

**COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE**



**FY 2015-16 STAFF BUDGET BRIEFING
JUDICIAL BRANCH**

**JBC Working Document - Subject to Change
Staff Recommendation Does Not Represent Committee Decision**

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JUDICIAL BRANCH

Branch Overview

One of three branches of Colorado state government, the Judicial Branch interprets and administers the law, resolves disputes, and supervises offenders on probation. The Chief Justice of the Colorado Supreme Court, selected by the justices of the Court, is the executive head of the Branch. The justices also appoint a State Court Administrator to oversee the daily administration of the Branch and provide technical and administrative support to the courts and probation. The General Assembly has established 22 judicial districts within the state. The state court system consists of four primary courts, described below. The General Assembly establishes the number of justices and judges at each level of the state court system¹.

- *County Courts* have limited jurisdiction, handling civil cases under \$15,000, misdemeanors, civil and criminal traffic infractions, felony complaints, protection orders, and small claims.
- *District Courts* have general jurisdiction, handling felony criminal cases, large civil cases, probate and domestic matters, cases for and against the government, as well as juvenile and mental health cases. Water Courts (which are divisions of district courts) have exclusive jurisdiction over cases concerning water matters. There are seven water courts, one in each of the major river basins in Colorado.
- The *Colorado Court of Appeals* hears cases when either a plaintiff or a defendant believes that the trial court made errors in the conduct of the trial. The Court of Appeals also reviews decisions of several state administrative agencies.
- The *Colorado Supreme Court* also hears appeals, but only when it considers the cases to have great significance. The Supreme Court may also answer legal questions from the General Assembly regarding proposed laws. The Supreme Court is also responsible for overseeing the regulation of attorneys and the practice of law, and for reviewing judges standing for retention during elections.

Municipal courts and Denver's county court are not part of the state court system, and they are funded by their respective local governments. In addition, all counties are required to provide and maintain adequate court facilities for their respective district and county courts.

The Branch is also charged with supervising offenders on probation. Managed by the chief probation officer in each judicial district, approximately 1,200 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. Investigation and supervision services are provided based on priorities established by the Chief Justice and each offender's risk of re-offending.

¹ Legislation changing the number of Supreme Court justices or district court judges requires a 2/3 majority in each house [Article VI, Sections 5 and 10 of the State Constitution.]

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The Judicial Branch also includes four independent agencies. The *Office of the State Public Defender* (OSPD) and the *Office of Alternate Defense Counsel* (OADC) provide legal representation for indigent criminal defendants. These cases are first assigned to the OSPD, and then referred to the OADC if the OSPD has an ethical conflict of interest. The *Office of the Child's Representative* provides legal services to children entitled to legal representation at state expense. Finally, the *Independent Ethics Commission* hears complaints and issues findings and advisory opinions on ethics-related matters that arise concerning public officers, members of the General Assembly, local government officials, or government employees.

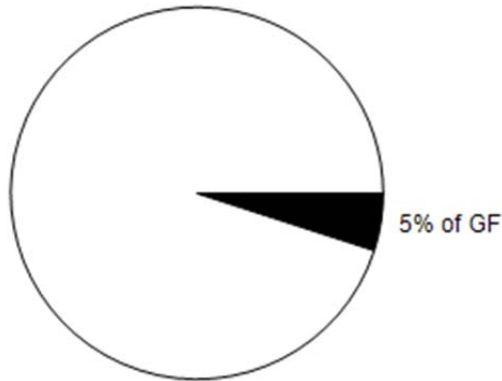
Branch Budget: Recent Appropriations

Funding Source	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16 *
General Fund	\$353,411,788	\$397,446,475	\$444,077,692	\$475,072,158
Cash Funds	134,221,003	149,941,452	135,792,639	154,556,046
Reappropriated Funds	19,319,022	25,877,682	30,648,095	32,959,729
Federal Funds	<u>4,425,000</u>	<u>4,425,000</u>	<u>4,425,000</u>	<u>4,425,000</u>
Total Funds	\$511,376,813	\$577,690,609	\$614,943,426	\$667,012,933
Full Time Equiv. Staff	4,269.6	4,569.2	4,528.3	4,588.5

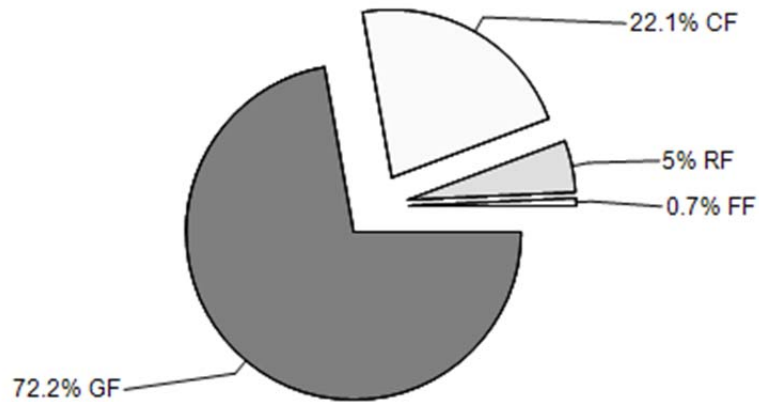
*Requested appropriation.

Branch Budget: Graphic Overview

**Department's Share of Statewide
General Fund**

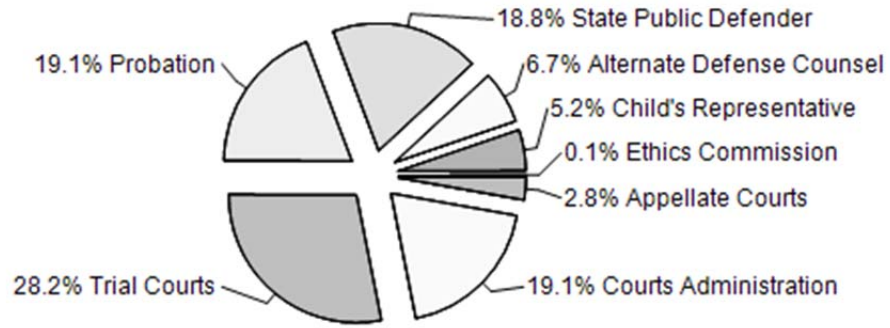


Department Funding Sources

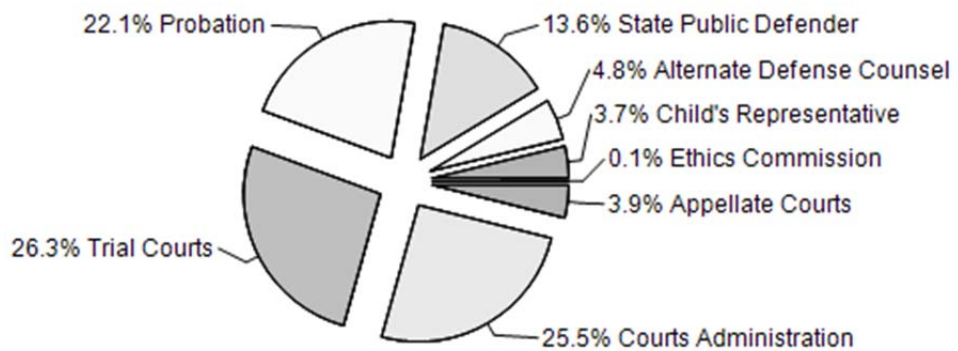


All charts are based on the FY 2014-15 appropriation.

Distribution of General Fund by Division



Distribution of Total Funds by Division



All charts are based on the FY 2014-15 appropriation.

General Factors Driving the Budget

The FY 2015-16 request for the Branch consists of 71.2 percent General Fund, 23.2 percent cash funds, 4.9 percent reappropriated funds, and 0.7 percent federal funds. Cash funds primarily include: various docket fees and surcharges that support court operations; fees paid by individuals sentenced to probation; and attorney licensing fees that are used by the Supreme Court to regulate the practice of law in Colorado.

The main factor driving the budget for the Judicial Department is caseload. Judges, attorneys, probation officers, and support staff can only manage a certain number of cases each year. As the caseload grows, so does the need for resources if the Department is to continue fulfilling its constitutional and statutory duties in a timely and professional manner. Caseloads are generally driven by: (1) population changes; (2) changes in the state's economic climate (which can affect the number of civil filings for cases such as foreclosures and collections, as well as the crime rate and the proportion of clients who are financially eligible for state-funded legal representation); and (3) changes in state laws and sentencing provisions. Workload is also impacted by the types of cases filed, as some cases require more time and resources than others.

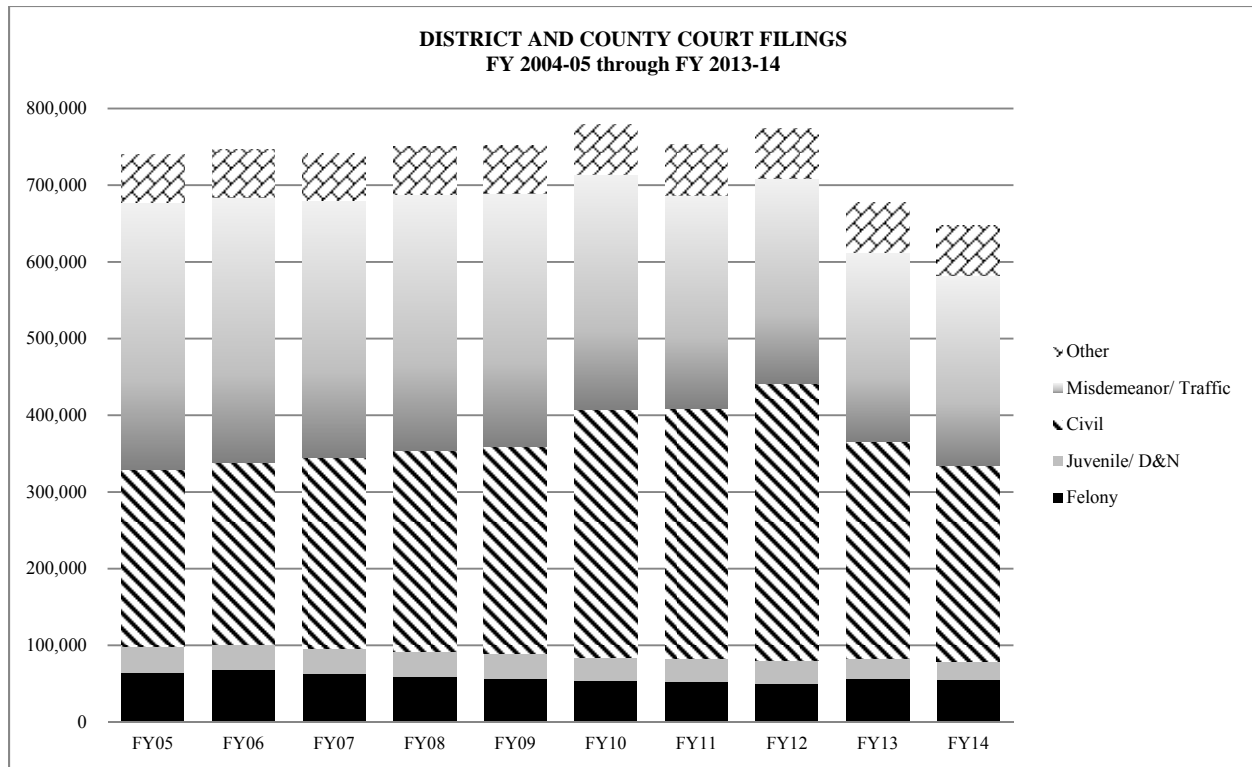
Case Filings and the Need for Court Staff

In FY 2013-14, approximately 651,000 cases were filed in the state court system, including 430,398 (66.1 percent) in county courts, 216,970 (33.3 percent) in district and water courts, 2,458 in the Court of Appeals, and 1,465 in the Supreme Court. The chart on the following page depicts the number of cases filed annually in county and district courts (collectively called "trial courts") since FY 2004-05, by case type. Cases are depicted using the following categories: felony; juvenile/ dependency and neglect; civil; misdemeanor/ traffic; and other.

From FY 2004-05 through FY 2011-12, the total number of trial court case filings increased by 4.6 percent, with a compound annual growth rate of 0.6 percent. The most significant increase occurred in civil cases, and in particular cases concerning tax liens and foreclosures. In FY 2012-13 this trend reversed, and total trial court case filings have declined by 16.4 percent in the last two fiscal years (more than 126,000 cases). This decline primarily included: a 29.7 percent decrease in civil cases (including a decrease of 68,247 tax lien and foreclosure district court cases and a decrease of 34,756 civil cases in county courts); and a 7.2 percent decrease in misdemeanor and traffic cases (a decline of 19,155 cases).

Generally, tax lien, foreclosure, misdemeanor, and traffic cases do not require a significant amount of judge and court staff time, so the workload impact of changes in the numbers of these case types is less significant than depicted in the chart on the next page. For those case types that do have a significant workload impact, the caseload trend for the last two fiscal years is mixed. While the number of felony, probate, and mental health cases has increased in the last two fiscal years (by a total of 6,050), the number of dependency and neglect, and juvenile cases has declined (by a total of 3,428).

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In response to workload increases, the General Assembly periodically passes legislation to increase the number of judges within one or more judicial districts. Most recently, H.B. 14-1050 added two district court judges and the associated court support staff for the 18th judicial district (Arapahoe, Douglas, Elbert, and Lincoln counties). The Department is seeking legislation to add one judgeship to the 12th judicial district court (Alamosa, Conejos, Costilla, Mineral, Rio Grande, and Saguache counties) in FY 2015-16.

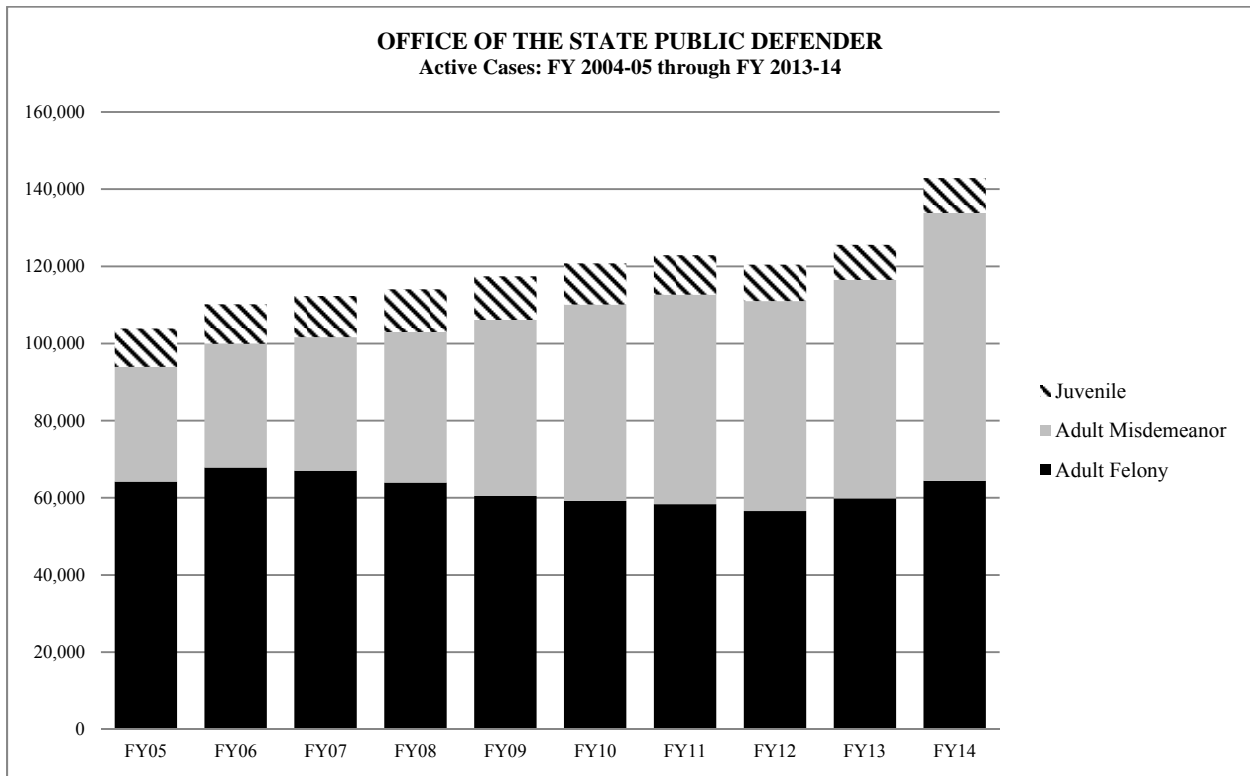
Caseload Impacts Unique to Independent Agencies

The three independent agencies that provide legal representation are affected in different ways by changes in the number of cases filed, based on the clients they represent.

The *Office of the State Public Defender (OSPD)* represents criminal defendants who have inadequate financial resources to pay for their own defense. The OSPD's caseload is affected by the number and types of cases filed, as well as the proportion of clients who are eligible for state-funded representation. As in the court system, more complicated cases consume more resources than simpler cases: felonies require more time than misdemeanors, and homicides require more time than assaults or robberies. For example, the most recent data indicates that the OSPD spends an average of \$508 to represent a juvenile defendant, \$529 to represent an adult misdemeanor defendant, and \$817 to represent an adult felony defendant. Further, approximately 87 percent of adult felony defendants receive state funded representation (either through the OSPD or the Office of the Alternate Defense Counsel, discussed below), while approximately 65 percent of adult misdemeanor defendants receive state-funded representation. Thus, the number of felony cases is the primary factor driving OSPD staffing needs.

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As illustrated in the following chart, the total number of cases requiring public defender involvement has increased in every year but one since FY 2004-05, reaching 142,907 in FY 2013-14. In the last fiscal year alone the total number of cases increased by 17,301 (13.8 percent). This primarily includes an increase of 12,782 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 offenses to meet with the prosecuting attorney for plea negotiations before legal counsel is appointed². In addition, the number of adult felony cases increased by 4,559 (7.6 percent) in FY 2013-14. The OSPD routinely monitors its workload and periodically requests additional funding to ensure that staffing levels are sufficient to provide legal representation in an ethical and responsible manner.

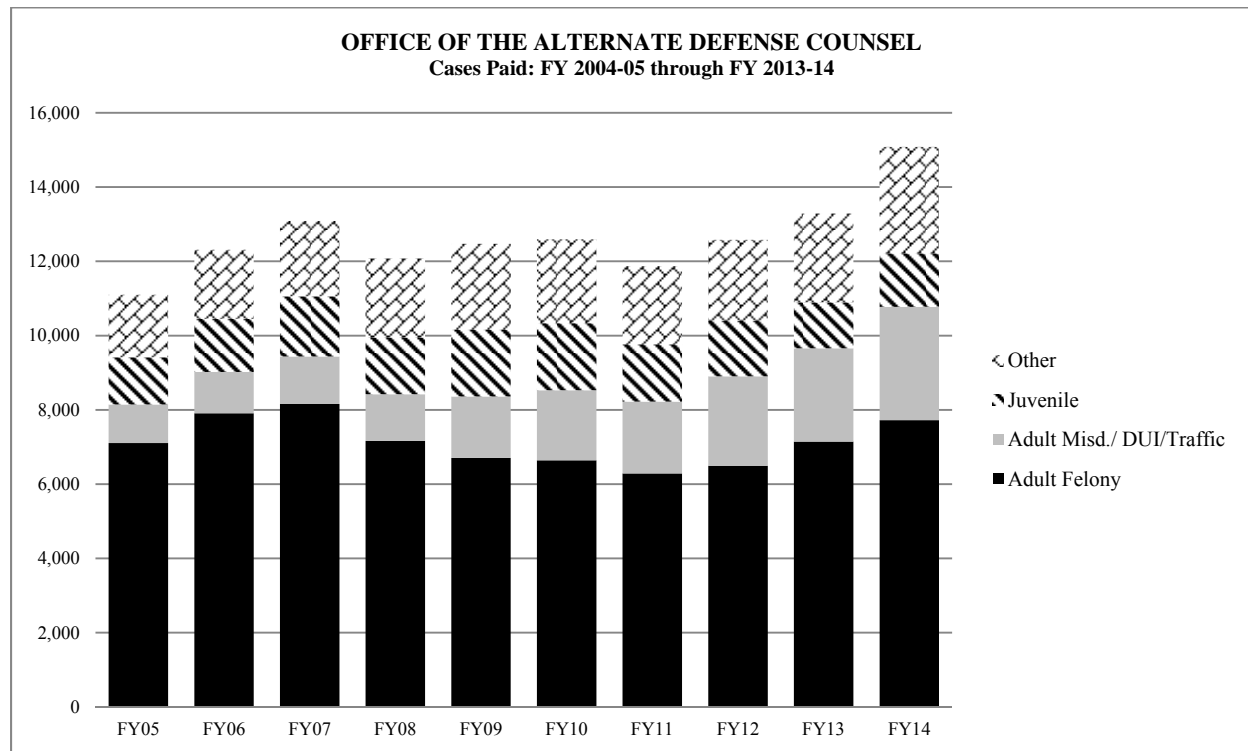


The *Office of the Alternate Defense Counsel (OADC)* contracts with private attorneys to represent indigent defendants in cases where the OSPD has an ethical conflict of interest in providing legal representation. The OADC paid for legal representation in 15,085 cases in FY 2013-14, at an average cost of \$1,615 per case. Similar to the OSPD, certain types of cases (*e.g.*, death penalty cases) are more expensive than others; these cases require more hours of attorney time and a higher hourly rate. For example, in FY 2013-14 the OADC paid for an average of 18 attorney hours per case; however, the average number of attorney hours per case ranged from six for adult misdemeanor and juvenile cases to 2,600 for death penalty cases.

² The act specifies that these changes are effective January 1, 2014, and apply to misdemeanors, petty offenses, class 2 and class 3 misdemeanor traffic offenses, and municipal or county ordinance violations committed on or after that date.

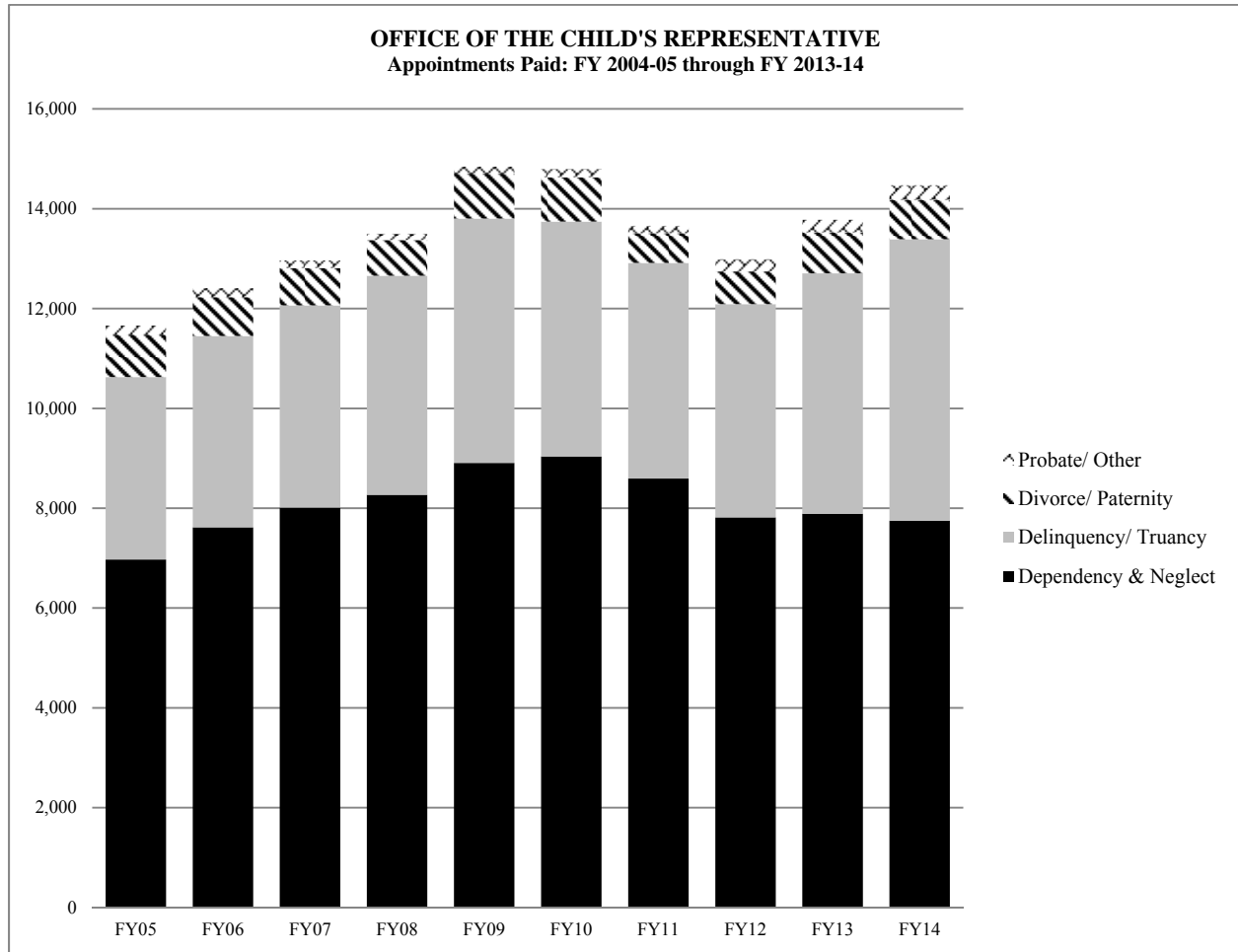
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As illustrated in the following chart, the OADC’s overall caseload is more variable than that of the OSPD. In FY 2013-14, the OADC experienced a caseload increase similar to that of the OSPD (an increase of 1,795 cases or 13.5 percent). The OADC saw increases in every case type, with the largest increases in adult misdemeanors (21.5 percent) and juvenile cases (16.4 percent). As the OADC contracts with private attorneys, it routinely submits requests for budget adjustments to ensure that it has sufficient funding to cover payments for all assigned cases.



The *Office of the Child's Representative (OCR)* is responsible for providing 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. The OCR paid for legal representation in 14,471 court appointments in FY 2013-14 at an average cost of \$1,218 per appointment. Similar to the OSPD and OADC, the average cost per appointment varies significantly for different types of cases. For example, in FY 2013-14 the OCR spent an average of \$342 per appointment in truancy cases, \$670 per appointment in domestic relations cases, and \$1,811 per appointment in cases involving abuse and neglect (called dependency and neglect or "D&N" cases). Thus, the OCR’s expenditures are primarily driven by the number of D&N cases, as these cases account for the most court appointments and require the most attorney time.

As illustrated in the chart on the next page, the overall number of appointments has increased in the last two fiscal years. This overall increase is primarily related to increases in the number of appointments involving juvenile delinquency or truancy; these appointments now account for 39.0 percent of the total, compared to 31.3 percent in FY 2004-05.



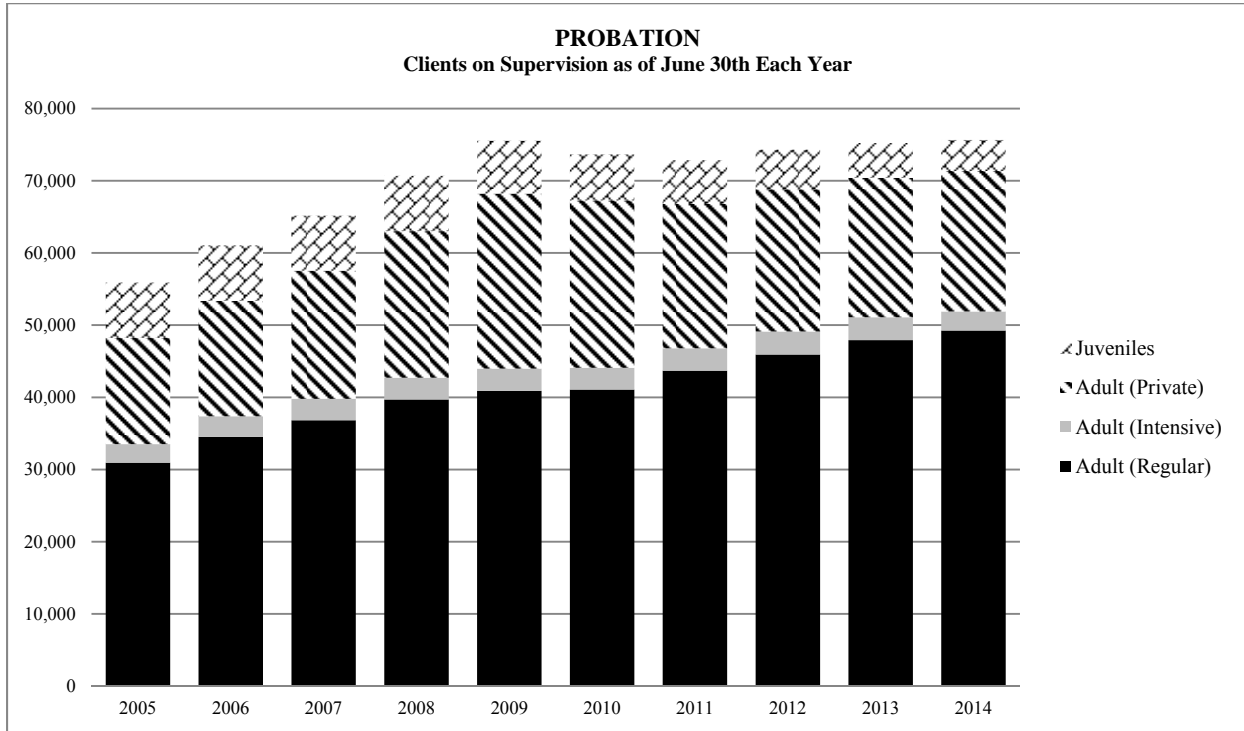
Probation and Related Services Caseload

Individuals sentenced to probation, as an alternative to incarceration, remain under the supervision of the court. Failure to meet the terms of probation set forth in the court's sentencing order may result in incarceration. Managed by the chief probation officer in each judicial district, approximately 1,200 employees prepare assessments, provide pre-sentence investigation services to the courts, and supervise offenders sentenced to probation. Supervision services are provided based on each offender's risk of re-offending.

Funding for probation services is primarily driven by the number and types of offenders sentenced to probation and statutory requirements concerning probation eligibility and supervision time frames. Those offenders that present a higher risk of re-offending require more resources. For example, the most recent data available indicates that the average annual cost of probation supervision ranges from \$1,424 for an adult on "regular" probation to \$3,928 for an adult on "intensive" supervision; similarly the average annual cost of probation supervision ranges from \$2,390 for a juvenile on regular probation to \$5,583 for a juvenile on intensive supervision.

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The *total* number of offenders sentenced to probation increased significantly from 2004 to 2009, and has since stabilized. However, the number of adult offenders who are *supervised by state staff* (rather than private probation providers) has increased steadily since 2005. The following chart depicts changes in the numbers of adults and juveniles on supervision since 2005. Overall, the number of juvenile and adult offenders who are supervised by state staff increased from 41,228 in June 2005 to 56,221 in June 2014 (36.4 percent). As this number grows, so does the need for probation supervisors, officers, and support staff to adequately supervise offenders.



In addition, the General Assembly appropriates state funds to subsidize the cost of required treatment and services for offenders on probation with inadequate financial resources. From FY 2007-08 to FY 2014-15, state funding for treatment and services for probation clients more than doubled, increasing from \$8.5 million to \$17.5 million. In FY 2013-14, nearly half of available state funding was used for substance abuse testing and treatment, and another 19.0 percent was used for sex offender assessment, treatment, and polygraph expenses.

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Summary: FY 2014-15 Appropriation & FY 2015-16 Request

	Judicial Department					
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2014-15 Appropriation						
HB 14-2336 (Long Bill)	\$606,373,925	\$436,154,841	\$135,845,989	\$29,948,095	\$4,425,000	4,500.0
Other legislation	<u>8,569,501</u>	<u>7,922,851</u>	<u>(53,350)</u>	<u>700,000</u>	<u>0</u>	<u>28.3</u>
TOTAL	\$614,943,426	\$444,077,692	\$135,792,639	\$30,648,095	\$4,425,000	4,528.3
FY 2015-16 Requested Appropriation						
FY 2014-15 Appropriation	\$614,943,426	444,077,692	\$135,792,639	\$30,648,095	\$4,425,000	4,528.3
<u>Requests from Judicial Department (Courts/Probation)</u>						
JUD R1 General Fund Support of Cash Funds	0	9,400,000	(9,400,000)	0	0	0.0
JUD R2 Banking Fees	495,702	495,702	0	0	0	0.0
JUD R3 Network Bandwidth and Networking Equipment	3,913,000	0	3,913,000	0	0	0.0
JUD R5 Probation Supervisors and Staff	2,755,755	2,725,005	30,750	0	0	25.0
JUD R6 Self-represented Litigant Coordinators and Family Court Facilitators	957,909	940,689	17,220	0	0	14.0
JUD R7 Appellate Court FTE	195,716	193,256	2,460	0	0	2.0
JUD R8 Senior Judge Program Maintenance	95,982	95,982	0	0	0	0.0
JUD R9 Regional Trainers	279,587	275,897	3,690	0	0	3.0
JUD R10 Recruitment and Retention	93,230	92,000	1,230	0	0	1.0
JUD R11 Courthouse Capital and Infrastructure Maintenance	4,082,000	2,256,000	1,826,000	0	0	0.0
JUD R12 Problem-solving Courts FTE	183,040	179,658	3,382	0	0	2.8
JUD R13 Language Access Administration	80,094	78,864	1,230	0	0	1.0
JUD R14 Establishment of the Office of the Respondent Parents' Counsel	953,664	953,664	0	0	0	2.7
JUD R15 Restorative Justice Coordinator	40,048	0	40,048	0	0	0.5
JUD R16 Fleet Vehicles	(1,716)	(1,716)	0	0	0	0.0
<u>Requests from Office of the Alternate Defense Counsel</u>						
OADC R1 Staff Support	169,325	169,325	0	0	0	1.5
<u>Requests from Office of the Child's Representative</u>						
OCR R1 Caseload/Workload Increase	1,508,778	1,508,778	0	0	0	0.0
OCR R2 FTE Increase	38,928	38,928	0	0	0	1.5
OCR R3 Mandated Costs	17,200	17,200	0	0	0	0.0
<u>Requests from Independent Ethics Commission</u>						
IEC R1 Legal Services and Operating	91,436	91,436	0	0	0	0.0

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Judicial Department						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
<i>Request from Colorado District Attorneys' Council</i>						
CDAC R1 District Attorney Mandated Costs	165,257	165,257	0	0	0	0.0
<i>Other Requested Changes</i>						
Transfer from capital construction budget	21,543,903	0	21,543,903	0	0	0.0
Employee benefits/ common changes	18,408,915	16,939,704	1,469,211	0	0	0.0
Annualize prior year budget actions	(3,235,752)	(2,404,989)	(830,763)	0	0	1.3
Annualize prior year legislation	(993,547)	(3,317,146)	23,599	2,300,000	0	3.9
Other changes	<u>231,053</u>	<u>100,972</u>	<u>118,447</u>	<u>11,634</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$667,012,933	\$475,072,158	\$154,556,046	\$32,959,729	\$4,425,000	4,588.5
Increase/(Decrease)	\$52,069,507	\$30,994,466	\$18,763,407	\$2,311,634	\$0	60.2
Percentage Change	8.5%	7.0%	13.8%	7.5%	0.0%	1.3%
<i>Informational Item from the Judicial Department (Courts/Probation):</i>						
JUD R4 District Court Judge and Staff	<u>381,737</u>	<u>374,717</u>	<u>7,020</u>	<u>0</u>	<u>0</u>	<u>4.0</u>
TOTAL	\$667,394,670	\$475,446,875	\$154,563,066	\$32,959,729	\$4,425,000	4,592.5
Increase/(Decrease)	\$52,451,244	\$31,369,183	\$18,770,427	\$2,311,634	\$0	64.2
Percentage Change	8.5%	7.1%	13.8%	7.5%	0.0%	1.4%

NOTE: The descriptions of prioritized requested changes in the above table indicate the source of the request: "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; "IEC" indicates a request submitted by the Independent Ethics Commission; and "CDAC" indicates a request submitted by the Colorado District Attorneys' Council.

Description of Requested Changes

Requests from Judicial Department (Courts/Probation)

JUD R1 General Fund Support of Cash Funds: The request includes an increase of \$9,400,000 General Fund and a decrease of \$9,400,000 cash funds to maintain support for several programs that are affected by declining revenues in four cash funds. *[For more information, see the issue brief titled, "Declining Cash Fund Revenues"].*

JUD R2 Banking Fees: The request includes \$495,702 General Fund to cover the cost of newly assessed banking fees. This amount includes \$375,702 for merchant exchange fees and \$120,000 for courier fees. Prior to January 1, 2014, Wells Fargo covered the merchant interchange fee for accepting credit card payments and the cost of armored car services to collect cash payments of court fines and fees from each court location. However, effective January 1, 2014, Wells Fargo no longer pays either the merchant exchange fees or the courier fees.

JUD R3 Network Bandwidth and Networking Equipment: The request includes \$3,913,000 cash funds from the Judicial Department Information Technology Cash Fund (IT Cash Fund), including \$2,413,000 to cover network equipment upgrades and increased network bandwidth costs for court and probation locations across the state and \$1,500,000 to assist with increasing hardware and software needs throughout the Department.

