

This Adobe Acrobat file contains the following documents that were presented to the Joint Budget Committee on November 28, 2006:

Document	Adobe Acrobat Page Numbers
Judicial Department: FY 2007-08 Budget Briefing	Pages 2 through 83
Public Defender's Office: Supplemental Request	Pages 84 through 88

COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE



FY 2007-08 STAFF BUDGET BRIEFING:
JUDICIAL BRANCH

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

Prepared By:
Stephanie Walsh, JBC Staff
November 28, 2006

For Further Information Contact:

Joint Budget Committee Staff
200 E. 14th Avenue, 3rd Floor
Denver, Colorado 80203
Telephone: (303) 866-2061
Facsimile: (303) 866-2150
(TDD 866-3472)

**FY 2007-08 Joint Budget Committee Staff Budget Briefing
JUDICIAL BRANCH**

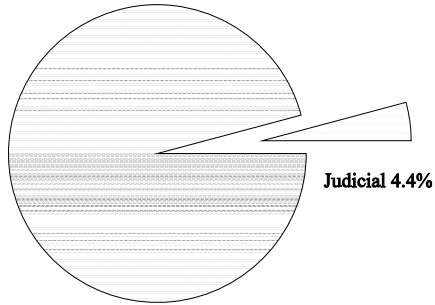
Table of Contents

Graphic Overview.....	2
Department Overview.....	3
Summary of Major Legislation.....	7
Major Funding Changes FY 2005-06 to FY 2006-07.....	9
Change Requests.....	12
Judicial Department.....	12
Public Defender's Office.....	13
Alternate Defense Counsel.....	14
Office of the Child's Representative.....	15
Summary of Requested Changes from FY 2006-07 to FY 2007-08, by Agency.....	17
Numbers Pages Overview.....	19
Numbers Pages.....	21
Footnote Update.....	42
Briefing Issues	
Judicial Department Performance Measures.....	48
The Judicial Department's Five-Year Resource Plan	57
Public Defender's Office Staffing Needs	66
Senate Bill 03-318 Funding and Drug Crime Penalties	73
Appendix A: The Judicial Department's Five-Year Resource Plan.....	79
Appendix B: Cash Funding in Courts Nationally.....	80

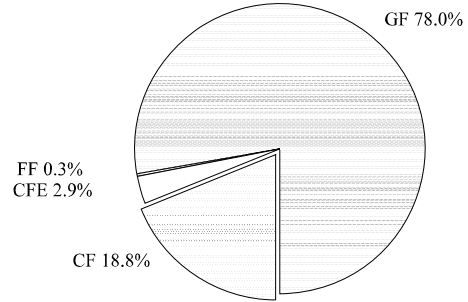
**FY 2007-08 Joint Budget Committee Staff Budget Briefing
JUDICIAL BRANCH**

Graphic Overview

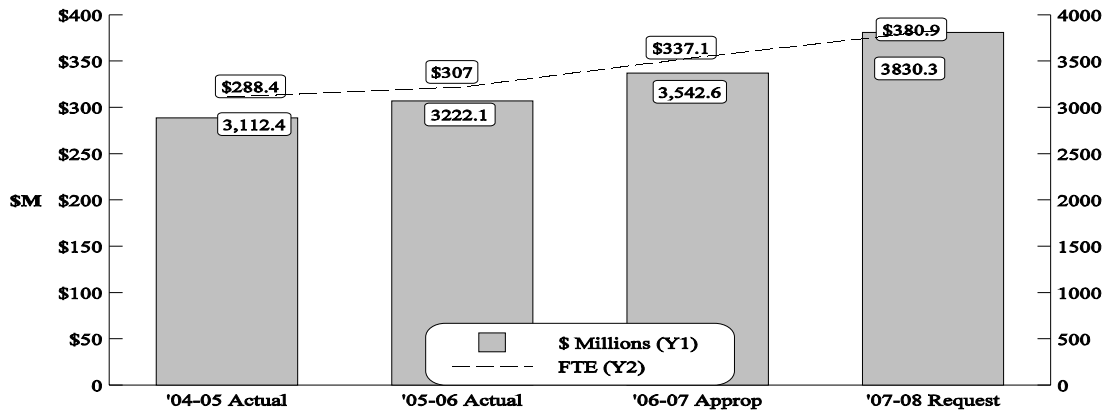
**Share of State General Fund
FY 2006-07**



**Funding Source Split
FY 2006-07**



Budget History¹



¹ The FY 2007-08 request includes \$5.4 million General Fund and 65.0 FTE associated with an "informational" decision item to increase the number of district court judgeships statewide. Judgeships must be created in statute through special legislation. Since these positions do not exist under current law, they typically would not be included in a budget request or Long Bill appropriation.

**FY 2007-08 Joint Budget Committee Staff Budget Briefing
JUDICIAL BRANCH**

Department Overview

Key Responsibilities

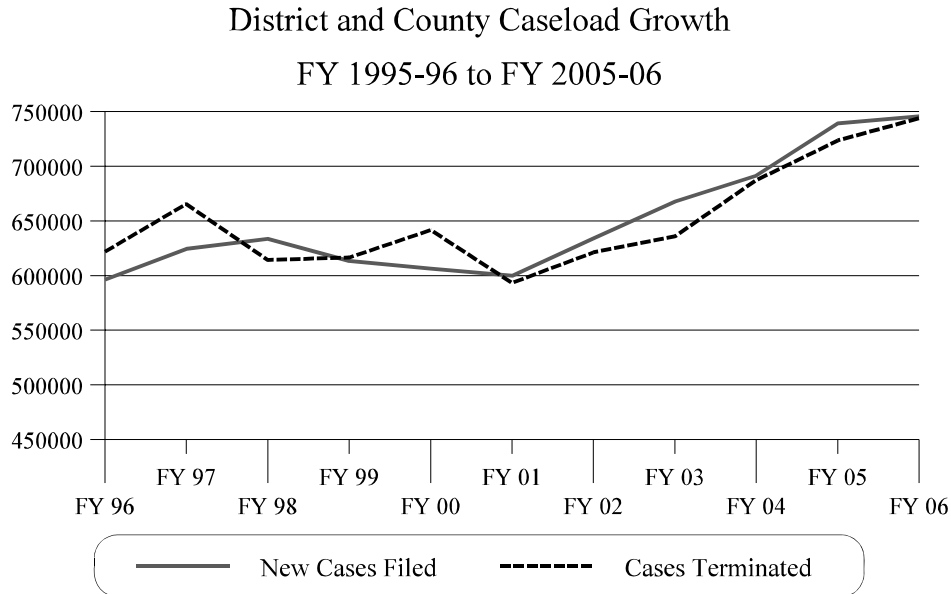
- ▶ The Judicial Branch provides the public with fair and impartial resolution of civil disputes and criminal charges in an efficient and understandable manner.
- ▶ The Branch, through the probation, victims, and collections programs, and through a system of restorative justice, provides a justice system that has public safety as its highest priority.
- ▶ The Supreme Court and Court of Appeals provide appellate review of trial court decisions in a timely and efficient manner. The Supreme Court is also responsible for overseeing the regulation of attorneys, the practice of law, and for reviewing judges standing for retention during elections.
- ▶ The Office of the State Court Administrator provides technical and administrative support to all judicial districts.
- ▶ The Public Defender's Office and the Office of Alternate Defense Counsel, both independent agencies, provide legal representation for indigent criminal defendants.
- ▶ The Office of the Child's Representative, also an independent agency, oversees the provision of legal services to children entitled to legal representation at state expense, and is responsible for ensuring quality representation.

Factors Driving the Budget

The main factor driving the budget of the Judicial Branch is caseload. Judges, magistrates, probation officers, public defenders, guardians ad litem, and staff can only handle so many cases per year. When caseload growth outpaces staffing growth, there is the risk of court cases slowing down, court services being reduced, and probationers and indigent defendants getting less individual attention. In recent years, caseload has been driven by increases in state population, changes in law, and a poor economy.

The Judicial Department

Colorado courts hear civil cases and criminal cases at both the district and county level. Civil cases include contract disputes, collection cases, evictions, foreclosures, and restraining orders. Criminal cases include all felony, misdemeanor, driving under the influence, juvenile delinquency, and domestic violence cases. Since FY 1995-96, new case filings have increased at an average annual rate of 2.3 percent, whereas case terminations have increased by an average of only 1.9 percent annually (see graph below).



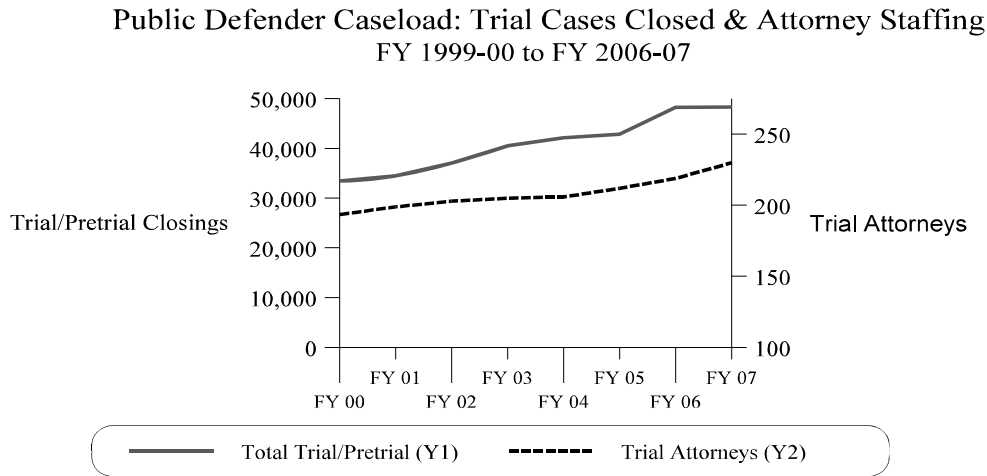
Note: Data for this graph came from Judicial Branch Annual Statistical Report, Fiscal Year 2005-05, Table 12.

