u>	<u>134,599</u>	<u>134,268</u>	<u>164,476</u>	<u>163,134</u>
General Fund	105,484	134,599	134,268	164,476	163,134
Short-term Disability	<u>1,671</u>	<u>2,078</u>	<u>2,052</u>	<u>2,294</u>	<u>2,170</u> *
General Fund	1,671	2,078	2,052	2,294	2,170
S.B. 04-257 Amortization Equalization Disbursement	<u>30,879</u>	<u>41,541</u>	<u>51,836</u>	<u>60,370</u>	<u>57,222</u> *
General Fund	30,879	41,541	51,836	60,370	57,222
S.B. 06-235 Supplemental Amortization Equalization					
Disbursement	<u>28,892</u>	<u>40,126</u>	<u>51,295</u>	<u>60,370</u>	<u>57,222</u> *
General Fund	28,892	40,126	51,295	60,370	57,222
Salary Survey	<u>34,797</u>	<u>61,947</u>	<u>0</u>	<u>32,615</u>	<u>58,876</u> *
General Fund	34,797	61,947	0	32,615	58,876
Operating Expenses	<u>71,691</u>	<u>95,796</u>	<u>76,355</u>	<u>75,405</u>	<u>106,439</u>
General Fund	71,691	95,796	76,355	75,405	106,439
Capital Outlay	<u>4,703</u>	<u>4,703</u>	<u>4,703</u>	<u>0</u>	<u>0</u>
General Fund	4,703	4,703	4,703	0	0

JBC Staff Staff Figure Setting - FY 2017-18
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	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	FY 2017-18 Recommendation
Training and Conferences	<u>60,916</u>	<u>61,132</u>	<u>60,000</u>	<u>100,000</u>	<u>100,000</u> *
General Fund	20,916	21,132	20,000	20,000	20,000
Cash Funds	40,000	40,000	40,000	80,000	80,000
Conflict-of-interest Contracts	<u>26,861,292</u>	<u>27,846,305</u>	<u>27,971,145</u>	<u>27,971,145</u>	<u>27,971,145</u>
General Fund	26,861,292	27,846,305	27,971,145	27,971,145	27,971,145
Mandated Costs	<u>2,243,477</u>	<u>2,198,305</u>	<u>2,413,265</u>	<u>2,463,221</u>	<u>2,032,273</u> *
General Fund	2,243,477	2,198,305	2,413,265	2,463,221	2,032,273
Merit Pay	<u>835</u>	<u>6,761</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	835	6,761	0	0	0
TOTAL - (6) Office of the Alternate Defense					
Counsel	30,361,082	31,556,316	32,023,507	32,244,743	31,769,138
<i>FTE</i>	<u>9.1</u>	<u>10.9</u>	<u>12.0</u>	<u>12.0</u>	<u>12.0</u>
General Fund	30,321,082	31,516,316	31,983,507	32,164,743	31,689,138
Cash Funds	40,000	40,000	40,000	80,000	80,000

JBC Staff Staff Figure Setting - FY 2017-18
Staff Working Document - Does Not Represent Committee Decision

	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	FY 2017-18 Recommendation
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(7) OFFICE OF THE CHILD'S REPRESENTATIVE

This independent agency provides legal representation for children involved in the court system due to abuse or neglect, delinquency, truancy, high conflict divorce, alcohol or drug abuse, mental health issues, and probate matters.

Personal Services	<u>1,925,171</u>	<u>2,277,497</u>	<u>2,442,114</u>	<u>3,275,521</u>	<u>3,275,521</u> *
FTE	26.8	28.9	29.1	29.5	29.5
General Fund	1,925,171	2,277,497	2,442,114	3,275,521	3,275,521
Health, Life, and Dental	<u>186,552</u>	<u>222,248</u>	<u>218,190</u>	<u>228,590</u>	<u>226,640</u>
General Fund	186,552	222,248	218,190	228,590	226,640
Short-term Disability	<u>4,198</u>	<u>5,224</u>	<u>4,111</u>	<u>4,204</u>	<u>4,219</u> *
General Fund	4,198	5,224	4,111	4,204	4,219
S.B. 04-257 Amortization Equalization Disbursement	<u>76,543</u>	<u>104,479</u>	<u>103,850</u>	<u>111,826</u>	<u>112,210</u> *
General Fund	76,543	104,479	103,850	111,826	112,210
S.B. 06-235 Supplemental Amortization Equalization Disbursement	<u>71,580</u>	<u>100,917</u>	<u>102,767</u>	<u>111,826</u>	<u>112,210</u> *
General Fund	71,580	100,917	102,767	111,826	112,210
Salary Survey	<u>266,519</u>	<u>93,977</u>	<u>0</u>	<u>59,941</u>	<u>68,517</u>
General Fund	266,519	93,977	0	59,941	68,517
Operating Expenses	<u>242,477</u>	<u>243,989</u>	<u>193,354</u>	<u>252,046</u>	<u>252,046</u> *
General Fund	242,477	243,989	193,354	252,046	252,046
Leased Space	<u>103,618</u>	<u>105,137</u>	<u>106,680</u>	<u>99,504</u>	<u>99,504</u> *
General Fund	103,618	105,137	106,680	99,504	99,504