JUD R5 Probation Supervisors and Staff: The request includes a total of \$2,755,755, including \$2,725,005 General Fund and \$30,750 cash funds from the IT Cash Fund, to add 25.0 FTE to begin aligning the ratio of probation supervisors and support staff to that of probation officers. Staffing efforts over the last several years have focused on increasing the number of probation officers to lower caseloads and enhance the ability to implement evidence-based programs and practices. As a result, the staffing level of probation officers (94 percent) now exceeds that of supervisors (69 percent) and support staff (73 percent). The request is intended to incrementally balance these staffing levels and ensure the quality and sustainability of the evidence-based initiatives already underway.

JUD R6 Self-represented Litigant Coordinators and Family Court Facilitators: The request includes a total of \$957,909, including \$940,689 General Fund and \$17,220 cash funds from the IT Cash Fund, to add a total of 14.0 FTE within judicial districts including the following:

- 6.5 FTE Self-represented Litigant Coordinators (called "Sherlocks" based on the acronym) to expand a statewide network of services to assist self-represented parties in court cases; and
- 7.5 FTE Family Court Facilitators to assist with the processing of domestic relations cases and to provide early, active, and ongoing case management of such cases.

JUD R7 Appellate Court FTE: The request includes a total of \$195,716, including \$193,256 General Fund and \$2,460 cash funds from the IT Cash Fund, to add 2.0 FTE for Colorado's appellate courts including:

- 1.0 FTE Staff Attorney to screen *certiorari*, *habeas corpus*, and original proceeding petitions for the Colorado Supreme Court; and
- 1.0 FTE Assistant Reporter of Decisions to ensure accuracy and consistency in the written opinions issued by the Court of Appeals.

JUD R8 Senior Judge Program Maintenance: The request includes \$95,982 General Fund to increase from 46 to 49 the number of retired judges available to cover sitting district and county court judges in case of disqualifications, vacations, sick leave, over-scheduled dockets, judicial training and education, and conflicts of interest.

JUD R9 Regional Trainers: The request includes a total of \$279,587, including \$275,897 General Fund and \$3,690 cash funds from the IT Cash Fund, to add 3.0 FTE Court Education Specialists to improve the quality of training and increase the amount of instruction time for trial court staff.

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JUD R10 Recruitment and Retention: The request includes a total of \$93,230, including \$92,000 General Fund and \$1,230 cash funds from the IT Cash Fund, to add 1.0 FTE Senior Recruitment Analyst to assist with all of the strategic employee recruitment functions for the Department.

JUD R11 Courthouse Capital and Infrastructure Maintenance: The request includes a total of \$4,082,000, including \$2,256,000 General Fund and \$1,826,000 cash funds from the IT Cash Fund, to fulfill the State's responsibility for court facilities. The Department's request includes: \$2,256,000 for furnishings; \$1,065,000 for information technology infrastructure and courtroom audiovisual and court docketing systems; and \$761,000 for phone systems. The request includes \$600,000 for three projects that were funded for FY 2014-15 but have been delayed; the Department plans to submit a supplemental request to eliminate this funding from the FY 2014-15 budget.

JUD R12 Problem-solving Courts FTE: The request includes a total of \$183,040, including \$179,658 General Fund and \$3,382 cash funds from the IT Cash Fund, to add 2.8 FTE to permanently fund problem-solving court positions that were previously funded by a grant.

JUD R13 Language Access Administration: The request includes a total of \$80,094, including \$78,864 General Fund and \$1,230 cash funds from the IT Cash Fund, to add 1.0 FTE to meet current language access needs and to improve the quality of language access services provided by Department employees and external agencies.

JUD R14 Establishment of the Office of the Respondent Parents' Counsel: The request includes \$953,664 General Fund and 2.7 FTE to establish a new independent office within the Judicial Branch to oversee the provision of legal representation for parents who are respondents in dependency and neglect cases. *[For more information, see the issue brief titled, "Office of the Respondent Parents' Counsel"].*

JUD R15 Restorative Justice Coordinator: The request includes \$40,048 cash funds from the Restorative Justice Cash Fund to increase the 0.5 FTE Restorative Justice Coordinator position that was added through H.B. 13-1254 (Restorative justice) to a full-time position.

JUD R16 Fleet Vehicles: The request includes a net decrease of \$1,716 General Fund in the amount allocated for fleet vehicles and mileage expense reimbursements. Specifically, the Department requests \$9,464 to add ten fleet vehicles for court and probation staff. This request is offset by reductions to the operating budgets for courts and probation totaling \$11,180 based on the anticipated reduction in mileage reimbursements for employees who drive their own vehicles.

Requests from Office of the Alternate Defense Counsel (OADC)

OADC R1 Staff Support: The request includes \$169,325 General Fund and 1.5 FTE for the OADC to insure compliance with CORE and the SMART Act, and to rectify the staffing deficiencies that have resulted from the agency's growth and these two state mandates.

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

OCR R1 Caseload/Workload Increase: The request includes a total of \$1,508,778 General Fund to cover projected caseload and workload increases for state-paid court appointed counsel. The OCR also plans to submit a supplemental request to cover caseload/workload increases it is experiencing in FY 2014-15.

OCR R2 FTE Increase: The request includes \$38,928 General Fund to add 1.0 FTE administrative position in the OCR's El Paso county *guardian ad litem* office and 0.5 FTE administrative position in the OCR's central office.

OCR R3 Mandated Costs: The request includes \$17,200 General Fund to cover OCR's costs of expert witnesses, discovery/ reproduction services, transcripts, interpreter services outside the courtroom, and process servers.

Requests from Independent Ethics Commission (IEC)

IEC R1 Legal Services and Operating: The request includes a total of \$91,436 General Fund, including: \$78,416 to purchase an additional 792 hours of legal services; \$8,000 to cover one-time costs associated with the replacement of recording equipment and the purchase of laptops and software for the five Commissioners; and \$5,020 for travel and operating expenses.

Request from Colorado District Attorneys' Council

CDAC R1 District Attorney Mandated Costs: The request includes an increase of \$165,257 General Fund to reimburse district attorneys for costs incurred for prosecution of state matters. [For more information, see Appendix C, Judicial request for information #1.]

Other Requested Changes

Transfer from capital construction budget: The request includes an appropriation of \$21.5 million cash funds from the Justice Center Cash Fund to make the necessary lease purchase payments related to the construction of the Carr Center. To date this appropriation has been reflected in the capital construction section of the Long Bill. The Department indicates that, "due to legislation passed last session, the Capital Development Committee has instructed departments to request spending authority for lease purchase payments in the department operating line items rather than in the capital construction budget".

Employee benefits/ common changes: The request includes an increase of \$18,408,915 total funds (including \$16,939,704 General Fund) related to employee benefits and other centrally appropriated line items. This total is comprised of the following elements:

- \$12,763,932 total funds (including \$12,238,771 General Fund) for salary increases to be awarded in FY 2015-16 [for information about proposed salary increases for justices, judges, the State Public Defender, the Alternate Defense Counsel, and the Executive Director of the Office of the Child's Representative, see Appendix C, Long Bill footnote #49];
- \$1,960,194 total funds (including \$1,692,924 General Fund) for supplemental PERA payments;

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- \$3,075,909 total funds (including \$2,399,129 General Fund) for various types of insurance (health, life and dental; short-term disability; workers' compensation; and risk management and property funds); and
- \$608,880 General Fund for IT-related common policies, leased space adjustments, and vehicle lease payments.

Annualize prior year budget actions: The request includes a decrease of \$3,235,752 total funds (including a decrease of \$2,404,989 General Fund) and an increase of 1.3 FTE to reflect the FY 2015-16 impact of the following FY 2014-15 budget decisions:

- OSPD R1 Appellate Staffing (increase of \$24,241 General Fund and 1.3 FTE)
- JUD R1 Regional Technicians for IT Support (increase of \$7,030 General Fund)
- JUD R3 Network Bandwidth (decrease of \$732,000 cash funds)
- JUD 4 Language Access (increase of \$2,702 General Fund)
- JUD R6 Self-represented Litigant Coordinators (decrease of \$47,845 General Fund)
- JUD R8 IT Staff (increase of \$71,548 General Fund)
- JUD R12 Probation Background Checks (decrease of \$165 General Fund)
- JUD R11 Restitution Enforcement (decrease of \$98,763 cash funds)
- JUD R14 Courthouse Capital and Infrastructure Maintenance (decrease of \$2,462,500)

Annualize prior year legislation: The request includes a decrease of \$993,547 total funds (including a decrease of \$3,319,146 General Fund) to reflect the FY 2015-16 impact of legislation that was passed in previous legislative sessions, including the following acts:

- S.B. 14-190 Statewide Discovery Sharing System (decrease of \$5,300,000 General Fund)
- H.B. 13-1023 Social Workers for Juveniles (decrease of \$37,624 General Fund)
- H.B. 14-1032 Defense Counsel for Juvenile Offenders (increase of \$378,705 General Fund and 8.3 FTE)
- H.B. 14-1050 Add Two Judges (decrease of \$94,994 General Fund and increase of 0.8 FTE)
- H.B. 14-1096 Underfunded Courthouse Facilities Grants (increase of \$4,600,000 total funds, including \$2,300,000 General Fund and a duplicative appropriation of \$2,300,000 reappropriated funds)
- H.B. 14-1266 Penalties for Value-based Offenses (decrease of \$10,702 General Fund and 0.2 FTE)
- S.B. 13-250 Drug Crime Sentencing (decrease of \$17,140 General Fund)
- H.B. 11-1300 Conservation Easements (decrease of \$541,792 General Fund and 5.0 FTE)
- S.B. 08-054 Judicial performance evaluations (increase of \$30,000 cash funds)

Other changes: The request includes the following relatively small changes totaling \$231,053:

- Indirect cost assessment adjustments: \$120,691 (cash and reappropriated funds);
- Increase in funding for Senior Judge Program based on salary increase: \$108,402 General Fund;
- Reflection of federal Title IV-E grant to OCR: \$9,390 reappropriated funds;

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- Inflationary increase in payments to exonerated persons: \$2,980 General Fund;
- Annual fleet request: -\$6,825 General Fund; and
- Technical changes included in OADC request: -\$3,585.

Informational Item from the Judicial Department (Courts/Probation)

JUD R4 District Court Judge and Staff: The Judicial Department is seeking legislation to authorize one additional district court judgeship and appropriate a total of \$381,737 (including \$374,717 General Fund) to support the judgeship and the associated support staff. The judgeship would be added to the 12th judicial district (Alamosa, Conejos, Costilla, Mineral, Rio Grande, and Saguache counties). This district is currently operating at 72 percent of full staffing³, the lowest in the state. The Branch included this request as part of its FY 2015-16 budget request for informational purposes. Pursuant to the deadline schedule for the 2015 General Assembly, any bill that increases the number of judges must be adopted by both houses by Friday, March 6, 2015. Further, pursuant to Article VI, Section 10 of the Colorado Constitution, such a bill would require two-thirds majority to pass in each house.

³ Please note, however, that the 12th Judicial District was allocated a 0.5 FTE magistrate August of 2013 to support the court until such time as an additional judgeship could be secured. With this magistrate position, the district is operating at 84 percent of full staffing.

Issue: Declining Cash Fund Revenues

The number of case filings in district and county courts has declined significantly in the last two years. This decline is having a negative impact on revenues to cash funds that support court operations and other court-related programs.

SUMMARY:

- A long-term trend of caseload growth in district and county courts reversed recently, and total trial court filings have declined by 126,000 (16.4 percent) in the last two fiscal years. This decline is primarily due to decreases in civil, misdemeanor, and traffic-related cases. This caseload decline began six years ago in county courts, with filings decreasing by 132,000 cases (23.5 percent) since FY 2007-08.
- About a year ago the Department realized that these caseload changes are having a significant impact on revenues to several judicial cash funds. Last year, the Department requested additional General Fund to mitigate revenue declines for two cash funds, and the General Assembly provided a total of \$7.0 million to maintain funding for trial court operations and programs as well as the judicial performance evaluation program.
- The Department's FY 2015-16 budget includes a request for another \$9.0 million General Fund to offset continued revenue declines affecting four cash funds that support the operations of the Ralph L. Carr Colorado Judicial Center and related debt service payments, trial court operations, and two court-related grant programs. The Department's FY 2015-16 budget also includes funding to add one judgeship in the 12th judicial district.

RECOMMENDATION:

Staff recommends that the Committee ask the Department to discuss the impact of recent caseload trends on the workload of judicial officers and court staff, and how such workload changes relate to the two funding initiatives described above.

DISCUSSION:

Department's FY 2015-16 Request

The Judicial Department's FY 2015-16 budget includes a request (JUD R1) for \$9.4 million General Fund to offset the impact of revenue declines in four cash funds. The following table summarizes the request by line item and cash fund. A description of each cash fund and program is provided later in this briefing.

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Summary of Request for JUD R1: General Fund Support of Judicial Cash Funds				
	General Fund	Cash Funds		Total
		Amount	Source	
<u>Courts Administration</u>				
<i>Centrally Administered Programs</i>				
Courthouse Security	\$1,250,000	(\$1,250,000)	Court Security Cash Fund	\$0
Family-friendly Court Program	150,000	(150,000)	Family-friendly Court Program Cash Fund	0
<i>Ralph L. Carr Colorado Judicial Center</i>				
Operating Expenses	1,146,362	(1,146,362)	Justice Center Cash Fund	0
Debt Service Payments	<u>3,853,638</u>	<u>(3,853,638)</u>	Justice Center Cash Fund	0
Subtotal	5,000,000	(5,000,000)		
<u>Trial Courts</u>				
Trial Court Programs	3,000,000	(3,000,000)	Judicial Stabilization Cash Fund	<u>0</u>
Total	\$9,400,000	(\$9,400,000)		\$0

Impact of Court Filing Trends on Cash Fund Revenues

The Department indicates that cash fund revenues have declined primarily due to significant declines in county court filings. Overall, county court filings have declined by more than 132,000 (23.5 percent) since FY 2007-08. [See Appendix H for tables that detail changes in the number of district court and county court filings, by case type, since FY 1998-99.] The Department points to declines in two types of case filings as the most significant factors affecting cash fund revenues.

First, there has been a significant decline in county court *civil filings*. From FY 2009-10 through FY 2013-14, county court civil filings declined by 48,428 (23.4 percent). The Department indicates that county civil "money" cases (which comprise more than two-thirds of county civil cases), do not require a large amount of court staff time and input, but they generate cash fund revenues. This category of cases declined by 43,175 (41.0 percent) since FY 2009-10. The Department indicates that the most important factor in the decline of county civil money cases is federal legislation that has changed how lenders pursue credit card collections. Previously, a lender would file a collection case each time a debt was sold to another party for collection. Federal legislation created uncertainty about the probability of collecting such debt, and sales of debt collection agencies therefor decreased or ceased, resulting in a decrease in collection filings and the associated revenues. The Department notes that the number of county civil money filings has also decreased due to the decline in foreclosures as the economy improves.

Second, there has been a significant decline in *traffic and traffic infraction filings*. From FY 2004-05 through FY 2013-14, traffic-related case filings declined by 88,364 (32.1 percent). The Department indicates that this decline is due to the adoption of the Model Traffic Code by many municipalities. As a result, many traffic cases that used to be filed in county court are now filed in municipal court.

Background Information for Affected Cash Funds

Justice Center Cash Fund⁴. For FY 2015-16, the Department requests General Fund appropriations totaling **\$5,000,000** and an equal decrease in cash fund appropriations from the Justice Center Cash Fund (JCCF) for operations of the Ralph L. Carr Colorado Judicial Center and related debt service payments.

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 (now known as “History Center Colorado”) and a state justice center (now known as the "Ralph L. Carr Colorado Judicial Center"). The project addressed a lack of adequate space and the lack of adequate safety and security measures in the previous buildings. The project also allowed the State to avoid addressing deferred maintenance needs for those buildings.

With respect to the Carr Center, the act created a new Justice Center Cash Fund (JCCF), consisting of revenues from various filing fees and any lease payments received from state agencies occupying the Carr Center (including parking fees paid by state employees and the public for use of the Carr Center parking garage). Moneys in the JCCF are subject to annual appropriation for expenses related to the design, construction, maintenance, and operation of the Carr Center. The act also required the Judicial Branch to transfer a total of \$25 million from the JCCF to the newly created State Museum Cash Fund to compensate the State Historical Society for the land on which the previous history museum resided.

Please note that the act also requires, beginning in FY 2014-15, the Executive Director of the Department of Personnel and Administration (DPA) to calculate the net savings to the State by locating the Department of Law and any other executive branch agency in the Carr Center, and requires the General Assembly to appropriate from the General Fund to the JCCF the amount of net savings to repay any lease-purchase obligations. The DPA's recent analysis concluded that there are no net savings related to the relocation of executive branch agencies. There appear to be three primary reasons for the difference between the 2008 estimates of potential savings and those actually realized:

- It was originally anticipated that all of the space occupied by the Department of Law (DOL) in 1525 Sherman Street would be backfilled with executive branch agencies that relocate from private space. Of the space vacated by the DOL, a little over half (53,496 sf) was leased to the DPA for units that were relocated from private space. Of the remainder, 19,472 sf was leased to DPA units that were previously located in other Capitol Complex space, and 28,717 sf was leased to the legislative branch. The Office of the State Auditor was able to consolidate staff and eliminate the need to lease 2,001 rentable sf of private space.
- The original projections assumed a private rental rate of \$23.84 per *rentable* sf for FY 2014-15 (the equivalent of \$29.80 per *useable* square foot). The actual private sector rates range from \$17.99 per useable square foot paid by DPA to \$20.63 paid by the Office of the State Auditor.

⁴ See Section 13-32-101 (7) (a), C.R.S.

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- It was originally projected that the DOL would pay a "full service rent" in the Carr Center of \$17.88 per rentable square foot for FY 2014-15. The actual rate paid by DOL is \$14.49 per rentable square foot (\$2,981,368 / 205,690 sf).

Thus, based on the DPA calculations, no General Fund appropriation to the JCCF is required in relation to this statutory provision. However, the Judicial Department is requesting direct appropriations of General Fund to cover a portion of the annual Carr Center operating costs and debt service payments.

Judicial Stabilization Cash Fund⁵. For FY 2015-16, the Department requests a **\$3,000,000** General Fund appropriation and an equal decrease in cash fund appropriations from the Judicial Stabilization Cash Fund (JSCF) that support a portion of annual trial court personnel and operating expenses.

The JSCF was created through a JBC-sponsored bill during a recent economic downturn (S.B. 03-186). Moneys in the JSCF are subject to annual appropriation by the General Assembly "for the expenses of trial courts in the judicial department". Senate Bill 03-186:

- Increased several court fees to support the expenses of the state trial courts;
- Reduced General Fund support for the trial courts to help balance the state budget (by \$3.4 million in FY 2002-03 and \$9.3 million in FY 2003-04); and
- Substituted the new fee revenue in order to mitigate the impact on trial court operations.

In 2007 the General Assembly authorized 43 new judgeships (H.B. 07-1054). This act increased various court fees (which are also credited to the JSCF) to pay for the costs of the new judges, the associated staff and facility-related costs. This act also diverted various existing fees, fines, and penalties from the General Fund to the JSCF; this diversion was phased in over a period of time to correspond to the cost increases required to implement the bill.

Since its creation in 2003, the JSCF has been used to:

- (1) partially offset the impact of reductions in General Fund support for the trial courts during the last two economic downturns;
- (2) pay for the costs of new judgeships authorized by H.B. 07-1054 and H.B. 13-1035; and
- (3) pay for various trial court-related initiatives (*e.g.*, improving court oversight of protective proceeding cases).

Due primarily to the delayed implementation of H.B. 07-1054 and the elimination of funding for employee salary increases from FY 2008-09 through FY 2011-12, the JSCF balance increased to a level that significantly exceeded the statutory limitation on cash fund reserves. In response, former Chief Justice Bender issued a directive [C.J.D. 12-02] to temporarily reduce filing fees in certain civil actions in January 2012.⁶

⁵ See Section 13-32-101 (6), C.R.S.

⁶ Section 13-32-105.5, C.R.S., authorizes the Chief Justice of the Supreme Court to reduce the amount of one or more docket fees if necessary to comply with the 16.5 percent statutory limitation on uncommitted cash fund

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It is staff's understanding that the original concept behind the JSCF was that many court filings are counter-cyclical. Specifically, as the economy declines, the number of foreclosures, collection cases, and related filings increase; as the economy improves, these filings decline. Thus, JSCF revenues were anticipated to be higher during economic downturns, and the JSCF could be used to support court operations when General Fund revenues are more limited.

Last January the Department submitted a budget amendment to address unanticipated and significant declines in JSCF revenues. The Department requested a total of \$5,750,000 General Fund for several line items, and an equal reduction in cash fund appropriations from the JSCF. The General Assembly provided a total of \$6,727,008 General Fund and approved an equal reduction in cash funds appropriations from the JSCF⁷. As a result, JSCF appropriations now total \$35 million and are limited to supporting four line items:

- \$29,053,324 for Trial Court Programs (county and district court operations)
- \$3,133,985 for Problem-solving Courts
- \$1,448,906 for Judicial Education and Training
- \$1,300,000 for the Senior Judge Program

Based on information available last spring, it appeared that JSCF revenues would be sufficient to support ongoing appropriations of \$35 million while maintaining a reasonable fund reserve. However, the Department is now projecting revenues of \$32 million in FY 2014-15, and is thus requesting another \$3.0 million fund source adjustment in the appropriation for Trial Court Programs in FY 2015-16.

Court Security Cash Fund⁸. For FY 2015-16, the Department requests a **\$1,250,000** General Fund appropriation and an equal decrease in cash fund appropriations from the Court Security Cash Fund (CSCF) for the Courthouse Security Program. The Department indicates that this request includes:

- \$700,000 to meet the need for duress alarms and other safety equipment and to take advantage of improved technologies as they become available;
- \$500,000 to provide additional fund balance support due to the continuing declining revenues and the increasing costs of grant-funded salaries and benefits; and
- \$50,000 for continuing education for court staff, county officials, and law enforcement.

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

reserves. Subsequently, once the uncommitted reserves are sufficiently reduced, the Chief Justice is authorized to increase the docket fees to their statutorily authorized levels.

⁷ The Department also submitted a decision item for \$350,000 General Fund to offset cash fund revenue declines in the State Commission on Judicial Performance Cash Fund. The General Assembly appropriated \$290,000 General Fund to help support the costs of the Office of Judicial Performance Evaluation based on historic program expenditure levels.

⁸ See Section 13-1-204 (1) (a), C.R.S.

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staffing, security equipment, training, and court security emergency needs. Grants for personnel are limited to those counties with:

- population below the state median;
- per capita 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.⁹

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.

From FY 2007-08 through FY 2013-14, this program has provided a total of \$19.0 million to counties, including: \$10.4 million (55.0 percent of the total) for security personnel; \$8.1 million (42.9 percent) for equipment; and \$0.4 million for training. More than 70 percent of this total funding (\$13.7 million) has been allocated to the 38 counties identified as priority counties based on the statutory criteria; the remaining \$5.2 million has been allocated to non-priority counties – primarily for the purchase of security equipment. Of the funding that has been allocated to non-priority counties, \$3.4 million was allocated to the following front range counties: Arapahoe; Boulder; Broomfield; Denver; Douglas; El Paso; Jefferson; Larimer; and Weld. Grant awards for FY 2014-15 will not be available until December 1, 2014.

Family-friendly Court Program Cash Fund¹⁰. For FY 2015-16, the Department requests a **\$150,000** General Fund appropriation and an equal decrease in cash fund appropriations from the Family-friendly Court Program Cash Fund (the Fund) for the Family-friendly Court Program. The Department indicates that the requested funds would support ongoing and new court child care and supervised visitation/supervised exchange programs that protect and serve children.

Established in 2002 (H.B. 02-1101), 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 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

⁹ See Section 13-1-201, *et seq.*, C.R.S.

¹⁰ See Section 13-3-113 (6) (a), C.R.S.

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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.).

Issue: Office of the Respondent Parents' Counsel

In response to a directive in S.B. 14-203, the Judicial Department's FY 2015-16 budget request includes funding to establish the Office of the Respondent Parents' Counsel. This request is predicated on the implementation of recommendations submitted by a work group, including a statutory change to the time frame for establishing the new office.

SUMMARY:

- Three independent judicial agencies provide legal representation for indigent criminal defendants and for children involved in the court system. The State Court Administrator's Office pays for court-appointed counsel in all other circumstances, including representation for indigent parties who are respondent parents in dependency and neglect actions.
- Over the last decade, several studies have identified concerns about the quality of respondent parents' counsel. In order to address these concerns, the General Assembly:
 - approved a Department request for funding in FY 2012-13 to add a staff position in the State Court Administrator's Office dedicated to administering the respondent parents' counsel program and improving the quality of advocacy for respondent parents;
 - provided funding to the State Court Administrator's Office for FY 2014-15 to increase the hourly rate paid for respondent parents' counsel from \$65 to \$75 to maintain parity with the rate paid by the independent agencies for other types of court-appointed counsel; and
 - passed legislation (S.B. 14-203) to create an independent agency within the Judicial Branch to oversee respondent parents' counsel, and directed a work group to make recommendations concerning the operational structure of the new office.
- The work group submitted recommendations concerning the operational structure of the new office, the duties of that office, and actions the General Assembly should take to accomplish the goals set forth in S.B. 14-203. The Judicial Department's FY 2015-16 budget includes a request that corresponds with the work group recommendations.

RECOMMENDATION:

The Joint Budget Committee should consider sponsoring legislation to make the statutory changes recommended by the work group, including delaying by six months the transfer of respondent parent counsel appointments to the new office. The Committee should also seek input from the State Court Administrator's Office, the Office of the Child's Representative, and the Office of the Alternate Defense Counsel, about how to achieve a more appropriate balance between: (1) ensuring that the independent judicial agencies have the ability to effectively carry out their missions; and (2) eliminating inefficiencies related to administrative functions that may be best provided by the State Court Administrator's Office or through shared resources, such as: information technology services; accounting; the purchase or leasing of equipment and furnishings; human resources; and administrative/reception support.

DISCUSSION:

Background Information

Respondent Parents' Right to Counsel. The Colorado Children's Code¹¹ defines when a child is "dependent" or "neglected", under what circumstances a child can be removed from his or her home and placed in the temporary custody of a county department of social services, and under what circumstances the court may terminate a parent-child legal relationship. A parent or guardian who is a respondent in a dependency and neglect (also called "D&N") case has the right to be represented by counsel at every stage of the proceedings; a respondent parent or guardian who is indigent has the right to counsel at State expense. Respondent parents' counsel ("RPC") plays a critical role in protecting parents' constitutional and legal rights and providing complete, accurate, and balanced information to the courts.

Current Oversight of Court-appointed Counsel. Three independent agencies within the Judicial Branch provide or pay for court-appointed counsel in certain circumstances:

- The Office of the State Public Defender (OSPD) provides legal representation for indigent criminal defendants who are facing incarceration;
- The Office of the Alternate Defense Counsel pays private attorneys to provide legal representation for indigent defendants when the OSPD is precluded from doing so because of an ethical conflict of interest; and
- The Office of the Child's Representative (OCR) provides or pays 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.

The State Court Administrator's Office (SCAO) pays for court-appointed counsel in all other circumstances, including representation for indigent parties who:

- Are respondent parents in D&N actions (unless they are a child);
- Require mental health, probate, or truancy counsel;
- Are adults requiring a *guardian ad litem* in mental health, probate, or D&N actions; or
- Require contempt of court counsel.

The SCAO also oversees 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).

In FY 2013-14, the SCAO paid a total of \$12.9 million for the provision of court-appointed counsel. Of this total, \$8.6 million (42.6 percent) was for RPC. From FY 2006-07 to FY 2013-14, RPC expenditures increased by \$2.2 million (33.6 percent). For purposes of comparison,

¹¹ See Title 19, Colorado Revised Statutes.

over this same time period, OCR expenditures for *guardian ad litem* representation of children in D&N cases increased from \$7.8 million to \$14.0 million (an increase of \$6.3 million or 80.5 percent). While there is not necessarily a direct relationship between the number of appointments for *guardians ad litem* and for RPC in these cases, staff believes that it is important to understand the existing allocation of state resources for legal representation in these cases.

Actions Taken by Judicial Department

Over the last decade the Judicial Department has taken several actions, described below, to address concerns about the quality of RPC.

- In 2005, former Chief Justice Mary Mullarkey convened an RPC Task Force to assess training, compensation, practice standards, and models of representation for RPC, and make recommendations to the Colorado Supreme Court and members of the General Assembly. This RPC Task Force commissioned the National Center for State Courts, the National Association of Counsel for Children, and the National Council for Juvenile and Family Court Judges to perform a needs assessment of respondent parent representation in Colorado. Final reports of the needs assessment and the RPC Task Force were published in 2007. These reports identified the following barriers to effective representation by RPC:
 - High caseloads;
 - Inadequate compensation;
 - Lack of support services and resources, including expert witnesses; and
 - Lack of practical and RPC-specific training.

The Task Force report recommended the creation of an independent office to centralize recruitment, selection, oversight, payment, training, and representation support of RPC.

- In 2012, Court of Appeals Judges David Furman and Daniel Taubman had extensive meetings with the SCAO and court personnel to address continuing challenges related to RPC and to offer suggestions for improving the quality of RPC appellate advocacy. The Department subsequently requested funding to add a staff position in the SCAO dedicated to administering the RPC program and improving the quality of advocacy for respondent parents in D&N cases. The General Assembly appropriated the requested funding in FY 2012-13. These meetings also led to two state-wide training conferences for respondent parent appellate attorneys.
- In 2014 State Court Administrator Jerry Marroney established the RPC Work Group to issue recommendations on the development of policies and procedures to address: (a) contract and evaluation processes; (b) training requirements; (c) a complaint process; and (d) billing procedures. He also charged the Work Group with evaluating the appellate process and analyzing the potential centralization of RPC administration. The Work Group learned that while there had been improvements since 2007, challenges remain in the system of RPC, including:

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- Judicial officer involvement in the selection and oversight of RPC;
- Judicial officer involvement in the appointment and compensation of RPC expert witnesses;
- Inadequate compensation;
- The need to clearly allocate administrative and oversight responsibilities between individual judicial districts and the SCAO;
- Inconsistencies regarding contracting and oversight of RPC among districts; and
- A lack of RPC access to supportive services such as experts, investigators, social workers, and paralegals throughout the course of D&N proceedings.

During this time the General Assembly passed legislation (S.B. 14-203) to create an independent agency within the Judicial Branch to oversee the RPC, and directed the Work Group to make recommendations concerning an operational structure for the new office.

Senate Bill 14-203

Senate Bill 14-203 adds another independent agency within the Judicial Branch to oversee RPC. The act includes a legislative declaration stating the following:

- "(a) Respondent parents' counsel plays a critical role in helping achieve the best outcomes for children involved in dependency and neglect proceedings by providing effective legal representation for parents in dependency and neglect proceedings, protecting due process and statutory rights, presenting balanced information to judges, and promoting the preservation of family relationships when appropriate;
- (b) There is a need to establish additional and equitable funding to compensate respondent parents' counsel; and
- (c) A clear set of practice standards for respondent parents' counsel needs to be established and made available to all parties involved in dependency and neglect proceedings."

The act specifies that the newly created Office of Respondent Parents' Counsel (ORPC) has the following duties:

- Enhancing the provision of RPC services in Colorado by:
 - Ensuring the provision and availability of high-quality legal representation for respondent parents involved in D&N proceedings; and
 - Making recommendations for minimum practice standards to which attorneys serving as RPC shall be held.
- Establishing fair and realistic state rates to attract and retain high-quality, experienced attorneys to serve as RPC.
- Working cooperatively with the judicial districts to establish pilot programs designed to enhance the quality of RPC at the local level.
- Annually reviewing and evaluating the ORPC's performance.

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The act establishes the following timeline for establishing the ORPC:

- *September 30, 2014:* The Respondent Parents' Counsel Work Group shall submit a final report to the SCAO recommending an operational structure for the ORPC;
- *November 1, 2014:* The Judicial Department shall include an appropriate fiscal request to the Joint Budget Committee to implement the recommendations of the Work Group;
- *January 1, 2016:* The ORPC is created within the Judicial Department, and all existing and new state paid RPC appointments are intended to be transferred from the SCAO to the ORPC.

Report Submitted by the RPC Work Group

The RPC Work Group submitted a report as required on September 30, 2014. The report includes a brief history of efforts to improved respondent parent representation, as well as the recommendations summarized below.

1. *Centralize the oversight, administration, and support of RPC in a stand-alone agency similar to Colorado's Office of Alternate Defense Counsel.* A stand-alone office is the structure most appropriate to carry out the legislative intent of the ORPC. This structure will also resolve many of the historical challenges for RPC, including eliminating the need for judicial officers to be involved in RPC contract determinations, excess fee and expert witness requests, and billing reviews.
2. *The General Assembly should amend current law to accomplish the following:*
 - a. Establish a nine-member governing commission for the ORPC (comparable to that of the Office of Alternate Defense Counsel) and require members to be appointed by July 1, 2015.
 - b. Define the qualifications and responsibilities of a Director of the ORPC, and require the new governing commission to appoint a person to serve as Director by January 1, 2016.
 - c. Amend current law to allow the court to appoint RPC prior to the filing of a petition. This would allow the ORPC to support RPC attending pre-filing and preventative programs (such as team decision or family engagement meetings) to potentially lessen the costs associated with the formal adversarial process.
 - d. In order to allow sufficient time to appoint a commission, hire a Director, and facilitate a smooth transfer of contracts, extend implementation dates contained in S.B. 14-203. Specifically, delay by six months the transfer of all existing and new RPC appointment to the ORPC (from January 1, 2016, to July 1, 2016). Further, allow up to two years to transfer the contracts and bill payment system from the SCAO to the ORPC.
3. *The ORPC should accomplish the following:*
 - a. Adopt trial and appellate practice standards.
 - b. Provide relevant, accessible, and role-specific training for all RPC and develop a mentoring program for new attorneys wishing to serve as RPC.
 - c. Establish a compensation structure and rate that achieve parity among parties in D&N proceedings and that enable thorough and adequate preparation of cases. The Work Group expressed concern that the flat fee compensation structure used by some judicial districts discourages effective representation for respondent parents, and the practice of

providing an additional flat fee if a motion to terminate parental rights is filed is inconsistent with best practices of conducting thorough and early investigations and frontloading services. The Work Group also suggests that the ORPC might consider piloting other compensation models, such as regional offices or annual contracts for attorneys in rural districts.

- d. To ensure parity and fairness in proceedings, and to improve outcomes for families and children, improve RPC access to expert witnesses and consultants, investigators, social workers, and paralegals. Also provide other forms of litigation support, including the establishment of a motions and brief bank, a resource library, and a listserv.
 - e. Establish a uniform, transparent, objective, and readily understandable process by which parents and other individuals may file complaints against RPC.
 - f. Develop strategies to ensure the recruitment and ongoing availability of qualified counsel, support services, and resources for RPC in rural districts.
4. *The State Court Administrator should continue the existing Appellate Subcommittee and Work Group to study problems related to the appellate process.*

Judicial Department Budget Request

Consistent with S.B. 14-203 and the recommendations of the Work Group, the Department's FY 2015-16 budget includes a request (JUD R14) for \$953,664 General Fund and 2.7 FTE to establish the ORPC. This request is based on the following staffing composition:

- Executive Director
- Deputy Director
- *Staff Attorneys (2)
- Paralegal
- *Staff Assistant
- *Controller/Budget Manager
- *Bill Payment
- Software Engineer
- Trainer

The request assumes that the positions will be filled at the mid-range of the respective salary ranges, and the Executive Director would be paid for five months of FY 2015-16, and the remaining staff would be paid for three months of FY 2015-16. The table on the following page details the request for FY 2015-16 and the assumptions about continuation funding for FY 2016-17. Four of the above positions (noted with an asterisk) overlap with existing positions within the SCAO and trial courts.

Due to the implementation time frame recommended by the Work Group, the request does not transfer funding and positions from the SCAO and trial court sections until FY 2016-17. The ORPC will rely on the SCAO to assist with certain administrative tasks during the early stages of implementation.

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Summary of Request for JUD R14: Establishment of the Office of the Respondent Parents' Counsel				
	FY 2015-16		FY 2016-17	
	Funding	FTE	Funding	FTE
Courts Administration				
<i>Administration and Technology</i>				
General Courts Administration	\$0	0.0	(\$85,614)	(1.0)
Trial Courts				
Trial Court Programs	0	0.0	(146,077)	(3.0)
Court Costs, Jury Costs, and Court-appointed Counsel	<u>0</u>		<u>(9,973,326)</u>	
Subtotal - SCAO and Trial Courts	\$0	0.0	(\$10,205,017)	(4.0)
Office of the Respondent Parents' Counsel (NEW DIVISION)				
Personal Services (1.0 FTE at \$145,212 salary + PERA + Medicare; for 5 months in FY 2015-16; 9.0 FTE at a range of salaries + PERA + Medicare for 3 months of FY 2015-16; IT Professional Services Contract of \$78,000 in FY 2015-16 and \$156,000 in FY 2016-17)	\$347,410	2.7	\$1,125,603	10.0
Operating Expenses (per FTE costs of \$450 for telephone and \$500 for supplies for 1.0 FTE; \$3,600 per year for copy/fax/scanning machines; Licensing fees of \$3,000 in FY 2015-16 and \$1,300 in FY 2016-17)	15,733		14,400	
Capital Outlay (\$363,610 for space build out; \$53,030 for office furniture and computers; \$24,500 for central areas and storage)	441,140		0	
Legal Services (500 hours in FY 2015-16 and 192 hours in FY 2016-17)	49,500		19,008	
Case Management System	37,500		337,500	
Training	25,000		40,000	
Court-appointed Counsel	0		9,973,326	
Mandated Costs	<u>0</u>		<u>0</u>	
Subsubtotal	916,283	2.7	11,509,837	10.0
Central Appropriations				
Health, Life, and Dental	16,016			
Short-term Disability	483			
Amortization Equalization Disbursement (AED)	10,622			
Supplemental AED	<u>10,260</u>			
Subsubtotal	37,381		123,032	
Subtotal - ORPC	\$953,664	2.7	\$11,632,869	10.0
Total	\$953,664	2.7	\$1,427,852	6.0

Issue: Oversight of Court Appointments in Domestic Relations Cases

This issue brief discusses information provided by the Department concerning potential changes to the oversight of court appointments in domestic relations cases.