Other changes in caseload since FY 2000-01 include:

- ▶ Supreme Court filings have remained steady, increasing at an average annual rate of 0.4 percent (from 1,367 to 1,393), whereas Court of Appeals filings have increased at an average annual rate of 3.5 percent (from 2,335 to 2,748).
- ▶ Water Court filings has remained fairly steady, increasing at an average annual rate of 0.7 percent (from 1,257 to 1,303), although claims have increased at an average annual rate of 2.5 percent (from 4,769 to 5,358).
- ▶ Adult probation has seen new cases increase at an average annual rate of 2.7 percent (from 19,859 to 22,531), whereas juvenile probation has seen new cases decrease at an average annual rate of 2.6 percent (from 7,164 to 6,215).

The Public Defender's Office (PDO)

Since FY 1999-00, the PDO's total trial/pretrial caseload has increased by almost 44 percent (see graph below). This 6.3 percent average annual growth rate is more than triple the state's general population growth rate, which has averaged 1.9 percent since 2000. During this time period, attorney staffing has only grown at an average annual rate of 2.1 percent. The graph below shows the changes in caseload growth and staffing since FY 1999-00.



- (a) FY 2006-07 includes projected Trial/Pretrial Closings. Data for this graph came from the Public Defender's Office Fiscal Year 2006-07 budget request, page 6, and from correspondence with the PDO.

Factors driving the total PDO caseload increase include:

- ▶ Population increases;
- ▶ Large staffing of law enforcement agencies;
- ▶ More counts being filed per case;
- ▶ Juveniles being treated as adults;
- ▶ Changes in laws (particularly relating to sentencing and parole) creating significant adverse potential consequences for clients; and
- ▶ Cases once being charged as misdemeanors being charged as felonies.

These changes make it more difficult and time consuming for attorneys to provide effective representation. Additionally, the portion of the state population earning at or below 125 percent of poverty level² has grown at an average annual rate of 6.5 percent since FY 1999-00, increasing the number of people eligible for representation.

² One hundred twenty-five percent of poverty level is the standard of eligibility for indigent defense representation by the State Public Defender, per Chief Justice Directive 04-04.

Alternate Defense Counsel (ADC)

The ADC's caseload has increased in recent years for the same reasons the Public Defender's caseload has increased. Additionally, the ADC has seen an increase in the number of multiple defendant murder cases, and an increase in the number of multiple defendant grand jury indictments. Total caseload grew at a rate of 35.8 percent from FY 2000-01 through FY 2005-06, an average annual rate of 6.6 percent.

Office of the Child's Representative (OCR)

In the past four years, the largest and most complex portion of OCR's caseload - dependency and neglect filings - has increased at an average annual rate of 7.6 percent. These "D&N" filings account for over 60 percent of the OCR's total cases. The OCR has also seen an increase in the complexity of cases as measured by the time required to provide effective representation. The OCR attributes this change to a lack of preventative services; a lack of thorough investigative work by social services because of heavy caseloads; and social services recommendations based on budgetary constraints rather than the best interests of the child. Since the guardians ad litem (GALs) must advocate for the best interests of the child, they are requesting hearings and litigation to meet those needs more frequently than in the past.

Office of the Child's Representative Caseloads

Case Type	FY 02-03	FY 02-03	FY 03-04	FY 04-05	FY 05-06	Average Annual Change
Dependency & Neglect	5,557	5,847	6,493	6,972	7,618	7.6%
Juvenile Delinquency	3,737	3,461	3,042	3,655	3,833	-0.1%
Domestic Relations & Paternity	731	860	1,094	848	778	-0.4%
Probate & All Other Case Types	442	157	165	185	179	-42.3%
Total	10,467	10,325	10,794	11,660	12,408	4.1%

NOTE: Data for this table came from correspondence between the Office of the Child's Representative and JBC staff.

Summary of Major Legislation

- ▶ **S.B. 06-22 (Kester/Penry): Sexually Violent Predators.** Expanded the definition of sexually violent predators (SVPs) and the definition of conviction of specified sex offenses. Required the Probation program to conduct additional risk assessments for sex offenders. Appropriated \$27,000 from the Sex Offender Surcharge Cash Fund to the Judicial Department for FY 2006-07. Requires the Department of Corrections to complete risk assessments on SVPs prior to release on parole or discharge from prison.
- ▶ **S.B. 06-61 (Keller/Larson): Legal Setting Interpreting for the Deaf.** Transferred the authority for overseeing the provision of hearing interpreters from the Department of Human Services, Division of Rehabilitation, to the Department of Human Services, Commission for the Deaf and Hard of Hearing. Reduced the FY 2006-07 Long Bill appropriation for the Judicial Department by \$80,162 General Fund since the Department will no longer be responsible for the payment of all appointments for interpreter services. Provided an FY 2006-07 appropriation for the Judicial Department of \$31,888 General Fund and 0.3 FTE to pay for court-appointed counsel when someone is considering waiving their right to an interpreter and for modifications to the Court-Appointed Counsel Payment and Data System.
- ▶ **H.B. 06-1011 (McCluskey/Sandoval): Internet Crimes Against Children.** Created two new felonies subject to an indeterminate sentence that could reach a maximum of an offender's lifetime: (1) internet luring of a child; and (2) internet sexual exploitation of a child. Provided the Judicial Department an appropriation of \$19,682 General Fund and 0.4 FTE for increased probation costs in FY 2006-07.
- ▶ **H.B. 06-1028 (T. Carroll/Mitchell): Increase the Number of Judges in the Judicial Department.** Created three new judgeships on the Colorado Court of Appeals and four new county court judgeships (located in Jefferson, Douglas, Mesa, and Weld counties). In FY 2006-07, appropriated a total of \$3,133,968 General Fund and 42.5 FTE to the Judicial Department for the Supreme Court/Court of Appeals, the Trial Courts, and the Public Defender's Office.
- ▶ **S.B. 05-30 (Shaffer/Hefley): Family-friendly Courts Act.** Repealed the repeal date of the Family-friendly Court Program, expanded the criteria used by the State Court Administrator to determine which judicial districts may receive grant moneys under the program, and clarifies the responsibilities of the judicial districts that have been selected to receive grants monies.
- ▶ **S.B. 04-253 (Reeves/Judd): Interception of Funds for Judicial Fees.** Allowed the offset of a state income tax refund owed to a defendant against the defendant's outstanding fines, fees, costs, or surcharges owed to a court or against a defendant's court-ordered restitution obligation. Expanded the existing offset of lottery winnings for the payment of court-ordered restitution to juvenile cases in which restitution is ordered.

- ▶ **H.B. 04-1021 (Briggs/McElhany): DUI Blood Alcohol Content.** Lowered the blood alcohol content (BAC) for the offense of driving under the influence of alcohol from 0.10 grams per 100 ml of blood to 0.08 grams per 100 ml. Allowed for "tastings" of alcohol beverages in retail liquor stores and liquor-licensed drugstores, and allows hotel or restaurant customers to reseal and remove from the premises one partially consumed bottle of wine up to 750 milliliters. Appropriated \$8,377 General Fund and 0.2 FTE for the Trial Courts.
- ▶ **H.B. 04-1028 (Coleman/Anderson): Public Defender Application Fee.** Changed the Public Defender application fee to a processing fee of \$25. Repealed the court's power to reduce the fee from \$25 to \$10 and allowed the court to waive the fee at sentencing, adjudication, or other final disposition. Changed the point at which the fee is assessed and collected from the initial application for representation to the final case disposition.
- ▶ **H.B. 04-1193 (Fairbank/Hillman): Penalties for Driving Without Insurance.** Increased financial and other penalties for driving without insurance, and increased fees to support the requirements in the bill.
- ▶ **H.B. 04-1256 (Hodge/Hillman): Water Supply Agreements.** Repealed certain restrictions on water supply agreements, resulting in an increase in water court caseload. Appropriated \$10,000 from the Water Adjudication Cash Fund to the Judicial Department for Trial Courts.
- ▶ **S.B. 03-76 (Teck/Mitchell): DUI and Unlawful Use of a Controlled Substance.** Changed the time frames and penalties for driving under the influence of alcohol (DUI) and unlawful use of a controlled substance. Provided a FY 2003-04 appropriation of approximately \$240,000 cash funds from the Offender Services Fund and 5.5 FTE for Probation.
- ▶ **S.B. 03-186 (Owen/Young): Docket Fee Increase.** Raised civil docket fees by 50 percent. Refinanced \$3.4 million in FY 2002-03 General Fund expenditures with cash funds from the increased fee revenue. Created the Judicial Stabilization Cash Fund to receive fee revenue.
- ▶ **S.B. 03-271 (Owen/Young): Augment GF Using CF transfers.** Transferred various cash fund balances to the General Fund, including up to \$1 million in unencumbered funds from the balance of the Victims and Witness Assistance and Law Enforcement Fund. Also increased surcharges levied on criminal and traffic offenses by 30 percent, which is anticipated will generate approximately \$4.5 million for the General Fund.
- ▶ **S.B. 03-282 (Teck/Witwer): Tobacco Funds/Victims of Family Violence.** Provided \$500,000 of tobacco moneys to provide grants for programs that provide legal services to victims of family violence.
- ▶ **H.B. 03-1378 (Hefley/Anderson): Criminal Docket Fee Increase.** Increased the docket fee in criminal actions in all courts of record except for the Court of Appeals and the Supreme Court. The revenue shall be used for judicial performance evaluations.