JBC Staff Staff Figure Setting - FY 2017-18
Staff Working Document - Does Not Represent Committee Decision

	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	FY 2017-18 Recommendation
CASA Contracts	<u>1,020,000</u>	<u>1,020,000</u>	<u>1,020,000</u>	<u>1,020,000</u>	<u>1,020,000</u>
General Fund	1,020,000	1,020,000	1,020,000	1,020,000	1,020,000
Training	<u>49,588</u>	<u>40,379</u>	<u>38,000</u>	<u>38,000</u>	<u>38,000</u>
General Fund	49,588	40,379	38,000	38,000	38,000
Court-appointed Counsel	<u>19,004,216</u>	<u>18,878,819</u>	<u>21,430,095</u>	<u>21,711,784</u>	<u>21,687,004</u> *
General Fund	19,004,216	18,878,819	21,430,095	21,711,784	21,687,004
Mandated Costs	<u>35,998</u>	<u>35,609</u>	<u>47,246</u>	<u>47,246</u>	<u>30,000</u>
General Fund	35,998	35,609	47,246	47,246	30,000
Grants	<u>19,515</u>	<u>26,909</u>	<u>9,390</u>	<u>26,909</u>	<u>26,909</u>
Reappropriated Funds	19,515	26,909	9,390	26,909	26,909
Merit Pay	<u>19,415</u>	<u>23,011</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	19,415	23,011	0	0	0
TOTAL - (7) Office of the Child's Representative	23,025,390	23,178,195	25,715,797	26,987,397	26,952,780
<i>FTE</i>	<u>26.8</u>	<u>28.9</u>	<u>29.1</u>	<u>29.5</u>	<u>29.5</u>
General Fund	23,005,875	23,151,286	25,706,407	26,960,488	26,925,871
Reappropriated Funds	19,515	26,909	9,390	26,909	26,909

JBC Staff Staff Figure Setting - FY 2017-18
Staff Working Document - Does Not Represent Committee Decision

	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	FY 2017-18 Recommendation
(8) OFFICE OF THE RESPONDENT PARENTS COUNSEL					
This independent agency provides legal representation for indigent parents involved in dependency and neglect proceedings. Cash funds are received from private attorneys for training.					
Personal Services	<u>0</u>	<u>320,019</u>	<u>1,177,365</u>	<u>1,177,365</u>	<u>1,177,365</u>
FTE	0.0	2.8	10.0	10.0	10.0
General Fund	0	320,019	1,177,365	1,177,365	1,177,365
Health, Life, and Dental	<u>0</u>	<u>11,789</u>	<u>90,389</u>	<u>85,931</u>	<u>84,338</u>
General Fund	0	11,789	90,389	85,931	84,338
Short-term Disability	<u>0</u>	<u>461</u>	<u>1,739</u>	<u>1,609</u>	<u>1,618</u>
General Fund	0	461	1,739	1,609	1,618
S.B. 04-257 Amortization Equalization Disbursement	<u>0</u>	<u>11,236</u>	<u>43,930</u>	<u>42,332</u>	<u>42,571</u>
General Fund	0	11,236	43,930	42,332	42,571
S.B. 06-235 Supplemental Amortization Equalization Disbursement	<u>0</u>	<u>10,853</u>	<u>43,472</u>	<u>42,332</u>	<u>42,571</u>
General Fund	0	10,853	43,472	42,332	42,571
Salary Survey	<u>0</u>	<u>0</u>	<u>0</u>	<u>23,045</u>	<u>28,366</u>
General Fund	0	0	0	23,045	28,366
Operating Expenses	<u>0</u>	<u>24,106</u>	<u>67,690</u>	<u>61,833</u>	<u>87,221</u> *
General Fund	0	24,106	67,690	61,833	87,221
Legal Services	<u>0</u>	<u>460</u>	<u>1,901</u>	<u>1,901</u>	<u>1,901</u>
General Fund	0	460	1,901	1,901	1,901

JBC Staff Staff Figure Setting - FY 2017-18
Staff Working Document - Does Not Represent Committee Decision