SUMMARY:

- Annual state expenditures for appointments in domestic relations cases vary significantly, but expenditure fluctuations do not correspond to changes in the number of cases filed. Practices in individual judicial districts related to appointments in domestic relations cases also appear to differ significantly.
- The oversight of child and family investigators (CFIs) that are appointed in domestic relations cases is currently shared by two judicial agencies, with the Office of the Child's Representative overseeing attorney CFIs and the State Court Administrator's Office overseeing CFIs who are not attorneys. These agencies pay different hourly rates, utilize different presumptive per-case expenditure caps, and administer two separate complaint investigation processes.
- The Joint Budget Committee asked these two agencies to work together to evaluate current court and administrative practices related to the oversight of these appointments to determine if changes are warranted.

RECOMMENDATION:

Staff recommends that the Committee ask the State Court Administrator's Office and the Office of the Child's Representative to comment on the information provided in response to the Committee's request for information, and to make a recommendation as to whether sufficient consensus exists for the General Assembly to consider taking steps to consolidate the oversight of state-paid CFI appointments under one judicial agency.

DISCUSSION:

Background Information – Domestic Relations Cases

In FY 2013-14, 34,907 domestic relations (DR) cases were filed in state district courts, comprising 13.2 percent of all district court case filings. About three-quarters of DR cases involve dissolution of a marriage or a civil union; the remaining cases involve allocation of parental responsibility, legal separation, administrative support orders, or marriage invalidity. Nearly two-thirds of parties in DR cases do not have legal representation. Further, unlike other county and district court civil cases, the percent of self-represented litigants in DR cases is just as high for the parties who filed the case as for the respondent parties.

Background Information – Court Appointments in Domestic Relations Cases

Under current law, the court may make two types of appointments in a DR case that involves the allocation of parental responsibilities:

- The court may appoint an attorney, a mental health professional, or any other individual with appropriate training and qualifications to serve as a child and family investigator (CFI)¹². The role of the CFI is to investigate, report, and make recommendations to the court on issues outlined in the court's order of appointment that affect the best interests of children involved in the DR case. The CFI is required to file a written report with the court and may be called to testify as a witness regarding his or her recommendations.
- The court may appoint an attorney to serve as a child's legal representative (CLR)¹³. The role of the CLR is to serve as the legal representative of the minor or dependent child, representing the best interests of the child with respect to the child's custody, the allocation of parental responsibilities, support for the child, the child's property, parenting time, or any other issue related to the child that is identified by the CLR or the appointing court. The CLR may not be called as a witness. An attorney may not serve as both the child's CLR and CFI.

When the court appoints an attorney to act as a CFI or a CLR, and the parties to the case are determined to be indigent, the Office of the Child's Representative (OCR) oversees and pays for appointment. When the court appoints a non-attorney to act as a CFI and the parties to the case are determined to be indigent, the State Court Administrator's Office (SCAO) oversees and pays for the appointment. In addition, the SCAO oversees the eligibility of individuals to be appointed as a CFI when the parties to the case are not determined to be indigent (and thus the costs of the CFI appointment are paid by the parties).

Historically, only the OCR had instituted a formalized selection and complaint process governing state-paid attorney CFIs. Other than state-paid attorney CFIs, no centralized authority regulated eligibility of CFIs and each judicial district or judicial officer determined whom to appoint. No uniform statewide processes or policies existed regarding application, screening, or eligibility of CFI appointees. In 2011 and 2012 the SCAO implemented reforms authorized by the Chief Justice to: (a) establish a centralized system in the SCAO for all CFI eligibility determinations; (b) create a statewide CFI eligibility roster that includes both privately- and state-paid CFIs, and both attorney and non-attorney CFIs; and (c) establish presumptive fee caps and a structure for resolution of complaints against privately-paid CFIs and state-paid, non-attorney CFIs. Attorneys seeking appointment as a state-paid CFI must first be determined eligible by the SCAO (and thus be placed on the statewide roster), and then undergo OCR's application, selection, and contracting process.

Purpose of Request for Information

In its April 21, 2014, letter to Chief Justice Rice, the Joint Budget Committee (JBC) included the following request for information:

¹² See Section 14-10-116.5, C.R.S.

¹³ See Section 14-10-116, C.R.S.

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The State Court Administrator's Office (SCAO) is requested to provide by November 1, 2014, a report concerning practices related to court appointments in domestic relations cases, including the following information:

1. The number of state-paid appointments in each judicial district for FY 2013-14 and the associated state expenditures for attorneys serving as a child and family investigator (CFI), for non-attorneys serving as a CFI, and for attorneys serving as a child's legal representative (CLR);
2. a description of the SCAO's role in overseeing privately-paid appointments of CFIs and CLRs;
3. the merits of allowing judges the discretion to appoint an attorney or a non-attorney as a CFI;
4. the merits of having two different judicial agencies overseeing state-paid appointments in domestic relations cases; and
5. the merits of paying attorneys and non-attorneys who serve as CFIs different hourly rates.

The SCAO is requested to prepare the report with the input of the Office of the Child's Representative (OCR), and the OCR is requested to cooperate with the SCAO as necessary to prepare the requested report.

This request for information was recommended by JBC staff for the purpose of asking the two judicial agencies that currently share responsibility for overseeing state-paid appointments in DR cases involving the allocation of parental responsibilities to work together to evaluate current court and administrative practices to determine if changes are warranted. Staff believed that this issue requires attention for the following reasons:

- State expenditures for CFI and CLR appointments have ranged from \$424,493 to \$891,261 in the last eight years, but the expenditure fluctuations do not correspond to changes in the number of DR cases filed.
- Despite the fact that the State pays significantly different hourly rates for attorney and non-attorney CFIs (currently \$75 and \$41, respectively), the average expenditure per case for each type of CFI does not differ significantly.
- Practices in individual judicial districts related to the appointment of a CFI versus a CLR appear to differ significantly. Specifically, for most judicial districts, less than one-third of the appointments in DR cases are for a CFI; however, for a few judicial districts, most or all of the appointments in DR cases are for a CLR¹⁴.

¹⁴ Over the last two fiscal years, CLR appointments accounted for 31.2 percent of all CFI and CLR appointments statewide. However, in the 3rd (Las Animas and Huerfano counties) 4th (El Paso and Teller counties) and 10th (Pueblo) judicial districts, CLR appointments accounted for 100 percent, 84 percent, and 99 percent of all CFI and CLR appointments, respectively.

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The following table provides three sets of data concerning DR cases for the last eight fiscal years: (1) the number of cases filed; (2) the number of appointments paid and the associated expenditures incurred by the OCR; and (3) the number of appointments paid and the associated expenditures incurred by the SCAO.

Description	Selected Data Concerning Domestic Relations Cases							
	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13	FY 13-14
District Court Data								
Number of DR Cases Filed	32,230	33,025	33,190	35,624	36,009	35,434	34,629	34,907
<i>Annual Percent Change</i>		2.5%	0.5%	7.3%	1.1%	-1.6%	-2.3%	0.8%
OCR Data (Attorney CFIs and CLR's)								
Number of Appointments Paid in DR Cases	624	606	760	690	450	494	631	575
Expenditures for DR Appointments	\$525,290	\$546,087	\$801,945	\$402,210	\$352,768	\$408,037	\$478,766	\$385,422
SCAO Data (Non-attorney CFIs)								
Number of Appointments Paid in DR Cases	n/a	n/a	n/a	n/a	101	87	89	120
Expenditures for DR Appointments	\$41,031	\$37,969	\$89,316	\$79,161	\$71,725	\$64,012	\$83,556	\$111,862
Totals								
Total Appointments Paid in DR Cases	n/a	n/a	n/a	n/a	551	581	720	695
Total Expenditures for DR Appointments	\$566,321	\$584,056	\$891,261	\$481,371	\$424,493	\$472,049	\$562,322	\$497,284
<i>Annual Percent Change</i>		3.1%	52.6%	-46.0%	-11.8%	11.2%	19.1%	-11.6%

Department's Response to Request for Information

The SCAO worked with the OCR and provided a thorough response with the requested information. In the introduction, the Department states the following:

"Domestic relations courtrooms are arguably one of the most important, if not the most important, types of courtrooms in the courthouse, given the volume of Colorado residents encountering these courtrooms and given the magnitude of the resulting judicial decisions for parents and children...The quality of appointed CFIs can make or break a case, particularly when the judicial officer possesses minimal experience in this field."

The SCAO was also asked to provide information about the merits of three features of the current system of oversight of state-paid CFIs. Staff has summarized below the information provided.

1. Allowing Judges the Discretion to Appoint an Attorney or a Non-attorney as a CFI

The SCAO indicates that the decisions of whether to appoint a CFI, and the type of CFI to appoint, are best left to judicial discretion. The SCAO indicates that the qualifications of CFIs vary widely and the scope and depth of CFI work varies significantly from case to case. The report states that "the judicial officer acquainted with each case can best determine the issues necessitating investigation, the type of investigation needed, and the type of professional who can best provide the information needed for an informed decision." The SCAO also indicates that CFI availability varies from district to district, and expressed concern that a narrowing of professional background requirements would limit CFI availability statewide.

2. Having Two Different Agencies Overseeing State-paid Appointments in DR Cases

The SCAO indicates that bringing all CFIs under the umbrella of one authority would increase staff efficiencies, save time, and eliminate confusion. Such a change would require: (a) operational changes by the SCAO, OCR, trial courts, and court appointees; (b) amendments to relevant Chief Justice Directives and Section 13-91-105 (c), C.R.S. [to eliminate references to CFI's within the provision detailing OCR's duties]; and (c) training for court appointees, SCAO or OCR staff, and court staff, and dissemination of information to the public. The SCAO indicates that such a statutory change could be accomplished during the 2015 legislative session but the SCAO would request an effective date of July 1, 2016, to allow adequate time for stakeholder input regarding changes to Chief Justice Directives, implementation of administrative and billing changes, and training for affected staff and CFIs. The SCAO estimates that it would require an additional 1.0 FTE if its responsibility were expanded to include oversight of all CFI contracts, appointments, billing, and complaint investigations.

While the SCAO and the OCR appear to agree that OCR should continue to have oversight of CLR appointments, the agencies disagree about which agency is most appropriate to take on oversight for all state-paid CFI appointments.

- The SCAO indicates that GALs, CLRs, and CFIs must possess competence regarding many of the same areas of knowledge (*e.g.*, child development, family dynamics and dysfunction, parenting capacity, etc.). The SCAO also provides data indicating that the majority of attorney CFIs overseen by OCR also contract with OCR for GAL representation. Thus, the SCAO argues that consolidating oversight of CFIs within the OCR would increase efficiency and avoid duplicative efforts to recruit, screen, and train court appointees throughout Colorado.
- The OCR disagrees, and indicates that oversight of non-attorneys would dilute its singular mission of improving attorney representation for children involved in the court system. The OCR has no experience overseeing programs that involve non-attorneys, unlike the SCAO which oversees non-attorneys including family court facilitators, self-represented litigant coordinators, and court clerks. The OCR suggests that because CFIs are investigative arms of the court, rather than independent advocates such as CLRs and GALs, CFI oversight consolidated within the SCAO would maximize the court's oversight of CFIs. The OCR believes that the SCAO is in the best position to address problems that arise related to a court's practices in appointing CFIs (*i.e.*, the need for an appointment, the scope of the appointment, and the determination of eligibility for state-funded CFI services).

3. Paying Attorneys and Non-attorneys Who Serve as CFIs Different Hourly Rates

The SCAO indicates that the pay differential between attorney and non-attorney CFIs is a highly controversial ongoing discussion topic within the CFI community. The OCR currently pays attorney CFIs an hourly rate of \$75¹⁵, the same rate paid to attorneys who serve as CLRs or GALs. The OCR has established a presumptive cap of \$1,250 per case for CFI appointments (about 16 hours of work); the OCR decides whether to authorize the payment of fees that exceed

¹⁵ The OCR hourly rate for attorneys increased from \$65 to \$75 (\$10 or 15.4 percent) in FY 2014-15.

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this cap. The SCAO pays state-paid, non-attorney CFIs an hourly rate of \$41¹⁶ (55 percent of the OCR attorney rate), and has established a presumptive cap of \$1,440 (about 35 hours of work).

For privately-paid CFIs (whether attorneys or non-attorneys), the presumptive cap is \$2,000. The SCAO indicates that privately-paid hourly rates for CFIs on the Denver roster range from \$40 to \$250; the average hourly rate among 44 attorney CFIs is \$140; the average hourly rate among 75 non-attorney CFIs is \$112 (80 percent of the attorney rate).

The table that is provided above includes combined data for CFI and CLR appointments that are paid by the OCR. The SCAO provided the requested data that separately identifies appointment and expenditure data for CFIs. The following table provides data solely related to CFI appointments paid by both judicial agencies for the last two fiscal years.

Comparison of OCR and SCAO Recent Expenditures for CFI Appointments in Domestic Relations Cases		
Description	FY 12-13	FY 13-14
OCR Data (Attorney CFIs ONLY)		
Number of Appointments Paid in DR Cases	374	320
Expenditures for DR Appointments	\$285,793	\$218,588
Average Cost per Appointment	\$764	\$683
SCAO Data (Non-attorney CFIs)		
Number of Appointments Paid in DR Cases	89	120
Expenditures for DR Appointments	\$83,556	\$111,862
Average Cost per Appointment	\$939	\$932
Totals		
Total Appointments Paid For CFI's in DR Cases	463	440
Total Expenditures for DR Appointments	\$369,349	\$330,450
Average Cost per Appointment	\$798	\$751

As indicated in the above table, despite the fact that attorney CFIs are paid a higher hourly rate than non-attorney CFIs, the average cost per appointment of attorney CFIs is 20 to 25 percent less than the cost of non-attorney CFIs.

Both the SCAO and the OCR express concerns about reducing the state-paid hourly rate for attorney CFIs as it may reduce the pool of qualified attorney CFIs. The OCR expresses concern that this may increase court appointments of CLRs, whose appointments are more costly. The SCAO also points out that the spectrum of professional experience and the market rate for non-attorneys who serve as CFIs vary widely. Thus, the \$41 hourly state-paid rate is significantly below a psychologist's market rate, but is significantly above the market rate for other non-attorney CFIs. In addition, the SCAO indicates that the recent establishment of presumptive fee

¹⁶ The SCAO hourly rate for non-attorney CFIs increased from \$25 to \$41 (\$16 or 64.0 percent) in FY 2014-15.

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caps appears to have led to a decrease in the pool of experienced CFIs, and an increase in the number of CFIs who are neither licensed mental health professionals nor attorneys.

Informational Issue: Development of a Statewide Discovery Sharing System

This issue brief discusses the status of the development of a statewide system that will enable the sharing and transfer of information between law enforcement agencies and district attorneys' offices in a format that will then allow the district attorneys to provide discoverable materials to the defense in an electronic format.

SUMMARY:

- Colorado Supreme Court Rule 16 requires the prosecuting attorney to make available to the defense certain material and information and to provide duplicates upon request. The State pays the costs of duplicating the discoverable material when legal representation is provided for an indigent defendant. In FY 2013-14, judicial agencies spent a total of \$2.7 million General Fund to obtain discoverable materials.
- There is a long history of disagreement between the defense and the prosecution concerning reimbursements to the prosecution for duplicating discoverable materials, and some of these disputes have required court action to resolve. Since March 2009 the Joint Budget Committee has taken several actions to facilitate resolution of this issue, including sponsoring legislation in each of the last two legislative sessions.
- This legislation requires the Colorado District Attorneys' Council (CDAC), with the assistance of a steering committee, to develop and maintain a statewide discovery sharing system integrated with its ACTION case management system. The General Assembly appropriated \$5.3 million General Fund to the Judicial Department to fund the development, continuing enhancement, and maintenance of the new discovery system as well as the maintenance and continuing enhancement of the existing ACTION system.
- Despite unanticipated delays in the process of selecting a vendor to work with the CDAC to develop the discovery system, the Steering Committee indicates that it should be able to meet all other deadlines contained in S.B. 14-190, including completion of the discovery system by October 31, 2016.

DISCUSSION:

Background Information

Colorado Supreme Court Rule 16 requires the prosecuting attorney to make available to the defense certain material and information and to provide duplicates upon request. However, defense counsel is required to pay the costs of duplicating discoverable material, and the State covers these expenses when state-paid legal representation is provided for a defendant. Several agencies within the Judicial Department incur expenditures related to discoverable materials. As detailed in Table 1, total state discovery-related expenditures have more than doubled since FY

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2006-07. The vast majority of these expenses are incurred by the Office of the State Public Defender (OSPD) and the Office of the Alternate Defense Counsel (OADC).

TABLE 1: State Expenditures Related to Discovery

Fiscal Year	Courts/ Probation	Office of the State Public Defender	Office of the Alternate Defense Counsel	Office of the Child's Representative	Total	Annual % Change
FY 2006-07	\$38,514	\$761,495	\$435,361	\$13,235	\$1,248,605	
FY 2007-08	49,728	886,112	470,098	11,274	1,417,211	13.5%
FY 2008-09	39,615	969,306	567,917	0	1,576,838	11.3%
FY 2009-10	36,737	1,125,966	635,061	0	1,797,764	14.0%
FY 2010-11	25,549	1,514,957	599,872	9,107	2,149,485	19.6%
FY 2011-12	35,458	1,623,452	626,180	13,418	2,298,508	6.9%
FY 2012-13	35,515	1,751,829	648,392	21,219	2,456,955	6.9%
FY 2013-14	36,072	1,932,652	729,605	24,354	2,722,683	10.8%
<i>% of Total</i>	<i>1.3%</i>	<i>71.0%</i>	<i>26.8%</i>	<i>0.9%</i>	<i>100.0%</i>	

While most discovery-related expenditures are reimbursements paid to the prosecution as required by Rule 16, expenses are incurred for other reasons. For example, the OADC pays a contractor to scan paper files provided by the prosecution in certain jurisdictions so that they can be electronically formatted and distributed to multiple attorneys representing different defendants in a single case. Judicial agencies also make payments to the courts, other state agencies (*e.g.*, the Department of Corrections), law enforcement agencies, schools, etc., to obtain certain records.

JBC-Sponsored Legislation

There is a long history of disagreement between the defense and the prosecution concerning reimbursements to the prosecution for duplicating discoverable materials, and some of these disputes have required court action to resolve. Since March 2009, the Joint Budget Committee has taken several actions to facilitate resolution of this issue. Most recently, the Committee has sponsored two bills, described below.

Senate Bill 13-246

This act created a Discovery Task Force to study several topics related to discovery costs in criminal cases and report back to the Joint Budget Committee and the Judiciary Committees in January 2014. Rather than recommending clarifications to Rule 16, the Task Force recommended that the General Assembly fund the creation of a statewide system that will enable the sharing and transfer of information between law enforcement agencies and district attorneys' offices in a format that will then allow the district attorneys to provide discoverable materials in an electronic format. Once the new system is fully implemented, district attorneys will no longer seek or receive reimbursement for the cost of duplicating discoverable materials, and the existing General Fund appropriations that are used for that purpose will be redirected to support the ongoing maintenance of the statewide discovery sharing system.

Senate Bill 14-190

This act implements the recommendations of the Discovery Task Force. Specifically, the act requires the Colorado District Attorneys' Council (CDAC) to develop and maintain a statewide discovery sharing system integrated with its ACTION case management system. The act requires the General Assembly to appropriate necessary moneys from the General Fund and a newly created cash fund to the Judicial Department to fund the development, continuing enhancement, and maintenance of the new discovery system as well as the maintenance and continuing enhancement of the existing ACTION system. The newly created cash fund will consist of revenues from a new criminal surcharge for persons who are represented by private counsel or appear without legal representation.

The act turned the Discovery Task Force into a Steering Committee¹⁷ to assist the CDAC in developing a process to select a vendor. The act requires the CDAC to select and enter into a contract with a vendor to complete the discovery system by October 31, 2016. The Steering Committee is required to develop benchmarks and contractual requirements for the discovery system, and is authorized to meet as necessary to provide practical and technical support for the maintenance and enhancement of the discovery system.

The act appropriated \$5.3 million General Fund to the Judicial Department for FY 2014-15, and allows any unspent funds to remain available for expenditure in FY 2015-16. This appropriation was based on the higher of two estimates that were included in the Task Force final report. The actual development and implementation costs will be determined through the request for proposal (RFP) and vendor selection process and the benchmarks and contractual requirements that are outlined in the act.

The act includes a legislative declaration indicating that the General Assembly intends that once the discovery system is operational, the existing General Fund appropriations that are used to reimburse district attorneys for the cost of duplicating discoverable materials shall be redirected to fund the ongoing costs of the discovery system and the ACTION system. Further, the General Assembly intends that once the discovery system is operational the district attorneys shall not seek or receive reimbursement for copying discovery from anyone.

Status of System Development

Pursuant to S.B. 14-190, the Steering Committee was charged with recommending a vendor to the CDAC for the e-Discovery System by November 1, 2014. Throughout the summer of 2014, the Steering Committee and the CDAC met to draft an RFP; the RFP was posted August 4, 2014, with an August 29, 2014 deadline to submit bids. Through the process it became apparent that the RFP was deficient because it contained ambiguous or inadequate specifications and did not provide consideration for all significant factors. Based on these issues the RFP was cancelled on September 18, 2014.

¹⁷ Both the Discovery Task Force and the Steering Committee have been chaired by Matthew Durkin, Deputy Attorney General at the Department of Law; Jerry Marroney, State Court Administrator at the Judicial Department has served as Vice-Chair for both groups.

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The cancellation included a request for information (RFI) in an effort to improve the process. The RFI included the opportunity to meet with the Steering Committee on October 16, 2014. On that date, several vendors took the opportunity to meet with the Steering Committee to discuss the cancelled RFP. On October 27, 2014, the RFI period closed and the Steering Committee received several written submissions.

Currently, the Steering Committee is reviewing feedback from the RFI and expects to release the second RFP by the end of November 2014. Based upon this schedule, the Steering Committee expects to make its recommendation to CDAC by the end of the year. Despite this delay, the Steering Committee indicates that it does not appear that it will affect the ability to meet all other deadlines contained in S.B. 14-190.

JBC Staff Budget Briefing: FY 2015-16
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Appendix A: Number Pages

	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15 Appropriation	FY 2015-16 Request	Request vs. Appropriation
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JUDICIAL DEPARTMENT

Nancy Rice, Chief Justice

(1) SUPREME COURT/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 judgments; 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 funds transferred from the Department of Law.

Appellate Court Programs	<u>11,575,350</u>	<u>11,580,999</u>	<u>12,531,286</u>	<u>13,377,395</u> *
FTE	139.8	140.0	141.0	143.0
General Fund	10,242,960	10,248,847	12,459,286	13,305,395
Cash Funds	1,332,390	1,332,152	72,000	72,000
Attorney Regulation	<u>8,929,272</u>	<u>8,646,975</u>	<u>9,000,000</u>	<u>9,000,000</u>
FTE	56.0	56.0	56.0	56.0
Cash Funds	8,929,272	8,646,975	9,000,000	9,000,000
Continuing Legal Education	<u>239,906</u>	<u>1,059,947</u>	<u>300,000</u>	<u>300,000</u>
FTE	4.0	4.0	4.0	4.0
Cash Funds	239,906	1,059,947	300,000	300,000
State Board of Law Examiners	<u>1,269,392</u>	<u>3,117,917</u>	<u>1,300,000</u>	<u>1,300,000</u>
FTE	7.0	7.0	7.0	7.0
Cash Funds	1,269,392	3,117,917	1,300,000	1,300,000

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	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15 Appropriation	FY 2015-16 Request	Request vs. Appropriation
Law Library	<u>934,190</u>	<u>528,735</u>	<u>563,121</u>	<u>563,121</u>	
FTE	3.5	3.5	3.5	3.5	
Cash Funds	771,227	466,284	500,000	500,000	
Reappropriated Funds	162,963	62,451	63,121	63,121	
Indirect Cost Assessment	<u>0</u>	<u>0</u>	<u>177,001</u>	<u>221,332</u>	
Cash Funds	0	0	177,001	221,332	
TOTAL - (1) Supreme Court/Court of Appeals	22,948,110	24,934,573	23,871,408	24,761,848	3.7%
FTE	<u>210.3</u>	<u>210.5</u>	<u>211.5</u>	<u>213.5</u>	<u>0.9%</u>
General Fund	10,242,960	10,248,847	12,459,286	13,305,395	6.8%
Cash Funds	12,542,187	14,623,275	11,349,001	11,393,332	0.4%
Reappropriated Funds	162,963	62,451	63,121	63,121	0.0%

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	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15 Appropriation	FY 2015-16 Request	Request vs. Appropriation
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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>15,999,149</u>	<u>19,965,915</u>	<u>22,468,617</u>	<u>24,493,939</u> *
FTE	181.3	191.9	231.0	235.5
General Fund	10,033,126	12,277,636	14,616,345	16,603,971
Cash Funds	3,843,413	5,783,300	5,782,533	5,820,229
Reappropriated Funds	2,122,610	1,904,979	2,069,739	2,069,739
Information Technology Infrastructure	<u>4,587,531</u>	<u>4,637,670</u>	<u>5,450,321</u>	<u>8,631,321</u> *
General Fund	403,092	403,094	403,094	403,094
Cash Funds	4,184,439	4,234,576	5,047,227	8,228,227
Indirect Cost Assessment	<u>0</u>	<u>581,957</u>	<u>646,898</u>	<u>682,402</u>
Cash Funds	0	581,957	640,139	673,399
Reappropriated Funds	0	0	6,759	9,003
Statewide Indirect Cost Assessment	<u>98,175</u>	<u>0</u>	<u>0</u>	<u>0</u>
Cash Funds	98,175	0	0	0
Federal Funds	0	0	0	0

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	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15 Appropriation	FY 2015-16 Request	Request vs. Appropriation
Departmental Indirect Cost Assessment	<u>1,666,717</u>	<u>0</u>	<u>0</u>	<u>0</u>	
Cash Funds	1,666,717	0	0	0	
SUBTOTAL - (A) Administration and Technology	22,351,572	25,185,542	28,565,836	33,807,662	18.3%
<i>FTE</i>	<u>181.3</u>	<u>191.9</u>	<u>231.0</u>	<u>235.5</u>	<u>1.9%</u>
General Fund	10,436,218	12,680,730	15,019,439	17,007,065	13.2%
Cash Funds	9,792,744	10,599,833	11,469,899	14,721,855	28.4%
Reappropriated Funds	2,122,610	1,904,979	2,076,498	2,078,742	0.1%
Federal Funds	0	0	0	0	0.0%

(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 four independent agencies: salary-related line items; appropriations for health, life, and dental, and short-term disability insurance; and the vehicle lease payments line item. 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>21,548,359</u>	<u>24,360,420</u>	<u>24,531,550</u>	<u>27,225,253</u> *
General Fund	21,290,385	22,860,367	22,579,160	24,598,860
Cash Funds	257,974	1,500,053	1,952,390	2,626,393
Short-term Disability	<u>290,613</u>	<u>296,287</u>	<u>404,028</u>	<u>427,559</u> *
General Fund	288,404	247,005	369,464	390,218
Cash Funds	2,209	49,282	34,564	37,341
S.B. 04-257 Amortization Equalization Disbursement	<u>4,494,237</u>	<u>6,394,913</u>	<u>8,307,836</u>	<u>8,928,410</u> *
General Fund	4,031,900	5,397,337	7,677,392	8,168,699
Cash Funds	462,337	997,576	630,444	759,711

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	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15 Appropriation	FY 2015-16 Request	Request vs. Appropriation
S.B. 06-235 Supplemental Amortization Equalization					
Disbursement	<u>3,714,492</u>	<u>5,574,610</u>	<u>7,549,075</u>	<u>8,271,723</u>	*
General Fund	3,339,866	4,689,972	6,958,118	7,542,763	
Cash Funds	374,626	884,638	590,957	728,960	
Salary Survey	<u>309,680</u>	<u>5,284,336</u>	<u>12,352,590</u>	<u>8,823,344</u>	
General Fund	309,680	4,676,224	11,786,542	8,499,767	
Cash Funds	0	608,112	566,048	323,577	
Merit Pay	<u>0</u>	<u>3,370,314</u>	<u>2,013,849</u>	<u>2,616,751</u>	
General Fund	0	2,788,409	1,841,214	2,415,167	
Cash Funds	0	581,905	172,635	201,584	
Workers' Compensation	<u>1,712,924</u>	<u>1,337,492</u>	<u>1,210,253</u>	<u>1,113,913</u>	
General Fund	1,712,924	1,337,492	1,210,253	1,113,913	
Legal Services	<u>113,754</u>	<u>134,260</u>	<u>218,218</u>	<u>218,218</u>	
General Fund	113,754	134,260	218,218	218,218	
Payment to Risk Management and Property Funds	<u>347,144</u>	<u>607,112</u>	<u>685,664</u>	<u>542,217</u>	
General Fund	347,144	607,112	685,664	542,217	
Vehicle Lease Payments	<u>58,674</u>	<u>76,374</u>	<u>90,798</u>	<u>92,481</u>	*
General Fund	58,674	76,374	90,798	92,481	
Ralph L. Carr Colorado Judicial Center Leased Space	<u>1,312,476</u>	<u>2,063,194</u>	<u>2,384,393</u>	<u>2,427,803</u>	
General Fund	1,251,571	2,063,194	2,384,393	2,427,803	
Cash Funds	60,905	0	0	0	

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	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15 Appropriation	FY 2015-16 Request	Request vs. Appropriation
Payments to OIT	0	0	<u>2,543,223</u>	<u>3,107,174</u>	
General Fund	0	0	2,543,223	3,107,174	
COFRS Modernization	<u>1,056,857</u>	<u>1,056,857</u>	<u>1,067,197</u>	<u>1,067,197</u>	
General Fund	1,056,857	1,056,857	1,067,197	1,067,197	
Lease Purchase	<u>119,878</u>	<u>119,878</u>	<u>119,878</u>	<u>119,878</u>	
General Fund	119,878	119,878	119,878	119,878	
Purchase of Services from Computer Center	<u>753,476</u>	<u>699,378</u>	0	0	
General Fund	753,476	699,378	0	0	
Colorado State Network	<u>575,849</u>	<u>1,666,209</u>	0	0	
General Fund	575,849	1,666,209	0	0	
Communication Services Payments	<u>24,725</u>	<u>18,113</u>	0	0	
General Fund	24,725	18,113	0	0	
Information Technology Security	0	<u>24,047</u>	0	0	
General Fund	0	24,047	0	0	
SUBTOTAL - (B) Central Appropriations	36,433,138	53,083,794	63,478,552	64,981,921	2.4%
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0%</u>
General Fund	35,275,087	48,462,228	59,531,514	60,304,355	1.3%
Cash Funds	1,158,051	4,621,566	3,947,038	4,677,566	18.5%

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	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15 Appropriation	FY 2015-16 Request	Request vs. Appropriation
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(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>16,113,865</u>	<u>16,075,801</u>	<u>16,375,000</u>	<u>16,375,000</u>	
Cash Funds	16,113,865	16,075,801	16,375,000	16,375,000	
Victim Compensation	<u>13,375,492</u>	<u>13,315,657</u>	<u>12,175,000</u>	<u>12,175,000</u>	
Cash Funds	13,375,492	13,315,657	12,175,000	12,175,000	
Collections Investigators	<u>5,002,446</u>	<u>4,984,001</u>	<u>6,497,511</u>	<u>6,670,821</u>	
FTE	72.5	80.1	104.2	104.2	
Cash Funds	4,260,196	4,259,771	5,599,970	5,773,280	
Reappropriated Funds	742,250	724,230	897,541	897,541	
Problem-solving Courts	<u>2,335,869</u>	<u>3,045,535</u>	<u>3,133,985</u>	<u>3,509,361</u>	*
FTE	31.5	37.9	41.5	44.3	
General Fund	0	0	0	375,376	
Cash Funds	2,335,869	3,045,535	3,133,985	3,133,985	
Federal Funds	0	0	0	0	
Language Interpreters and Translators	<u>3,635,100</u>	<u>3,639,982</u>	<u>3,913,738</u>	<u>4,137,999</u>	*
FTE	24.9	24.9	32.0	33.0	
General Fund	3,376,235	3,376,232	3,863,738	4,087,999	
Cash Funds	258,865	263,750	50,000	50,000	

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	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15 Appropriation	FY 2015-16 Request	Request vs. Appropriation
Courthouse Security	<u>2,949,570</u>	<u>2,606,889</u>	<u>3,218,438</u>	<u>3,221,940</u>	*
FTE	1.0	1.0	1.0	1.0	
General Fund	0	0	0	1,250,000	
Cash Funds	2,949,570	2,606,889	3,218,438	1,971,940	
Appropriation to Underfunded Courthouse Facility Cash Fund	<u>0</u>	<u>0</u>	<u>700,000</u>	<u>3,000,000</u>	
General Fund	0	0	700,000	3,000,000	
Underfunded Courthouse Facilities Grant Program	<u>0</u>	<u>0</u>	<u>700,000</u>	<u>3,000,000</u>	
FTE	0.0	0.0	1.0	1.0	
Reappropriated Funds	0	0	700,000	3,000,000	
Courthouse Capital/ Infrastructure Maintenance	<u>1,621,173</u>	<u>3,590,121</u>	<u>2,893,364</u>	<u>4,313,623</u>	*
General Fund	0	172,550	2,794,601	2,425,309	
Cash Funds	1,621,173	3,417,571	98,763	1,888,314	
Reappropriated Funds	0	0	0	0	
Senior Judge Program	<u>1,255,217</u>	<u>1,256,444</u>	<u>1,300,000</u>	<u>1,504,384</u>	*
General Fund	0	0	0	204,384	
Cash Funds	1,255,217	1,256,444	1,300,000	1,300,000	
Judicial Education and Training	<u>1,069,536</u>	<u>1,462,036</u>	<u>1,448,906</u>	<u>1,453,718</u>	
FTE	1.5	1.8	2.0	2.0	
General Fund	0	0	0	4,812	
Cash Funds	1,069,536	1,462,036	1,448,906	1,448,906	

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	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15 Appropriation	FY 2015-16 Request	Request vs. Appropriation
Office of Judicial Performance Evaluation	<u>695,016</u>	<u>673,973</u>	<u>748,911</u>	<u>784,084</u>	
FTE	2.0	2.0	2.0	2.0	
General Fund	0	0	290,000	290,000	
Cash Funds	695,016	673,973	458,911	494,084	
Family Violence Justice Grants	<u>599,991</u>	<u>1,148,230</u>	<u>2,170,000</u>	<u>2,170,000</u>	
General Fund	429,991	1,000,000	2,000,000	2,000,000	
Cash Funds	170,000	148,230	170,000	170,000	
Restorative Justice Programs	<u>0</u>	<u>191,666</u>	<u>798,000</u>	<u>798,000</u>	
FTE	0.0	0.0	0.0	0.0	
Cash Funds	0	191,666	798,000	798,000	
District Attorney Adult Pretrial Diversion Programs	<u>0</u>	<u>29,561</u>	<u>477,000</u>	<u>477,000</u>	
General Fund	0	29,561	400,000	400,000	
Cash Funds	0	0	77,000	77,000	
Family-friendly Court Program	<u>178,676</u>	<u>176,591</u>	<u>375,943</u>	<u>375,943</u>	*
FTE	0.5	0.5	0.5	0.5	
General Fund	0	0	0	150,000	
Cash Funds	178,676	176,591	375,943	225,943	
Compensation for Exonerated Persons	<u>0</u>	<u>107,800</u>	<u>102,771</u>	<u>105,751</u>	*
General Fund	0	107,800	102,771	105,751	
Child Support Enforcement	<u>81,413</u>	<u>83,183</u>	<u>90,900</u>	<u>90,900</u>	
FTE	1.0	1.0	1.0	1.0	
General Fund	27,642	28,458	30,904	30,904	
Reappropriated Funds	53,771	54,725	59,996	59,996	

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	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15 Appropriation	FY 2015-16 Request	Request vs. Appropriation
SUBTOTAL - (C) Centrally Administered Programs	48,913,364	52,387,470	57,119,467	64,163,524	12.3%
<i>FTE</i>	<u>134.9</u>	<u>149.2</u>	<u>185.2</u>	<u>189.0</u>	<u>2.1%</u>
General Fund	3,833,868	4,714,601	10,182,014	14,324,535	40.7%
Cash Funds	44,283,475	46,893,914	45,279,916	45,881,452	1.3%
Reappropriated Funds	796,021	778,955	1,657,537	3,957,537	138.8%
Federal Funds	0	0	0	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>817,821</u>	<u>1,315,312</u>	<u>1,450,421</u>	<u>1,460,479</u>
FTE	1.8	2.0	2.0	2.0
Cash Funds	817,821	0	412,968	423,026
Reappropriated Funds	0	1,315,312	1,037,453	1,037,453
Federal Funds	0	0	0	0
Operating Expenses	<u>1,867,262</u>	<u>3,703,417</u>	<u>4,026,234</u>	<u>4,026,234</u> *
General Fund	0	0	0	1,146,362
Cash Funds	1,867,262	43,379	1,146,362	0
Reappropriated Funds	0	3,660,038	2,879,872	2,879,872
Debt Service Payments	<u>0</u>	<u>0</u>	<u>0</u>	<u>21,543,903</u> *
General Fund	0	0	0	3,853,638
Cash Funds	0	0	0	17,690,265