Major Funding Changes FY 2005-06 to FY 2006-07

Action (Source)	General Fund	Other Funds	Total Funds	Total FTE
Raise court-appointed counsel rates for Judicial Department, Alternate Defense Counsel, and Office of the Child's Representative contractors <i>(H.B. 06-1385)</i>	\$5,500,491	\$0	\$5,500,491	0.0
Annualize salary survey increases awarded in FY 2005-06 <i>(H.B. 06-1385)</i>	\$5,030,012	\$140,323	\$5,170,335	0.0
Adjust centrally-appropriated line items, such as salary survey, short-tem disability, and state contributions to health, life, and dental benefits <i>(H.B. 06-1385)</i>	\$3,413,639	\$11,567 CF	\$3,425,206	0.0
Fund 42.5 FTE, including 3.0 Court of Appeals judges and 4.0 county court judges <i>(H.B. 06-1028)</i>	\$3,133,968	\$0	\$3,133,968	42.5
Fund the final 6.0 district court judges created pursuant to H.B. 01-1075, 27.0 related court staff, and 3.0 public defenders <i>(H.B. 06-1385)</i>	\$2,396,563	\$0	\$2,396,563	33.0
Fund 31.0 new Trial Courts staff <i>(H.B. 06-1385)</i>	\$1,224,947	\$0	\$1,224,947	31.0
Fund 20.0 new Probation staff <i>(H.B. 06-1385)</i>	\$1,210,918	\$0	\$1,210,918	20.0

Action (Source)	General Fund	Other Funds	Total Funds	Total FTE
Fund caseload growth for the Alternate Defense Counsel <i>(H.B. 06-1385)</i>	\$911,964	\$0	\$911,964	0.0
Fund 20.0 additional FTE for the Office of the Public Defender due to caseload growth <i>(H.B. 06-1385)</i>	\$882,019	\$0	\$882,019	20.0
Fund 3.5 new district court magistrates and associated court staff <i>(H.B. 06-1385)</i>	\$839,270	\$0	\$839,270	14.0
Fund a death penalty rate increase and attorney travel rate increase for the Alternate Defense Counsel <i>(H.B. 06-1385)</i>	\$829,000	\$0	\$829,000	0.0
Fund caseload growth for the Office of the Child's Representative <i>(H.B. 06-1385)</i>	\$544,678	\$0	\$544,678	0.0
Fund 5.0 FTE to convert Judicial's case management system to the JAVA programming language <i>(H.B. 06-1385)</i>	\$300,533	\$0	\$300,533	5.0
Fund 2.0 Human Resources staff for the State Court Administrator's Office <i>(H.B. 06-1385)</i>	\$139,714	\$0	\$139,714	2.0
Increase cash fund exempt spending authority from the Offender Services Cash Fund for treatment and support services for probationers <i>(H.B. 06-1385)</i>	\$0	\$1,500,000 CFE	\$1,500,000	0.0

Action (Source)	General Fund	Other Funds	Total Funds	Total FTE
Account for changes in continuously appropriated cash funds administered by the Supreme Court <i>(H.B. 06-1385)</i>	\$0	\$1,400,000 CF (\$100,000) CFE	\$1,300,000	0.0
Fund 15.0 new Collections Investigators <i>(H.B. 06-1385)</i>	\$0	\$691,230 CF	\$691,230	15.0
Match Judicial's appropriation with its FY 2005-06 S.B. 91-94 contract with the Department of Human Services <i>(H.B. 06-1385)</i>	\$0	\$611,623 CFE	\$611,623	0.0

**FY 2007-08 Joint Budget Committee Staff Budget Briefing
JUDICIAL BRANCH**

Change Requests

Judicial Department: Decision Items

Priority	Division: Description <i>[Statutory Authority]</i>	GF	CF	CFE	FF	Total	FTE
JUD 1	Trial Courts: Create 13.0 new county court judgeships ³ <i>[Section 13-6-101, C.R.S.]</i>	\$0	\$5,425,879	\$0	\$0	\$5,425,879	65.0
JUD 2	Trial Courts: Provide additional staff for trial courts <i>[Sections 13-5-101 and 13-6-101, C.R.S.]</i>	\$1,239,761	\$0	\$0	\$0	\$1,239,761	28.8
JUD 3	Trial Courts: Increase the number of county court magistrates <i>[Section 13-6-501, C.R.S.]</i>	\$117,299	\$0	\$0	\$0	\$117,299	1.0
JUD 4	Probation: Provide additional regular probation officers and staff <i>[Section 18-1.3-208, C.R.S.]</i>	\$5,881,378	\$0	\$0	\$0	\$5,881,378	96.5

³ Please note that JUD decision item 1 involves creating new judgeships, and hence, require the passage of special legislation. Historically, the appropriation for new judges has been contained in the special bill creating those positions. The Department submitted this decision item to inform the Joint Budget Committee of its desired funding total for FY 2007-08, even though these positions do not exist under current law, and as such, would not typically be included in a budget request or a Long Bill appropriation.

Priority	Division: Description <i>[Statutory Authority]</i>	GF	CF	CFE	FF	Total	FTE
JUD 5	Probation: Increase Drug Offender Surcharge Fund Spending Authority <i>[Section 18-19-103, C.R.S.]</i>	\$0	\$0	\$332,213	\$0	\$332,213	0.0
JUD 6	Probation: Provide funding for community treatment services related to S.B. 03-318 <i>[Section 18-18-404 and 406]</i>	\$2,500,000	\$0	\$0	\$0	\$2,500,000	0.0
Total Judicial Decision Items		\$9,738,438	\$5,425,879	\$332,213	\$0	\$15,496,530	191.3

Public Defender's Office: Decision Items

Priority	Division: Description <i>[Statutory Authority]</i>	GF	CF	CFE	FF	Total	FTE
PDO 1a	Personal Services: Provide additional staff to address caseload increases <i>[Section 21-1-101(1), C.R.S.]</i>	\$2,982,290	\$0	\$0	\$0	\$2,982,290	66.5
PDO 1b	Leased Space: Provide leased space costs associated with additional staff <i>[Section 21-1-101(1), C.R.S.]</i>	\$669,936	\$0	\$0	\$0	\$669,936	0.0
Total PDO Decision Items		\$3,652,226	\$0	\$0	\$0	\$3,652,226	66.5

Alternate Defense Counsel: Decision Items

Priority	Division: Description <i>[Statutory Authority]</i>	GF	CF	CFE	FF	Total	FTE
ADC 1	Conflict of Interest and Mandated Costs: Increase base budget due to caseload growth <i>[Section 21-2-101, C.R.S.]</i>	\$2,383,314	\$0	\$0	\$0	\$2,383,314	0.0
ADC 2	Conflict of Interest: Provide funding for mandated mileage rate increase <i>[Section 21-2-101, C.R.S.]</i>	\$118,314	\$0	\$0	\$0	\$118,314	0.0
ADC 3	Personal Services and Conflict of Interest: Create an additional FTE to manage appellate cases; offset cost with contractor savings <i>[Section 21-2-101, C.R.S.]</i>	(\$40,906)	\$0	\$0	\$0	(\$40,906)	1.0
ADC 4	Operating Expenses: Provide base increase for IT and other expenses <i>[Section 21-2-101, C.R.S.]</i>	\$38,700	\$0	\$0	\$0	\$38,700	0.0
ADC 5	Personal Services and Operataing Expenses: Implement a training program for attorneys <i>[Section 21-2-101, C.R.S.]</i>	\$69,611	\$0	\$0	\$0	\$69,611	0.5
ADC 6	Leased Space: Adjustment associated with relocation to new office in Denver	(\$14,654)	\$0	\$0	\$0	(\$14,654)	0.0

Priority	Division: Description [Statutory Authority]	GF	CF	CFE	FF	Total	FTE
ADC 7	Conflict of Interest Contracts: Increase hourly rate for attorneys [Section 21-2-105, C.R.S.]	\$3,125,831	\$0	\$0	\$0	\$3,125,831	0.0
	Total ADC Decision Items	\$5,680,210	\$0	\$0	\$0	\$5,680,210	1.5

Office of the Child's Representative: Decision Items

Priority	Division: Description [Statutory Authority]	GF	CF	CFE	FF	Total	FTE
OCR 1	Court Appointed Counsel: Increase base budget due to caseload growth [Section 13-91-101, C.R.S.]	\$529,736	\$0	\$0	\$0	\$529,736	0.0
OCR 2	Lease Space: Annual increase	\$4,891	\$0	\$0	\$0	\$4,891	0.0
OCR 3	Court Appointed Counsel and Personal Services: Increase hourly rate for GALs and child family investigators [Section 13-91-101, C.R.S.]	\$2,291,706	\$0	\$0	\$0	\$2,291,706	0.0
OCR 4	Operating Expenses: Provide funding for mandated mileage rate increase [Section 13-91-101, C.R.S.]	\$7,905	\$0	\$0	\$0	\$7,905	0.0

Priority	Division: Description <i>[Statutory Authority]</i>	GF	CF	CFE	FF	Total	FTE
OCR 5	Operating Expenses: Fund Westlaw contract for the El Paso County GAL Office <i>[Section 13-91-101, C.R.S.]</i>	\$7,841	\$0	\$0	\$0	\$7,841	0.0
OCR 6	Personal Services: Billing staff reallocation <i>[Section 13-91-101, C.R.S.]</i>	\$15,000	\$0	\$0	\$0	\$15,000	0.0
OCR 7	Training: Increase training budget <i>[Section 13-91-101, C.R.S.]</i>	\$10,000	\$0	\$0	\$0	\$10,000	0.0
OCR 8	Personal Services: Convert the El Paso County GAL Office staff to FTE	\$0	\$0	\$0	\$0	\$0	21.8
	Total OCR Decision Items	\$2,867,079	\$0	\$0	\$0	\$2,867,079	21.8

**FY 2007-08 Joint Budget Committee Staff Budget Briefing
JUDICIAL BRANCH**

Summary of Requested Changes from FY 2006-07 to FY 2007-08, by Agency

	Approp. FY 2006-07	Request FY 2007-08	Change	Percent Change
<i>Judicial Department</i>				
Total	268,620,580	297,737,268	29,116,688	10.8%
<u>FTE</u>	<u>3,139.7</u>	<u>3,337.6</u>	<u>197.9</u>	<u>6.3%</u>
GF	194,266,844	216,136,666	21,869,822	11.3%
CF/CFE	73,187,489	80,439,138	7,251,649	9.9%
FF	1,166,247	1,161,464	(4,783)	-0.4%
<i>Public Defender's Office</i>				
Total	37,805,592	43,811,888	6,006,296	15.9%
<u>FTE</u>	<u>393.9</u>	<u>460.4</u>	<u>66.5</u>	<u>16.9%</u>
GF	37,711,514	43,722,451	6,010,937	15.9%
CF/CFE	94,078	89,437	(4,641)	-4.9%