	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	FY 2017-18 Recommendation
Case Management System	<u>0</u>	<u>60,098</u>	<u>337,500</u>	<u>0</u>	<u>0</u>
General Fund	0	60,098	337,500	0	0
Training	<u>0</u>	<u>7,282</u>	<u>60,000</u>	<u>60,000</u>	<u>60,000</u>
General Fund	0	7,282	30,000	30,000	30,000
Cash Funds	0	0	30,000	30,000	30,000
Court-appointed Counsel	<u>0</u>	<u>0</u>	<u>12,941,751</u>	<u>14,219,440</u>	<u>13,827,934</u> *
General Fund	0	0	12,941,751	14,219,440	13,827,934
Mandated Costs	<u>0</u>	<u>0</u>	<u>455,736</u>	<u>777,018</u>	<u>849,421</u> *
General Fund	0	0	455,736	777,018	849,421
Grants	<u>0</u>	<u>0</u>	<u>23,755</u>	<u>31,095</u>	<u>31,095</u> *
Reappropriated Funds	0	0	23,755	31,095	31,095
Merit Pay	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	0	0	0	0	0
Capital Outlay	<u>0</u>	<u>340,260</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	0	340,260	0	0	0
TOTAL - (8) Office of the Respondent Parents					
Counsel	0	786,564	15,245,228	16,523,901	16,234,401
<i>FTE</i>	<u>0.0</u>	<u>2.8</u>	<u>10.0</u>	<u>10.0</u>	<u>10.0</u>
General Fund	0	786,564	15,191,473	16,462,806	16,173,306
Cash Funds	0	0	30,000	30,000	30,000
Reappropriated Funds	0	0	23,755	31,095	31,095

JBC Staff Staff Figure Setting - FY 2017-18
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	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	FY 2017-18 Recommendation
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(9) OFFICE OF THE CHILD PROTECTION OMBUDSMAN

This independent agency investigates complaints and reviews issues raised relating to child protection services, policies, and procedures, and makes recommendations to improve services and promote better outcomes for children and families receiving child protection services.

Program Costs	<u>0</u>	<u>177,516</u>	<u>591,646</u>	<u>769,111</u>	<u>773,896</u> *
FTE	0.0	2.0	4.5	5.9	6.0
General Fund	0	177,516	591,646	769,111	773,896
Legal Services	<u>0</u>	<u>0</u>	<u>22,812</u>	<u>23,822</u>	<u>7,941</u>
General Fund	0	0	22,812	23,822	7,941

TOTAL - (9) Office of the Child Protection					
Ombudsman	0	177,516	614,458	792,933	781,837
FTE	<u>0.0</u>	<u>2.0</u>	<u>4.5</u>	<u>5.9</u>	<u>6.0</u>
General Fund	0	177,516	614,458	792,933	781,837

JBC Staff Staff Figure Setting - FY 2017-18
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	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	FY 2017-18 Recommendation
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(10) INDEPENDENT ETHICS COMMISSION

This independent agency is charged with hearing complaints, issuing findings, assessing penalties, and issuing advisory opinions on ethics issues that arise concerning public officers, members of the General Assembly, local government officials, or government employees.

Program Costs	<u>0</u>	<u>154,302</u>	<u>188,007</u>	<u>193,402</u>	<u>193,089</u>
FTE	0.0	1.0	1.0	1.0	1.0
General Fund	0	154,302	188,007	193,402	193,089
Legal Services	<u>144,182</u>	<u>135,725</u>	<u>171,090</u>	<u>178,663</u>	<u>178,663</u>
General Fund	144,182	135,725	171,090	178,663	178,663
Salary Survey	<u>4,567</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	4,567	0	0	0	0
Personal Services	<u>94,425</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
FTE	1.0	0.0	0.0	0.0	0.0
General Fund	94,425	0	0	0	0
Health, Life, and Dental	<u>15,393</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	15,393	0	0	0	0
Short-term Disability	<u>374</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	374	0	0	0	0
S.B. 04-257 Amortization Equalization Disbursement	<u>6,803</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	6,803	0	0	0	0

JBC Staff Staff Figure Setting - FY 2017-18
Staff Working Document - Does Not Represent Committee Decision

	FY 2014-15 Actual	FY 2015-16 Actual	FY 2016-17 Appropriation	FY 2017-18 Request	FY 2017-18 Recommendation
S.B. 06-235 Supplemental Amortization Equalization					
Disbursement	<u>6,378</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	6,378	0	0	0	0
Merit Pay	<u>1,827</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	1,827	0	0	0	0
Operating Expenses	<u>15,893</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	14,676	0	0	0	0
Cash Funds	1,217	0	0	0	0
TOTAL - (10) Independent Ethics Commission	289,842	290,027	359,097	372,065	371,752
<i>FTE</i>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>
General Fund	288,625	290,027	359,097	372,065	371,752
Cash Funds	1,217	0	0	0	0
TOTAL - Judicial Department	598,599,153	650,212,080	694,494,996	714,295,908	710,763,409
<i>FTE</i>	<u>4,317.7</u>	<u>4,449.8</u>	<u>4,615.1</u>	<u>4,640.8</u>	<u>4,641.2</u>
General Fund	440,914,170	478,117,651	491,246,425	517,129,117	513,730,436
Cash Funds	125,781,337	138,350,958	164,554,601	157,914,140	157,780,322
Reappropriated Funds	26,258,329	26,973,917	34,268,970	34,827,651	34,827,651
Federal Funds	5,645,317	6,769,554	4,425,000	4,425,000	4,425,000