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Controlled Maintenance	<u>0</u>	<u>0</u>	<u>2,025,000</u>	<u>2,025,000</u>	
Cash Funds	0	0	576,564	576,564	
Reappropriated Funds	0	0	1,448,436	1,448,436	
SUBTOTAL - (D) Ralph L. Carr Colorado Judicial Center					
	2,685,083	5,018,729	7,501,655	29,055,616	287.3%
<i>FTE</i>	<u>1.8</u>	<u>2.0</u>	<u>2.0</u>	<u>2.0</u>	<u>0.0%</u>
General Fund	0	0	0	5,000,000	0.0%
Cash Funds	2,685,083	43,379	2,135,894	18,689,855	775.0%
Reappropriated Funds	0	4,975,350	5,365,761	5,365,761	0.0%
Federal Funds	0	0	0	0	0.0%
TOTAL - (2) Courts Administration					
	110,383,157	135,675,535	156,665,510	192,008,723	22.6%
<i>FTE</i>	<u>318.0</u>	<u>343.1</u>	<u>418.2</u>	<u>426.5</u>	<u>2.0%</u>
General Fund	49,545,173	65,857,559	84,732,967	96,635,955	14.0%
Cash Funds	57,919,353	62,158,692	62,832,747	83,970,728	33.6%
Reappropriated Funds	2,918,631	7,659,284	9,099,796	11,402,040	25.3%
Federal Funds	0	0	0	0	0.0%

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	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15 Appropriation	FY 2015-16 Request	Request vs. Appropriation
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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>122,511,665</u>	<u>123,860,291</u>	<u>132,996,511</u>	<u>142,950,414</u> *
FTE	1,696.0	1,741.4	1,847.0	1,856.7
General Fund	92,758,392	93,122,685	100,168,187	112,987,637
Cash Funds	28,750,217	29,626,026	31,728,324	28,862,777
Reappropriated Funds	1,003,056	1,111,580	1,100,000	1,100,000
Court Costs, Jury Costs, and Court-appointed Counsel	<u>15,521,673</u>	<u>15,814,487</u>	<u>17,627,510</u>	<u>17,607,364</u>
General Fund	15,381,007	15,668,309	17,195,860	17,182,115
Cash Funds	140,666	146,178	431,650	425,249
District Attorney Mandated Costs	<u>2,304,497</u>	<u>2,312,067</u>	<u>2,697,153</u>	<u>2,862,410</u> *
General Fund	2,164,497	2,152,067	2,527,153	2,692,410
Cash Funds	140,000	160,000	170,000	170,000
Action and Statewide Discovery Sharing Systems	0	0	5,300,000	0
General Fund	0	0	5,300,000	0

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	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15 Appropriation	FY 2015-16 Request	Request vs. Appropriation
Federal Funds and Other Grants	<u>1,414,599</u>	<u>1,730,194</u>	<u>2,900,000</u>	<u>2,900,000</u>	
FTE	10.8	13.7	14.0	14.0	
Cash Funds	119,762	126,445	975,000	975,000	
Reappropriated Funds	95,775	0	300,000	300,000	
Federal Funds	1,199,062	1,603,749	1,625,000	1,625,000	
TOTAL - (3) Trial Courts	141,752,434	143,717,039	161,521,174	166,320,188	3.0%
FTE	<u>1,706.8</u>	<u>1,755.1</u>	<u>1,861.0</u>	<u>1,870.7</u>	<u>0.5%</u>
General Fund	110,303,896	110,943,061	125,191,200	132,862,162	6.1%
Cash Funds	29,150,645	30,058,649	33,304,974	30,433,026	(8.6%)
Reappropriated Funds	1,098,831	1,111,580	1,400,000	1,400,000	0.0%
Federal Funds	1,199,062	1,603,749	1,625,000	1,625,000	0.0%

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	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15 Appropriation	FY 2015-16 Request	Request vs. Appropriation
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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 are from fees paid by offenders for supervision, treatment, and restitution, as well as 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>74,924,839</u>	<u>76,075,870</u>	<u>79,389,528</u>	<u>84,220,961</u> *
FTE	1,108.8	1,129.8	1,156.0	1,181.0
General Fund	65,082,409	62,054,609	68,889,803	73,309,049
Cash Funds	9,842,430	14,021,261	10,499,725	10,911,912
Offender Treatment and Services	<u>21,316,138</u>	<u>24,984,444</u>	<u>31,388,070</u>	<u>31,388,070</u>
General Fund	667,197	667,197	924,877	924,877
Cash Funds	10,557,106	12,297,245	14,374,852	14,374,852
Reappropriated Funds	10,091,835	12,020,002	16,088,341	16,088,341
Appropriation to the Correctional Treatment Cash Fund	<u>9,856,200</u>	<u>11,700,000</u>	<u>15,200,000</u>	<u>15,200,000</u>
General Fund	9,856,200	11,700,000	15,200,000	15,200,000
S.B. 91-94 Juvenile Services	<u>1,917,335</u>	<u>1,933,860</u>	<u>2,496,837</u>	<u>2,496,837</u>
FTE	25.0	25.0	25.0	25.0
Reappropriated Funds	1,917,335	1,933,860	2,496,837	2,496,837
Reimbursements to Law Enforcement Agencies for the Costs of Returning a Probationer	<u>0</u>	<u>88,049</u>	<u>187,500</u>	<u>187,500</u>
Cash Funds	0	88,049	187,500	187,500

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	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15 Appropriation	FY 2015-16 Request	Request vs. Appropriation
Victims Grants	<u>392,934</u>	<u>359,162</u>	<u>650,000</u>	<u>650,000</u>	
FTE	6.0	6.0	6.0	6.0	
Reappropriated Funds	392,934	359,162	650,000	650,000	
Federal Funds and Other Grants	<u>4,952,148</u>	<u>4,546,976</u>	<u>5,600,000</u>	<u>5,600,000</u>	
FTE	33.0	33.0	33.0	33.0	
Cash Funds	948,027	731,174	1,950,000	1,950,000	
Reappropriated Funds	160,276	150,768	850,000	850,000	
Federal Funds	3,843,845	3,665,034	2,800,000	2,800,000	
Indirect Cost Assessment	<u>0</u>	<u>1,031,039</u>	<u>1,103,840</u>	<u>1,144,696</u>	
Cash Funds	0	1,031,039	1,103,840	1,144,696	
TOTAL - (4) Probation and Related Services	113,359,594	120,719,400	136,015,775	140,888,064	3.6%
FTE	<u>1,172.8</u>	<u>1,193.8</u>	<u>1,220.0</u>	<u>1,245.0</u>	<u>2.0%</u>
General Fund	75,605,806	74,421,806	85,014,680	89,433,926	5.2%
Cash Funds	21,347,563	28,168,768	28,115,917	28,568,960	1.6%
Reappropriated Funds	12,562,380	14,463,792	20,085,178	20,085,178	0.0%
Federal Funds	3,843,845	3,665,034	2,800,000	2,800,000	0.0%

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	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15 Appropriation	FY 2015-16 Request	Request vs. Appropriation
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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>43,511,185</u>	<u>43,409,279</u>	<u>57,870,487</u>	<u>60,212,586</u>	
FTE	624.4	670.8	777.1	786.2	
General Fund	43,511,185	43,409,279	57,870,487	60,212,586	
Health, Life, and Dental	<u>4,323,337</u>	<u>4,978,927</u>	<u>5,433,553</u>	<u>6,342,143</u>	
General Fund	4,323,337	4,978,927	5,433,553	6,342,143	
Short-term Disability	<u>68,710</u>	<u>89,283</u>	<u>105,694</u>	<u>114,721</u>	
General Fund	68,710	89,283	105,694	114,721	
S.B. 04-257 Amortization Equalization Disbursement	<u>1,239,073</u>	<u>1,679,974</u>	<u>1,921,707</u>	<u>2,278,771</u>	
General Fund	1,239,073	1,679,974	1,921,707	2,278,771	
S.B. 06-235 Supplemental Amortization Equalization Disbursement	<u>1,059,806</u>	<u>1,513,219</u>	<u>1,801,601</u>	<u>2,195,338</u>	
General Fund	1,059,806	1,513,219	1,801,601	2,195,338	
Salary Survey	<u>0</u>	<u>5,640,158</u>	<u>1,303,106</u>	<u>570,536</u>	
General Fund	0	5,640,158	1,303,106	570,536	
Merit Pay	<u>0</u>	<u>651,614</u>	<u>528,200</u>	<u>570,536</u>	
General Fund	0	651,614	528,200	570,536	
Vehicle Lease Payments	<u>82,649</u>	<u>105,286</u>	<u>112,755</u>	<u>113,711</u>	*
General Fund	82,649	105,286	112,755	113,711	

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	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15 Appropriation	FY 2015-16 Request	Request vs. Appropriation
Capital Outlay	<u>51,733</u>	<u>419,037</u>	<u>211,732</u>	<u>0</u>	
General Fund	51,733	419,037	211,732	0	
Operating Expenses	<u>1,463,618</u>	<u>1,553,480</u>	<u>1,736,353</u>	<u>1,752,399</u>	
General Fund	1,445,228	1,534,805	1,706,353	1,722,399	
Cash Funds	18,390	18,675	30,000	30,000	
Leased Space/Utilities	<u>6,122,344</u>	<u>5,618,157</u>	<u>6,509,426</u>	<u>6,509,426</u>	
General Fund	6,122,344	5,618,157	6,509,426	6,509,426	
Automation Plan	<u>841,282</u>	<u>1,766,920</u>	<u>1,416,920</u>	<u>1,416,920</u>	
General Fund	841,282	1,766,920	1,416,920	1,416,920	
Attorney Registration	<u>84,605</u>	<u>126,300</u>	<u>141,225</u>	<u>141,225</u>	
General Fund	84,605	126,300	141,225	141,225	
Contract Services	<u>49,395</u>	<u>0</u>	<u>49,395</u>	<u>49,395</u>	
General Fund	49,395	0	49,395	49,395	
Mandated Costs	<u>4,126,488</u>	<u>4,777,888</u>	<u>4,552,716</u>	<u>4,552,716</u>	
General Fund	4,126,488	4,777,888	4,552,716	4,552,716	
Grants	<u>146,524</u>	<u>35,223</u>	<u>120,000</u>	<u>120,000</u>	
FTE	3.5	0.3	2.0	2.0	
Cash Funds	146,524	35,223	120,000	120,000	

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	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15 Appropriation	FY 2015-16 Request	Request vs. Appropriation
House Bill 14-1158 Vehicular Homicide and Assault					
Minimum Sentence	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	
FTE	0.0	0.0	0.0	0.0	
General Fund	0	0	0	0	
TOTAL - (5) Office of the State Public Defender	63,170,749	72,364,745	83,814,870	86,940,423	3.7%
<i>FTE</i>	<u>627.9</u>	<u>671.1</u>	<u>779.1</u>	<u>788.2</u>	<u>1.2%</u>
General Fund	63,005,835	72,310,847	83,664,870	86,790,423	3.7%
Cash Funds	164,914	53,898	150,000	150,000	0.0%

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	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15 Appropriation	FY 2015-16 Request	Request vs. Appropriation
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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>750,382</u>	<u>880,672</u>	<u>905,127</u>	<u>1,122,470</u>	*
FTE	7.5	8.4	9.1	11.0	
General Fund	750,382	880,672	905,127	1,122,470	
Health, Life, and Dental	<u>92,555</u>	<u>109,710</u>	<u>112,745</u>	<u>129,928</u>	*
General Fund	92,555	109,710	112,745	129,928	
Short-term Disability	<u>1,103</u>	<u>1,341</u>	<u>1,694</u>	<u>1,873</u>	*
General Fund	1,103	1,341	1,694	1,873	
S.B. 04-257 Amortization Equalization Disbursement	<u>20,051</u>	<u>24,222</u>	<u>30,807</u>	<u>37,182</u>	*
General Fund	20,051	24,222	30,807	37,182	
S.B. 06-235 Supplemental Amortization Equalization Disbursement	<u>17,154</u>	<u>21,799</u>	<u>28,882</u>	<u>35,834</u>	*
General Fund	17,154	21,799	28,882	35,834	
Salary Survey	<u>0</u>	<u>12,817</u>	<u>28,709</u>	<u>54,693</u>	
General Fund	0	12,817	28,709	54,693	
Merit Pay	<u>0</u>	<u>10,408</u>	<u>8,389</u>	<u>7,723</u>	
General Fund	0	10,408	8,389	7,723	
Operating Expenses	<u>66,201</u>	<u>96,917</u>	<u>71,895</u>	<u>79,862</u>	*
General Fund	66,201	96,917	71,895	79,862	

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	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15 Appropriation	FY 2015-16 Request	Request vs. Appropriation
Capital Outlay	<u>0</u>	<u>0</u>	<u>4,703</u>	<u>6,251</u> *	
General Fund	0	0	4,703	6,251	
Training and Conferences	<u>40,549</u>	<u>42,996</u>	<u>60,000</u>	<u>60,000</u>	
General Fund	20,549	22,996	20,000	20,000	
Cash Funds	20,000	20,000	40,000	40,000	
Conflict-of-interest Contracts	<u>19,882,661</u>	<u>22,416,624</u>	<u>26,615,760</u>	<u>26,615,760</u>	
General Fund	19,882,661	22,416,624	26,615,760	26,615,760	
Mandated Costs	<u>1,764,604</u>	<u>1,938,282</u>	<u>1,852,371</u>	<u>1,852,371</u>	
General Fund	1,764,604	1,938,282	1,852,371	1,852,371	
Leased Space	<u>25,186</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	25,186	0	0	0	
TOTAL - (6) Office of the Alternate Defense Counsel	22,660,446	25,555,788	29,721,082	30,003,947	1.0%
<i>FTE</i>	<u>7.5</u>	<u>8.4</u>	<u>9.1</u>	<u>11.0</u>	<u>20.9%</u>
General Fund	22,640,446	25,535,788	29,681,082	29,963,947	1.0%
Cash Funds	20,000	20,000	40,000	40,000	0.0%

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	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15 Appropriation	FY 2015-16 Request	Request vs. Appropriation
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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>1,903,131</u>	<u>1,905,492</u>	<u>1,971,589</u>	<u>2,295,026</u> *
FTE	26.1	26.5	27.4	28.9
General Fund	1,903,131	1,905,492	1,971,589	2,295,026
Health, Life, and Dental	<u>174,855</u>	<u>195,658</u>	<u>249,721</u>	<u>223,780</u>
General Fund	174,855	195,658	249,721	223,780
Short-term Disability	<u>2,747</u>	<u>3,197</u>	<u>4,714</u>	<u>5,213</u>
General Fund	2,747	3,197	4,714	5,213
S.B. 04-257 Amortization Equalization Disbursement	<u>50,484</u>	<u>59,322</u>	<u>85,702</u>	<u>103,742</u>
General Fund	50,484	59,322	85,702	103,742
S.B. 06-235 Supplemental Amortization Equalization Disbursement	<u>43,165</u>	<u>53,380</u>	<u>80,345</u>	<u>99,944</u>
General Fund	43,165	53,380	80,345	99,944
Salary Survey	<u>0</u>	<u>34,879</u>	<u>266,519</u>	<u>93,977</u>
General Fund	0	34,879	266,519	93,977
Merit Pay	<u>0</u>	<u>28,323</u>	<u>19,415</u>	<u>22,457</u>
General Fund	0	28,323	19,415	22,457
Operating Expenses	<u>190,722</u>	<u>241,195</u>	<u>191,929</u>	<u>193,354</u> *
General Fund	190,722	241,195	191,929	193,354

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	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15 Appropriation	FY 2015-16 Request	Request vs. Appropriation
Leased Space	<u>146,970</u>	<u>102,120</u>	<u>103,618</u>	<u>105,137</u>	
General Fund	146,970	102,120	103,618	105,137	
CASA Contracts	<u>520,000</u>	<u>1,020,000</u>	<u>1,020,000</u>	<u>1,020,000</u>	
General Fund	520,000	1,020,000	1,020,000	1,020,000	
Training	<u>41,026</u>	<u>38,000</u>	<u>38,000</u>	<u>38,000</u>	
General Fund	41,026	38,000	38,000	38,000	
Court-appointed Counsel	<u>16,015,965</u>	<u>17,625,017</u>	<u>18,912,675</u>	<u>20,421,453</u> *	
General Fund	16,015,965	17,625,017	18,912,675	20,421,453	
Mandated Costs	<u>43,607</u>	<u>54,486</u>	<u>37,287</u>	<u>54,487</u> *	
General Fund	43,607	54,486	37,287	54,487	
Title IV-E Training Grant	<u>0</u>	<u>9,390</u>	<u>0</u>	<u>9,390</u>	
Reappropriated Funds	0	9,390	0	9,390	
TOTAL - (7) Office of the Child's Representative	19,132,672	21,370,459	22,981,514	24,685,960	7.4%
<i>FTE</i>	<u>26.1</u>	<u>26.5</u>	<u>27.4</u>	<u>28.9</u>	<u>5.5%</u>
General Fund	19,132,672	21,361,069	22,981,514	24,676,570	7.4%
Reappropriated Funds	0	9,390	0	9,390	0.0%

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(8) OFFICE OF THE RESPONDENT PARENTS' COUNSEL

Pursuant to S.B. 14-203, the Department's budget request proposes the creation of a new section for an independent agency that will provide legal representation for indigent parents involved in judicial dependency and neglect proceedings.

Personal Services	<u>0</u>	<u>0</u>	<u>0</u>	<u>347,410</u>	*
FTE	0.0	0.0	0.0	2.7	
General Fund	0	0	0	347,410	
Health, Life, and Dental	<u>0</u>	<u>0</u>	<u>0</u>	<u>16,016</u>	*
General Fund	0	0	0	16,016	
Short-term Disability	<u>0</u>	<u>0</u>	<u>0</u>	<u>483</u>	*
General Fund	0	0	0	483	
S.B. 14-257 Amortization Equalization Disbursement	<u>0</u>	<u>0</u>	<u>0</u>	<u>10,622</u>	*
General Fund	0	0	0	10,622	
S.B. 06-235 Supplemental Amortization Equalization Disbursement	<u>0</u>	<u>0</u>	<u>0</u>	<u>10,260</u>	*
General Fund	0	0	0	10,260	
Operating Expenses	<u>0</u>	<u>0</u>	<u>0</u>	<u>15,733</u>	*
General Fund	0	0	0	15,733	
Capital Outlay	<u>0</u>	<u>0</u>	<u>0</u>	<u>441,140</u>	*
General Fund	0	0	0	441,140	
Legal Services	<u>0</u>	<u>0</u>	<u>0</u>	<u>49,500</u>	*
General Fund	0	0	0	49,500	

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	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15 Appropriation	FY 2015-16 Request	Request vs. Appropriation
Case Management System	<u>0</u>	<u>0</u>	<u>0</u>	<u>37,500</u> *	
General Fund	0	0	0	37,500	
Training	<u>0</u>	<u>0</u>	<u>0</u>	<u>25,000</u> *	
General Fund	0	0	0	25,000	
TOTAL - (8) Office of the Respondent Parents'					
Counsel	0	0	0	953,664	0.0%
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>2.7</u>	<u>0.0%</u>
General Fund	0	0	0	953,664	0.0%

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(9) 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.

Personal Services	<u>120,099</u>	<u>118,832</u>	<u>193,063</u>	<u>199,457</u>	
FTE	1.0	2.0	2.0	2.0	
General Fund	120,099	118,832	193,063	199,457	
Health, Life, and Dental	<u>5,216</u>	<u>7,209</u>	<u>15,393</u>	<u>16,328</u>	
General Fund	5,216	7,209	15,393	16,328	
Short-term Disability	<u>166</u>	<u>183</u>	<u>374</u>	<u>379</u>	
General Fund	166	183	374	379	
S.B. 04-257 Amortization Equalization Disbursement	<u>3,094</u>	<u>4,335</u>	<u>6,803</u>	<u>7,586</u>	
General Fund	3,094	4,335	6,803	7,586	
S.B. 06-235 Supplemental Amortization Equalization Disbursement	<u>2,648</u>	<u>3,917</u>	<u>6,378</u>	<u>7,327</u>	
General Fund	2,648	3,917	6,378	7,327	
Salary Survey	<u>0</u>	<u>0</u>	<u>4,567</u>	<u>1,946</u>	
General Fund	0	0	4,567	1,946	
Merit Pay	<u>0</u>	<u>0</u>	<u>1,827</u>	<u>1,969</u>	
General Fund	0	0	1,827	1,969	
Operating Expenses	<u>15,033</u>	<u>15,601</u>	<u>16,757</u>	<u>29,777</u> *	
General Fund	15,033	15,601	16,757	29,777	

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	FY 2012-13 Actual	FY 2013-14 Actual	FY 2014-15 Appropriation	FY 2015-16 Request	Request vs. Appropriation
Legal Services	<u>75,945</u>	<u>150,252</u>	<u>106,931</u>	<u>185,347</u> *	
General Fund	75,945	150,252	106,931	185,347	
TOTAL - (9) Independent Ethics Commission	222,201	300,329	352,093	450,116	27.8%
<i>FTE</i>	<u>1.0</u>	<u>2.0</u>	<u>2.0</u>	<u>2.0</u>	<u>0.0%</u>
General Fund	222,201	300,329	352,093	450,116	27.8%
TOTAL - Judicial Department	493,629,363	544,637,868	614,943,426	667,012,933	8.5%
<i>FTE</i>	<u>4,070.4</u>	<u>4,210.5</u>	<u>4,528.3</u>	<u>4,588.5</u>	<u>1.3%</u>
General Fund	350,698,989	380,979,306	444,077,692	475,072,158	7.0%
Cash Funds	121,144,662	135,083,282	135,792,639	154,556,046	13.8%
Reappropriated Funds	16,742,805	23,306,497	30,648,095	32,959,729	7.5%
Federal Funds	5,042,907	5,268,783	4,425,000	4,425,000	0.0%

NOTE: An asterisk (*) indicates that the FY 2015-16 request for a line item is affected by one or more decision items.

Appendix B: Recent Legislation Affecting Department Budget

2014 Session Bills

S.B. 14-190 (Statewide Discovery Sharing System): Turns the Discovery Task Force (created in S.B. 13-246) into a Steering Committee to assist the Colorado District Attorneys' Council (CDAC) in developing a process to select a vendor to develop a statewide discovery sharing system. Requires the CDAC to develop and maintain a statewide discovery sharing system ("discovery system") integrated with its existing ACTION case management system. Establishes a new criminal surcharge for persons who are represented by private counsel or appear without legal representation, and credits the resulting revenues to the newly created Statewide Discovery Sharing System Surcharge Fund. Requires the General Assembly to appropriate necessary moneys from the General Fund and the new cash fund to the Judicial Department to fund the development, continuing enhancement, and maintenance of the new discovery system as well as the maintenance and continuing enhancement of the existing ACTION system.

Gives civil immunity to a district attorney who, after making a good-faith effort to redact all information legally required to be redacted from a discovery document provided to a defendant or defense counsel, provides a document that contains information that is legally required to be redacted.

Appropriates \$5.3 million General Fund to the Judicial Department for FY 2014-15, and allows any unspent funds to remain available for expenditure in FY 2015-16.

S.B. 14-203 (Respondent Parents' Counsel): Creates the Office of the Respondent Parents' Counsel (ORPC) in the Judicial Department, effective January 1, 2016. States that the ORPC will be responsible for providing legal representation to parents involved in dependency and neglect proceedings who lack the financial means to obtain representation. Declares that the operational structure of the ORPC will be based on the final report by the Respondent Parents' Counsel Work Group to the Office of the State Court Administrator. Requires the Judicial Department to include in its November 2014 budget request a request for funding to implement the Work Group recommendations.

H.B. 14-1023 (Social Workers for Juveniles): Requires the Office of the State Public Defender to hire social workers to assist in juvenile defense cases. Appropriates a total of \$455,983 General Fund and 8.0 FTE to the Office of the State Public Defender for FY 2014-15.

H.B. 14-1032 (Defense Counsel for Juvenile Offenders): Makes procedural changes concerning the appointment of counsel for juveniles, including:

- Requiring that certain information about the right to counsel and the process for obtaining counsel be provided on a promise to appear or summons;
- When a juvenile is placed in a detention facility, requiring the screening team to promptly notify the district attorney and the local Office of the State Public Defender (OSPD);

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- Requiring the court to hold a detention hearing within 24 hours (rather than 48 hours) for a juvenile being held in detention on a warrant for violating a court order concerning a status offense;
- Requiring the court to appoint counsel from the OSPD (or the Office of Alternate Defense Counsel (OADC) in case of a conflict) to represent a juvenile at a detention hearing if a juvenile has not retained counsel;
- Limiting the circumstances under which the court may accept a juvenile's waiver of counsel; and
- Requiring the court to appoint counsel from the OSPD (or the OADC in the case of a conflict) if the juvenile is eligible for appointed counsel and has not waived or obtained other counsel, is in the custody of the state Department of Human Services or a county department of social services, or if the court determines it is necessary to protect the interests of the juvenile or other parties.

Appropriates a total of \$645,102 (including an increase of \$698,452 General Fund and a reduction of \$53,350 cash funds) and 11.7 FTE to the Judicial Department for FY 2014-15, including: an increase of \$737,875 General Fund and 11.1 FTE to the OSPD; an increase of \$75,116 General Fund and 0.6 FTE to the OADC, and a reduction of \$167,889 (including \$114,539 General Fund and \$53,350 cash funds) for the trial courts.

H.B. 14-1050 (Add Two Judges): Adds two district court judges to the 18th judicial district (Arapahoe, Douglas, Elbert, and Lincoln counties). Appropriates \$837,824 General Fund and 8.8 FTE to the Judicial Department for FY 2014-15, including \$751,474 and 7.3 FTE for the trial courts (including funding for capital outlay expenses) and \$86,350 and 1.5 FTE to the Office of the State Public Defender.

H.B. 14-1096 (Underfunded Courthouse Facilities Grants): Creates a new state-funded grant program to provide supplemental funding for courthouse facility projects in certain counties. Creates the Underfunded Courthouse Facility Cash Fund Commission to evaluate grant applications and make grant award recommendations to the State Court Administrator. Requires grant funds to 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. Specifies financial and demographic factors to be met by a county in order to be considered for a grant award. Appropriates a total of \$1,400,000 and 1.0 FTE to the Judicial Department for FY 2014-15, including an appropriation of \$700,000 General Fund to the newly created Underfunded Courthouse Facility Cash Fund and \$700,000 reappropriated funds from the new cash fund and 1.0 FTE for the administration of the new grant program.

H.B. 14-1239: (Supplemental Bill): Supplemental appropriation to the Judicial Department to modify FY 2013-14 appropriations included in the FY 2013-14 Long Bill (S.B. 13-230), H.B. 13-1156, H.B. 13-1230, and H.B. 14-1254.

H.B. 14-1266 (Penalties for Value-based Offenses): Adjusts penalties for certain value-based offenses (including the crimes of criminal mischief, fraud by check, defrauding a secured creditor or debtor, unauthorized use of a financial transaction device, computer crime, and

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aggravated motor vehicle theft), making some current felonies into misdemeanors and some current misdemeanors into lower level offenses, including petty offenses. Reduces appropriations to the Office of the State Public Defender for FY 2014-15 by a total of \$69,408 General Fund and 1.0 FTE. Does not include any adjustment to appropriations to the Department of Corrections (DOC) for FY 2014-15, but is anticipated to reduce DOC expenditures beginning in FY 2015-16.

H.B. 14-1336 (Long Bill): General appropriations act for FY 2014-15. Includes a provision modifying FY 2013-14 appropriations included in H.B. 13-1254.

Relevant Bills From Previous Sessions

S.B. 13-246 (Criminal Discovery Task Force): Creates a Discovery Task Force to meet to address the issue of discovery costs in criminal cases. In addition to a non-voting technology advisor from the Office of Information Technology, the Task Force consists of the following 11 members: (1) the Attorney General (or his designee), who shall serve as the Chair of the Task Force; (2) the State Court Administrator (or his designee), who shall serve as the Vice-Chair of the Task Force; (3) the State Public Defender (or his designee); (4) a representative of the criminal defense bar; (5) three district attorneys (DAs) who represent differently sized judicial districts; (6) a county sheriff; (7) the Alternate Defense Counsel (or her designee); (8) a chief of police; and (9) a district court judge. The Task Force is required to study several topics and report back to the Joint Budget Committee and the Judiciary Committees by January 31, 2014. Topics the Task Force will study include the following:

- The ability of DAs' offices to obtain law enforcement discoverable evidence in an electronic format, and options for addressing the short-term needs of law enforcement and DAs to facilitate greater use of electronic discovery;
- The reimbursements paid to reimburse DAs' offices for the expenses for which the DA is responsible related to the discovery process; and
- An alternative funding process to reimburse the DAs for appropriate discovery costs without requiring the State Public Defender, Alternate Defense Counsel, or any indigent *pro se* defendant to pay for discovery.

S.B. 13-250 (Drug Sentencing Changes): Creates new felony and misdemeanor drug sentencing grids, and assigns each of the drug crimes a new drug penalty based on the new felony and misdemeanor drug sentencing grids. Creates a sentencing option for offenders convicted of certain drug felonies that allows the court to vacate the felony conviction and enter a misdemeanor conviction in its place if the offender successfully completes a community-based sentence. Allows the court to impose residential drug treatment as a condition of probation when a defendant is sentenced to probation for a drug offense. Amends the intensive supervision probation program to allow defendants convicted of a misdemeanor to participate if they are assessed as higher risk.

Authorizes the statewide organization representing district attorneys (DAs) the ability to receive, manage, and expend state funds in the manner prescribed by the General Assembly on behalf of

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the DAs who are members of the organization. Directs the General Assembly to appropriate at least \$3,500,000 in FY 2014-15 to the Correctional Treatment Cash Fund from the estimated savings from S.B. 13-250. Requires the Division of Criminal Justice in the Department of Public Safety to collect data on drug cases and issue a report by December 31, 2016. For FY 2013-14, appropriates \$339,764 General Fund and 4.8 FTE to the Judicial Department, and appropriates \$521,850 General Fund to the Department of Corrections and further appropriates this amount to the Governor's Office of Information Technology.

H.B. 13-1210 (Right to Legal Counsel in Plea Negotiations): Repeals a statute that requires an indigent person charged with a misdemeanor, petty offense, or motor vehicle or traffic offense to meet with the prosecuting attorney for plea negotiations before legal counsel is appointed. Clarifies that appointment of the State Public Defender to represent indigent persons applies when the charged offense includes a possible sentence of incarceration. Specifies that these changes are effective January 1, 2014, and apply to misdemeanors, petty offenses, class 2 and class 3 misdemeanor traffic offenses, and municipal or county ordinance violations committed on or after that date. Appropriates a total of \$3,795,400 General Fund and 37.9 FTE to the Judicial Department for FY 2013-14, including \$3,710,909 and 37.1 FTE to the Office of the State Public Defender, and \$84,491 and 0.8 FTE for the trial courts.

H.B. 13-1254 (Restorative Justice): Modifies the existing requirement that restorative justice victim-offender conferences must be initiated by the victim, permitting in some instances a suitable defendant to request to participate. Expands the membership of the Restorative Justice Coordinating Council (Council) in the State Court Administrator's Office. Requires the Council to develop a uniform restorative justice satisfaction evaluation and to collect information regarding all existing restorative justice programs and practices and report that data to the Judiciary Committees by January 31, 2014. Creates a pilot project for restorative justice programs in four judicial districts. Creates a \$10 surcharge on all crimes to be credited to a newly created Restorative Justice Surcharge Fund, to support restorative justice programs and the Council. Appropriates a total of \$32,892 and 0.5 FTE to the Judicial Department for FY 2013-14, including \$20,639 General Fund and \$12,263 cash funds from the Restorative Justice Surcharge Fund.

H.B. 11-1300 (Conservation Easements): Authorizes a new expedited method for resolving disputed claims over conservation easement state income tax credits. Appropriates \$653,000 General Fund and 6.0 FTE to the Judicial Department for FY 2011-12 to hear cases related to a notice of deficiency, disallowance, or rejection from the Department of Revenue regarding a claimed tax credit on conservation easements.

S.B. 08-054 (Judicial Performance Evaluations): Establishes the Office of Judicial Performance Evaluation within the Judicial Department. The Office is tasked with: staffing and training state and district commissions; collecting and distributing data on judicial performance evaluations; conducting public education efforts concerning the performance evaluation process; and measuring public awareness of the process through regular polling. Appropriates \$308,270 from the State Commission on Judicial Performance Cash Fund (including \$30,000 for a biannual public awareness poll) and 1.0 FTE, to the Judicial Department for FY 2008-09.

Appendix C: Update on Long Bill Footnotes & Requests for Information

The following Long Bill Footnotes (LBF) and Requests for Information (RFI) relate to the Judicial Branch and are included in this Appendix:

Applicable to Multiple Agencies Within Judicial Branch

LBF #1 – General Assembly intent related to salary survey increases

LBF #49 – Compensation for justices, judges, the State Public Defender, the Alternate Defense Counsel, and the Executive Director of the Office of the Child's Representative

Judicial RFI #2 – State Court Administrator's Office report concerning practices related to court appointments in domestic relations cases

Probation

LBF #51 – State funding for veterans treatment courts

Statewide RFI #1 – Cash funds that are utilized by multiple state agencies

Judicial RFI #4 – Recidivism rates

Judicial RFI #5 – Expenditures for testing, treatment, and assessments for offenders

Office of the State Public Defender

LBF #52 – Authority to transfer funds between line item appropriations

Judicial RFI #3 – Appellate case backlog

Office of the Alternate Defense Counsel

LBF #53 – Authority to transfer funds between line item appropriations

Office of the Child's Representative

LBF #54 – Authority to transfer funds between line item appropriations

LBF #55 – Authority to utilize \$25,000 to fund pilot program for domestic relations cases

Independent Ethics Commission

LBF #56 – Authority to transfer funds between line item appropriations

District Attorneys

LBF #50 – Portion of state funding for District Attorney mandated costs provided for one or more specific cases

Judicial RFI #1 – State funding for District Attorney mandated costs

Long Bill Footnotes

- 1 All Departments except Department of Corrections, Department of Human Services, and Department of Public Safety, Totals** -- It is the intent of the General Assembly that when each department applies the 2.5 percent salary survey increase reflected in the salary survey line item appropriations, each employee shall receive a base-building increase up to the range maximum, and that salary survey increase amounts over the range maximum shall not be base-building.

Comment: This footnote first appeared in the FY 2014-15 Long Bill. All Judicial agencies indicate that they will comply with this footnote.

- 49 Judicial Department, Supreme Court/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** -- In accordance with Section 13-30-104 (3), C.R.S., funding is provided for judicial compensation, as follows:

	FY 2013-14		FY 2014-15
	Salary	Increase	Salary
Chief Justice, Supreme Court	\$147,845	\$13,306	\$161,151
Associate Justice, Supreme Court	144,688	13,022	157,710
Chief Judge, Court of Appeals	142,140	12,793	154,933
Associate Judge, Court of Appeals	138,957	12,506	151,463
District Court Judge, Denver Juvenile Court Judge, and Denver Probate Court Judge	133,228	11,991	145,219
County Court Judge	127,497	11,475	138,972

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 and the Executive Director of the Office of the Child's Representative at the level of a district court judge.

Comment: This footnote first appeared in the FY 1999-2000 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 three of the four independent agencies by tying them to specific judicial salaries.

As detailed in the above footnote, the FY 2014-15 budget includes funding to increase all of the salaries affected by this footnote by 9.0 percent. **The budget request submitted by the Chief Justice of the Supreme Court for FY 2015-16 includes funding to increase all judge and justice salaries by 9.71 percent**, including: a 2.0 percent salary

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survey increase and a 7.71 percent systems study increase. The salary survey increase is intended to correspond to the Executive Branch requests for a 1.0 percent salary survey increase and a 1.0 percent merit pay increase. The proposed increase is part of a proposal to increase all judge and justice salaries by a total of 14.71 percent over the next two fiscal years.

The overall 14.71 percent increase is based on the current 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 (DOL); and three attorney classifications at the Office of the State Public Defender (OSPD):

DOL - Deputy Attorney General (<i>range maximum</i>)	\$167,414
OSPD – Chief Deputy/ Chief Trial Deputy/ Legal Division Director (<i>range maximum</i>)	\$165,756
Target: Average of two <i>range maximum</i> salaries	\$166,585
District Court Judge (<i>actual</i> salary for all judges)	\$145,219
Dollar difference	\$21,366
Percent increase required to reach target	14.71%

Please note that the Judicial Department's budget request includes a document titled, "2014 Annual Compensation Report", to provide information about the basis for its FY 2015-16 request for salary increases. This document indicates that the overall 14.71 percent increase for judges is based on the current gap between the salary for District Court Judges and the *maximum* of the pay ranges for Deputy Attorneys General at the Department of Law (DOL); and "Office Heads" at the OSPD. However, the OSPD *range maximum* used in the calculation (above) does not correspond to the attorneys who manage the 22 OSPD regional offices. If the calculation had utilized the range maximum for this classification (\$159,912), the increase required to reach the target would have been \$18,444 (12.70 percent).