	Approp. FY 2006-07	Request FY 2007-08	Change	Percent Change
<i>Alternate Defense Counsel</i>				
Total	18,291,224	23,998,255	5,707,031	31.2%
<u>FTE</u>	<u>5.0</u>	<u>6.5</u>	<u>1.5</u>	<u>30.0%</u>
GF	18,283,224	23,990,255	5,707,031	31.2%
CF/CFE	8,000	8,000	0	0.0%
<i>Office of the Child's Representative</i>				
Total	12,356,798	15,340,830	2,984,032	24.1%
<u>FTE</u>	<u>4.0</u>	<u>25.8</u>	<u>21.8</u>	<u>545.0%</u>
GF	12,356,798	15,340,830	2,984,032	24.1%
CF/CFE	0	0	0	0.0%
JUDICIAL BRANCH TOTAL				
Total	337,074,194	380,888,241	43,814,047	13.0%
<u>FTE</u>	<u>3,542.6</u>	<u>3,830.3</u>	<u>287.7</u>	<u>8.1%</u>
GF	262,618,380	299,190,202	36,571,822	13.9%
CF/CFE	73,289,567	80,536,575	7,247,008	9.9%
FF	1,166,247	1,161,464	(4,783)	-0.4%

**FY 2007-08 Joint Budget Committee Staff Budget Briefing
JUDICIAL BRANCH**

Numbers Pages Overview

Requested Changes FY 2006-07 to FY 2007-08						
Category	GF	CF	CFE	FF	Total	FTE
FY 2006-07 Appropriation	\$262,618,380	\$63,387,875	\$9,901,692	\$1,166,247	\$337,074,194	3,542.6
JUD Decision Items	\$9,738,438	\$5,425,879	\$332,213	\$0	\$15,496,530	191.3
PDO Decision Items	\$3,652,226	\$0	\$0	\$0	\$3,652,226	66.5
ADC Decision Items	\$5,680,210	\$0	\$0	\$0	\$5,680,210	1.5
OCR Decision Items	\$2,867,079	\$0	\$0	\$0	\$2,867,079	21.8
Salary Survey/Anniversary Changes	\$12,375,465	\$825,256	\$0	\$0	\$13,200,721	0.0
Common Policy Changes ^a	\$3,521,300	\$244,611	\$69,321	(\$4,783)	\$3,830,449	0.0
Annualizing FY 06-07 Decision Items and Special Bills	(\$1,022,087)	(\$20,825)	\$0	\$0	(\$1,042,912)	1.6
Changes in Non-appropriated Line Items ^b	\$0	\$185,000	\$0	\$0	\$185,000	5.0
0.2 % Personal Services Reduction	(\$312,282)	\$0	\$0	\$0	(\$312,282)	0.0
Other Miscellaneous Changes	\$71,473	\$191,688	(\$6,135)	\$0	\$257,026	0.0
FY 2007-08 Request	\$299,190,202	\$70,239,484	\$10,297,091	\$1,161,464	\$380,888,241	3,830.3
Total Change	\$36,571,822	\$6,851,609	\$395,399	(\$4,783)	\$43,814,047	287.7

^a Changes in the following line-items are included here: Health/Life/Dental, Short-term Disability; Amortization Equalization Disbursement (AED), Supplemental AED, Statewide Indirect Costs; Departmental Indirect Costs; Communication Services; Vehicle Lease; Multi-use Network; Purchase of Services from Government Computing Center; Workers' Compensation; and Payments to Risk Management.

^b The non-appropriated line items with changes are Attorney Regulation (a 5.0 FTE increase), Continuing Legal Education (a \$45,000 cash funds increase), and Law Library (a \$140,000 cash funds increase). These line items are shown in the Long Bill for informational purposes only, as they are part of the Supreme Court's Constitutional responsibilities for regulating the practice of law in Colorado.

- ▶ The \$36.6 million increase in **General Fund** is due to: salary survey and anniversary changes totaling \$12.4 million; Judicial Department decision items totaling \$9.7 million; Alternate Defense Counsel decision items totaling \$5.7 million; Public Defender's Office decision items totaling \$3.7 million; common policy changes totaling \$3.5 million; Office of the Child's Representative decision items totaling \$2.9 million; and other miscellaneous funding changes. These increases are partially offset by \$1.0 million in reductions due to the annualization of FY 2006-07 decision items and special bills, and \$312,000 in personal services base reductions.
- ▶ The \$6.9 million increase in **Cash Funds** is primarily due to: Judicial Department decision items totaling \$5.4 million; salary survey and anniversary changes totaling \$825,000; common policy changes totaling \$245,000; changes in non-appropriated line items totaling \$185,000; and other miscellaneous changes.
- ▶ The \$395,000 increase in **Cash Funds Exempt** is primarily due to Judicial Department decision items totaling \$332,000, as well as common policy changes totaling \$69,000. These increases are partially offset by \$6,000 in miscellaneous reductions.
- ▶ The \$5,000 decrease in **Federal Funds** is due to common policy changes.
- ▶ The 287.7 increase in **FTE** is due to Judicial Department decision items totaling 191.3 FTE; Public Defender's Office decision items totaling 66.5 FTE; Office of the Child's Representative decision items totaling 21.8 FTE; changes in non-appropriated line items totaling 5.0 FTE; the annualization of FY 2005-06 decision items and special bills totaling 1.6 FTE; and Alternate Defense Counsel decision items totaling 1.5 FTE.

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	Change Requests
JUDICIAL BRANCH					
Chief Justice Mary Mullarkey					
(1) SUPREME COURT/COURT OF APPEALS					
The primary functions of the Supreme Court are general supervisory control of lower courts; appellate review of lower court judgements; original jurisdiction for certain constitutional and other cases; and rule-making for the state court system.					
The Court of Appeals is the initial jurisdiction for appeals from district courts and certain state agencies.					
The cash funds and cash funds exempt are from various fees and cash recoveries.					
Personal Services - GF	8,111,324	8,293,628	9,276,868 a/	9,481,580	
FTE	111.7	113.4	132.5 a/	132.5	
Operating Expenses	<u>192,894</u>	<u>184,194</u>	<u>301,912</u>	<u>301,912</u>	
General Fund	141,001	126,932	233,912 a/	233,912	
Cash Funds	51,893	57,262	68,000	68,000	
Capital Outlay - GF	0	0	241,937 a/	0	
Attorney Regulation Committees	4,100,756	4,312,053	4,700,000	4,700,000	
FTE	<u>35.5</u>	<u>40.5</u>	<u>35.5</u>	<u>40.5</u>	
Cash Funds	4,100,756	4,312,053	4,600,000	4,600,000	
FTE	35.5	40.5	35.5	40.5	
Cash Funds Exempt	0	0	100,000	100,000	
Continuing Legal Education	266,207	332,264	280,000	325,000	
FTE	<u>4.0</u>	<u>4.0</u>	<u>4.0</u>	<u>4.0</u>	
Cash Funds	266,207	332,264	275,000	320,000	
FTE	4.0	4.0	4.0	4.0	
Cash Funds Exempt	0	0	5,000	5,000	

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	Change Requests
Law Examiner Board	682,082	754,752	850,000	850,000	
FTE	<u>8.2</u>	<u>8.2</u>	<u>8.2</u>	<u>8.2</u>	
Cash Funds	682,082	754,752	750,000	750,000	
FTE	8.2	8.2	8.2	8.2	
Cash Funds Exempt	0	0	100,000	100,000	
Law Library	<u>376,797</u>	<u>420,578</u>	<u>360,000</u>	<u>500,000</u>	
General Fund	0	67,000	0	0	
Cash Funds	356,967	353,578	360,000	500,000	
Cash Funds Exempt	19,830	0	0	0	
					Request. v. Approp
TOTAL - Supreme Court/ Court of Appeals	13,730,060	14,297,469	16,010,717	16,158,492	0.9%
FTE	<u>159.4</u>	<u>166.1</u>	<u>180.2</u>	<u>185.2</u>	2.8%
General Fund	8,252,325	8,487,560	9,752,717	9,715,492	-0.4%
FTE	111.7	113.4	132.5	132.5	0.0%
Cash Funds	5,457,905	5,809,909	6,053,000	6,238,000	3.1%
FTE	47.7	52.7	47.7	52.7	10.5%
Cash Funds Exempt	19,830	0	205,000	205,000	0.0%

a/ Per H.B. 06-1028, these appropriations include \$1,263,034 General Fund (\$917,897 Personal Services, \$103,200 Operating Expenses, and \$241,937 Capital Outlay) and 13.5 FTE due to the creation of three new judgeships on the Colorado Court of Appeals, and associated staff.