- 50** **Judicial Department, Trial Courts, District Attorney Mandated Costs** -- It is the intent of the General Assembly that \$300,000 of the amount appropriated for District Attorney Mandated Costs be used only to reimburse mandated costs associated with one case: The People of the State of Colorado v. James Holmes (12CR1522). Should reimbursable mandated costs incurred in FY 2014-15 for this case total less than \$300,000, it is the intent of the General Assembly that the unexpended funds revert to the General Fund.

Comment: This footnote was first included in S.B 13-092, the supplemental bill for FY 2012-13. The footnote expresses the intent of the General Assembly that a portion of the amount appropriated for this line item only be used to reimburse mandated costs associated with one or more specific cases.

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- In FY 2012-13, \$265,100 General Fund was provided for this purpose; a total of \$111,993 was used to reimburse mandated costs for the Homes and Sigg cases, and the remaining \$153,107 reverted to the General Fund.
- In FY 2013-14, \$353,500 General Fund was provided for this purpose, a total of \$146,660 was used to reimburse mandated costs for the Holmes and Sigg cases, and the remaining \$206,840 reverted to the General Fund.

As indicated in the above footnote, \$300,000 General Fund has been provided for the Holmes case for FY 2014-15. For FY 2015-16, the CDAC is requesting \$400,000 General Fund for this case.

- 51 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:

Purpose of Footnote. The General Assembly initially added \$367,197 General Fund to the Offender Treatment and Services line item in the FY 2012-13 Long Bill for purposes of funding treatment and services for offenders participating in veterans treatment courts. This footnote accompanied the appropriation to state the intended use of such moneys. This funding was continued for FY 2013-14. The General Assembly added \$257,680 General Fund in FY 2014-15 to provide funding for peer mentoring services for veterans treatment court participants. The Department has requested continuation of the full \$624,877 for FY 2015-16.

Allocation and Use of Funds. The funding described above is appropriated for the provision of treatment and services to offenders participating in veterans treatment courts. In addition, the Problem-solving Courts line item (in the Administration and Technology, Centrally Administered Programs subsection of the budget) provides funding for the staffing of problem-solving courts, including veterans treatment courts.

There are currently five veterans treatment courts in operation, and a sixth is in the planning stages. For FY 2014-15, the Department has allocated the available funding among the five existing courts based on the capacity of each court (*i.e.*, the number of individual participants) and the number of months that the court will be operational. The remaining funds will again be used to provide training for veterans treatment court staff.

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Veterans Treatment Courts: State Funding for Treatment and Services									
Judicial District			Location	County	Start Date	FY 2014-15 Capacity	Allocation of State Funds		
							FY 2012-13	FY 2013-14	FY 2014-15
1	Golden	Jefferson	April 2014	40	\$0	\$0	\$51,073		
2	Denver	Denver	Fall 2011	30	56,000	56,000	92,073		
4	Colorado Springs	El Paso	Fall 2009	150	269,500	245,000	379,585		
10	Pueblo	Pueblo	Planning	N/A	N/A	N/A	N/A		
17	Brighton	Adams	January 2014	25		24,500	51,073		
18	Castle Rock	Douglas	March 2013	30	24,500	24,500	51,073		
Training/ IT system changes						17,000	17,000		
Totals	6	6		275	\$367,000	\$367,000	\$624,877		

Available funding is used to fill service gaps that cannot be met through existing veterans programs and services. Funded services may include: mental health and substance abuse services; drug testing services and supplies; psychotropic and antabuse medication; housing; training and educational materials; peer mentoring services; and program evaluation expenses.

- 52 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 four footnotes that authorize the independent agencies to transfer a limited amount of funding among 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.

The Office of the State Public Defender (OSPD) is in compliance with this footnote. This footnote provides the OSPD with the authority to transfer up to 2.5 percent of its total FY 2014-15 appropriation (\$2,095,372) between line items. In FY 2013-14, the OSPD transferred \$800,000 (1.3 percent) between line items. In addition, the OSPD transferred \$240,000 to the Office of the Child's Representative (OCR) as allowed pursuant to Section 24-75-110, C.R.S., to cover OCR Court-appointed Counsel expenses. The following table details the line items affected by such transfers.

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Long Bill Line Item	Transfers In/ (Out)
Personal Services	(\$1,040,000)
Automation Plan	350,000
Mandated Costs	450,000
Transfer to OCR	240,000
Net Transfers	0

53 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: The Office of the Alternate Defense Counsel (OADC) is in compliance with this footnote. This footnote provides the OADC with the authority to transfer up to 2.5 percent of its total FY 2014-15 appropriation (\$743,027) between line items. In FY 2013-14, the OADC transferred \$144,838 (0.6 percent) between line items. In addition, the OADC transferred \$500,000 to the Office of the Child's Representative (OCR) as allowed pursuant to Section 24-75-110, C.R.S., to cover OCR Court-appointed Counsel expenses. The following table details the line items affected by such transfers.

Long Bill Line Item	Transfers In/ (Out)
Personal Services	(\$5,689)
Operating Expenses	3,977
Training and Conferences	2,996
Conflict of Interest Contracts	(639,150)
Mandated Costs	137,865
Transfer to OCR	500,000
Net Transfers	0

54 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: The Office of Child's Representative is in compliance with this footnote. This footnote provides the OCR with the authority to transfer up to 2.5 percent of its total FY 2014-15 appropriation (\$574,538) between line items. In FY 2013-14, the OCR transferred a total of \$56,645 (0.3 percent) between line items. In addition, a total of \$740,000 was transferred from two other judicial agencies to the OCR to cover Court-appointed Counsel expenses as allowed pursuant to Section 24-75-110, C.R.S. The following table details the line items affected by such transfers.

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Long Bill Line Item	Transfers In/ (Out)
Personal Services	\$12,220
Operating Expenses	20,310
Training	9,765
Court Appointed Counsel	683,355
Mandated Costs	14,350
Transfers from other agencies	(740,000)
Net Transfers	0

55 Judicial Department, Office of the Child's Representative, Court-appointed Counsel

-- It is the intent of the General Assembly that the Office of the Child's Representative be authorized to utilize up to \$25,000 of this appropriation to fund a pilot program as authorized pursuant to Section 13-91-105 (1) (e), C.R.S., for the purpose of evaluating alternatives to the appointment of child and family investigators and child's legal representatives in domestic relations cases.

Comment:

Background Information. Under current law, the court may make two types of appointments in a domestic relations case that involves allocation of parental responsibilities:

- The court may appoint an attorney, a mental health professional, or any other individual with appropriate training and qualifications to serve as a child and family investigator (CFI). The CFI is required to investigate, report, and make recommendations in the form of a written report filed with the court; the CFI may be called to testify as a witness regarding his/her recommendations.
- The court may appoint an attorney to serve as a child's legal representative (CLR).

When the parties to the case are determined to be indigent, the Office of the Child's Representative (OCR) pays for attorney appointments. Expenditures by the OCR on appointments in domestic relations cases increased steadily from FY 2004-05 to FY 2008-09, from \$426,186 to \$801,945. However, from FY2009-10 through FY 2013-14 expenditures have ranged between \$352,768 and \$478,766.

Long Bill Footnote. This footnote, initially included in the FY 2009-10 Long Bill, authorizes the OCR to utilize up to \$25,000 of the appropriation for Court-appointed Counsel to fund a pilot program for the purpose of evaluating alternatives to the appointment of CFIs and CLR's in domestic relations cases. The evaluation would determine whether the use of alternatives results in equal or better outcomes, and whether it reduces state expenditures.

The OCR is continuing to support a pilot program in the 17th judicial district (Adams/Broomfield) to offer Early Neutral Assessment (ENA) to parties in domestic relations cases. During FY 2012-13, the 2nd judicial district (Denver) was added to the pilot project. For FY 2012-13, the OCR paid a total of \$22,515 for ENA in 49 cases (an

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average of \$459 per case); for FY 2013-14, the OCR paid a total of \$20,792 for ENA in 53 cases (an average of \$392 per case).

ENA offers trained two-person teams to help parties understand the strengths and weaknesses of their positions, assisting them to come to an early resolution. Each team consists of one attorney and one mental health expert, one of whom is male and the other female. When parties attend their initial status conference they often request a CFI or request a hearing to determine parenting time. When this occurs, the Family Court Facilitator identifies cases that may be appropriate for a referral to the ENA pilot. ENA is a voluntary, free, confidential process. If the parties agree that they want to attend ENA, the session is scheduled within a month of the initial status conference.

The ENA session takes three to four hours, allowing each party to be heard (with their attorneys present if they have them). The evaluator team describes their impressions of a likely outcome and realistic parenting plan. If an agreement is reached during the ENA session, they are able to get that agreement to a judge and have it read into the record immediately.

The primary benefits of ENA are that it's voluntary, timely, and client-driven. The process allows each parent to feel heard and talk about what is important. ENA works well for cases where there is disagreement with parenting time schedules and decision making between parties. The approach the evaluators take is that it's not if decisions will be made about parenting time, it's how. In general, it's better for children for parents to make these decisions. Even when full agreement is not reached, the number of disagreements often narrowed and communication between the parties improved.

- 56 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: The Independent Ethics Commission is in compliance with this footnote. This footnote provides the Commission with the authority to transfer up to 10.0 percent of its total FY 2014-15 appropriation (\$35,209) between line items. In FY 2013-14, the Commission transferred the maximum amount allowed (\$31,575) between line items. In addition, another \$7,329 was transferred (including \$4,244 that was transferred from other judicial agencies) to the IEC to cover Legal Services expenses as allowed pursuant to Section 24-75-110, C.R.S. The following table details the line items affected by such transfers.

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Long Bill Line Item	Transfers In/ (Out)
Personal Services	(\$34,660)
Operating Expenses	206
Legal Services	38,698
Transfers from other Agencies	(4,244)
Net Transfers	0

Requests for Information

Requests Applicable to Multiple Departments, Including Judicial Branch

1 Department of Corrections, Management, Executive Director's Office Subprogram; Department of Human Services, Behavioral Health Services, Substance Use Treatment and Prevention; and Division of Youth Corrections; Judicial Department, Probation and Related Services; and Department of Public Safety, Division of Criminal Justice; and Colorado Bureau of Investigation -- 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 Offender Identification Fund, the Sex Offender Surcharge Fund, the Persistent Drunk Driver Cash Fund, and the Alcohol and Drug Driving Safety Program Fund, among other programs.

Comment: This request for information is intended to ensure that Departments coordinate requests that draw on the same cash fund. Each Department is required to include, as part of its budget request, a Cash Fund Report (schedule 9) for each cash fund it administers to comply with the statutory limit on cash fund reserves, and to allow both the Office of State Planning and Budgeting and the Joint Budget Committee to make informed decisions regarding the utilization of cash funds for budgeting purposes. For funds that are shared by multiple departments, the department that administers the fund is responsible for coordinating submission of expenditure and revenue information from all departments to construct a schedule 9 that incorporates all activity in the fund.

Each of the funds referenced in this RFI are listed below, with a brief explanation of fund revenues and authorized expenditures.

Offender Identification Fund [Section 24-33.5-415.6 (1), C.R.S.] - This fund consists of payments for genetic testing received from adult and juvenile offenders, including: certain convicted adult offenders [as required by Section 16-11-102.4, C.R.S.]; certain juveniles who are sentenced to the youthful offender system [as required by Section 18-1.3-407 (11.5), C.R.S.]; and certain adjudicated offenders [as required by Section 19-2-925.6, C.R.S.]. The testing fee is currently \$128.

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Pursuant to S.B. 09-241, beginning October 1, 2010, every individual who is arrested or charged for a felony must provide a DNA sample to the local law enforcement agency as part of the booking process, unless the Colorado Bureau of Investigation (CBI) already has a sample. The act imposes a surcharge of \$2.50 on defendants for each criminal action resulting in a conviction or a deferred judgment and sentence for a felony, misdemeanor, misdemeanor traffic charges, and traffic infractions. These surcharges became effective July 1, 2009, and are credited to the Offender Identification Fund.

The Judicial Department is responsible for collecting biological substance samples from offenders who are sentenced to probation. The Department of Corrections, the Department of Human Services' Division of Youth Corrections, county sheriffs, and community corrections programs are responsible for collecting biological substance samples from offenders in their custody. The CBI (within the Department of Public Safety) is responsible for conducting the chemical testing of the samples, storing and preserving the samples, filing and maintaining test results, and furnishing test results to law enforcement agencies upon request.

Pursuant to S.B. 09-241, the CBI is to provide test kits to local law enforcement agencies throughout the state to collect DNA samples from arrestees. Over time, this should decrease the number of individuals for whom Judicial and Corrections will need to collect a sample.

Moneys in the Fund are subject to annual appropriation to the Judicial Department and the Department of Public Safety to pay for genetic testing of offenders. Both the Judicial Department and the Department of Public Safety receive direct appropriations from the Fund (\$61,453 and \$1,895,264 for FY 2014-15, respectively). However, fund revenues are not currently sufficient to support these appropriations, so a program restriction of \$700,000 has been put in place for FY 2014-15.

Sex Offender Surcharge Fund [Section 18-21-103 (3), C.R.S.] - This fund consists of 95 percent of sex offender surcharge revenues. These surcharges range from \$150 to \$3,000 for each conviction or adjudication. Moneys in the Fund are subject to annual appropriation to the Judicial Department, the Department of Corrections, the Department of Public Safety's Division of Criminal Justice, and the Department of Human Services to cover the direct and indirect costs associated with the evaluation, identification, and treatment and the continued monitoring of sex offenders. Pursuant to Section 16-11.7-103 (4) (c), C.R.S., the Sex Offender Management Board (SOMB) is required to develop a plan for the allocation of moneys deposited in the Fund, and to submit the plan to the General Assembly.

Budget instructions issued by the OSPB identify the Department of Corrections as the lead agency for reporting purposes. The Judicial Department receives a direct appropriation from the Fund to support treatment and services for offenders on probation (\$302,029 for FY 2014-15).

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Persistent Drunk Driver Cash Fund [Section 42-3-303 (1), C.R.S.] - This fund consists of penalty surcharge fees paid by persons convicted of DUI, DUI per se, or DWAI, as well as a person who is a habitual user of a controlled substance who is convicted of a misdemeanor for driving a vehicle. Moneys in the Fund are subject to annual appropriation to:

- pay the costs incurred by the Department of Revenue concerning persistent drunk drivers;
- pay for costs incurred by the Department of Revenue for computer programming changes related to treatment compliance for persistent drunk drivers;
- support programs that are intended to deter persistent drunk driving or intended to educate the public, with particular emphasis on the education of young drivers, regarding the dangers of persistent drunk driving;
- pay a portion of the costs of intervention and treatment services for persistent drunk drivers who are unable to pay for such services;
- assist in providing court-ordered alcohol treatment programs for indigent and incarcerated offenders;
- assist in providing approved ignition interlock devices for indigent offenders; and
- assist in providing continuous monitoring technology or devices for indigent offenders.

While fees are collected by the courts, budget instructions issued by the OSPB identify the Department of Human Services as the lead agency for reporting purposes. The Judicial Department receives moneys from the Fund transferred from the Department of Human Services (\$888,341 for FY 2014-15).

Alcohol and Drug Driving Safety Program Fund [Section 42-4-1301.3 (4) (a), C.R.S.] - Section 42-4-1301.3, C.R.S., sets forth sentencing guidelines for persons convicted of driving under the influence (DUI), persons convicted of driving while ability impaired (DWAI), and persons who are habitual users of a controlled substance who are convicted of driving a vehicle. The Judicial Department is required to administer an Alcohol and Drug Driving Safety (ADDS) Program in each judicial district. This program is to provide: (1) pre-sentence and post-sentence alcohol and drug evaluations of all persons convicted of driving violations related to alcohol or drugs; and (2) supervision and monitoring of those persons whose sentences or terms of probation require completion of a program of alcohol and drug driving safety education or treatment.

The ADDS Program Fund consists of assessments designed to ensure that the ADDS Program is self-supporting. Assessments include fees paid by individuals for alcohol and drug evaluations, as well as inspection fees paid by approved alcohol and drug treatment facilities. The evaluation fee was increased from \$181 to \$200 in FY 2007-08. Moneys in the Fund are subject to annual appropriation to the Judicial Department and the Department of Human Services' Office of Behavioral Health for the administration of the ADDS Program. These two departments are required to propose changes to these assessments as required to ensure that the ADDS Program is financially self-supporting.

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Any adjustment in the assessments approved by the General Assembly is to be "noted in the appropriation...as a footnote or line item related to this program in the general appropriations bill".

The Judicial Department receives a direct appropriation from the Fund to support probation programs (\$5,113,342 for FY 2014-15), and a portion of this funding is transferred to the Department of Human Services for the administration of alcohol and drug abuse services (\$449,094 for FY 2014-15). However, fund revenues are not currently sufficient to support these appropriations, so a program restriction of \$2,600,000 has been put in place for the Judicial Department for FY 2014-15. Budget instructions issued by the OSPB identify the Judicial Department as the lead agency for reporting purposes.

Requests Applicable to Judicial Branch Only

- 1. 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: The Judicial Department's budget request includes information provided by the Colorado District Attorneys' Council (CDAC)¹⁸, as requested.

Background Information – State Funding for DAs. Colorado's district attorneys' offices (DAs) are responsible for prosecuting all criminal and traffic cases filed in district and county courts. While DAs' budgets are primarily set and provided by boards of county commissioners within each respective judicial district, the State provides direct funding for DAs in the following areas:

- The Department of Law's budget includes an appropriation for "District Attorneys' Salaries" (\$2,697,656 General Fund for FY 2014-15). This appropriation covers 80 percent of the statutory minimum salary for the elected DA (currently \$130,000), plus the associated PERA and Medicare costs.
- The Judicial Department's budget includes an appropriation for "District Attorney Mandated Costs" (\$2,697,153 total funds, including \$2,527,153 General Fund for FY 2014-15). This line item is described below.

¹⁸ The CDAC is a quasi-government agency, supported by assessments charged to each district attorney member's office (through an intergovernmental agreement).

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- The Department of Corrections' budget includes an appropriation for "Payments to District Attorneys" for costs associated with prosecuting a crime alleged to have been committed by a person in the custody of the Department (\$1,081,102 General Fund for FY 2014-15).
- Pursuant to H.B. 14-1144, the Department of Law's budget includes an appropriation of \$350,000 General Fund to be transferred to the CDAC for the provision of prosecution training, seminars, continuing education programs, and other prosecution-related services.
- The Department of Public Safety's budget includes an appropriation for "Witness Protection Fund Expenditures" to pay DAs for qualifying expenses related to security personnel, travel expenses, lodging, and other immediate needs (\$83,000 General Fund was appropriated for this purpose for FY 2014-15).

In addition, the General Assembly appropriates funds to the State Court Administrator's Office, the OSPD, the OADC, and the OCR to cover the costs of obtaining discoverable materials¹⁹. In FY 2013-14, these offices spent a total of \$2,722,683 for discovery; 98 percent of these costs were incurred by the OSPD and the OADC. The majority of these expenditures were paid to reimburse DAs or the Attorney General's Office.

Finally, pursuant to S.B. 14-190, the General Assembly appropriated \$5,300,000 General Fund to the Judicial Department for FY 2014-15 for the CDAC to develop and maintain a statewide discovery sharing system integrated with CDAC's existing ACTION case management system.

District Attorney Mandated Costs. This line item provides state funding to reimburse DAs for costs incurred for prosecution of state matters, as required by state statute. Section 16-18-101, C.R.S., states that, "The costs in criminal cases shall be paid by the state pursuant to section 13-3-104, C.R.S."²⁰, when the defendant is acquitted or when the defendant is convicted and the court determines he is unable to pay them." Pursuant to Section 18-1.3-701 (2), C.R.S., when a person is convicted of an offense or a juvenile is adjudicated, the Court shall give judgment in favor of the State, the prosecuting attorney, or the law enforcement agency and against the offender or juvenile for the amount of the costs of prosecution. Section 16-18-101, C.R.S., specifies the types of expenditures that may be included under this provision.

Based on FY 2013-14 expenditure data provided by the CDAC, DAs' mandated costs consist of the following:

¹⁹ Under Colorado Supreme Court Rule 16, the prosecuting attorney is required to make available to the defense certain material and information that is within his or her control and to provide duplicates upon request. The State pays the costs of duplicating discoverable material when legal representation is provided for an indigent defendant.

²⁰ This section states that the State "shall provide funds by annual appropriation for the operations, salaries, and other expenses of all courts of record within the state, except for county courts in the city and county of Denver and municipal courts".

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- Expert witness fees and travel expenses (\$520,896 or 26.7 percent)
- Mailing subpoenas (\$451,799 or 23.2 percent)
- Witness fees and travel expenses (\$440,483 or 22.6 percent)
- Service of process (\$345,072 or 17.7 percent)
- Court reporter fees for transcripts (\$189,848 or 9.8 percent)

The following table provides a history of appropriations and actual expenditures for this line item.

District Attorneys' Mandated Costs								
Fiscal Year	Appropriation			Actual Expenditures				Over/ (Under) Budget
	General Fund	Cash Funds	Total	General Fund	Cash Funds	Total	Annual % Change	
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					
2015-16 Request e/	2,692,410	170,000	2,862,410					
a/ Appropriation reflects reduction of \$17,300 pursuant to H.B. 10-1291.								
b/ The FY 2012-13 appropriation included \$265,100 to reimburse costs in the <i>Holmes</i> and <i>Sigg</i> cases; a total of \$111,993 was used to reimburse costs in these two cases and \$153,107 reverted to the General Fund.								
c/ The FY 2013-14 appropriation included \$353,500 specifically for the <i>Holmes</i> and <i>Sigg</i> cases; a total of \$146,660 was used to reimburse costs in these two cases and \$206,840 reverted to the General Fund.								
d/ The FY 2014-15 appropriation includes \$300,000 specifically for the <i>Holmes</i> case.								
e/ The FY 2015-16 request includes \$400,000 specifically for the <i>Holmes</i> case.								

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.

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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 holds back a portion of the appropriation (typically \$300,000). 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 previously required DAs to continue to follow the old Chief Justice Directive 87-01, which limited expert witness fees. The CDAC has changed this policy to allow \$1,500 per expert (rather than \$1,000). Fees paid in excess of the limits established in this Directive are only reimbursed if funds remain available at the end of the fiscal year. In FY 2013-14, DAs' incurred \$10,180 above such limits.

For FY 2015-16, the CDAC requests an appropriation of \$2,862,410, which represents a \$165,257 increase compared to FY 2014-15. The requested increase includes \$65,257 (2.7 percent) for all DAs' mandated costs, and an increase of \$100,000 in the funding that is available to reimburse mandated costs for the Holmes case.

2. **Judicial Department, Trial Courts, Court Costs, Jury Costs, and Court-appointed Counsel; Office of the Child's Representative, Court-appointed Counsel** – The State Court Administrator's Office (SCAO) is requested to provide by November 1, 2014, a report concerning practices related to court appointments in domestic relations cases, including the following information: (1) The number of state-paid appointments in each judicial district for FY 2013-14 and the associated state expenditures for attorneys serving as a child and family investigator (CFI), for non-attorneys serving as a CFI, and for attorneys serving as a child's legal representative (CLR); (2) a description of the SCAO's role in overseeing privately-paid appointments of CFIs and CLRs; (3) the merits of allowing judges the discretion to appoint an attorney or a non-attorney as a CFI; (4) the merits of having two different judicial agencies overseeing state-paid appointments in domestic relations cases; and (5) the merits of paying attorneys and non-attorneys who serve as CFIs different hourly rates. The SCAO is requested to prepare the report with the input of the Office of the Child's Representative (OCR), and the OCR is requested to cooperate with the SCAO as necessary to prepare the requested report.

Comment: The SCAO provided the report, as requested. Please see the issue brief titled "Oversight of Court Appointments in Domestic Relations Cases" for background information about this request and the response submitted by the SCAO.

3. **Judicial Department, Office of the State Public Defender** – The State Public Defender is requested to provide by November 1, 2014, a report concerning the Appellate Division's progress in reducing its case backlog, including the following data for FY 2013-14: 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, 2014.

Comment: Last year, 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 for information 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. The OSPD provided the information requested.

Background Information - OSPD Appellate Workload and Backlog. The OSPD represents indigent criminal defendants in both the trial and appellate courts. With respect to felony appeals, the OSPD's central Appellate Division represents appeals from all indigent clients throughout the state, regardless of who may have represented them in prior court proceedings (*e.g.*, court-appointed, Alternate Defense Counsel, and private attorneys). The OSPD's regional trial offices handle county court and juvenile appeals in their respective jurisdictions.

The Department of Law also handles criminal appeals, representing the prosecution when a defendant challenges his or her felony conviction before the state appellate court or the federal courts. For FY 2013-14, the General Assembly provided additional resources for the Department of Law to reduce its backlog of cases awaiting the filing of an answer brief. As the Department reduces its backlog, the OSPD will be required to respond more quickly by filing a reply brief, thus exacerbating the OSPD's backlog of cases awaiting the filing of opening briefs. Given this dynamic, and with the goal of reducing the overall time required to process criminal appeals cases, the General Assembly requested that the State Public Defender provide information concerning his Office's appellate case backlog, and the potential resources that would be required to reduce the backlog to a reasonable level within the next five fiscal years.

The OSPD reported that its backlog of appellate cases awaiting the filing of an opening brief had increased from 369 in June 2000 to 671 in June 2013; with existing resources this backlog was projected to continue growing by 26 cases per year. From FY 1999-00 through FY 2009-10, the number of new appellate cases for the OSPD increased at an annual rate of 3.8 percent. On average, the number of new cases outpaced the number of closed cases, resulting in a growing number of active cases.

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Background Information - Consequences of Growing Backlog. The timeline established by Colorado Appellate Rules contemplates a total of 252 days between the entry of judgment in district court and the filing of a reply brief. These rules require Opening Briefs to be filed 42 days after the record on appeal is filed, followed by an answer brief 35 days later, and a reply brief 21 days later. Due to the backlogs experienced by both the OSPD and the Department of Law, the Court of Appeals had been granting significant extensions for both opening briefs and answer briefs. However, in November 2012, the Court announced a more restrictive policy regarding extensions of time.

On July 1, 2013, the Court of Appeals dismissed an appeal in *People v. Rodney Eddy*, Case No. 10CA2492, a case handled by the OSPD. The Court's dismissal order cited the significant extensions of time that had been granted to date and the Court's new policy related to extensions, and indicated that the Court was not persuaded that further extensions were warranted. The OSPD immediately requested that the Court of Appeals reconsider its dismissal order. The Department of Law and the Office of the Alternate Defense Counsel supported the OSPD request to reinstate Mr. Eddy's appeal since dismissals of criminal appeals would result in a claim of ineffective assistance of counsel against the OSPD, thus impacting the workload of those agencies. In light of this, indications that the OSPD planned to request additional resources to address its backlog, as well as the progress the OSPD had made in reducing its backlog of the oldest cases, the Court reinstated Mr. Eddy's appeal in August 2013.

OSPD Funding Request. The OSPD's FY 2014-15 budget request included funding to add 16.0 FTE to its Appellate Division, as described below:

- Add 8.0 FTE attorneys in the Appellate Division to increase the number of opening briefs that are filed each year, reducing the backlog by about 99 each year or nearly 500 over five years.
- Add 2.0 FTE attorneys in the Appellate Division to handle county court and juvenile appellate cases. Previously, OSPD regional offices handled all county court and juvenile appeals. The OSPD proposed consolidating county, juvenile, and felony appeals in the OSPD's Appellate Division to make the appellate process more efficient and effective.
- Add 1.0 FTE attorney to handle the additional reply brief workload anticipated to result from the resources recently provided to the Department of Law.
- Add 5.0 FTE paralegals and administrative staff to support the above 11.0 FTE attorneys.

OSPD's November 1, 2014 Response. The OSPD provided the requested data for FY 2013-14, which is included in Table 1, below. The OSPD indicates that the Appellate Division is expected to carry 1,341 cases in FY 2014-15, including the backlog of 749

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cases carried over from previous years plus an estimated 592 new cases. The OSPD expects to begin seeing the resulting impact on the backlog later this fiscal year.

Fiscal Year	Total Attorney FTE	New Cases	Opening Briefs Filed by OSPD	Cases Resolved Other Ways	Total Cases Closed	Cases Awaiting Opening Brief ("backlog")
1999-00	25.0	487			387	369
2007-08	29.0	606	465	121	586	611
2008-09	31.8	627	450	205	655	583
2009-10	31.8	602	427	124	551	634
2010-11	34.8	575	415	142	557	652
2011-12	34.8	589	460	133	593	648
2012-13	34.8	585	427	135	562	671
2013-14	35.8	573	367	127	495	749
2014-15 Proj.	43.8	592	n/a	n/a	n/a	n/a

As noted above, the Department of Law (DOL) is required to provide similar statistics to allow the General Assembly to monitor its progress in reducing its backlog of criminal appellate cases. Staff has provided Table 2, below, to summarize the data provide by both agencies. As indicated in the JBC Staff Budget Briefing for DOL, dated November 13, 2014, the DOL attributes the recent decrease in their backlog to a decline in the number of opening briefs received, the use of expedited and experimental dockets to resolve cases, and the efforts of the DOL Appellate Unit staff (including the 6.0 FTE that were added in FY 2013-14). The DOL does anticipate that the staff added to the OSPD's Appellate Division in the current fiscal year will increase the number of opening briefs received by the DOL, which will in turn affect the DOL's case backlog.

Fiscal Year	OSPD			DOL		
	New Cases	Opening Briefs Filed	Case Backlog	Opening Briefs Received	Answer Briefs Filed	Case Backlog
2009-10	602	427	634	1,152	1,054	434
2010-11	575	415	652	1,050	1,021	398
2011-12	589	460	648	1,171	894	608
2012-13	585	427	671	1,018	885	564
2013-14	573	367	749	911	1,149	272

4. **Judicial Department, Probation and Related Services** – 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: The Department submitted the information, as requested. This report concerns recidivism among probationers terminated during FY 2012-13. On June 30, 2013, there were 75,260 offenders on probation in Colorado,²¹ including 70,429 adults and 4,831 juveniles. Key findings included in the report are summarized below.

Pre-release Recidivism

- Pre-release recidivism rates due to technical violations increased for both juveniles and adults.
- As expected based on their risk assessment, both juveniles and adults supervised at the most intensive level and those supervised by other agencies (*e.g.*, county jail work release programs, detention centers, or residential placements) were most likely to fail while under supervision.
- Probation is more likely to be revoked due to offenders committing technical violations rather than a new crime. However, the proportion of offenders who are terminated from probation due to technical violations has generally declined over the last several years. The division has focused on this area in recent years, providing officers with training and tools to respond to technical violations with intermediate sanctions and avoiding revocation when appropriate.

Post-release Recidivism

- Of the 2,517 juveniles who successfully completed regular probation supervision, 341 (13.5 percent) received a new filing within one year. Of the 152 juveniles who successfully completed intensive probation supervision, 10 (6.6 percent) received a new filing.
- Of the 24,558 adults who successfully completed regular probation supervision, 1,287 (5.2 percent) received a new filing within one year. Post-release recidivism rates for those who successfully completed the Adult Intensive Supervision Program (AISP)

²¹ The total of 75,260 includes individuals under state and private probation supervision (DUI and non-DUI). An additional 5,547 offenders were monitored by state probation but were not part of this study.

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and the Female Offender Program (FOP) were 0.9 percent and 1.0 percent, respectively.

Overall Success Rate

- The overall success rate, defined as individuals who successfully completed probation and did not commit a new crime within one year of leaving probation supervision, decreased (at least slightly) for all offender categories except for adult offenders under intensive supervision in FOP.
- For juveniles under regular supervision, 62.7 percent were successful one year after release; for those under intensive supervision, 44.1 percent were successful.
- For adults under regular supervision, 69.2 percent were successful one year after release; for those under intensive supervision, overall success rates were 60.7 percent for AISP and 65.8 percent for FOP.

The following table summarizes recidivism data for both adults and juveniles with a "regular" (rather than intensive) supervision level, for the most recent nine fiscal years.

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Probation Recidivism Rates					
Termination Cohorts for Fiscal Years 2004-05 Through 2012-13 a/					
Supervision Level at Time of Termination	Fiscal Year	Pre-release Recidivism b/		Post-Release Recidivism c/	Overall Success d/
		Technical Violation	New Crime		
Juvenile - Regular	2004-05	25.7%	6.2%		58.2%
	2005-06	23.8%	6.6%		58.9%
	2006-07	21.5%	6.8%		60.1%
	2007-08	20.9%	6.6%		61.4%
	2008-09	19.3%	7.0%		62.4%
	2009-10	19.9%	7.1%		62.7%
	2010-11	15.0%	5.9%	14.7%	66.7%
	2011-12	17.8%	7.6%	14.6%	63.7%
	2012-13	20.0%	7.5%	13.5%	62.7%
3,473	Individuals	695	261	341	2,176
Adult - Regular	2004-05	32.6%	6.1%		56.4%
	2005-06	33.0%	6.3%		55.7%
	2006-07	31.8%	7.1%		55.9%
	2007-08	29.3%	6.3%		59.7%
	2008-09	25.0%	6.1%		64.3%
	2009-10	21.2%	5.5%		68.9%
	2010-11	20.0%	5.0%	5.8%	70.6%
	2011-12	20.5%	5.1%	6.0%	70.0%
	2012-13	21.7%	5.3%	5.2%	69.2%
33,611	Individuals	7,277	1,776	1,287	23,271

a/ Data for all fiscal years prior to FY 2009-10 excludes DUI offenders. Beginning in FY 2009-10, data includes DUI offenders under state or private probation supervision who are receiving some probation services; DUI offenders who were under private probation supervision, were "monitored" by state probation, but received no additional probation services continue to be excluded in all fiscal years. In addition, Denver County Court filing data was only made available to Judicial's ICON/Eclipse system (the Judicial Branch's management information system) for FY 2005-06 and FY 2006-07. Thus, post-release recidivism rates may be understated for fiscal years 2004-05, 2007-08, and subsequent fiscal years.

b/ "Pre-release Recidivism" includes an adjudication or conviction for a felony or a misdemeanor, or a technical violation relating to a criminal offense, while under supervision in a criminal justice program.

c/ "Post-release Recidivism" reflects the percent of successfully terminated offenders for whom there was a filing for a felony or misdemeanor (whether or not it resulted in a conviction) within one year of termination from program placement for a criminal offense.

d/ "Overall success" reflects those offenders who did not recidivate either prior to or for one year following release.

Intensive Supervision Programs

The intensive supervision programs for juveniles (JISP), adults (AISP), and adult females (FOP) were designed as alternatives to incarceration. Offenders placed on these programs have higher risks related to the probability of program failure and the commission of a new crime, and they typically have higher levels of identified needs.

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The outcomes for these intensive programs in relation to regular supervision are summarized below:

- The overall success rate for JISP is significantly lower than for regular juvenile supervision – 44.1 percent compared to 62.7 percent. For juveniles who terminated probation for *technical violations*, 55.9 percent on JISP were sentenced to the Division of Youth Corrections (DYC) or the Department of Corrections (DOC), compared to 24.2 percent on regular probation. For juveniles who terminated probation for committing a *new crime*, 63.8 percent on JISP were sentenced to DYC or DOC, compared to 35.2 percent on regular probation.
- The overall success rate for AISP is lower than for regular adult supervision – 60.7 percent compared to 69.2 percent. For adults who terminated probation for *technical violations*, 45.8 percent on AISP were sentenced to DOC, compared to 5.9 percent on regular probation. For adults who terminated probation for committing a *new crime*, 83.8 percent on AISP were sentenced to DOC, compared to 19.6 percent on regular probation.
- The overall success rate for FOP, 65.8 percent, is slightly lower than for regular adult supervision. For adults who terminated probation for *technical violations*, 37.2 percent on FOP were sentenced to DOC, compared to 5.9 percent on regular probation. For adults who terminated probation for committing a *new crime*, 25.0 percent on FOP were sentenced to DOC, compared to 19.6 percent on regular probation.

To the extent that these intensive programs divert high risk offenders who would otherwise be incarcerated, they are cost effective. Specifically, for FY 2012-13:

- JISP redirected as many as 134 juveniles from DYC, including 40 who left probation and did not recidivate within one year and 94 who succeeded and were transferred to regular probation. The annual cost to serve a juvenile in DYC in FY 2012-13 was \$65,587, compared to \$7,851 for JISP.
- AISP redirected as many as 666 offenders from DOC, including 60 who left probation and did not recidivate within one year and 606 who succeeded and were transferred to regular probation. FOP redirected as many as 100 women from DOC, including 18 who left probation and did not recidivate within one year and 82 who succeeded and were transferred to regular probation. The annual cost to serve an offender in DOC in FY 2012-13 was \$34,956, compared to \$3,826 for AISP and \$3,387 for FOP.

The following table summarizes recidivism data for both adults and juveniles with an intensive level of supervision, for the most recent nine fiscal years.

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Probation Recidivism Rates						
Termination Cohorts for Fiscal Years 2004-05 Through 2012-13						
Supervision Level at Time of Termination	Fiscal Year	Pre-release Recidivism a/		Post-Release Recidivism b/	Overall Success c/	
		Technical Violation	New Crime			
Juvenile Intensive Supervision Program (JISP) d/	2004-05	39.1%	12.2%		46.8%	
	2005-06	43.8%	11.6%		40.0%	
	2006-07	40.7%	11.5%		43.2%	
	2007-08	40.8%	18.1%		37.3%	
	2008-09	37.7%	17.3%		43.5%	
	2009-10	34.8%	19.4%		44.1%	
	2010-11	32.1%	18.1%		47.3%	
	2011-12	34.6%	15.2%	4.5%	48.0%	
	2012-13		37.3%	15.5%	6.6%	44.1%
	<i>322</i>	<i>Individuals</i>		<i>120</i>	<i>50</i>	<i>10</i>
Adult Intensive Supervision Program (AISP) d/, e/	2004-05	34.4%	13.6%		51.9%	
	2005-06	31.4%	14.7%		52.9%	
	2006-07	33.1%	10.9%		55.9%	
	2007-08	31.5%	14.0%		54.1%	
	2008-09	22.7%	10.8%		66.0%	
	2009-10	23.9%	10.5%		65.2%	
	2010-11	22.3%	10.6%		66.5%	
	2011-12	25.0%	11.0%	1.0%	63.3%	
	2012-13		27.2%	11.6%	0.9%	60.7%
	<i>1,098</i>	<i>Individuals</i>		<i>299</i>	<i>127</i>	<i>6</i>

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Supervision Level at Time of Termination	Fiscal Year	Pre-release Recidivism a/		Post-Release Recidivism b/	Overall Success c/	
		Technical Violation	New Crime			
Adult - Female Offender Program (FOP) d/	2004-05	31.6%	10.5%		57.9%	
	2005-06	37.2%	6.2%		54.9%	
	2006-07	28.0%	9.3%		61.6%	
	2007-08	26.2%	8.7%		63.9%	
	2008-09	19.9%	7.0%		71.6%	
	2009-10	21.7%	9.1%		68.5%	
	2010-11	18.8%	11.3%		68.8%	
	2011-12	25.6%	7.7%	1.9%	65.4%	
	2012-13	28.3%	5.3%	1.0%	65.8%	
	<i>152</i>	<i>Individuals</i>		<i>43</i>	<i>8</i>	<i>1</i>

a/ "Pre-release Recidivism" includes an adjudication or conviction for a felony or a misdemeanor, or a technical violation relating to a criminal offense, while under supervision in a criminal justice program.

b/ "Post-release Recidivism" reflects the percent of successfully terminated offenders for whom there was a filing for a felony or misdemeanor (whether or not it resulted in a conviction) within one year of termination from program placement for a criminal offense.

c/ "Overall success" reflects those offenders who did not recidivate either prior to or for one year following release.

d/ Please note that the relatively small number of individuals participating in the intensive programs for juveniles, adults, and female adults can cause recidivism rates to differ significantly from year to year - particularly with respect to post-release recidivism.

e/ While some sex offenders on regular supervision are included in the Adult - regular data (previous table), sex offenders on intensive supervision programs are not reflected at all in the Department's recidivism report. Data related to these offenders is instead reported annually by the Department of Public Safety, Division of Criminal Justice (as required by statute).

- 5. 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: The Department provided the information requested.

Background Information. In FY 2006-07, the Joint Budget Committee approved a request to combine various appropriations from the General Fund, Offender Services Cash Fund, Drug Offender Surcharge Fund, and the Sex Offender Surcharge Fund, to create a single line item entitled "Offender Treatment and Services". The purpose of this organizational 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.

The portion of the Offender Treatment and Services appropriation that is designated for offenders on probation is divided among the 22 judicial districts as "block grants" based on the number of FTE and the number of probationers under supervision in each district. Each probation department then develops a local budget for each of the approved

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treatment and service areas. The local allocation of funds depends on the availability of treatment and services and the particular needs of the local offender population.

FY 2013-14 Expenditures

The table on the following page details actual expenditures from this line item for FY 2012-13 and FY 2013-14. Total *probation-related* expenditures in FY 2013-14 were \$2.1 million higher than in FY 2012-13. Primarily, the increased expenditures were used for substance abuse services. Other significant increases occurred in the areas of domestic violence treatment, emergency housing and food, transportation, and mental health services. The Department also spent \$417,910 for administrative expenses, primarily including the following:

- Colorado Collaborative Justice Conference (paid from the Correctional Treatment Cash Fund (approximately \$220,000);
- Travel and materials expenses associated with the roll-out of several statewide evidence-based projects, including: Safety, Adult Standardized Assessment and Case Planning; Sex Offender Assessment Instrument training; Limit-Setter Intensive Supervision program (replaced Adult ISP), and Intervention Based Appointment curriculum (approximately \$118,000); and
- Payment of licenses for the LSI, SSI, ASUS, ASUDS assessment instruments (approximately \$55,000).

As in past years, about two-thirds of probation-related expenditures were used for substance abuse testing and treatment (47.0 percent) and sex offender assessment, polygraphs, and treatment (18.5 percent). The remaining funds were spent for a variety of services, ranging from domestic violence treatment to interpreter services. The Department indicates that "these funds have been instrumental in achieving the reductions in commitments to the [Department of Corrections] and the [Department of Human Services' Division of Youth Corrections].

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Offender Treatment and Services Line Item: Actual Expenditures				
Treatment or Service	FY 2012-13		FY 2013-14	
	Expenditures	% of Total	Expenditures	% of Total
Substance Abuse Treatment	\$2,058,100	15.9%	\$3,875,331	25.8%
Community-based Substance Abuse Treatment Services a/	1,910,935	14.8%	0	0.0%
Drug Testing	1,675,376	13.0%	2,344,506	15.6%
Transfer of Persistent Drunk Driver Cash Fund moneys from DHS	711,845	5.5%	843,338	5.6%
Subtotal: Substance Abuse Services	6,356,256	49.2%	7,063,175	47.0%
Adult Sex Offender Assessment	1,051,898	8.1%	1,001,576	6.7%
Adult Sex Offender Treatment	994,869	7.7%	1,042,242	6.9%
Adult Sex Offender Polygraphs	387,364	3.0%	414,811	2.8%
Juvenile Sex Offender Assessment and Treatment	215,277	1.7%	245,935	1.6%
Juvenile Sex Offender Polygraphs	66,629	0.5%	75,890	0.5%
Subtotal: Sex Offender Services	2,716,037	21.0%	2,780,454	18.5%
Domestic Violence Treatment	742,040	5.7%	1,000,769	6.7%
Mental Health Services	584,296	4.5%	683,753	4.6%
Emergency Housing and Food	430,661	3.3%	671,228	4.5%
Transportation Assistance	318,066	2.5%	435,368	2.9%
Special Needs Services	371,279	2.9%	393,976	2.6%
Veterans Trauma Courts	197,961	1.5%	351,023	2.3%
Electronic Home Monitoring Services	430,163	3.3%	281,632	1.9%
Transfer to Denver County	125,414	1.0%	196,684	1.3%
Incentives	137,007	1.1%	165,163	1.1%
Restorative Justice	114,410	0.9%	131,321	0.9%
Educational/Vocational Assistance	129,341	1.0%	126,704	0.8%
Interpreter Services	95,000	0.7%	117,486	0.8%
General Medical Assistance	45,575	0.4%	67,393	0.4%
Global Positioning Satellite Tracking (GPS)	80,737	0.6%	0	0.0%
Subtotal: Funds Allocated to/Expended by Districts	12,874,243	99.6%	14,466,129	96.4%
Offender Treatment and Services Administrative Overhead			417,910	2.8%
Evidence-based Practices Research	30,550	0.2%	117,917	0.8%
Initiative to Build Capacity in Rural/Under served Areas	17,942	0.1%	11,318	0.1%
Total Probation Expenditures	\$12,922,735	100.0%	\$15,013,274	100.0%
Transfer to Department of Corrections for Day Reporting	14,325		14,047	
Other Transfers to Other State Agencies	8,379,078		9,957,133	
Total Expenditures	\$21,316,138		\$24,984,454	

a/ This funding was initially established through S.B. 03-318 and was appropriated through a separate line item. Pursuant to H.B. 12-1310, this amount is now credited to the Correctional Treatment Cash Fund and allocated as part of the Offender Treatment and Services line item.

NOTE: Shaded items above were excluded from the Department's response to the Request for Information. These items are included here for purposes of providing all expenditures that are reported for the Offender Treatment and Services line item for FY 2013-14.

Appendix D: Indirect Cost Assessment Methodology

Description of Indirect Cost Assessment Methodology

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 - State Court Administrator's Office

Payments to OIT (prior to FY 2014-15: Purchase of Services from Computer Center,
Multiuse Network Payments, and Communication Services)

COFRS Modernization

Lease Purchase

Trial Courts

*Trial Court Programs

Probation and Related Services

*Probation Programs

Three of the line item appropriations that are included in the Department's Indirect Cost Pool (noted with an asterisk above) support personal services and operating expenses in the State Court Administrator's Office and judicial districts. The Department only includes that portion of each 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 2014-15 is based on FY 2013-14 Long Bill appropriations). **Table 1** outlines which line items are included in the Department's Indirect Cost Pool for FY 2014-15.

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Table 1				
Division	Judicial Department: Indirect Cost Pool Line Item	FY 2013-14 General Fund Appropriation	Percent of Costs Included in Indirect Cost Pool	FY 2014-15 Indirect Cost Pool Components
Courts Administration	General Courts Administration - Personal Services and Operating Expenses	\$14,616,345	64.6%	\$9,443,877
	Health, Life, and Dental - Administration	1,388,057	64.6%	896,848
	Short-term Disability - Administration	32,753	64.6%	21,162
	S.B. 04-257 AED - Administration	588,953	64.6%	380,533
	S.B. 06-235 SAED - Administration	552,245	64.6%	356,815
	Salary Survey - Administration	1,336,347	64.6%	863,437
	Information Technology Infrastructure	0	100.0%	0
	Workers' Compensation	1,210,253	100.0%	1,210,253
	Legal Services	218,218	100.0%	218,218
	Purchase of Services from Computer Center	0	100.0%	0
	Multiuse Network Payments	0	100.0%	0
	Payment to Risk Management and Property Funds	685,664	100.0%	685,664
	Leased Space - State Court Administrator's Office	2,384,393	100.0%	2,384,393
	Communication Services	0	100.0%	0
	Payments to OIT (new in FY2015)	2,543,223	100.0%	2,543,223
	COFRS Modernization	1,067,197	100.0%	1,067,197
Lease Purchase	119,878	100.0%	119,878	
Trial Courts	Trial Court Programs - Personal Services and Health, Life, and Dental - Trial Courts	100,168,187	4.8%	4,797,325
	Short-term Disability - Trial Courts	9,384,332	4.8%	449,441
	S.B. 04-257 AED - Trial Courts	136,163	4.8%	6,521
	S.B. 04-257 AED - Trial Courts	3,863,819	4.8%	185,049
	S.B. 06-235 SAED - Trial Courts	3,581,968	4.8%	171,550
	Salary Survey - Trial Courts	8,010,360	4.8%	383,638
Probation and	Probation Programs - Personal Services and Health, Life, and Dental - Probation	68,889,803	7.1%	4,924,228
	Short-term Disability - Probation	7,092,282	7.1%	506,955
	S.B. 04-257 AED - Probation	135,105	7.1%	9,657
	S.B. 04-257 AED - Probation	2,316,501	7.1%	165,583
	S.B. 06-235 SAED - Probation	2,279,019	7.1%	162,904
	Salary Survey - Probation	1,593,745	7.1%	113,921
Departmental Indirect Cost Pool				\$32,068,270

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 2.17 percent of total Department appropriations, and the “probation” portion of the Indirect Cost Pool represents 2.11 percent of total Department appropriations. Thus, the Department applies an Indirect Cost Rate of 4.28 percent (2.17% + 2.11% = 4.28%) to each fund source that supports a probation-related program.

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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	\$11,962,672	16.0%	\$1,914,028	49.0%	\$5,861,710	33.0%	\$3,947,682	2.0%	\$239,253		
	Information Technology Infrastructure	0	100.0%	0	0.0%	0	0.0%	0	0.0%	0		
	Workers' Compensation	1,210,253	100.0%	1,210,253	0.0%	0	0.0%	0	0.0%	0		
	Legal Services	218,218	100.0%	218,218	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	685,664	100.0%	685,664	0.0%	0	0.0%	0	0.0%	0		
	Leased Space - State Court Administrator's Office	2,384,393	100.0%	2,384,393	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 (new in FY2015)	2,543,223	100.0%	2,543,223	0.0%	0	0.0%	0	0.0%	0		
	COFRS Modernization	1,067,197	100.0%	1,067,197	0.0%	0	0.0%	0	0.0%	0		
	Lease Purchase	119,878	100.0%	119,878	0.0%	0	0.0%	0	0.0%	0		
Trial Courts	Trial Court Programs - Personal Services and	5,993,524	0.0%	0	100.0%	5,993,524	0.0%	0	0.0%	0		
Probation and	Probation Programs - Personal Services and	5,883,248	0.0%	0	0.0%	0	100.0%	5,883,248	0.0%	0		
Total		\$32,068,270		\$10,142,854		\$11,855,233		\$9,830,930		\$239,253		
Total Budget for State Court Administrator's Office, Courts, and Probation - All Fund Sources Except Federal Funds		466,365,282										
Allocated Indirect Cost Pool / Total Budget			2.17%		2.54%		2.11%		0.08%			

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.

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- *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 four 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, on the following page, details the calculation of the Departmental Indirect Cost Assessment for FY 2014-15 among divisions and specific funding sources. The Department then allocates the Statewide Indirect Cost Assessment proportionally, based on Departmental Indirect Cost Assessments.

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Table 3					
Judicial Department: Allocation of Indirect Costs Among Divisions and Fund Sources					
Division	Fund Source	Indirect Cost Rate	Dept. Indirect	Statewide	Total
Supreme Court/	Annual attorney registration fees for Attorney	2.25%	\$202,898	\$18,434	\$221,332
	Judicial Stabilization Cash Fund		0	0	0
	Law examination application fees for the State Board		0	0	0
	Annual attorney registration fees for Continuing		0	0	0
	Subtotal		202,898	18,434	221,332
Courts Administration	Judicial Department Information Technology Cash Fund	2.17%	229,563	20,856	250,419
	Victims and Witnesses Assistance and Law		0	0	0
	Crime Victim Compensation Fund		0	0	0
	Court Security Cash Fund	4.72%	151,811	13,792	165,603
	Judicial Collection Enhancement Fund	2.17%	104,366	9,482	113,848
	Fines Collection Cash Fund	2.17%	19,574	1,778	21,352
	Judicial Stabilization Cash Fund		0	0	0
	Justice Center Cash Fund	2.17%	46,453	4,220	50,673
	State Commission on Judicial Performance Cash Fund	4.72%	21,646	1,967	23,613
	Family-friendly Court Program Cash Fund	4.72%	17,733	1,611	19,344
	Family Violence Justice Fund	4.72%	8,019	729	8,748
	Restorative Justice Surcharge Fund	4.72%	18,150	1,649	19,799
	Various Federal Grants			9,003	9,003
	Transfer from DHS from the Child Support		0	0	0
	Subtotal		617,315	65,088	682,403
Trial Courts	Judicial Stabilization Cash Fund		0	0	0
	Transfer from DHS from the Child Support		0	0	0
	Water Adjudication Cash Fund		0	0	0
	Subtotal		0	0	0
Probation and	Offender Services Fund	4.28%	614,373	55,817	670,190
	Correctional Treatment Cash Fund (previously Drug	4.28%	205,444	18,665	224,109
	Alcohol and Drug Driving Safety Program Fund	4.28%	218,997	19,896	238,893
	Offender Identification Fund	4.28%	2,515	228	2,743
	Interstate Compact Probation Transfer Cash Fund	4.28%	8,030	730	8,760
	Sex Offender Surcharge Fund		0	0	0
	Transfer from DHS from Persistent Drunk Driver		0	0	0
	Transfer from DHS from S.B. 91-94 Programs line item		0	0	0
	Subtotal		1,049,359	95,337	1,144,696
Total			\$1,869,572	\$178,858	\$2,048,430

FY 2015-16 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.

JBC Staff Budget Briefing: FY 2015-16
Staff Working Document – Does Not Represent Committee Decision

As detailed in **Table 4**, the Department's FY 2015-16 request includes a total of \$2,190,430 for indirect cost assessments and indirect cost recoveries from federal grants. The request for FY 2015-16 represents an increase of \$120,691 compared to FY 2014-15, primarily due to increases in the amount appropriated from or anticipated to be expended in FY 2014-15 from the following: attorney registration fees; the Judicial Collection Enhancement Fund; the Restorative Justice Surcharge Fund; and the Offender Services Fund.

Table 4				
Judicial Department: Indirect Cost Assessment				
Division	Total	Indirect Cost Assessments		Estimated Indirect Cost Recoveries from Federal
		Cash Funds	Other Funds	
Supreme Court/Court of Appeals	\$221,332	\$221,332	\$0	
Courts Administration	682,403	673,400	9,003	0
Trial Courts	0	0	0	0
Probation and Related Services	1,144,696	1,144,696	0	0
Amounts Reflected Within Grants Line Items	142,000	0	0	142,000
Total Indirect Cost Assessment for FY 2015-16	2,190,430	2,039,427	9,003	142,000
FY 2014-15 Indirect Cost Assessment	2,069,739	1,920,980	6,759	142,000
Difference (FY 15-16 less FY 14-15)	120,691	118,447	2,244	0

Appendix E: SMART Act Annual Performance Reports

Pursuant to Section 2-7-205 (1) (b), C.R.S., the following four Judicial Branch agencies are required to publish an Annual Performance Report by November 1 of each year:

- the Judicial Department (*i.e.*, courts and probation);
- the Office of the State Public Defender;
- the Office of the Alternate Defense Counsel; and
- the Office of the Child's Representative.

These reports are to include a summary of the agency's performance plan and most recent performance evaluation. The reports for each agency, dated November 1, 2014, are attached for consideration by the Joint Budget Committee in prioritizing the budget requests submitted by each respective Judicial Branch agency.



Judicial Department

FY 2015-16 Performance Report

The Judicial Department (“Department”) consists of the Colorado Supreme Court, Colorado Court of Appeals, trial courts, probation, and the State Court Administrator’s Office. The Department strives to protect constitutional and statutory liberties; assure equal access; provide fair, timely, and constructive resolution of cases; enhance community welfare and public safety; supervise offenders; and facilitate victim and community reparations. Article VI of the Colorado Constitution and section 13-4-101, C.R.S. (2014) provide the constitutional and statutory authority for the state courts. Sections 18-1.3-201 and 18-1.3-202, C.R.S. (2014) provide the statutory authority for probation.

The Department developed the following five principle strategies to meet the priorities of the Department:

1. Provide equal access to the legal system and give all an opportunity to be heard;
2. Treat all with dignity, respect, and concern for their rights and cultural backgrounds, and without bias or appearance of bias;
3. Promote quality judicial decision-making and judicial leadership;
4. Implement quality assessments and community supervision of adult and juvenile probationers to demonstrably enhance public safety and respect for victim rights; and
5. Cultivate public trust and confidence through the thoughtful stewardship of public resources.

The Department has also identified three major performance measures to gauge our success in implementing the five principle strategies. The three major performance measures include: (1) access and fairness surveys; (2) time standards for district and county courts; and (3) Probation client success rates. The Department regularly evaluates these performance measures, and the following three pages illustrate our most recent evaluation of the measures. In addition, the Department’s performance plan can be found at:

<http://www.courts.state.co.us/Administration/Division.cfm?Division=pa>

Performance Measure

Access and Fairness surveys continue to be conducted throughout the State to assess ratings of court users on the court's accessibility and its treatment of customers in terms of fairness, equality, and respect. This measure provides a tool for surveying all court users about their experience in the courthouse. Comparison of results by location and district assist in informing court management practices. To date, over 15,000 court users statewide have responded to these surveys.

Table 1
Statewide Access Survey
Percentage of Respondents who "Agree" or "Strongly Agree"

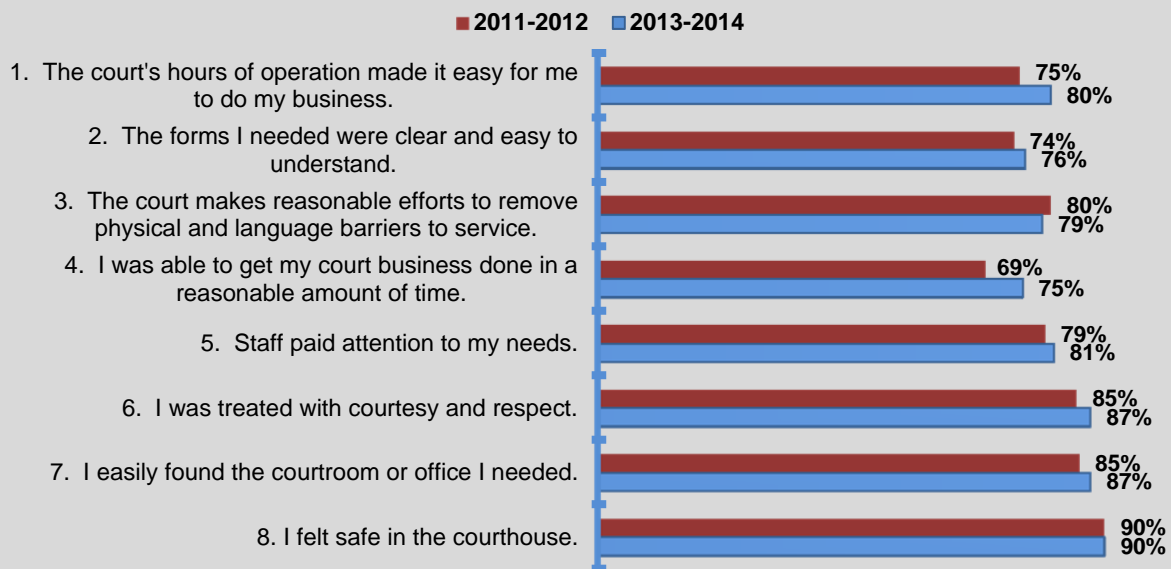
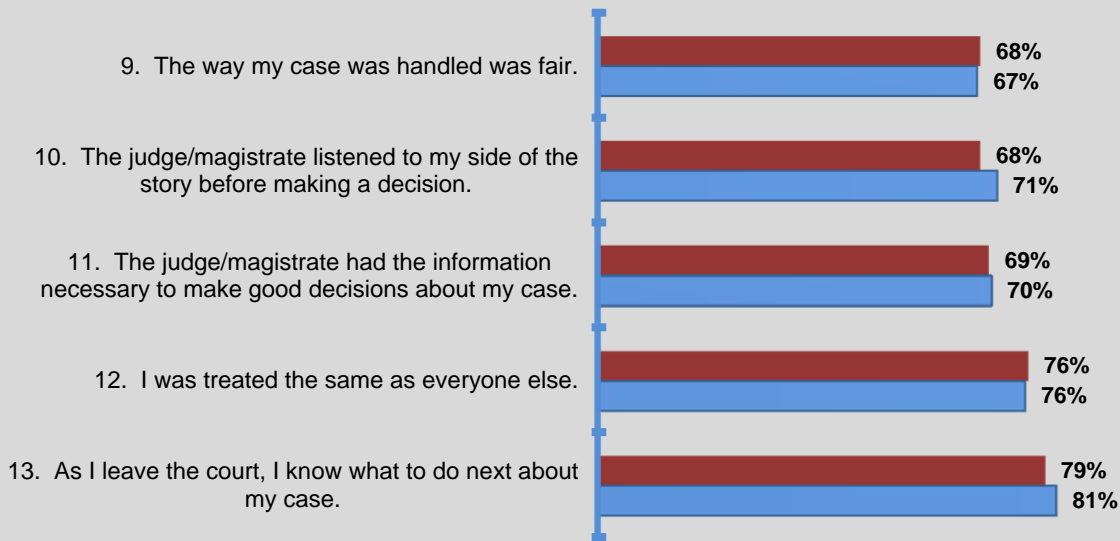


Table 2
Statewide *Fairness* Survey
Percentage of Respondents who "Agree" or "Strongly Agree"

■ 2011-2012 ■ 2013-2014



Performance Measure

Performance goals for Courts and Probation have been established through various means, including Chief Justice Directive 08-05 (Case Management Standards). This directive was developed with input from judges and establishes aspirational time processing goals for each case class. Information about each district's progress in meeting the goals is reported quarterly. Information for individual judges is provided to the Judicial Performance Commission during each judge's retention evaluation. The tables below reflect the ***Time Standards for District and County courts.***

TABLE 1			
District Court Case Management Time Standards			
Established Pursuant CJD 08-05			
Case Class	Pending Cases Exceeding Target		Target
	1 st Quarter FY 2013	4 th Quarter FY 2014	
Civil	16.8%	13.7%	No more than 10% of cases open more than one year.
Criminal	6.6%	4.9%	No more than 5% of cases open more than one year.
Domestic Relations	5.4%	3.3%	No more than 5% of cases open more than one year.
Juvenile Delinquency	4.7%	1.7%	No more than 5% of cases open more than one year.
Dependency and Neglect (over 6 years old)*	6.7%	4.4%	No more than 5% of cases open more than 18 months
Dependency and Neglect (under 6 years old)*	9.4%	7.6%	No more than 10% of cases open more than one year.

Due to data conversion from BRIO to COGNOS, FY13 results are not available for 2nd thru 4th quarters.

* The standards in dependency and neglect are under review. This measure shows time to first permanency hearing.

A more optimal measure would be time to true permanent placement or termination of court jurisdiction.

TABLE 2			
County Court Case Management Time Standards			
Established Pursuant CJD 08-05			
Case Class	Pending Cases Exceeding Target		Target
	1 st Quarter FY 2013	4 th Quarter FY 2014	
Civil	6.4%	5.3%	No more than 5% of cases open more than six months.
Misdemeanor	13.6%	11.3%	No more than 10% of cases open more than six months.
Small Claims	6.4%	4.1%	No more than 1% of cases open more than six months.
Traffic	6.8%	4.7%	No more than 5% of cases open more than six months.
DUI/DWAI	14.4%	12.7%	No more than 20% of cases open more than seven months.

Due to data conversion from BRIO to COGNOS, FY13 results are not available for 2nd thru 4th quarters.

Performance Measure

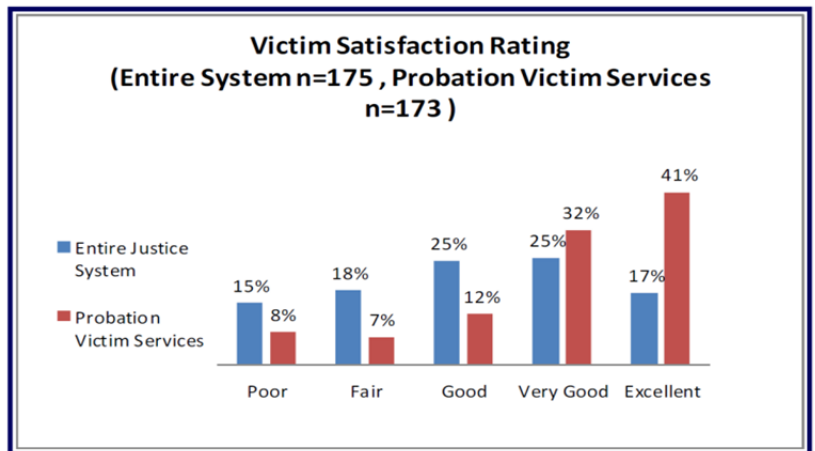
One of the main goals of **probation** is to effect long term behavior change. By focusing on issues that relate to criminal behavior, probation officers can increase the likelihood that adults and juveniles placed on probation will make lasting, pro-social behavior change. Measuring outcomes and providing feedback is a critical piece of implementing efficient and effective practices in probation.

This chart provides feedback for one measurement of performance: successful completion of probation. The chart lists the statewide success rates, and the percentage and actual number of terminations for FY 2013 and FY 2014.

Note: intensive program terminations include those cases terminated directly from the program as well as those probationers who completed the program and are transitioning from the intensive program to regular supervision. Due to the small number of probationers in some programs, success rates may experience fluctuations.

Colorado State Probation Success Rates			
Program	FY 2013 Statewide	FY 2014 Target	FY 2014 Statewide
Regular Adult	66% (14,151)	70%	65% (14,628)
Adult Intensive Supervision Program	61% (673)	68%	62% (657)
Female Offender Program	66% (101)	72%	65% (114)
Sex Offender Intensive Supervision Program	45% (176)	44%	47% (131)
Regular Juvenile	72% (2,517)	76%	73% (2,302)
Juvenile Intensive Supervision Program	45% (144)	50%	46% (147)

When the probationer's case is terminating, Victim Services Officers send out a victim satisfaction survey to victims who have requested notification of probation status. Each calendar year the results are compiled into a statewide report. Options to automate the survey are currently being reviewed. The results shown include the victims' responses regarding Probation's performance and the performance of other criminal justice agencies.



Note: In CY13, 176 surveys were returned. Not every question was answered by each survey respondent. The (n) shows the number of respondents who answered each specific question throughout this report.

Annual Performance Report

November 01, 2014



Office of the State Public Defender

DOUGLAS K. WILSON
Colorado State Public Defender

Performance Evaluation

General Description

Mission

The single overriding role of the Office of the State Public Defender is to fulfill requirements outlined in the United States and Colorado Constitutions as well as in Colorado Statutes, which establish the right to a level of criminal defense counsel services for indigent individuals charged with the commission of a crime in Colorado that is commensurate with the level of services available to those that are not indigent.

Vision

The Office of the State Public Defender's vision is to develop, maintain and support our passionate and dedicated team so that they can continue providing the best possible quality of criminal defense representation for each and every one of our clients.

Description

The Office of the State Public Defender (OSPD) is a single purpose program that is devoted to providing reasonable and effective criminal defense representation to indigent persons charged with crimes except where there is a conflict of interest. They are indigent people who are faced with the possibility of incarceration who are unable to afford private counsel and without counsel would otherwise be denied their constitutional right to a fair trial. A critical element in meeting these requirements is the need to maintain the attorney-client relationship. Attorneys, investigators and legal support staff are necessary to provide effective representation of counsel as mandated by the federal and state constitutions, Colorado Revised Statutes, Colorado Court Rules, American Bar Association standards, and the Colorado Rules of Professional Conduct. The OSPD system is the most efficient means of meeting these requirements.

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

To support the OSPD in the representation of their cases, in FY2014-15, the OSPD was appropriated \$83,814,870 and FTE of approximately 779. This is comprised of 488 attorneys; 148 investigators, paralegals and social workers (including 8 social workers dedicated to juvenile work); 111 administrative assistants and 32 centralized management and support positions.

Priorities

In keeping with the Office's mission and vision, we have developed the following goals, strategies and measures.

Goals:

1. Hire and retain a sufficient number of high quality staff to effectively manage the assigned caseload.
2. Provide high quality and sufficient quantity of staff development, training, new technology and other resources to adapt our response to the ever-changing landscape and criminal justice

atmosphere so that our legal services are commensurate with what is available for non-indigent clients.

3. Provide effective legal representation in both trial court and appellate cases.

Strategies:

1. Hire a sufficient number of high quality staff and retain an adequate level of experienced staff in order to effectively manage the assigned caseload.
2. Track and analyze trends in caseloads and adjust staffing levels.
3. Provide training to address the changing legal climate and reach critical staff.
4. Continually evaluate administrative processes and organizational infrastructure needs such as office space, technology and staffing/
5. Work all cases as efficiently as possible, while retaining a high quality of effective and reasonable representation.

Performance Measures

		FY 12-13 (actual)	FY 13-14 (actual)	FY 14-15 (projected)	FY 15-16 (projected)	FY 16-17 (projected)
MEASURE 1:	Target	97,507	112,447	132,270	140,751	149,132
Number of new trial court cases.	Actual	98,537	115,107			
MEASURE 2:	Target	125,381	140,320	159,575	168,640	177,566
Number of active trial court cases.	Actual	125,606	142,907			
MEASURE 3:	Target	100%	100%	100%	100%	100%
Percent of trial court attorney staff allocated vs. total required for closed trial court cases.	Actual	93.8%	96.1%			
MEASURE 4:	Target	480	480	480	480	480
Number of attorney applications received.	Actual	713	722			
MEASURE 5:	Target	100%	100%	100%	100%	100%
Percent of total attorney staff allocated vs. total required for closed trial court cases and active appellate cases.	Actual	92.3%	93.2%			
MEASURE 6:	Target	12%	12%	12%	12%	12%
Annual rates of attrition:						
Attorneys	Actual	12%	9%			
Investigators	Actual	13%	7%			
Administrative Assistants	Actual	21%	16%			
Total All Employees	Actual	13%	9%			
MEASURE 7:	Target	70%	70%	70%	70%	70%
Percent of experienced, fully capable staff (journey level or higher):						
Attorneys	Actual	42%	41%			
Investigators	Actual	51%	45%			
Legal Assistants	Actual	47%	46%			
Total All Employees	Actual	47%	44%			

		FY 12-13 (actual)	FY 13-14 (actual)	FY 14-15 (projected)	FY 15-16 (projected)	FY 16-17 (projected)
MEASURE 8: Percent compliance with minimum standards for total staffing requirements	Target	100%	100%	100%	100%	100%
	Actual	82.7%	84.0%			
MEASURE 9: Maintain established standard percentages for reasonable staff supervision, management and development	Target	10%	12%	12%	12%	12%
	Actual	9.8%	9.2%			
MEASURE 10: Number of new appellate cases.	Target	598	597	592	592	592
	Actual	585	573			
MEASURE 11: Number of active appellate cases (cases awaiting filing of Opening Brief).	Target	1,255	1,268	1,341	1,295	1,250
	Actual	1,233	1,244			
MEASURE 12: Percent of appellate attorney staff allocated vs. total required for active appellate cases.	Target	100%	100%	100%	100%	100%
	Actual	78.9%	69.6%			
MEASURE 13: Number of trial court cases closed.	Target	97,527	121,449	127,879	135,608	143,056
	Actual	97,872	110,044			
MEASURE 14: Days of training provided.	Target	n/a	137	106	104	104
	Actual	<i>(new measure)</i>	137			
MEASURE 15: Number of CLE credits provided.	Target	15	15	15	15	15
	Actual	15	15			
MEASURE 16: Hours of ethics training provided, focusing on Colorado criminal law.	Target	3	3	3	3	3
	Actual	3	3			
MEASURE 17: Number of administrative processes and organizational infrastructure evaluations performed.	Target	n/a	15	15	15	15
	Actual	<i>(new measure)</i>	15			
MEASURE 18: Number of appellate cases for which an Opening Brief has been filed.	Target	484	471	507	507	507
	Actual	427	367			
MEASURE 19: Number of backlogged appellate cases.	Target	671	697	703	658	612
	Actual	671	749			

The OSPD's Performance Plan dated July 01, 2014 can be viewed at http://pdweb.coloradodefenders.us/index.php?option=com_rubberdoc&view=doc&id=66&format=raw&Itemid=121



JUDICIAL BRANCH

**OFFICE OF THE
ALTERNATE DEFENSE COUNSEL**

FISCAL YEAR 2015-2016

Annual Performance Report

Lindy Frolich, Alternate Defense Counsel Director

Each person accused of a crime has a constitutional right to be represented by counsel at each critical stage of the action against him or her. This right only has meaning if counsel is competent, effective, and zealous. This constitutional right applies not only to the wealthy in the United States, but also to the poor. ***The Office of the Alternate Defense Counsel (OADC) was created by the Colorado Legislature (C.R.S. § 21-2-101, et. seq) to provide state wide representation in criminal and juvenile delinquency cases when the Office of the State Public Defender (OSPD) has a conflict of interest and therefore cannot ethically represent the indigent defendant or juvenile.*** The OADC has become a nationally recognized model that other states look to when designing or improving their system for appointing counsel to represent indigent defendants and juveniles. Both the director and deputy director have been invited to other states to present the Colorado model for court-appointed counsel programs, and have worked with other states to initiate similar programs. The OADC continues to explore and implement strategies to control case costs while providing effective court-appointed counsel.

The Agency's 2014-2015 Performance Plan* outlines some of the strategies the Agency utilizes to insure compliance with its constitutional and statutory mandate, and meet its goals and objectives. As can be seen in the Performance Measures outlined on pages 2 through 4 of this Report, the Agency continues to engage in and advance each of these strategies to insure compliance with the Agency's mission of providing indigent adults and juveniles charged with crimes the best legal representation possible.

This fiscal year the Agency has recognized the need for an additional Performance Measure, based on new research in the criminal and juvenile justice arena. The new Performance Measure F is included on page 4 of this Report, and also included in the Agency's 2015-2016 Budget Request. The purpose of this performance measure is to create an implementation strategy to effectuate Evidence Based Practices in criminal cases.

In addition to meeting its Performance Measures and Goals, the Agency has also reached the benchmarks listed in the timeline of the Agency's Performance Management System. One of the most impactful of these benchmarks is soliciting feedback from the Agency's 600+ contractors regarding trainings, communications, the on-line payments system, and technological resources. For example, based on contractor responses, the Agency is re-designing its billing system to not only streamline the contractor billing process but also allow improved case and expenditure reporting for the annual budget request, the fiscal note process, and better meet financial reporting and auditing requirements.

The Agency has also made great improvements to its personnel and retention practices. In addition to the annual review process, the Agency actively solicits feedback from its staff with regards to day-to-day operations, internal system efficiencies, job description improvements, and growth opportunities. These improvements have already benefited the staff and Agency by encouraging a cohesive personnel system and promoting efficiency and effectiveness in its day-to-day operations.

Please click below for the Agency's Performance Plan.

http://www.coloradoadc.org/site/index.php?option=com_content&view=article&id=210:performance-plan-smart-act&catid=32:documents&Itemid=221

Contractor Rates

In the FY2014 – 2015 Budget Request the OADC submitted a Decision Item regarding a permanent increase to Contractor hourly rates by \$10. The Joint Budget Committee approved that Decision Item and OADC was appropriated an additional \$3,559,986 to accommodate for that rate increase.