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	Change Requests
(2) COURTS ADMINISTRATION					
(A) Administration					
The Office of the State Court Administrator coordinates and controls budgeting, research, data processing and management services for the Judicial Branch; and provides training, technical assistance and other support services. The sources of cash funds are various fees and cost recoveries. The source of cash funds exempt is indirect cost recoveries.					
Personal Services	3,789,222	4,199,418	4,315,560	4,728,765	
FTE	<u>52.0</u>	<u>52.0</u>	<u>58.0</u>	<u>58.0</u>	
General Fund	3,254,658	3,301,369	3,291,219	3,634,087	
FTE	52.0	52.0	58.0	58.0	
Cash Funds Exempt	534,564	898,049	1,024,341	1,094,678	
Operating Expenses	<u>385,147</u>	<u>363,775</u>	<u>367,121</u>	<u>367,121</u>	
General Fund	385,075	362,775	366,121	366,121	
Cash Funds	72	1,000	1,000	1,000	
Capital Outlay - GF	0	29,639	6,010	0	
Judicial/Heritage Program	600,950	779,720	591,565	599,061	
FTE	<u>3.0</u>	<u>3.0</u>	<u>3.0</u>	<u>3.0</u>	
General Fund	256,481	576,527	315,717	322,957	
FTE	3.0	3.0	3.0	3.0	
Cash Funds	1,398	0	0	0	
Cash Funds Exempt	343,071	203,193	275,848	276,104	
Family Friendly Courts - CF	229,092	267,528	375,000	375,000	
FTE	<u>0.5</u>	<u>0.5</u>	<u>0.5</u>	<u>0.5</u>	
Cash Funds	229,092	0	252,200	252,200	
FTE	0.5	0.0	0.5	0.5	
Cash Funds Exempt	0	267,528	122,800	122,800	
FTE	0.0	0.5	0.0	0.0	

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	Change Requests
Courthouse Capital/Infrastructure Maintenance - GF	n/a	910,616	1,000,000	1,000,000	
Family Violence - GF	0	489,732	500,000	500,000	
Statewide Indirect Costs	<u>58,924</u>	<u>56,733</u>	<u>122,003</u>	<u>110,398</u>	
Cash Funds	48,949	52,018	105,244	99,438	
Cash Funds Exempt	9,975	4,715	6,424	5,408	
Federal Funds	0	0	10,335	5,552	
Departmental Indirect Costs - CF	475,640	841,316	925,228	1,007,170	
					Request. v. Approp
SUBTOTAL - Administration	5,538,975	7,938,477	8,202,487	8,687,515	5.9%
FTE	<u>55.5</u>	<u>55.5</u>	<u>61.5</u>	<u>61.5</u>	0.0%
General Fund	3,896,214	5,670,658	5,479,067	5,823,165	6.3%
FTE	55.0	55.0	61.0	61.0	0.0%
Cash Funds	755,151	894,334	1,283,672	1,359,808	5.9%
FTE	0.5	0.0	0.5	0.5	0.0%
Cash Funds Exempt	887,610	1,373,485	1,429,413	1,498,990	4.9%
FTE	0.0	0.5	0.0	0.0	n/a
Federal Funds	0	0	10,335	5,552	-46.3%

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	Change Requests
(B) Administrative Special Purpose					
This subdivision is for centrally appropriated POTS, and ancillary programs. Cash funds are from fees paid by defendants and others who use the courts.					
Health, Life and Dental	<u>6,441,305</u>	<u>7,497,558</u>	<u>10,810,954</u>	<u>13,542,957</u>	
General Fund	6,048,890	7,151,688	10,289,530	12,541,603	JUD DI #2, 4
Cash Funds	392,415	345,870	521,424	1,001,354	JUD DI # 1
Short-term Disability	<u>168,955</u>	<u>162,712</u>	<u>171,378</u>	<u>217,115</u>	
General Fund	165,597	154,907	162,146	204,700	JUD DI #2, 4
Cash Funds	3,358	7,805	9,232	12,415	JUD DI # 1
Salary Survey	<u>3,709,621</u>	<u>4,538,489</u>	<u>4,170,093</u>	<u>10,497,974</u>	
General Fund	3,672,997	4,466,340	3,964,840	9,542,185	
Cash Funds	36,624	72,149	205,253	955,789	
Anniversary Increases	<u>1,210,209</u>	<u>0</u>	<u>0</u>	<u>1,339,812</u>	
General Fund	1,185,209	0	0	1,265,092	
Cash Funds	25,000	0	0	74,720	
S.B. 04-257 Amortization					
Equalization Disbursement (AED)	<u>n/a</u>	<u>296,837</u>	<u>1,055,252</u>	<u>1,908,151</u>	
General Fund		277,311	993,977	1,820,820	
Cash Funds		19,526	61,275	87,331	
Workers' Compensation - GF	1,041,420	1,110,655	1,207,704	1,263,608	
Legal Services - GF	212,062	260,357	286,464	286,464	
Hours	4,227	4,227	4,227	4,227	
Payment to Risk Management - GF	315,394	164,445	401,642	540,768	
Vehicle Lease Payments - GF	77,034	65,813	72,786	75,707	

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	Change Requests
Leased Space	<u>551,797</u>	<u>613,690</u>	<u>616,854</u>	<u>625,715</u>	
General Fund	530,677	590,410	592,614	601,475	
Cash Funds	21,120	23,280	24,240	24,240	
Lease Purchase - GF	112,766	112,766	112,766	112,766	
Administrative Purposes	<u>38,010</u>	<u>157,001</u>	<u>195,554</u>	<u>195,554</u>	
General Fund	13,275	123,904	130,554	130,554	
Cash Funds	24,735	33,097	65,000	65,000	
Retired Judges - GF	1,396,970	1,383,362	1,384,006	1,384,006	
Appellate Reports - GF	52,168	37,528	67,100	67,100	
Office of Dispute Resolution	1,017,617	The appropriation for this office is now located in the Trial Courts			
FTE	<u>6.2</u>	Personal Services and Operating Expenses line items.			
Cash Funds	877,395				
FTE	6.2				
Cash Funds Exempt	3,308				
Federal Funds	136,914				
Child Support Enforcement	67,592	65,373	90,900	90,900	
FTE	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	
General Fund	24,036	21,588	30,904	30,904	
Cash Funds Exempt	43,556	43,785	59,996	59,996	
FTE	1.0	1.0	1.0	1.0	

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	Change Requests
Collections Investigators	3,184,397	3,315,049	3,942,004	4,013,661	
FTE	<u>59.8</u>	<u>57.7</u>	<u>83.2</u>	<u>83.2</u>	
Cash Funds	2,742,084	2,797,178	3,420,771	3,492,428	
FTE	59.8	57.7	83.2	83.2	
Cash Funds Exempt	442,313	517,871	521,233	521,233	
					Request. v. Approp
SUBTOTAL - Special Purpose	19,597,317	19,781,635	24,585,457	36,162,258	47.1%
FTE	<u>67.0</u>	<u>58.7</u>	<u>84.2</u>	<u>84.2</u>	0.0%
General Fund	14,848,495	15,921,074	19,697,033	29,867,752	51.6%
Cash Funds	4,122,731	3,298,905	4,307,195	5,713,277	32.6%
FTE	66.0	57.7	83.2	83.2	0.0%
Cash Funds Exempt	489,177	561,656	581,229	581,229	0.0%
FTE	1.0	1.0	1.0	1.0	0.0%
Federal Funds	136,914	0	0	0	n/a

(C) Judicial Performance

This subdivision is responsible for Judicial Performance evaluations.

Personal Services - CF	85,762	87,765	87,552	89,849	
FTE	1.0	1.0	1.0	1.0	
Operating Expenses - CF	199,779	176,575	478,445	478,445	
					Request. v. Approp
SUBTOTAL-Judicial Performance - CF	285,541	264,340	565,997	568,294	0.4%
FTE	1.0	1.0	1.0	1.0	0.0%

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	Change Requests
(D) Integrated Information Services					
This subdivision is responsible for developing and maintaining information technology systems used by the courts, including ICON and CICJIS, for training staff on their use, and for assuring data integrity. The sources of cash funds are various fees and cost recovery. The cash funds exempt are federal funds transferred through the Division of Criminal Justice.					
Personal Services	2,725,257	2,966,478	3,112,544	3,168,822	
FTE	<u>39.2</u>	<u>39.2</u>	<u>43.1</u>	<u>42.8</u>	
General Fund	2,537,581	2,837,293	2,893,544 a/	2,949,822	
FTE	39.2	39.2	43.1 a/	42.8	
Cash Funds Exempt	0	129,185	219,000	219,000	
Federal Funds	187,676	0	0	0	
Operating Expenses	<u>149,592</u>	<u>193,400</u>	<u>224,569</u>	<u>224,569</u>	
General Fund	99,592	174,568	174,569	174,569	
Cash Funds	50,000	18,832	50,000	50,000	
JAVA Conversion - GF	n/a	n/a	285,508	311,054	
FTE			5.0	5.0	
Capital Outlay - GF	0	0	15,025	0	
Purchase of Services from Computer Center - GF	91,491	85,909	87,176	93,933	
Multi-use Network - GF	370,753	314,594	311,928	309,135	
Telecommunications Expense	<u>309,710</u>	<u>310,000</u>	<u>383,392</u>	<u>383,392</u>	
General Fund	309,710	310,000	310,000	310,000	
Cash Funds	0	0	73,392	73,392	
Communications Services Payments - GF	8,193	10,790	11,486	10,338	

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	Change Requests
Hardware Replacement	<u>1,650,000</u>	<u>1,724,181</u>	<u>1,764,920</u>	<u>1,650,000</u>	
Cash Funds	1,650,000	1,649,181	1,764,920	1,650,000	
Cash Funds Exempt	0	75,000	0	0	
Hardware/Software Maintenance	<u>1,078,094</u>	<u>1,069,429</u>	<u>1,078,094</u>	<u>1,078,094</u>	
General Fund	1,043,094	1,043,094	1,043,094	1,043,094	
Cash Funds	35,000	26,335	35,000	35,000	
					Request. v. Approp
SUBTOTAL - Integrated Information					
Services	6,383,090	6,674,781	7,274,642	7,229,337	-0.6%
FTE	<u>39.2</u>	<u>39.2</u>	<u>48.1</u>	<u>47.8</u>	<u>-0.6%</u>
General Fund	4,460,414	4,776,248	5,132,330	5,201,945	1.4%
FTE	39.2	39.2	48.1	47.8	-0.6%
Cash Funds	1,735,000	1,694,348	1,923,312	1,808,392	-6.0%
Cash Funds Exempt	0	204,185	219,000	219,000	0.0%
Federal Funds	187,676	0	0	0	n/a
					Request. v. Approp
TOTAL - Courts Administration	31,804,923	34,659,233	40,628,583	52,647,404	29.6%
FTE	<u>162.7</u>	<u>154.4</u>	<u>194.8</u>	<u>194.5</u>	<u>-0.2%</u>
General Fund	23,205,123	26,367,980	30,308,430	40,892,862	34.9%
FTE	94.2	94.2	109.1	108.8	-0.3%
Cash Funds	6,898,423	6,151,927	8,080,176	9,449,771	17.0%
FTE	67.5	58.7	84.7	84.7	0.0%
Cash Funds Exempt	1,376,787	2,139,326	2,229,642	2,299,219	3.1%
FTE	1.0	1.5	1.0	1.0	0.0%
Federal Funds	324,590	0	10,335	5,552	-46.3%

a/ Per S.B. 06-61, these appropriations include \$17,130 General Fund and 0.3 FTE due to changes in the authority for overseeing the provision of interpreters and other services for persons who are deaf or hard of hearing.