Performance Measure A.		FY 08 Actual	FY 09-13 Actual	FY 14 Actual	FY15 Budget	FY16 Request	FY17 Goal
Maintain compensation rates for contractors.	Target	\$67.50	\$75	\$75	\$75	\$75	undetermined
	Actual	\$60	\$65	\$65	\$75		

Containing Total Number Of Attorney Hours Per Case

The OADC analyzes the Attorney Hours per Case on a monthly basis and strives to find innovative and effective strategies to contain hours per case.

Performance Measure B.		FY13 Actual	FY14 Actual	FY15 Budget	FY16 Request	FY17 Goal
Contain total number of Attorney hours per case. Includes all case type hours.	Target	19.64	19.64	19.64	19.64	19.64
	Actual	17.94	17.91			
Contain the total Attorney hours per case excluding Death Penalty cases.	Target	18.65	18.65	18.65	18.65	18.65
	Actual	15.85	16.19			
Contain the total Attorney hours per Death Penalty case.	Target	2,672.90	2,672.90	2,787.74	2,787.74	2,787.74
	Actual	2,787.74	2,599.73			
Contain the total Attorney hours per Type A Felony case.	Target	46.44	46.44	46.44	46.44	46.44
	Actual	43.00	46.43			
Contain the total Attorney hours per Type B Felony case.	Target	15.48	15.48	15.48	15.48	15.48
	Actual	13.83	14.89			
Contain the total Attorney hours per Adult Misdemeanor/Juvenile.	Target	7.24	7.24	7.24	7.24	7.24
	Actual	6.94	6.13			
Keep ancillary costs per case to a minimum.	Target	\$120.38	\$132.78	\$132.78	\$132.78	\$132.78
	Actual	\$132.78	\$128.49			

Annual Trainings

Based on the Performance audit of 2006 the Agency recognized the need for additional evaluation, monitoring and training of contractors. Since then the Agency has developed three basic components to its training program. Assess and determine the types of training needed for OADC contractors and court personnel. Organize and present continuing legal education training for OADC lawyers, investigators, social workers, and paralegals. Facilitate access to trainings through in-person attendance, DVD reproduction, and webcasting.

Performance Measure C.		FY13 Actual	FY14 Actual	FY15 Budget	FY16 Request	FY17 Goal
Sponsor X number of trainings* annually for attorneys, investigators, paralegals, social workers, and court personnel.	Target	12	12	15	15	15
	Actual	12	15			

* For a detailed listing of the trainings please reference the FY15-16 OADC Budget Request located on our website: www.coloradoadc.org

Cost-Effective Research Tools

To advance quality and efficiency in OADC contractors, the Agency recognized the need for providing cost-effective research tools and resources. To accomplish this, the Agency is; Improving and expanding the Brief and Motions Bank; Providing legal research and motion drafting assistance to contractors; Providing timely case law summaries of new criminal legal opinions issued by the Colorado Court of Appeals, the Colorado Supreme Court, the 10th Circuit, and the United States Supreme Court; Analyzing and introducing best practice applications to OADC contractors; Creating comprehensive manuals on complex but frequently used subject matters such as COCCA, habitual criminal charges, grand jury challenges, and *Batson* challenges.

Performance Measure D.		FY13 Actual	FY14 Actual	FY15 Budget	FY16 Request	FY17 Goal
Provide Cost-Effective Research Tools and Resources to OADC Contractors	Target	Continue to populate and update Brief and Motions Bank, and populate 80% of the browse categories. Train contractors on use. 20% increase in monthly users.	Continue to populate and update Brief and Motions Bank and populate 100% of existing browse categories. Add categories as needed. Increase usage to 50% of OADC contractors.	Over 5,000 documents. Average users per month: 250	Over 6,000 documents with ability to Browse subject matters in three different areas (General Legal, Juvenile and EBDM/Social Sciences). Average users per month: 250	Over 6,000 documents with ability to Browse subject matters in three different areas (General Legal, Juvenile and EBDM/Social Sciences). Average users per month: 250
	Actual	Over 3,600 documents. Average users per month: 180	4,800 documents Average Users per month: 200 95% of browse categories populated			
Provide legal research assistance	Target	60 cases	120 cases	200 cases	300 cases	300 cases
	Actual	120 cases	360 cases			
Provide summaries of new opinions.	Target	Quarterly summaries	12 monthly summaries	50 weekly summaries	50 weekly summaries	50 weekly summaries
	Actual	Monthly Summaries	52 weekly summaries			

Contract Applicants

Pursuant to the state performance audit of 2006, the OADC began a process to insure that all OADC lawyers and investigators are under a current contract. This process includes interviewing and evaluating all attorney contractors and contracting with investigators.

Performance Measure E.		FY13 Actual	FY14 Actual	FY15 Budget	FY16 Request	FY17 Goal
Interview contract applicants; evaluate contractors prior to contract renewal date, and ongoing performance monitoring. Contract with investigators.	Target Attorney	100%	100%	100%	100%	100%
	Actual	99%	100%			
	Target Investigator	100%	100%	100%	100%	100%
	Actual	99%	100%			

Evidence Based Practices (EBP)

In 2011, the legislature amended the “purposes of sentencing,” C.R.S. §18-1-102.5. These changes were the first substantive changes in nearly 30 years. The changes represent the embracing of standardized risk/needs assessments and supervision and treatment tailored to reduce recidivism. In addition, the cost of alternative sentences is to be considered by judges. Statewide endeavors in agencies such as probation, parole, corrections, Colorado Commission on Criminal Juvenile Justice (CCJJ), and other stakeholder agencies, to enact and monitor Evidence Based Practices, have gained both funding and legislative support. The OADC has, since 2011, acknowledged and worked at implementing these changes in the sentencing structure, and although committed to this implementation process, change has been sporadic. The purpose of performance measure F is to create an implementation strategy to effectuate Evidence Based Practices in criminal cases with the following components; Expand the OADC Social Worker Pilot Program; Create a separate social science component to the Agency’s Brief and Motions Bank; and Ensure that a part of the OADC’s training program is focused on EBP.

Performance Measure F.		FY13 Actual	FY14 Actual	FY15 Budget	FY16 Request	FY17 Goal
Expand the OADC Social Worker Pilot Program	Target	NA	10 cases	70 cases	100 cases	100 cases
	Actual	NA	10 cases			
Increase the number of Social Worker Contractors	Target	NA	2 contractors	6 contractors	6 contractors	6 contractors
	Actual	NA	2 contractors			
Provide on-line EBP / social sciences materials on the Brief and Motions Bank.	Target	NA	NA	250 documents 10 users/month	1000 documents 30 users/month	1000 documents 30 users/month
	Actual	NA	NA			
Ensure that a part of OADC’s training program is focused on EBP.	Target	NA	NA	3 trainings	3 trainings	3 trainings
	Actual	NA	NA			

Office of the Child's Representative

Annual Performance Report



October 31, 2014

*OCR is an independent agency
within the Judicial Department*



The Office of the Child’s Representative (OCR) provides competent and effective legal advocacy to children who have been abused, neglected or abandoned, impacted by high conflict domestic relations disputes, or charged with delinquent acts and without a parent or guardian able to protect their best interests during the proceedings. The OCR is committed to ensuring that children whose interests are represented by its contract attorneys, Colorado’s most vulnerable and marginalized population in the courts, receive the best legal services available to protect and promote their safety and well-being and to have their voice heard throughout all aspects of a case. OCR ensures enhanced best interests legal representation of such children by improving the quality and consistency of representation, providing accessible statewide training to attorneys and judicial officers, establishing minimum attorney training requirements, establishing minimum practice standards, establishing fair and realistic compensation for state-appointed attorneys sufficient to retain high-quality, experienced attorneys and serving as a resource for attorneys.

The OCR’s Performance Plan is found at <http://www.coloradochildrep.org/wp-content/uploads/2013/09/OCR-Perf-Plan-July-2014.pdf> . The Performance Plan focuses on the following goals and strategies:

OCR PERFORMANCE GOALS & STRATEGIES	
GOALS	STRATEGIES
<p>1: The OCR will provide effective attorney services to children through skilled and qualified attorneys.</p>	<ul style="list-style-type: none"> A. Provide and maintain lists of qualified attorneys sufficient to meet needs in judicial districts B. Contract with attorneys based on data illustrating compliance with CJD and OCR practice standards C. Establish fair and reasonable compensation for OCR attorneys D. Investigate alternative models of providing legal representation E. Develop strategies to recruit attorneys
<p>2: The OCR will establish efficiencies in attorney practice and billing.</p>	<ul style="list-style-type: none"> A. Maximize use and effectiveness of OCR’s on-line case management/billing system B. Provide litigation support and facilitate practice innovations C. Process, manage, and evaluate attorney billings
<p>3: The OCR will ensure attorneys remain current in state and federal law and regulations, social science research, and evidence-based services.</p>	<ul style="list-style-type: none"> A. Provide statewide training to attorneys B. Require attorneys to meet minimum training requirements C. Disseminate updates on developments in law and social science and maintain current and relevant resources for attorneys’ use

Since its inception, the OCR has made strides towards developing a data-driven practice for overseeing attorney services and managing its state dollars. Child welfare practice does not lend itself to simple outcome-based analysis, as appropriate results in one case may not be appropriate in another. The OCR concentrates its data collection on attorney compliance with OCR'S practice standards to assess the effectiveness of representation. The OCR seeks feedback from system stakeholders through survey instruments and conducts courtroom observations of attorney practice. In addition, the OCR measures its performance through benchmarks and customer surveys. The OCR's efforts in practice assessment and data collection have received state and national attention.

Annual evaluation survey. Every year, the OCR distributes an objective evaluation survey to gather feedback on all attorneys who are providing legal services. OCR sends an electronic survey to judicial officers, court administrators, court facilitators, department of human services staff, CASA agencies, probation officers and attorneys representing other parties in D&N and JD cases in each of Colorado's 22 judicial districts. The survey results provide OCR and its contract attorneys valuable feedback concerning the attorney's practice.

Goal 1: The OCR will provide effective attorney services to children through skilled and qualified attorneys.							
Key Measures Strongly Agree/Agree <i>(respondents were allowed to answer "I don't know")</i>		FY 11-12 N = 215 Attorneys	FY 12-13 N = 191 Attorneys	FY 13-14 N = 227 Attorneys	FY 14-15	FY 15-16	FY 16-17
1. A. Attorney possesses relevant advocacy skills	Target	Establish baseline	86%	89%	90%	90%	90%
	Actual	86%	91%	90%			
1. B. Attorney possesses requisite knowledge	Target	Establish baseline	84%	87%	90%	90%	90%
	Actual	84%	90%	90%			
1. C. Attorney familiar with community services	Target	Establish baseline	84%	87%	90%	90%	90%
	Actual	84%	89%	90%			
1. D. Attorney attends all court hearings	Target	Establish baseline	91%	93%	93%	93%	93%
	Actual	91%	93%	94%			
1. E. Attorney critically assesses department case & permanency plans	Target	Establish baseline	72%	75%	80%	80%	80%
	Actual	72%	90%	83%			
1. F. GAL is respectful of others involved in the case	Target	Establish baseline	82%	85%	85%	85%	85%
	Actual	82%	87%	88%			

Court Observations. In FY 12-13, the OCR began conducting court observations in dependency and neglect proceedings in order to obtain first-hand knowledge regarding attorney courtroom performance. The OCR expanded the observations in FY 13-14 to include juvenile delinquency cases in order to help refine OCR's expectations of attorneys serving in delinquency matters. The OCR conducted **287 court observations** involving **480 children** in FY 12-13 and **426 court observations** involving **674 children** in FY 13-14.

Goal 1: The OCR will provide effective attorney services to children through skilled and qualified attorneys.						
Key Measures		FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17
Number of Court Observations		N = 287	N = 426			
1. G. Average number of court observations per attorney under evaluation	Target	3	3	3	3	3
	Actual	4.5	3.7			
1. H. Appointed attorney appeared	Target	Establish baseline	90%	92%	92%	92%
	Actual	91%	94.6%			
1. I. Attorney provided current, independent information	Target	Establish baseline	70%	75%	80%	85%
	Actual	64%	81%			
1. J. Attorney clearly stated a position	Target	Establish baseline	85%	87%	90%	90%
	Actual	82%	91%			
1. K. Attorney stated child's position <i>(observers are not able to determine whether developmentally appropriate and according to child's wishes)</i>	Target	Establish baseline	30%	40%	40%	40%
	Actual	24%	43.75%			

OCR's litigation support and training programs raise the level of attorney services provided to Colorado's children. When representing children's interests, lawyers must, in addition to their specialized legal skills, be able to draw upon interdisciplinary knowledge from such pertinent fields as psychology, sociology, social work and medicine. Through its litigation support and training, the OCR ensures that every child in Colorado who is in need of an attorney is represented by an attorney who has considerable sophistication in the law and issues unique to children. OCR believes well-supported and well-trained attorneys are efficient attorneys.

Goal 2: The OCR will establish efficiencies in attorney practice and billing.						
Key Measures		FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17
2. A. Newsletters published per year	Target	3	4	4	4	4
	Actual	3	4			
2. B. Publish update of GRID	Target	NA	NA	Publish Update	NA	Publish Update
	Actual	NA	NA			
2. C. Measure listserv usage	Target	NA	NA	Investigate means for measuring	Develop & implement measuring plan	Establish baseline usage
	Actual	NA	NA			
2. D. Measure motions bank usage	Target	NA	NA	Investigate means for measuring	Develop & implement measuring plan	Establish baseline usage
	Actual	NA	NA			

The OCR maintains a robust training program which provides ongoing and meaningful trainings tailored to the specialized needs of attorneys representing children. The OCR's

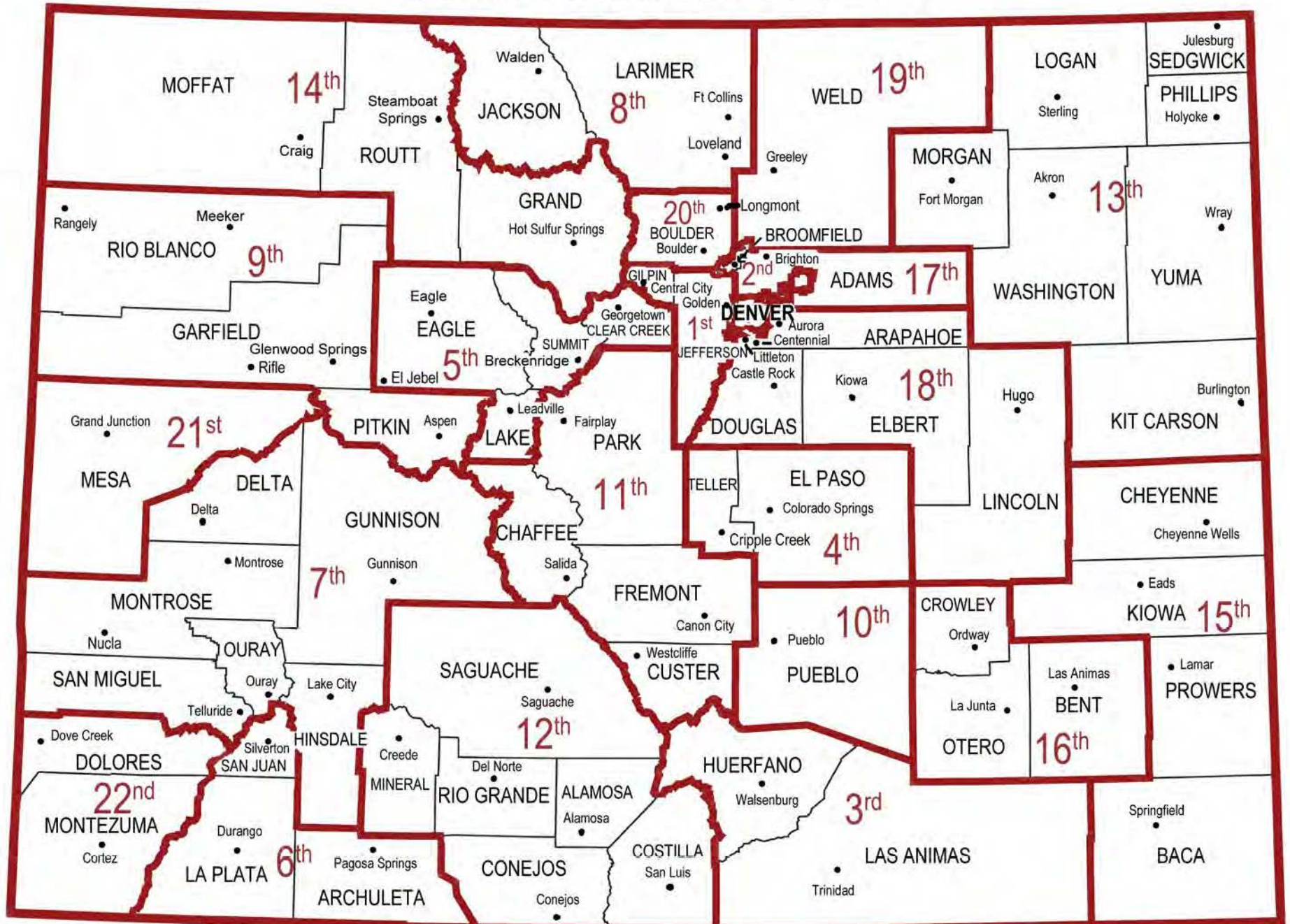
training program ensures that attorneys are current in legal developments, social science research and best practices.

Goal 3: The OCR will ensure attorneys remain current in state and federal law and regulations, social science research, and evidence-based services.						
Key Measure		FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17
3. A. Training hours OCR offered	Target	42	42	42	42	42
	Actual	55.75	57			
3. B. Training Hours available online	Target	NA	Establish Baseline	120	150	180
	Actual	NA	91			
3. D. Attendee survey: Rated spring conference "Excellent/Good"	Target	NA	Establish baseline	85%	85%	85%
	Actual	NA	87.87%			
3. E. Attendee survey: "Satisfied/Very Satisfied" with spring conf. materials	Target	NA	Establish baseline	90%	90%	90%
	Actual	NA	96.92%			
3. F. Attendee survey: "Satisfied/Very Satisfied" with spring conf. information	Target	NA	Establish baseline	90%	90%	90%
	Actual	NA	92.43%			
3. G. Attendee survey: Rated summer conf. "Excellent/Good"	Target	NA	Establish baseline	85%	85%	85%
	Actual	NA	92.2%			
3. H. Attendee survey: "Satisfied/Very Satisfied" with summer conf. materials	Target	NA	Establish baseline	85%	85%	85%
	Actual	NA	96.1%			
3. F. Attendee survey: "Satisfied/Very Satisfied" with summer conf. information	Target	NA	Establish baseline	90%	90%	90%
	Actual	NA	92.3%			

Compensation. It is the statutory mandate of the OCR to "establish fair and realistic rates of compensation" in order to enhance the legal representation of children. § 13-91-105, C.R.S. (2014). Fair and realistic compensation is essential to maintaining a pool of dedicated and skilled attorneys and to allowing adequate and effective case investigation and legal advocacy.

Goal 1: The OCR will provide effective attorney services to children through skilled and qualified attorneys.						
Key Measures		FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18
1. L. OCR will pay attorneys a rate of compensation commensurate to other public sector attorneys.	Target	\$65/hr	\$75/hr	\$75/hr	\$75/hr	\$80/hr
	Actual	\$65/hr	\$75/hr			
1. M. OCR employee salaries will be commensurate to that of other public sector employees	Target	Conduct Salary Survey	Seek 10-15% correction of misalignment	Determine whether further adjustments are required	Determine whether further adjustments are required	Determine whether further adjustments are required
	Actual	Salaries "significantly misaligned"	General Assembly approved			

Judicial Districts of Colorado



Colorado Counties and Corresponding Judicial Districts

Judicial District	County	Judicial District	County
17	Adams	13	Kit Carson
12	Alamosa	6	La Plata
18	Arapahoe	5	Lake
6	Archuleta	8	Larimer
15	Baca	3	Las Animas
16	Bent	18	Lincoln
20	Boulder	13	Logan
17	Broomfield	21	Mesa
11	Chaffee	12	Mineral
15	Cheyenne	14	Moffat
5	Clear Creek	22	Montezuma
12	Conejos	7	Montrose
12	Costilla	13	Morgan
16	Crowley	16	Otero
11	Custer	7	Ouray
7	Delta	11	Park
2	Denver	13	Phillips
22	Dolores	9	Pitkin
18	Douglas	15	Prowers
5	Eagle	10	Pueblo
4	El Paso	9	Rio Blanco
18	Elbert	12	Rio Grande
11	Fremont	14	Routt
9	Garfield	12	Saguache
1	Gilpin	6	San Juan
14	Grand	7	San Miguel
7	Gunnison	13	Sedgwick
7	Hinsdale	5	Summit
3	Huerfano	4	Teller
8	Jackson	13	Washington
1	Jefferson	19	Weld
15	Kiowa	13	Yuma

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Appendix H: Court Filings by Court and Case Type

This appendix includes three tables that detail the number of new state court case filings for each fiscal year, FY 1998-99 through FY 2013-14. Table 1 details the number of filings for each of the five types of state courts. Table 2 details the number of district court filings by case type, and Table 3 details the number of county court filings by case type.

TABLE 1: NEW CASE FILINGS						
Fiscal Year	Supreme Court	Court of Appeals	District Courts	Water Courts	County Courts	Total Filings
1998-99	1,525	2,647	161,341	1,270	451,987	618,770
1999-00	1,617	2,502	159,596	1,224	446,725	611,664
2000-01	1,367	2,335	155,220	1,257	444,629	604,808
2001-02	1,368	2,673	164,237	1,550	469,993	639,821
2002-03	1,401	2,589	169,458	1,672	498,515	673,635
2003-04	1,317	2,558	177,358	1,285	514,094	696,612
2004-05	1,466	2,766	183,512	1,109	555,447	744,300
2005-06	1,393	2,748	189,415	1,303	556,136	750,995
2006-07	1,534	2,548	189,235	1,220	551,197	745,734
2007-08	1,657	2,753	187,352	1,131	562,570	755,463
2008-09	1,643	2,809	188,537	1,268	562,103	756,360
2009-10	1,518	2,890	236,671	1,215	541,591	783,885
2010-11	1,387	2,742	246,728	956	505,265	757,078
2011-12	1,538	2,711	288,867	1,076	484,371	778,563
2012-13	1,457	2,539	230,337	851	446,255	681,439
2013-14	1,465	2,458	216,073	897	430,398	651,291
% of Total in FY 2013-14	0.2%	0.4%	33.2%	0.1%	66.1%	100.0%

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TABLE 2: NEW DISTRICT COURT CASE FILINGS

Fiscal Year	Foreclosures and Tax Liens	Civil (excluding foreclosures or tax liens)	Felony Criminal	Domestic Relations	Juvenile	Probate	Mental Health	Dependency & Neglect	Truancy	Total
1998-99	16,387	22,461	37,538	31,885	31,957	11,714	4,142	3,133	2,124	161,341
1999-00	16,319	22,842	35,770	32,318	30,969	11,605	4,141	3,401	2,231	159,596
2000-01	13,470	23,765	36,860	31,068	29,169	11,360	4,216	3,313	1,999	155,220
2001-02	16,865	24,484	39,147	32,166	29,950	11,655	4,229	3,552	2,189	164,237
2002-03	19,058	24,918	41,257	31,771	30,403	11,762	4,330	3,869	2,090	169,458
2003-04	26,223	25,623	42,427	30,826	29,678	11,653	4,528	4,338	2,062	177,358
2004-05	29,841	25,624	45,405	31,064	28,576	11,706	5,021	4,195	2,080	183,512
2005-06	34,552	25,994	46,501	32,481	27,248	11,525	4,653	4,136	2,325	189,415
2006-07	38,492	26,111	44,245	32,230	25,971	11,198	4,459	3,852	2,677	189,235
2007-08	35,212	28,987	40,494	33,025	26,290	11,551	4,713	3,883	3,197	187,352
2008-09	36,657	30,823	39,464	33,190	25,101	11,443	4,795	3,851	3,213	188,537
2009-10	84,932	31,414	36,993	35,624	23,849	12,189	5,159	3,568	2,943	236,671
2010-11	95,646	29,951	35,966	36,009	23,814	13,655	5,543	3,276	2,868	246,728
2011-12	140,815	28,230	35,551	35,434	22,819	14,042	6,064	3,265	2,647	288,867
2012-13	83,319	25,284	37,737	34,629	21,392	15,555	6,480	3,223	2,718	230,337
2013-14	72,568	23,757	37,966	34,907	19,685	15,203	7,072	2,971	1,944	216,073
% of Total in FY 2013-14	33.6%	11.0%	17.6%	16.2%	9.1%	7.0%	3.3%	1.4%	0.9%	100.0%

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TABLE 3: NEW COUNTY COURT CASE FILINGS							
Fiscal Year	Traffic	Traffic Infractions	Civil	Misdemeanors	Felony Complaints	Small Claims	Total
1998-99	159,861	64,018	121,987	69,932	20,301	15,888	451,987
1999-00	140,183	70,094	127,017	73,853	20,010	15,568	446,725
2000-01	133,860	70,090	139,919	72,354	13,445	14,961	444,629
2001-02	138,439	69,800	151,905	72,973	21,285	15,591	469,993
2002-03	149,720	74,947	165,210	74,367	18,833	15,438	498,515
2003-04	159,413	82,732	165,324	74,779	17,554	14,292	514,094
2004-05	167,488	107,780	175,847	72,607	18,137	13,588	555,447
2005-06	168,155	101,386	176,244	75,703	21,268	13,380	556,136
2006-07	165,298	95,421	184,994	74,094	18,510	12,880	551,197
2007-08	162,729	96,483	198,229	74,136	18,393	12,600	562,570
2008-09	155,235	100,804	202,958	73,605	17,235	12,266	562,103
2009-10	141,493	95,557	206,954	69,695	16,795	11,097	541,591
2010-11	126,788	84,610	200,250	67,137	16,851	9,629	505,265
2011-12	121,112	75,464	193,282	70,068	15,328	9,117	484,371
2012-13	115,465	67,581	174,466	62,740	17,832	8,171	446,255
2013-14	117,389	69,515	158,526	60,585	16,794	7,589	430,398
<i>% of Total in FY 2013-14</i>	<i>27.3%</i>	<i>16.2%</i>	<i>36.8%</i>	<i>14.1%</i>	<i>3.9%</i>	<i>1.8%</i>	<i>100.0%</i>

State of Colorado Correctional Treatment Board



Board Co-Chairmen

David Walcher, Sheriff
Arapahoe County Sheriff's Office
County Sheriffs of Colorado

Eric Philp, Director
Division of Probation Services
Colorado Judicial Branch

Board Members

Jim Bullock, District Attorney
16th Judicial District
Colorado District Attorney's Council

Marc Condojani, Director
Community Treatment & Recovery
Office of Behavioral Health
Department of Human Services

Brian Connors, Chief Deputy
State Public Defender's Office

Barry Pardus Assistant Director
Division of Adult Parole,
Department of Corrections

Jeanne Smith, Director
Division of Criminal Justice
Department of Public Safety

FY2016 Funding Plan

The Correctional Treatment Cash Fund and its oversight board, The Correctional Treatment Board, was established in HB12-1310 when the state legislature consolidated three major sources of State funding for substance abuse/co-occurring assessment and treatment: The Drug Offender Surcharge Fund, SB03-318 Funding (Drug Treatment Fund) and HB12-1352 Funding. Prior to this consolidation, these funding sources were separate appropriations with separate oversight boards and statutory stipulations. HB12-1310 restructured these funds to create and support a coordinated and collaborative effort across all criminal justice agencies with input from county and statewide criminal justice organizations regarding the treatment of criminal justice clients with substance use and co-occurring disorders. It is the job of the Correctional Treatment Board to ensure a fair and reasonable allocation of the cash fund resources in accordance with statutory intent.

Statutorily authorized uses of the money include:

- Alcohol and Drug Screening, Assessment, Evaluation, Testing, Training;
- Treatment for assessed substance abuse and co-occurring disorders;
- An annual statewide conference regarding substance abuse treatment;
- Recovery support services; and
- Administrative support for the board.

The Correctional Treatment Board is pleased to present its FY2016 Funding Plan that allocates over \$20.0M in state resources. This plan reflects the continuing work and programmatic priorities of the Board through the various appropriations to four state agencies as outlined in this report.

Statutory Cites: 18-19-103 (3.5)(b) and 18-19-103 (5)

Fund Overview

Cash Fund Overview

Funding in the Correctional Treatment Cash Fund is targeted for only those criminal justice clients with substance-abuse and/or co-occurring behavioral health disorders. All funding is appropriated into the Judicial Department's budget where it is then re-appropriated to the other three state agencies according to the funding plan as developed by the Correctional Treatment Board. Beginning in FY2015, the Board separated out administrative and overhead funding that is housed in the Judicial Branch budget, but isn't specific to Judicial programming. These costs include cash fund indirect costs, conference and board staff funding and the overhead amount that funds research/data collection and one-time projects. The chart below reflects the historical funding allocation across the four agencies.

Summary of Annual Appropriations

	<u>FY2013</u>	<u>FY2014</u>	<u>FY2015</u>	<u>FY2016</u>
Corrections	3,002,227	3,002,227	3,457,227	3,457,227
Human Services	3,090,516	4,290,156	5,071,156	5,071,156
Public Safety	2,666,766	2,916,766	5,301,766	5,301,766
Judicial	6,504,568	6,532,984	5,505,078	5,505,078
Non-Agency Specific	0	0	906,906	906,906
Total	15,264,077	16,742,133	20,242,133	20,242,133
Change over prior year		1,478,056	3,500,000	0

Judicial Branch (including Non-Agency Specific):

The Judicial Branch uses its correctional treatment resources to support substance use testing and mental health and substance abuse treatment for all probation clients as well as supports treatment and recovery-support services for the state's problem-solving court clients. As of FY2015, a new adult diversion program was created and housed in the Judicial Branch (HB13-1156) and the Correctional Treatment Cash Fund supports treatment costs for this program. Funds are allocated to all of the probation and problem-solving courts within the 22 judicial districts and are managed locally. Aggregated expenses are tracked and monitored centrally at the State Court Administrator's Office and reported on quarterly.

Department of Public Safety, Division of Criminal Justice (DCJ):

DCJ receives funding to help cover the cost of specialized intensive residential treatment and therapeutic community beds; to pay for out-patient treatment vouchers for clients in community corrections facilities; and to fund 1.0 research/training FTE within the Division of Criminal Justice. Funds are also used to support classroom training costs for substance abuse and risk/need assessments for probation, parole, TASC, community corrections, and prison staff. Residential and out-patient treatment funds are allocated to local community corrections boards across the state and managed by the boards for treatment of community corrections clients. Each board must report quarterly on spending levels.

Fund Overview

Department of Human Services, Office of Behavioral Health (OBH):

OBH uses its funding for three main programs and services. The Jail-Based Behavioral Services (JBBS) program provides substance-abuse and mental health services for clients in county jails. Funds are “granted” to local Sheriff’s offices, managed locally and dispersed via contract agreements with local treatment providers. Each JBBS program reports quarterly to the statewide program manager at OBH. Correctional Treatment funds are also used to support outpatient treatment services which are managed through contracts with Managed Service Organizations (MSO), and for the Short-Term Intensive Residential Remediation Treatment (STIRRT) program, which is a two-week residential program and continuing care for clients when they are released.

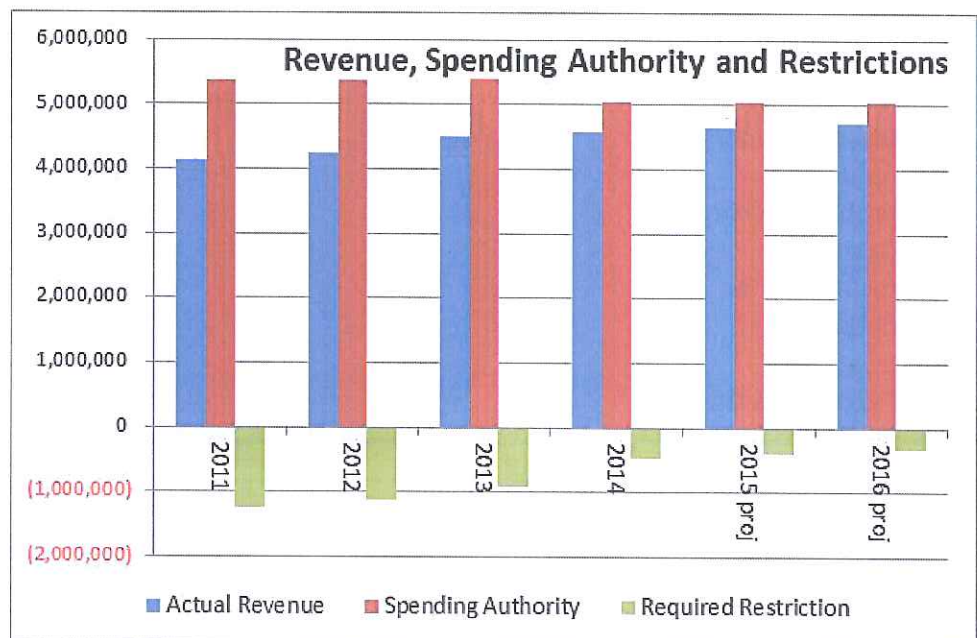
Department of Corrections (DOC):

DOC uses its correctional treatment funds to support case management, substance use testing and outpatient treatment for parole clients. This is done through a contract with Treatment Alternatives for Safer Community (TASC), which is an outside organization that provides these services to parolees with substance-abuse and/or co-occurring disorders. TASC manages the funds according to contract stipulations and reports to DOC monthly.

Correctional Treatment Cash Fund Revenue Sources

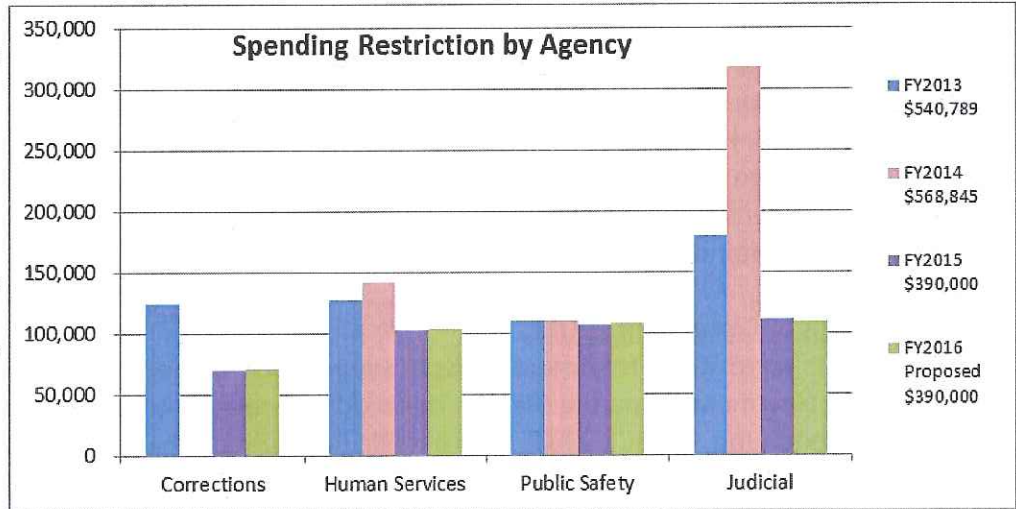
The Correctional Treatment Cash Fund (CTCF) receives both general fund money appropriated by the legislature as well as direct cash revenue from the drug offender surcharge, which is a surcharge assessed on offenders convicted of drug crimes and deposited directly into the cash fund. The general fund money is annually appropriated to the Judicial Branch and transferred to the cash fund. These two funding streams are what the Correctional Treatment Board oversees and allocates annually.

Since the CTCF was established, and prior to that as the Drug Offender Surcharge Fund, cash revenue from the surcharge has not been sufficient to match appropriated spending authority in the Long Bill. Therefore, the Board must restrict spending to match revenue. Revenue has been increasing every year and the Board is hopeful that revenue will soon be sufficient to avoid having to enact spending restrictions.



FY2014 Spending

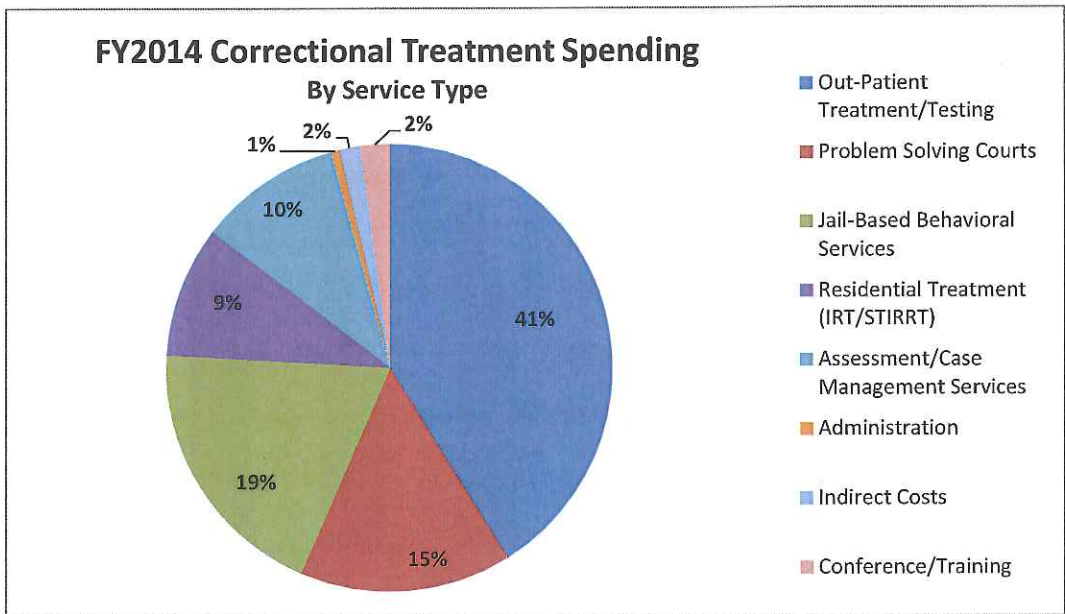
The Board has determined that restrictions should initially be shared by each state agency receiving correctional treatment resources. Quarterly revenue and spending updates are provided so the Board can revise restriction amounts based on spending patterns and changing needs in each fiscal year. Currently restriction amounts are based on each agency's percent of total fund resources.