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	Change Requests
(3) TRIAL COURTS					
Trial courts include district, county, and water courts. District courts have general jurisdiction over domestic, civil, and criminal cases, as well as appellate jurisdiction for decisions of county and municipal courts. County courts have jurisdiction over traffic cases and minor criminal and civil cases, as well as appellate jurisdiction for municipal courts. Cash funds are from various fees, including docket fees and cost recovery.					
Personal Services	86,523,232	92,597,864	95,755,638	102,649,835	
FTE	<u>1,478.6</u>	<u>1,528.4</u>	<u>1,688.0</u>	<u>1,782.8</u>	
General Fund	80,607,894	84,504,084	88,897,671	91,858,522	JUD DI #2, 3
FTE	1,391.5	1,441.5	1,601.1	1,630.9	JUD DI #2, 3
Cash Funds	5,269,836	7,373,009	6,857,967	10,791,313	JUD DI # 1
FTE	87.1	86.9	86.9	151.9	JUD DI # 1
Federal Funds	645,502	720,771	0	0	
Operating Expenses	<u>7,072,837</u>	<u>6,076,552</u>	<u>6,623,006</u>	<u>6,743,044</u>	
General Fund	6,250	168,787	197,387	216,675	JUD DI #2, 3
Cash Funds	7,066,587	5,907,765	6,425,619	6,526,369	JUD DI # 1
Capital Outlay	<u>61,547</u>	<u>481,230</u>	<u>1,029,387</u>	<u>1,263,992</u>	
General Fund	61,547	481,230	1,029,387	212,903	JUD DI #2, 3
Cash Funds	0	0	0	1,051,089	JUD DI # 1
Mandated Costs	13,082,892	13,699,335	12,343,219	12,343,219	
FTE	<u>25.0</u>	<u>25.0</u>	<u>0.0</u>	<u>0.0</u>	
General Fund	12,621,552	13,377,974	11,808,219	11,808,219	
FTE	25.0	25.0	0.0	0.0	
Cash Funds	461,340	321,361	535,000	535,000	
Language Interpreters - GF	n/a	n/a	2,705,561	2,705,561	
FTE			25.0	25.0	

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	Change Requests
District Attorney Mandated Costs	<u>1,911,970</u>	<u>1,879,174</u>	<u>1,962,733</u>	<u>1,915,667</u>	
General Fund	1,911,970	1,772,849	1,837,733	1,790,667	
Cash Funds	0	106,325	125,000	125,000	
Sex Offender Surcharge Fund Program					
General Fund	19,665	15,535	21,021	24,988	
Victim Compensation	<u>9,300,471</u>	<u>9,275,866</u>	<u>9,654,000</u>	<u>9,654,000</u>	
Cash Funds	8,494,136	9,275,866	9,115,000	9,115,000	
Cash Funds Exempt	806,335	0	539,000	539,000	
Victim Assistance	<u>10,816,619</u>	<u>11,456,949</u>	<u>12,003,000</u>	<u>12,003,000</u>	
Cash Funds	10,816,619	11,456,949	11,651,000	11,651,000	
Cash Funds Exempt	0	0	352,000	352,000	
Federal Funds and Other Grants	643,792	1,060,599	1,141,627	1,141,627	
FTE	<u>8.5</u>	<u>8.5</u>	<u>8.5</u>	<u>8.5</u>	
Cash Funds	124,774	178,442	363,000	363,000	
Cash Funds Exempt	16,770	61,001	383,469	383,469	
FTE	6.0	6.0	6.0	6.0	
Federal Funds	502,248	821,156	395,158	395,158	
FTE	2.5	2.5	2.5	2.5	

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	Change Requests Request. v. Approp
TOTAL - Trial Courts	129,433,025	136,543,104	143,239,192	150,444,933	5.0%
FTE	<u>1,512.1</u>	<u>1,561.9</u>	<u>1,721.5</u>	<u>1,816.3</u>	5.5%
General Fund	95,228,878	100,320,459	106,496,979	108,617,535	2.0%
FTE	1,416.5	1,466.5	1,626.1	1,655.9	1.8%
Cash Funds	32,233,292	34,619,717	35,072,586	40,157,771	14.5%
FTE	87.1	86.9	86.9	151.9	74.8%
Cash Funds Exempt	823,105	61,001	1,274,469	1,274,469	0.0%
FTE	6.0	6.0	6.0	6.0	0.0%
Federal Funds	1,147,750	1,541,927	395,158	395,158	0.0%
FTE	2.5	2.5	2.5	2.5	0.0%

a/ Per S.B. 06-61, these appropriations have been reduced by \$49,148 General Fund (\$27,817 Personal Services and \$21,331 Mandated Costs) due to changes in the authority for overseeing the provision of interpreters and other services for persons who are deaf or hard of hearing.

b/ Per H.B. 06-1028, these appropriations include \$1,236,622 General Fund (\$903,278 Personal Services, \$28,600 Operating Expenses, and \$304,744 Capital Outlay) and 16.0 FTE due to the creation of four new county court judgeships, and associated staff.

(4) PROBATION AND RELATED SERVICES

This Division provides supervision of offenders sentenced to probation, presentence investigations for the courts, victim notification and assistance, and community outreach programs. Cash funds are from fees paid by offenders for supervision and restitution.

Personal Services	42,624,292	46,330,138	49,550,944	a/	55,687,413	
FTE	<u>725.5</u>	<u>781.9</u>	<u>882.4</u>	a/	<u>980.8</u>	
General Fund	40,391,993	44,094,277	45,258,574	a,b,c/	51,367,339	JUD DI #4
FTE	701.5	751.9	814.7	a,b/	913.1	JUD DI #4
Cash Funds	2,232,299	2,235,861	4,292,370	a/	4,320,074	
FTE	24.0	30.0	67.7	a/	67.7	
Operating Expenses	<u>1,818,419</u>	<u>1,939,680</u>	<u>2,050,160</u>		<u>2,290,630</u>	
General Fund	1,802,852	1,844,115	1,875,660		2,030,060	JUD DI #4
Cash Funds	15,567	95,565	174,500		260,570	
Capital Outlay - GF	0	304,903	87,291		526,185	JUD DI #4

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	Change Requests
Female Offender Program - CFE FTE	209,129 5.4	Beginning in FY 05-06, funding for this program was merged into the Probation Personal Services and Operating Expenses line items.			
Sex Offender Intensive Supervision Cash Funds	454,548	524,608	0 a/	0	
Offender Services FTE	2,729,947 <u>25.1</u>	2,961,155 <u>31.5</u>	0 a/ <u>0.0</u> a/	0 <u>0.0</u>	
Cash Funds FTE	2,729,947 22.1	2,961,155 28.5	0 a/ 0.0 a/	0 0.0	
Cash Funds Exempt FTE	0 3.0	0 3.0	0 a/ 0.0 a/	0 0.0	
Offender Treatment and Services General Fund	n/a	n/a	<u>5,962,077</u> a/ 487,193 a/	<u>6,294,290</u> 487,193	
Cash Funds Cash Funds Exempt			3,824,884 a,d/ 1,650,000 a/	3,824,884 1,982,213	JUD DI #5
Electronic Monitoring/Drug Testing General Fund	<u>521,965</u> 464,685	<u>503,022</u> 446,605	0 a/ 0 a/	0 0	
Cash Funds	57,280	56,417	0 a/	0	
Alcohol/Drug Driving Safety Program FTE	4,381,603 <u>81.0</u>	4,302,904 <u>73.3</u>	4,613,219 <u>86.2</u>	4,709,524 <u>86.2</u>	
Cash Funds FTE	4,224,197 75.4	4,302,904 73.3	4,613,219 86.2	4,709,524 86.2	
Cash Funds Exempt FTE	157,406 5.6	0 0.0	0 0.0	0 0.0	

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	Change Requests
Drug Offender Assessment	781,897	727,409	0 a/	0	
FTE	<u>10.7</u>	<u>11.5</u>	<u>0.0</u> a/	<u>0.0</u>	
Cash Funds	613,429	727,409	0 a/	0	
FTE	10.7	11.5	0.0 a/	0.0	
Cash Funds Exempt	168,468	0	0 a/	0	
Substance Abuse Treatment- CF	888,262	819,411	0 a/	0	
Victims Grants	711,626	334,081	882,821	882,821	
FTE	<u>17.3</u>	<u>17.3</u>	<u>17.3</u>	<u>17.3</u>	
Cash Funds Exempt	711,626	334,081	882,821	882,821	
FTE	12.3	17.3	17.3	17.3	
Federal Funds	0	0	0	0	
FTE	5.0	0.0	0.0	0.0	
S.B. 91-94 - CFE	1,138,660	1,248,378	1,906,837	1,906,837	
FTE	25.0	25.0	25.0	25.0	
S.B. 03-318 - GF	n/a	n/a	n/a	2,500,000	JUD DI #6
Sex Offender Assessment	<u>230,357</u>	<u>192,597</u>	<u>0</u> a/	<u>0</u>	
Cash Funds	203,620	192,597	0 a/	0	
Cash Funds Exempt	26,737	0	0 a/	0	
Genetic Testing - GF	793	1,480	0 a/	0	