Cash Fund Expenditures

In FY2014 a total of \$14.8M in correctional treatment resources was spent on a variety of programs and services to treat offenders. The following chart outlines spending by program type. The largest area of expenditure is outpatient treatment as this serves the largest population of offenders followed closely by the jail-based behavioral services and problem-solving courts.

While correctional treatment cash funds in problem solving courts are technically for outpatient treatment, FY2014 was the first year financial data was available



separate from probation outpatient treatment, so the Board is interested in having a problem-solving court category to help assess the overall funding for this specific program. In the future, it is likely that this funding will be rolled into the greater "outpatient treatment category."

FY2014 Spending

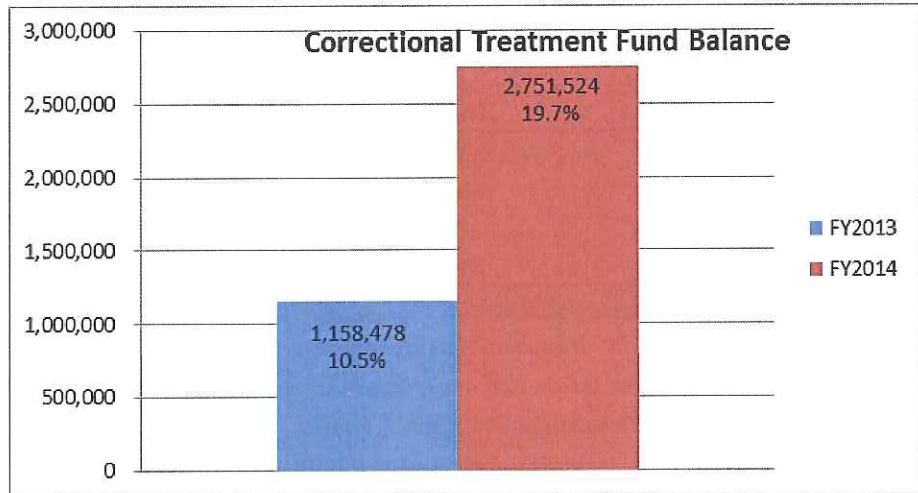
The following table outlines spending by agency and long bill line as adjusted for the cash spending restriction.

Correctional Treatment 2014 Spending -- By Agency and Long Bill Line			
	Appropriation*	Actual	Difference
DOC			
Drug & Alcohol Tx Subprogram	1,245,127	(1,245,127)	0
Parole Subprogram	1,757,100	(1,757,100)	0
	3,002,227	(3,002,227)	0
DHS			
<u>Substance Use Treatment and Prevention</u>			
Treatment & Detox Contracts	887,300	(887,300)	0
Short-Term Intensive Residential Remediation & Tx	389,066	(389,066)	0
<u>Integrated Behavioral Health Services</u>			
Jail-Based Behavioral Health	2,872,629	(2,872,629)	0
	4,148,995	(4,148,995)	0
DPS			
<u>Administration</u>			
Personal Services	90,631	(90,631)	0
Pots	13,366	(13,366)	0
<u>Community Corrections</u>			
Community Corrections Placement	1,018,869	(1,018,869)	0
Trtmtn. For Subs Abuse and Co-occurring Disorders	1,684,098	(1,683,045)	1,053
	2,806,964	(2,805,911)	1,053
JUDICIAL			
<u>Probation & Related Services</u>			
Personal Services	702,114	(702,114)	0
Offender Treatment & Services	5,088,997	(3,863,070)	1,225,927
<u>Administration</u>			
Personal Services	91,078	(91,078)	0
Pots	110,054	0	110,054
Indirects	222,859	(222,859)	0
	6,215,102	(4,879,121)	1,335,981
<i>*Adj for spending restrictions</i>	GRAND TOTAL	(14,836,254)	1,337,034

Agency Spending Restrictions - 2014			
	Appropriation	Spending Restrict	Auth. Spending
DOC	3,002,227	0	3,002,227
DHS	4,290,156	(141,161)	4,148,995
CDPS	2,916,766	(109,802)	2,806,964
JUD	6,532,984	(317,882)	6,215,102
Total	16,742,133	(568,845)	16,173,288

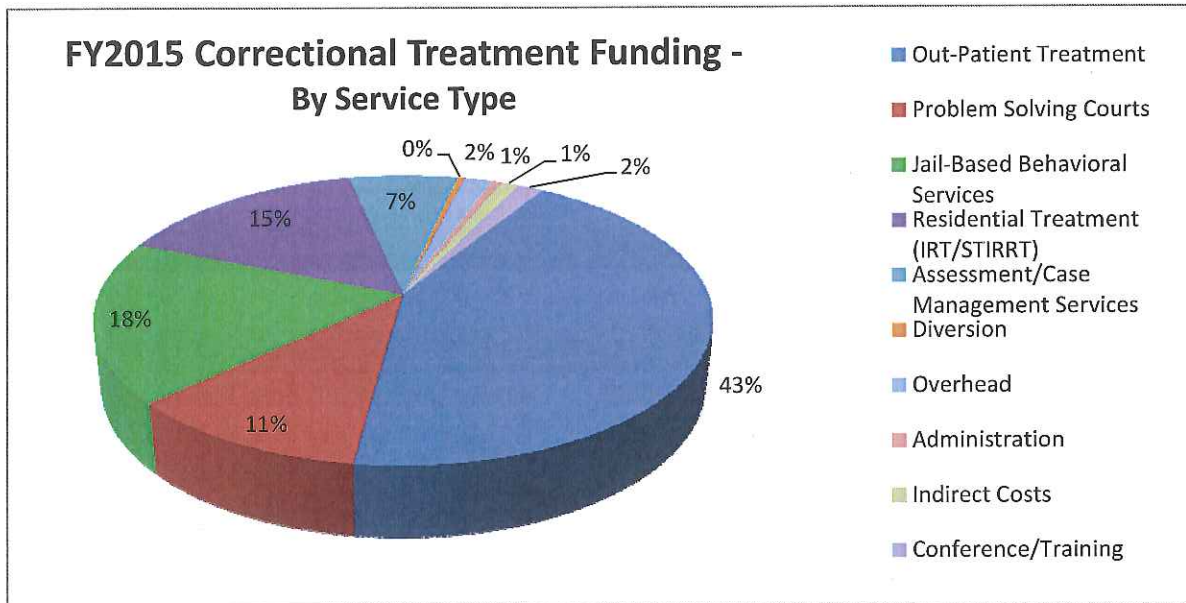
FY2014 Fund Balance/FY2015 Appropriation

At the end of FY2013, the fund balance was below the 16.5% limit and the Board wanted this to increase. Therefore, in FY2014, the Judicial Branch was able to under-spend its Correctional Treatment allocation while still meeting its obligation to respond to offender needs. This resulted in a FYE14 fund balance of \$2.7M or 19.7%. The Board is comfortable with that level and will begin to discuss one-time projects/needs for which some of the fund balance could be used. However, the schedule 9 (cash fund report) in the Judicial budget request projects the fund balance dropping to 14.5% in FY16 due solely to the increase in spending authority from SB13-250. The Board will continue to monitor the fund balance with the goal of maintaining it at the 16.5% limit.



FY2015 Appropriation

The Correctional Treatment Board had just over \$20.2M to appropriate in FY2015. This included an increase of \$3.5M from the passage of SB13-250, the drug sentencing bill as well as funding for new diversion programming as a result of HB13-1156. In addition to these two new funding streams, base budget funding was maintained and the \$3.5M was put toward expanded programming.



FY2015 Appropriation

In keeping with the intent of SB13-250, the \$3.5M was targeted for:

- Transition services for offenders leaving Jail-Based programs and re-entering the community.
- Community corrections treatment vouchers .
- Expanded residential treatment beds in Community Corrections for probation clients.
- Parole increases for case management in rural areas, expanded drug testing and co-pay incentives for parolees with clean UAs.
- Funding for behavioral health out-patient treatment to back-fill the loss of federal funding.

Correctional Treatment 2014 and 2015 Appropriation -- By Agency and Long Bill Line			
	FY14 Approp	FY15 Approp	Difference
DOC			
Drug & Alcohol Tx Subprogram	1,245,127	1,345,127	100,000
Parole Subprogram	1,757,100	2,112,100	355,000
	3,002,227	3,457,227	455,000
DHS			
<u>Substance Use Treatment and Prevention</u>			
Treatment & Detox Contracts	887,300	1,064,688	177,388
Short-Term Intensive Residential Remediation & Tx	389,066	427,946	38,880
<u>Integrated Behavioral Health Services</u>			
Jail-Based Behavioral Health	3,013,790	3,578,522	564,732
	4,290,156	5,071,156	781,000
DPS			
<u>Administration</u>			
Personal Services	90,631	84,803	(5,828)
Pots	13,366	19,194	5,828
<u>Community Corrections</u>			
Community Corrections Placement	1,018,869	2,643,869	1,625,000
Trtmtn. For Subs Abuse and Co-occurring Disorders	1,793,900	2,553,900	760,000
	2,916,766	5,301,766	2,385,000
JUDICIAL			
<u>Probation & Related Services</u>			
Personal Services	702,114	0	(702,114)
Offender Treatment & Services	5,406,879	5,995,419	588,540
<u>Central Programs</u>			
Pots	110,054	26,494	(83,560)
Adult Pre-Trial Diversion	0	77,000	77,000
<u>Administration</u>			
Personal Services	91,078	94,323	3,245
Indirects	222,859	218,748	(4,111)
	6,532,984	6,411,984	(121,000)
GRAND TOTAL	16,742,133	20,242,133	3,500,000

FY2016 Funding Allocation

FY2016 Funding

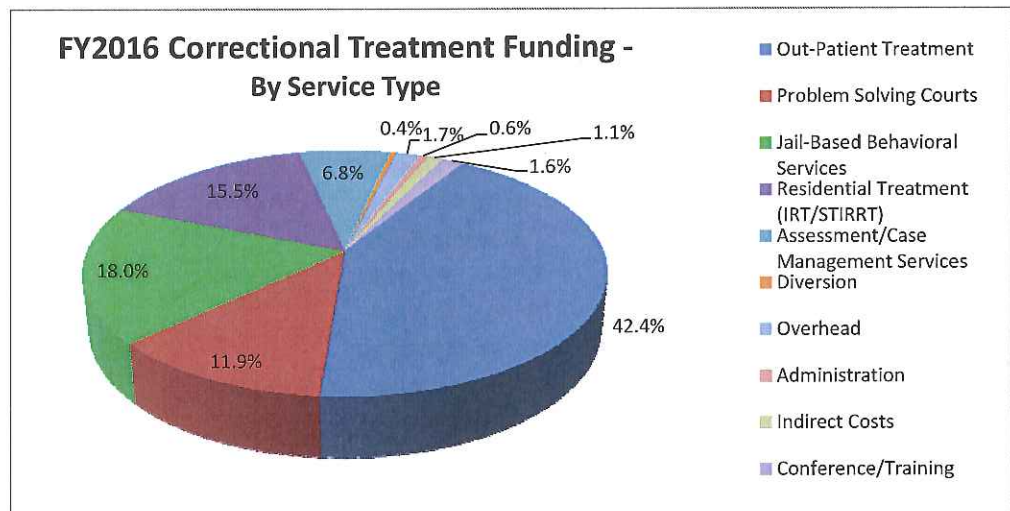
With FY2014 finished and FY2015 underway, the Correctional Treatment Board spent the past few months discussing and determining the FY2016 allocation from the Correctional Treatment Cash Fund. The Board developed preliminary funding priorities to help guide the allocation process and they currently include:

- Valid Assessment Practices/Strong Case Management Function
- Clinically Appropriate Treatment/Treatment Matching
- Program outcomes
- Quality Treatment
- Limited Other Funding Sources
- High Risk/High Need Population Priority
- Treat the “whole person”

Program requests for FY2016 funding were submitted to the Board in July and totaled just over \$21.4M. The available funding for FY16 remained at \$20.2M, so the requests were just over \$1.0M in excess of available resources. Funding requested included:

- Problem-Solving Court treatment funding increases for new courts as well as courts currently in the planning stages.
- An increase for parole outpatient treatment funds
- An increase for Mesa County’s Summit View program due to reduced County spending
- Local Board needs that were solicited by the statewide Board and consisted primarily of requests for housing, transportation, training and outpatient treatment.
- A decrease in probation outpatient treatment funds due to the availability of other sources of funding.

Based on the developed priorities and after conversations with program managers, the Board decided to maintain FY2015 funding levels with the exception of probation outpatient treatment, which was reduced by just over \$175,000. This reduction was re-directed to the problem-solving court program to help meet the needs of the growing courts across the state. The goal over the next year is to determine how to appropriately



FY2016 Funding Allocation

measure current funding against the developing priorities in order to adjust funding to match the prioritization. At the same time, the Board will continue to meet with the local boards to hear first-hand about program and service needs in local communities across the state in an effort to ensure appropriate programs and services are available in all areas of the state.

The chart below reflects the continued appropriation for each agency with adjustments related to salary, benefit and indirect cost assessments.

Correctional Treatment 2015 and 2016 Appropriation -- By Agency and Long Bill Line			
	FY2015 Approp.	FY2016 Approp.*	Difference
DOC			
Drug & Alcohol Tx Subprogram	1,345,127	1,345,127	0
Parole Subprogram	2,112,100	2,112,100	0
	3,457,227	3,457,227	0
DHS			
<u>Substance Use Treatment and Prevention</u>			
Treatment & Detox Contracts	1,064,688	1,064,688	0
Short-Term Intensive Residential Remediation & Tx	427,946	427,946	0
<u>Integrated Behavioral Health Services</u>			
Jail-Based Behavioral Health	3,578,522	3,578,522	0
	5,071,156	5,071,156	0
DPS			
<u>Administration</u>			
Personal Services	84,803	84,803	0
Pots	19,194	21,324	2,130
<u>Community Corrections</u>			
Community Corrections Placement	2,643,869	2,643,869	0
Trtmtn. For Subs Abuse and Co-occurring Disorders	2,553,900	2,553,900	0
	5,301,766	5,303,896	2,130
JUDICIAL			
<u>Probation & Related Services</u>			
Offender Treatment & Services	5,995,419	5,995,419	0
<u>Central Programs</u>			
Pots	26,494	15,952	(10,542)
Adult Pre-Trial Diversion	77,000	77,000	0
<u>Administration</u>			
Personal Services	94,323	94,323	0
Indirects	218,748	224,109	5,361
	6,411,984	6,406,803	(5,181)
GRAND TOTAL	20,242,133	20,239,082	(3,051)

**Shaded figure is a carry-forward from FY2015 and will be updated during figure-setting in the spring.*

Conclusion

Next Steps/Conclusion

The FY2016 funding plan is the result of the Board's work over the past year which built on its growing understanding of each agency's funded programming from the cash fund. Priorities are being established and the Board is working toward developing assessment criteria related to its stated funding priorities. The Board is committed to determining the best and most effective use of the correctional treatment cash fund resources and is also committed to ensuring access to valuable programs and services across the state.

The existing FY2015 appropriation and planned FY2016 allocation help support this commitment in that it continues support for expanded availability of parole resources to the middle of the state and it has created an entirely new community corrections bed population for condition of probation. The jail-based behavioral programs are continuing to expand and the Board is working with that program to ensure that appropriate program guidelines exist.

Despite these successes, there is still much work to be done. Specific program outcome, population data and financial reporting consistencies must be established and then assessing each agency's ability to build that measurement and reporting into the varying data systems needs to be discussed. The long-term goal of the Correctional Treatment Board continues to be looking at possible efficiencies in how the State approaches and works with the treatment community, treatment matching offenders to the best type of treatment and continuing the focus on case management strategies and training. All of these activities will lead to an improved quality of offender management and treatment of criminal offenders with substance-abuse and co-occurring disorders which ultimately will create greater public safety in all communities across the state.

Colorado Problem Solving Treatment Courts
as of October 30, 2014

Adult Drug Court				
Cap	District	Location	County	Start Date
80	1	Golden	Jefferson	Jun-09
850	2	Denver	Denver	Jul-94
12	3	Walsenburg	Huefano	Oct-13
12	3	Trinidad	Las Animas	Sep-13
125	4	Co Springs	El Paso	Jan-00
48	4	Co Springs	El Paso	Jul-10
15	5	Eagle	Eagle	Oct-09
15	5	Breckenridge	Summit	Oct-10
40 (27)	6	Durango	La Plata	Jan-01
35	7	Delta	Delta	Jan-01
20	7	Gunnison	Gunnison	Aug-00
35	7	Montrose	Montrose	Jan-99
75	8	Ft. Collins	Larimer	Apr-01
35	9	Glenwood	Garfield	Jan-02
	10	Pueblo	Pueblo	Planning
30	11	Salida	Chaffee	Oct-97
10	11	Fairplay	Park	Oct-97
70	11	Canon	Fremont	Oct-97
	13	Sterling	Logan	Oct-13
20	13	Ft. Morgan	Morgan	Feb-12
12	14	Craig	Moffat	Jan-08
12	14	Steamboat	Rout	Feb-10
12	16	La Junta	Otero	Feb-09
30	17	Brighton	Adams	Oct-11
25	18	Arapahoe	Arapahoe	Oct-11
40	19	Greeley	Weld	Sep-08
75	20	Boulder	Boulder	Nov-06
20	22	Cortez	Montezuma	Jan-01
	Total	28	27	

DUI Court				
Cap	District	Location	County	Start Date
300 (167)	2	Denver*	Denver	Jun-11
10	3	Trinidad	Las Animas	Feb-14
5	4	Cripple Creek	Teller	Dec-10
35	4	Co Springs	El Paso	Jun-08
25	5	Eagle	Eagle	Oct-09
15	5	Leadville	Lake	Jun-10
20	6	Pagosa	Archeluta	Feb-07
30	8	Ft Collins	Larimer	Jul -10
20	11	Canon City	Fremont	Dec-2011
30	11	Salida	Chaffee	Jan-2012
	11	Fairplay	Park	Aug-2013
20	19	Greeley	Weld	Jan-10
60	20	Longmont/ Boulder	Boulder	Jan-09
20	22	Cortez	Montezuma	May-07
290	Total	14	14	

* City and County of Denver

Family/D&N Drug Court				
Cap	District	Location	County	Start Date
40	1	Golden	Jefferson	Oct-08
20	2	Denver	Denver	Apr-03
12	3	Trinidad	Las Animas	Aug-11
12	3	Walsenburg	Huefano	Suspended
53	4	Co. Spring	El Paso	Jul-02
10	7	Delta	Delta	Mar-08
0	7	Montrose	Montrose	Nov-09
0	7	Gunnison	Gunnison	Jun-08
20	8	Ft. Collins	Larimer	Jul-08
15	11	Canon	Fremont	Feb-08
12	12	Alamosa	Alamosa	Aug-06
12	17	Brighton	Adams	Nov-04
15	19	Greeley	Weld	Jan-07
20	20	Boulder	Boulder	Dec-06
5	22	Cortez	Montezuma	Jan-11
246	Total	15	15	

Juvenile Drug Court				
Cap	District	Location	County	Start Date
	2	Denver	Denver	Jan-04
	6	Pagosa	Archuleta	Planning
	6	Durango	La Plata	Jan-01
10	7	Gunnison	Gunnison	Aug-00
10	7	Montrose	Montrose	Suspended
35	8	Ft Collins	Larimer	Apr-98
12	9	Glenwood	Garfield	Aug-10
10	11	Cannon	Fremont	Oct-97
20	20	Boulder	Boulder	Jan-09
5	22	Cortez	Montezuma	Oct - 08
	Total	9	9	

Juvenile Mental Health Court				
Cap	District	Location	County	Start Date
	1	Golden	Jefferson	Aug-06
	17	Brighton	Adams	Oct-10
	Total	2	2	

Adult Mental Health Court				
Cap	District	Location	County	Start Date
	1	Golden	Jefferson	Planning
100	2	Denver D.	Denver	Oct-06
30	4	Co. Springs	El Paso	Jul-12
10	6	Durango	La Plata	Apr-11
	7	Delta/Montrose		Planning
	8	Ft. Collins	Larimer	Planning
	9	Aspen	Pitkin	Jan-14
20	10	Pueblo	Pueblo	Dec-12
10	11	Fremont/Park		Jul-11
	17	Brighton	Adams	Planning
45	18	Centennial	Arapahoe	Fall 2009
	19	Greeley	Weld	Planning
	Total	12	12	

Veterans / Trauma Court				
Cap	District	Location	County	Start Date
40	1	Golden	Jefferson	Apr-14
30	2	Denver	Denver	Fall 2011
150	4	Co. Spring	El Paso	Fall 2009
	10	Pueblo	Pueblo	Planning
25	17	Brighton	Adams	Jan-14
30	18	Castle Rock	Douglas	Mar-13
275	Total	5	5	

CR/DUI Hybrid Court				
Cap	District	Location	County	Start Date
15	9	Aspen	Pitkin	Mar-10
	Total	1	1	

Total		86
Total Operational		78
Total Planning		8

FY 2014-15 Staffing Levels for District Court Judicial Officers								
Judicial District	Counties	Actual Judges (FTE)	Actual Magistrates (FTE)	Actual Water Referees (FTE)	Actual Judicial Officer Total	Needed Staffing Level (FTE) 2/	Actual FTE Over/(Under) Need	Staffing Percentage
1	Gilpin, Jefferson	13.0	7.0	0.0	20.0	23.6	(3.6)	84.9%
2	Denver - District Court	23.0	2.0	0.0	25.0	29.2	(4.2)	85.5%
2	Denver - Juvenile Court	3.0	1.5	0.0	4.5	4.4	0.1	102.7%
2	Denver - Probate Court	1.0	0.8	0.0	1.8	2.0	(0.3)	86.6%
3	Huerfano, Las Animas	2.0	0.0	0.0	2.0	2.2	(0.2)	92.2%
4	El Paso, Teller	22.0	7.3	0.0	29.3	36.2	(7.0)	80.7%
5	Clear Creek, Eagle, Lake,	6.0	0.0	0.0	6.0	5.6	0.4	107.9%
6	Archuleta, La Plata, San Juan	4.0	0.0	0.3	4.3	4.3	(0.0)	99.1%
7	Delta, Gunnison, Hinsdale, Montrose, Ouray, San Miguel	5.0	0.5	0.4	5.9	6.3	(0.4)	93.6%
8	Jackson, Larimer	8.0	3.8	0.0	11.8	12.2	(0.5)	96.2%
9	Garfield, Pitkin, Rio Blanco	5.0	0.0	0.8	5.8	5.5	0.2	104.2%
10	Pueblo	7.0	1.3	0.5	8.8	11.1	(2.3)	78.9%
11	Chaffee, Custer, Fremont, Park	4.0	0.5	0.0	4.5	5.3	(0.8)	84.6%
12	Alamosa, Conejos, Costilla, Mineral, Rio Grande, Saguache	3.0	0.5	0.3	3.8	4.5	(0.7)	84.1%
13	Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Yuma	4.0	0.5	0.0	4.5	5.1	(0.6)	88.4%
14	Grand , Moffat, Routt	3.0	0.0	0.1	3.1	3.3	(0.2)	93.7%
15	Baca, Cheyenne, Kiowa, Prowers	2.0	0.0	0.0	2.0	1.5	0.5	132.5%
16	Bent, Crowley, Otero	2.0	0.0	0.0	2.0	2.2	(0.2)	91.3%
17	Adams, Broomfield	15.0	5.5	0.0	20.5	22.4	(1.9)	91.5%
18	Arapahoe, Douglas, Elbert, Lincoln	23.0	7.0	0.0	30.0	33.9	(3.9)	88.4%
19	Weld	9.0	2.0	2.0	13.0	13.6	(0.6)	95.5%
20	Boulder	9.0	2.3	0.0	11.3	11.8	(0.5)	95.8%
21	Mesa	5.0	2.5	0.0	7.5	8.9	(1.4)	84.7%
22	Dolores, Montezuma	2.0	0.0	0.0	2.0	1.6	0.4	125.0%
STATEWIDE: 2014-15		180.0	44.8	4.2	229.0	256.6	(27.6)	89.2%
<i>Historical Statewide Staffing Levels:</i>								
FY 2013-14		178.0	41.6	4.2	223.8	270.2	(46.4)	82.8%
FY 2012-13		176.0	41.6	4.2	221.8	267.2	(45.4)	83.0%
FY 2011-12		175.0	41.3	4.2	220.5	262.4	(41.8)	84.1%

1/ Need is based on actual case filings from 4/1/13 through 3/31/14. The Department indicates that the workload model for district court judicial officers was most recently updated in 2010.

FY 2014-15 Staffing Levels for County Court Judicial Officers						
County	Actual Judges (FTE)	Actual Magistrates (FTE)	Actual Judicial Officer Total	Needed Staffing Level (FTE) 1/	Actual FTE Over/(Under) Need	Staffing Percentage
Class B Counties:						
Adams	8.0	1.8	9.8	10.9	(1.2)	89.4%
Arapahoe	8.0	2.3	10.3	11.0	(0.6)	94.1%
Boulder 2/	5.0	1.0	6.0	4.3	1.7	139.2%
Broomfield	1.0	0.0	1.0	0.8	0.2	126.6%
Douglas 2/	3.0	1.0	4.0	3.4	0.6	116.1%
Eagle 2/	1.0	0.3	1.3	1.0	0.3	128.9%
El Paso	10.0	3.5	13.5	12.5	1.0	108.0%
Fremont	1.0	0.0	1.0	0.7	0.3	135.1%
Jefferson 2/	9.0	1.5	10.5	9.0	1.5	116.3%
La Plata	1.0	0.0	1.0	1.0	0.0	103.1%
Larimer 2/	5.0	1.3	6.3	5.3	0.9	117.5%
Mesa	3.0	0.3	3.3	3.3	(0.1)	98.2%
Montrose	1.0	0.0	1.0	0.8	0.2	128.2%
Pueblo 2/	3.0	1.0	4.0	3.5	0.5	115.6%
Summit	1.0	0.0	1.0	0.7	0.3	151.5%
Weld	4.0	1.3	5.3	4.8	0.4	108.9%
TOTAL for Class B Counties: FY 2014-15	64.0	15.0	79.0	72.9	6.1	108.3%
<i>Historical Staffing Levels for Class B Counties:</i>						
FY 2013-14	64.0	16.0	80.0	78.2	1.8	102.3%
FY 2012-13	64.0	16.0	80.0	83.5	(3.5)	95.8%
FY 2011-12	63.0	15.7	78.7	86.0	(7.3)	91.6%

1/ Need is based on actual case filings from 4/1/13 through 3/31/14. The Department indicates that the workload model for county court judicial officers was most recently updated in 2011.

2/ The Department indicates it continually monitors staffing levels and manages resources through the Chief Justice's statutory authority to annually determine part-time county judge salaries and the ability to reallocate magistrates and trial court staff among districts. Most recently, these six county courts have been informed that some of their resources will be reallocated to understaffed districts.

FY 2014-15 Staffing Levels for District and County Court Staff					
Judicial District	Counties	Actual Staffing Level (FTE) /1	Needed Staffing Level (FTE) 2/	Actual FTE Over/(Under) Need	Staffing Percentage
1	Gilpin, Jefferson	130.3	126.9	3.4	102.6%
2	Denver - District Court	114.1	120.4	(6.3)	94.7%
2	Denver - Juvenile Court	21.7	19.2	2.5	112.9%
2	Denver - Probate Court	11.5	11.8	(0.3)	97.2%
3	Huerfano, Las Animas	16.8	16.9	(0.1)	99.2%
4	El Paso, Teller	186.2	186.8	(0.7)	99.7%
5	Clear Creek, Eagle, Lake, Summit	42.0	38.0	4.0	110.6%
6	Archuleta, La Plata, San Juan	27.0	26.0	1.0	103.8%
7	Delta, Gunnison, Hinsdale, Montrose, Ouray, San Miguel	44.3	36.7	7.6	120.7%
8	Jackson, Larimer	71.3	72.2	(1.0)	98.7%
9	Garfield, Pitkin, Rio Blanco	38.1	34.5	3.5	110.3%
10	Pueblo	54.3	56.8	(2.5)	95.6%
11	Chaffee, Custer, Fremont, Park	32.0	32.5	(0.5)	98.4%
12	Alamosa, Conejos, Costilla, Mineral, Rio Grande, Saguache	28.3	27.6	0.6	102.4%
13	Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Yuma	32.8	31.5	1.3	104.0%
14	Grand , Moffat, Routt	24.8	23.0	1.7	107.5%
15	Baca, Cheyenne, Kiowa, Prowers	14.5	14.0	0.5	103.9%
16	Bent, Crowley, Otero	16.5	16.5	0.0	100.1%
17	Adams, Broomfield	139.0	133.5	5.5	104.2%
18	Arapahoe, Douglas, Elbert, Lincoln	193.5	192.0	1.5	100.8%
19	Weld	74.5	72.0	2.5	103.4%
20	Boulder	69.2	67.0	2.2	103.3%
21	Mesa	47.0	48.4	(1.4)	97.0%
22	Dolores, Montezuma	15.0	14.3	0.7	104.7%
STATEWIDE		1,444.2	1,418.4	25.8	101.8%

1/ Total staff number for FY 2014-15 includes all district court and county court case processing staff, law clerks, court reporters, administrators, and family court facilitators. This number excludes self-represented litigant coordinators.

2/ Need is based on actual case filings from 4/1/13 through 3/31/14. The Department indicates that the workload model for trial court staff is a decade old and needs to be updated for changes in law, policy, and technology. A time and motion study to accomplish this is tentatively scheduled for late 2015 with a new workload model completed in early 2016.



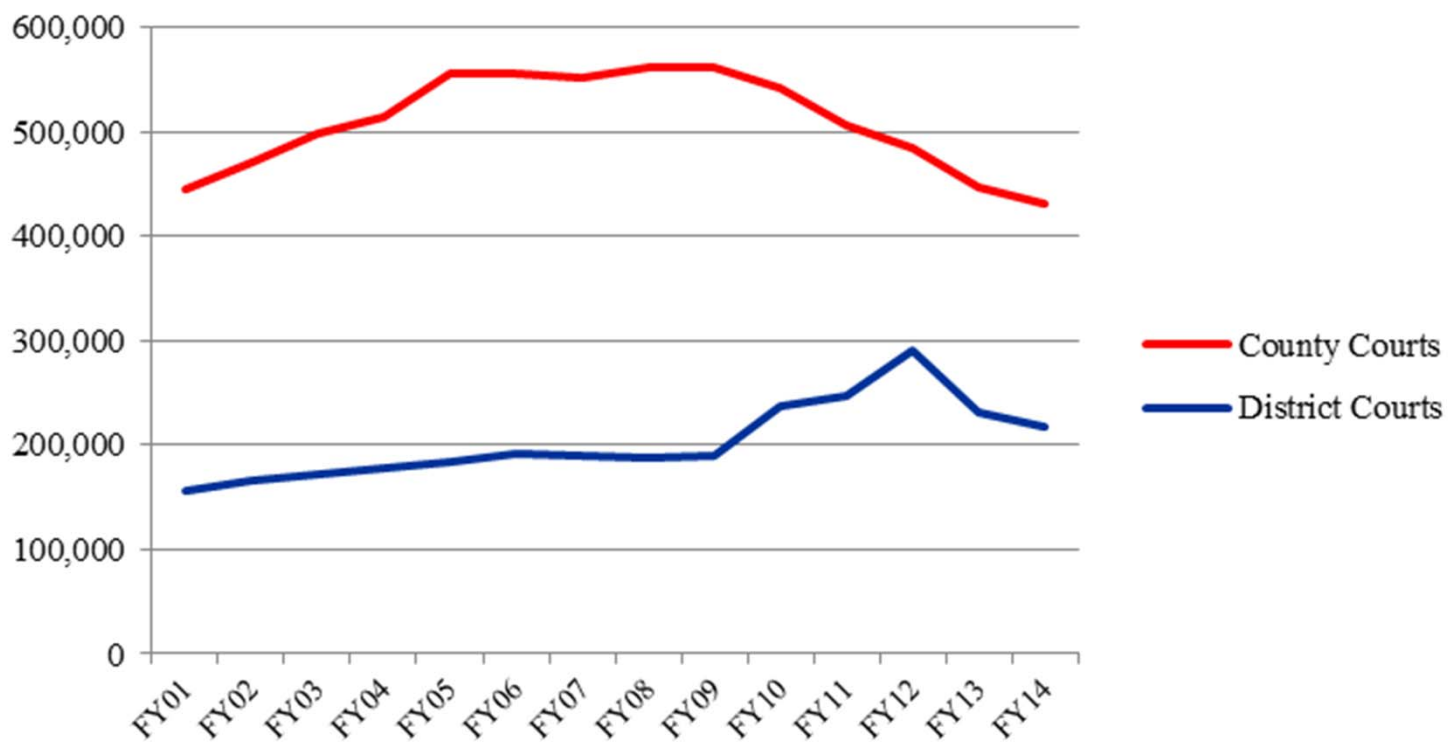
JBC Staff FY 2015-16 Budget Briefing Judicial Department

Presented by:

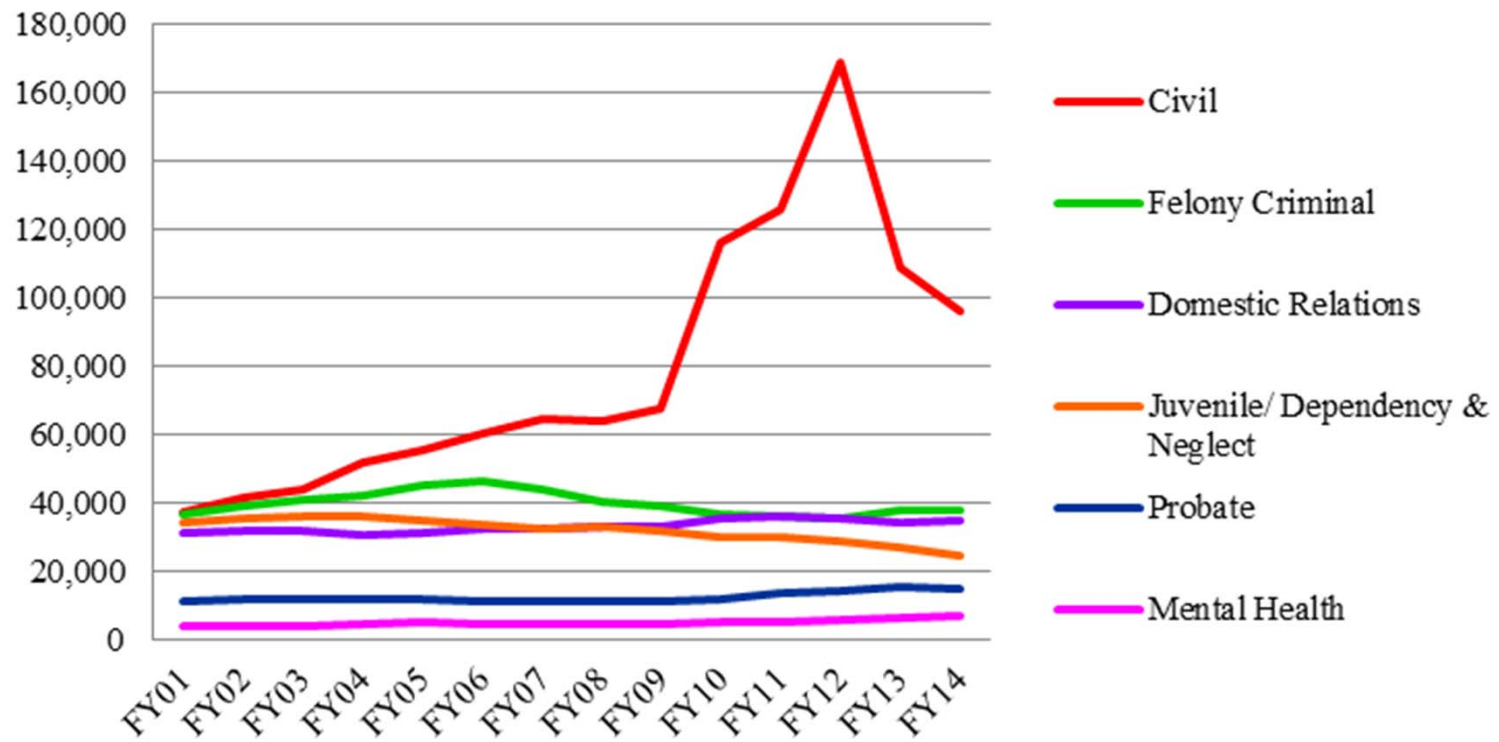
Carolyn Kampman, JBC Staff

November 18, 2014

TRIAL COURT CASE FILINGS FY 2000-01 through FY 2013-14



DISTRICT COURT FILINGS BY CASE TYPE FY 2000-01 to FY 2013-14



COUNTY COURT FILINGS BY CASE TYPE FY 2000-01 to FY 2013-14