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	Change Requests
Federal Funds and Other Grants	2,298,679	1,993,387	3,688,739	3,688,739	
FTE	<u>32.3</u>	<u>32.3</u>	<u>32.3</u>	<u>32.3</u>	
Cash Funds	442,795	731,230	1,190,000	1,190,000	
FTE	2.0	2.0	2.0	2.0	
Cash Funds Exempt	445,073	294,898	1,737,985	1,737,985	
FTE	17.8	17.8	17.8	17.8	
Federal Funds	1,410,811	967,259	760,754	760,754	
FTE	12.5	12.5	12.5	12.5	
					Request. v. Approp
TOTAL - Probation	58,790,177	62,183,153	68,742,088	78,486,439	14.2%
FTE	<u>922.3</u>	<u>972.8</u>	<u>1,043.2</u>	<u>1,141.6</u>	9.4%
General Fund	42,660,323	46,691,380	47,708,718	56,910,777	19.3%
FTE	701.5	751.9	814.7	913.1	12.1%
Cash Funds	11,861,944	12,647,157	14,094,973	14,305,052	1.5%
FTE	134.2	145.3	155.9	155.9	0.0%
Cash Funds Exempt	2,857,099	1,877,357	6,177,643	6,509,856	5.4%
FTE	69.1	63.1	60.1	60.1	0.0%
Federal Funds	1,410,811	967,259	760,754	760,754	0.0%
FTE	17.5	12.5	12.5	12.5	0.0%

a/ In FY 2006-07, the appropriation for the Probation and Related Services Division was reorganized. Seven line items were eliminated, and the funding that would have otherwise been appropriated to them was reallocated to Personal Services, Operation Expenses, and the new Offender Treatment and Services line item.

b/ Per H.B. 06-1011, this appropriation includes \$19,682 General Fund and 0.4 FTE due to the creation of two new felonies: (1) internet luring of a child and (2) internet sexual exploitation. The fiscal note for this bill assumed the new felonies would result in seven additional cases sent to probation.

c/ Per S.B. 06-61, this appropriation includes a reduction of \$16,256 General Fund due to changes in the authority for overseeing the provision of interpreters and other services for persons who are deaf or hard of hearing.

d/ Per S.B. 06-22, this figure includes \$27,000 cash funds from Sex Offender Surcharge Cash Fund to conduct additional risk assessments of sex offenders.

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	Change Requests Request. v. Approp
TOTAL - Judicial Department	233,758,185	247,682,959	268,620,580	297,737,268	10.8%
FTE	<u>2,756.5</u>	<u>2,855.2</u>	<u>3,139.7</u>	<u>3,337.6</u>	6.3%
General Fund	169,346,649	181,867,379	194,266,844	216,136,666	11.3%
FTE	2,323.9	2,426.0	2,682.4	2,810.3	4.8%
Cash Funds	56,451,564	59,228,710	63,300,735	70,150,594	10.8%
FTE	336.5	343.6	375.2	445.2	18.7%
Cash Funds Exempt	5,076,821	4,077,684	9,886,754	10,288,544	4.1%
FTE	76.1	70.6	67.1	67.1	0.0%
Federal Funds	2,883,151	2,509,186	1,166,247	1,161,464	-0.4%
FTE	20.0	15.0	15.0	15.0	0.0%

(5) PUBLIC DEFENDER

Douglas Wilson, State Public Defender

This agency provides legal counsel for indigent defendants who are facing incarceration. Cash funds are received for training provided to private attorneys. The cash funds exempt are for federal grants transferred to the Public Defender's Office from the Department of Public Safety.

Personal Services	24,493,290	26,024,434	28,955,590	32,481,779	
FTE	<u>348.9</u>	<u>357.9</u>	<u>393.9</u>	<u>460.4</u>	
General Fund	24,429,900	25,961,044	28,892,200 a/	32,418,389	PDO DI #1a
FTE	347.3	356.3	392.3 a/	458.8	PDO DI #1a
Cash Funds	63,390	63,390	63,390	63,390	
FTE	1.6	1.6	1.6	1.6	
Health, Life, and Dental - GF	947,926	1,133,947	1,436,316	1,806,462	
Short-term Disability - GF	32,539	32,805	26,253	36,159	
Salary Survey - GF	597,768	720,235	843,028	1,030,273	
Anniversary Increases - GF	250,517	0	0	253,563	

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	Change Requests
Amortization Equalization Disbursement (AED) - GF	n/a	48,828	164,566	351,808	PDO DI #1a
Supplemental Amortization Equalization Disbursement (AED) - GF	n/a	n/a	n/a	98,388	PDO DI #1a
Operating Expenses	<u>1,092,593</u>	<u>1,035,314</u>	<u>837,764</u>	<u>871,014</u>	
General Fund	1,076,843	1,019,564	822,014 a/	853,514	PDO DI #1a
Cash Funds	15,750	15,750	15,750	17,500	
Purchase of Services from GGCC - GF	13,740	12,449	12,633	13,107	
Multi-use Network - GF	211,185	200,063	198,251	238,953	
Vehicle Lease Payments - GF	53,547	43,035	47,309	47,229	
Capital Outlay - GF	19,458	34,198	112,681 a/	218,997	PDO DI #1a
Leased Space/Utilities - GF	2,074,825	2,412,730	2,599,818	3,455,226	PDO DI #1b
Automation Plan - GF	650,341	1,006,768	489,746	489,746	
Contract Services - GF	18,000	18,000	18,000	18,000	
Mandated Costs - GF	2,001,180	2,178,921	2,048,699	2,392,637	
Grants - CFE	88,756	57,317	14,938	8,547	

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	Change Requests Request. v. Approp
TOTAL - Public Defender	32,545,665	34,959,044	37,805,592	43,811,888	15.9%
FTE	348.9	357.9	393.9	460.4	16.9%
General Fund	32,377,769	34,822,587	37,711,514	43,722,451	15.9%
FTE	347.3	356.3	392.3	458.8	17.0%
Cash Funds	79,140	79,140	79,140	80,890	2.2%
FTE	1.6	1.6	1.6	1.6	0.0%
Cash Funds Exempt	88,756	57,317	14,938	8,547	-42.8%

a/ Per H.B. 06-1028, these appropriations include \$634,312 General Fund (\$588,746 Personal Services, \$6,500 Operating Expenses, and \$39,065 Capital Outlay) and 13.0 FTE due to the anticipated increase in workload caused by the creation of a new panel of judges on the Colorado Court of Appeals and the creation of four new county court judgeships.

(6) OFFICE OF THE ALTERNATE DEFENSE COUNSEL

Lindy Frolich, State Alternate Defense Counsel

This agency provides legal counsel for indigent defendants in cases where the Public Defender is unable to provide representation due to a conflict of interest. Cash funds are received for training provided to private attorneys.

Personal Services - GF	411,206	451,321	456,747	561,212	ADC DI #3, 5
FTE	3.0	5.0	5.0	6.5	
Health, Life, and Dental - GF	9,304	11,743	16,953	31,496	
Short-term Disability - GF	565	568	456	509	
Salary Survey - GF	7,410	1,771	10,983	16,244	
Anniversary Increases - GF	6,744	0	0	3,736	
Amortization Equalization Disbursement (AED) - GF	n/a	849	2,857	4,918	
Supplemental Amortization Equalization Disbursement (AED) - GF	n/a	n/a	n/a	1,025	

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	Change Requests
Operating Expenses	<u>35,211</u>	<u>46,945</u>	<u>34,630</u>	<u>65,330</u>	
General Fund	35,211	45,415	26,630	65,330	ADC DI #4
Cash Funds	0	1,530	8,000	0	ADC DI #5
Purchase of Services from GGCC - GF	2,191	0	950	1,092	
Leased Space - GF	23,230	26,285	47,426	32,772	ADC DI #6
Training and Conferences	n/a	n/a	n/a	<u>28,000</u>	
General Fund				20,000	ADC DI #5
Cash Funds				8,000	ADC DI #5
Conflict of Interest Contracts - GF	11,328,626	13,283,794	16,299,606	21,756,438	ADC DI #1,2,3,7
Mandated Costs - GF	1,048,313	1,104,890	1,420,616	1,495,483	ADC DI #1
					Request. v. Approp
TOTAL - Alternate Defense Counsel	12,872,800	14,928,166	18,291,224	23,998,255	31.2%
FTE	<u>3.0</u>	<u>5.0</u>	<u>5.0</u>	<u>6.5</u>	<u>30.0%</u>
General Fund	12,872,800	14,926,636	18,283,224	23,990,255	31.2%
FTE	3.0	5.0	5.0	6.5	30.0%
Cash Funds	0	1,530	8,000	8,000	0.0%

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	Change Requests
(7) OFFICE OF THE CHILD'S REPRESENTATIVE					
Theresa Spahn, Executive Director					
This agency provides representation to children involved in the court system due to abuse and neglect, high-conflict divorce, or delinquency, who are legally entitled to appointed counsel. Counsel may take the form of guardians ad-litem or child family investigators. Cash funds exempt was from reserves in the original cash fund created when the Office was established in 2000.					
Personal Services - GF	1,455,582	1,517,847	1,597,393	1,649,659	OCR DI #6
FTE	4.0	4.0	4.0	25.8	OCR DI #8
Health, Life, and Dental - GF	49,018	60,728	63,054	101,789	
Short-term Disability - GF	1,760	1,969	1,753	1,908	
Salary Survey - GF	26,866	46,254	40,544	58,004	
Anniversary Increases - GF	5,708	0	0	12,099	
Amortization Equalization Disbursement (AED) - GF	n/a	2,814	10,987	22,225	
Operating Expenses - GF	172,400	157,694	130,836	146,582	OCR DI #4,5
Purchase of Services from GGCC - GF	1,131	1,025	1,040	1,040	
Capital Outlay - GF	14,000	0	0	0	
Leased Space - GF	122,645	127,133	130,949	135,840	OCR DI #2
CASA Contracts - GF	20,000	20,000	20,000	20,000	

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	Change Requests
Training - GF	<u>27,859</u>	<u>28,000</u>	<u>28,000</u>	<u>38,000</u>	
General Fund	0	28,000	28,000	38,000	OCR DI #7
Cash Funds Exempt	27,859	0	0	0	
Court Appointed Counsel - GF	7,259,237	7,415,368	10,321,014	13,142,456	OCR DI #1, 3
Mandated Costs - GF	24,211	24,014	11,228	11,228	
					Request. v. Approp
TOTAL - Office of the Child's Representative -	9,180,417	9,402,846	12,356,798	15,340,830	24.1%
FTE	<u>4.0</u>	<u>4.0</u>	<u>4.0</u>	<u>25.8</u>	<u>545.0%</u>
General Fund	9,152,558	9,402,846	12,356,798	15,340,830	24.1%
FTE	4.0	4.0	4.0	25.8	545.0%
Cash Funds Exempt	27,859	0	0	0	n/a
					Request. v. Approp
JUDICIAL GRAND TOTAL	288,357,067	306,973,015	337,074,194	380,888,241	13.0%
FTE	<u>3,112.4</u>	<u>3,222.1</u>	<u>3,542.6</u>	<u>3,830.3</u>	<u>8.1%</u>
General Fund	223,749,776	241,019,448	262,618,380	299,190,202	13.9%
FTE	2,678.2	2,791.3	3,083.7	3,301.4	7.1%
Cash Funds	56,530,704	59,309,380	63,387,875	70,239,484	10.8%
FTE	338.1	345.2	376.8	446.8	18.6%
Cash Funds Exempt	5,193,436	4,135,001	9,901,692	10,297,091	4.0%
FTE	76.1	70.6	67.1	67.1	0.0%
Federal Funds	2,883,151	2,509,186	1,166,247	1,161,464	-0.4%
FTE	20.0	15.0	15.0	15.0	0.0%

**FY 2007-08 Joint Budget Committee Staff Budget Briefing
JUDICIAL BRANCH**

Footnote Update

- 2 All Departments, Totals** -- The General Assembly requests that copies of all reports requested in other footnotes contained in this act be delivered to the Joint Budget Committee and the majority and minority leadership in each house of the General Assembly. Until such time as the Secretary of State publishes the code of Colorado regulations and the Colorado register in electronic form pursuant to section 24-4-103 (11) (b), C.R.S., each principal department of the state is requested to produce its rules in an electronic format that is suitable for public access through electronic means. Such rules in such format should be submitted to the Office of Legislative Legal Services for publishing on the Internet. Alternatively, the Office of Legislative Legal Services may provide links on its internet web site to such rules. It is the intent of the General Assembly that this be done within existing resources.

Comment: The Department is in compliance with this footnote.

- 3 All Departments, Totals** – Every Department is requested to submit to the Joint Budget Committee information on the number of additional federal and cash funds exempt FTE associated with any federal grants or private donations that are applied for or received during FY 2006-07. The information should include the number of FTE, the associated costs (such as workers' compensation, health and life benefits, need for additional space, etc.) that are related to the additional FTE, the direct and indirect matching requirements associated with the federal grant or donated funds, the duration of the grant, and a brief description of the program and its goals and objectives.

Comment: This footnote was vetoed on the grounds that it violates the separation of powers, in that it is attached to federal funds and private donations which are not subject to legislative appropriation. Additionally, the Governor stated that it could constitute substantive legislation and is an unfunded mandated. However, the Department complied with part of the footnote request.

For FY 2006-07, the Department expects to receive almost 50 federal grants totaling approximately \$1.7 million. Ten of these grants require a state match which will total approximately \$423,000. The number of FTE funded by all the grants was not identified. Approximately 75 percent of the grants are for the Probation program. These grants will provide assistance to victims of crimes, and provide funding for various projects and programs such as domestic violence services, drug use prevention, adult literacy, and Family Drug Court. Most of the remaining grant money will be used in the trial courts for services such as child support enforcement and court improvement.

- 4 **Department of Corrections, Management, Executive Director's Office Subprogram; Department of Human Services, Mental Health and Alcohol and Drug Abuse Services, Alcohol and Drug Abuse Division; and Division of Youth Corrections; Judicial Department, Probation and Related Services; and Department of Public Safety, Division of Criminal Justice** -- 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 Drug Offender Surcharge Fund, the Sex Offender Surcharge Fund, the Persistent Drunk Driver Cash Fund, and the Alcohol and Drug Driving Safety Fund, among other programs.

Comment: This footnote was vetoed on the grounds that it violates the separation of powers. Additionally, the Governor stated that it could constitute substantive legislation. However, the Governor instructed departments to comply to the extent feasible.

All four funds are in compliance with this request; however, there were inconsistencies with the requests for the Drug Offender Surcharge Fund and the Sex Offender Surcharge Fund.

For the **Drug Offender Surcharge Fund**, the Judicial Department is the lead agency responsible for submission of a comprehensive annual budget request. The other affected departments are Corrections, Public Safety, and Human Services. This year, there were discrepancies between the footnote report, the Judicial Branch's schedules for the fund, and the requests by the other departments.

Similarly, the **Sex Offender Surcharge Fund** is managed by the Sex Offender Board (SOMB) in the Department of Public Safety. The SOMB endorses a plan for expenditures from the cash fund each year for the affected departments (Judicial, Corrections, Public Safety, and Human Services). However, this year, Judicial's request of \$302,029 from the fund is greater than its allotment of \$275,029.

Staff is concerned that, despite efforts to foster coordination between agencies that jointly utilize specific cash funds, such coordination is still lacking. *Staff recommends that the Committee ask the Judicial Department and the Department of Public Safety to discuss the steps they take to work with the affected departments to ensure coordination of requests, and why there were such inconsistencies in this year's request from these specific cash funds.*

- 84 Judicial Department, Supreme Court/Court of Appeals, Appellate Court Programs; Trial Courts, Trial Court Programs; Public Defender, Personal Services; 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 a one-year increase in judicial compensation, as follows:

	<u>Current Salary</u>	<u>Increase</u>	<u>FY 2006-07</u>
Chief Justice, Supreme Court	122,352	3,304	125,656
Associate Justice, Supreme Court	119,739	3,233	122,972
Chief Judge, Court of Appeals	117,631	3,176	120,807
Associate Judge, Court of Appeals	114,996	3,105	118,101
District Court Judge	110,255	2,977	113,232
County Court Judge	105,513	2,849	108,362

Judicial increases are based upon the percentage salary survey increase received by ALJ III's. Funding is provided to maintain the salary of the Public Defender at the level of an associate judge of the Court Appeals, and to maintain the salary 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: The Branch is in compliance with this footnote.

- 85 Judicial Department, Trial Courts, District Attorney Mandated Costs** -- District Attorneys in each judicial district shall be responsible for allocations made by the Colorado District Attorney's Council's Mandated Cost Committee. Any increases in this line item shall be requested and justified in writing by The Colorado District Attorney's Council, rather than the Judicial Department, through the regular appropriation and supplemental appropriation processes. As part of its annual budget request, the Judicial Department is requested to include a report by the Colorado District Attorney's Council detailing how the Mandated Costs appropriation is spent, how it is distributed, and the steps taken to control these costs.

Comment: The Colorado District Attorneys' Council submitted the requested report in compliance with this footnote. The District Attorneys' mandated cost request for FY 2007-08 of \$1,915,667 is the average of actual mandated cost expenditures in FYs 2001-02 through 2005-06, and is approximately \$47,000 less than the current appropriation.

86 Judicial Department, Probation and Related Services -- The Judicial Department 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; the female offender program; and the specialized drug offender program. The department 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 return to probation as the result of violations.

Comment: The Department is in compliance with this footnote. This is the 11th year it has produced a report on recidivism among probationers. Findings in the report include:

- Successful termination rates have remained relatively stable, with approximately two-thirds of both adults (62.6 percent) and juveniles (68.1 percent) in regular probation terminating successfully.
- Failures during probation and within one year post-termination from supervision were higher for both adults and juveniles supervised at maximum levels and in the intensive supervision programs; this result is consistent with expectations since one of the reasons offenders are placed in these program is due to being assessed at high risk levels.
- More than one half (56.8 percent) of juveniles remain successful one year after release from probation (a 2.2 percent decrease from FY 2003-04). Half (50.8 percent) of adults remain successful one year after release (the FY 2003-04 data for adults are not available due to changes in data management).
- Both juvenile and adult offenders who have technical violations are most frequently sentenced to detention or county jail for such violations. Juvenile and adults in specialized programs (who tend to be more serious offenders) are most frequently incarcerated at DYC or DOC when they violate probation.

87 Judicial Department, Probation and Related Services, Offender Treatment and Services -- The Judicial Department is requested to provide by November 1 of each year a detailed report on the amount spent on testing, treatment, and assessments for offenders.

Comment: The Department is in compliance with this footnote. The FY 2006-07 Long Bill is the first time the appropriations for these services have been consolidated into one line item. Therefore, historic expenditures are not easily available. Anticipated allocations from this line item are provided in the table below. It should be noted that the total allocated is less than the appropriation total due to the need to assess indirect costs against the cash fund portion of expenditures.

FY 2006-07 Allocations from the Offender Treatment and Services Line Item

Treatment or Service	FY 06-07 Allocation
<i>Monitoring & Assessments</i>	
Adult Sex Offender Assessment	782,311
Drug Testing	482,370
Electronic Home Monitoring	232,144
Adult Polygraphs	180,737
Juvenile Sex Offender Assessment	167,832
Juvenile Sex Offender Polygraphs	132,484
GPS	101,657
<i>Treatment & Services</i>	
Substance Abuse Treatment	1,831,140
Mental Health Services	525,015
Adult Sex Offender Treatment	367,804
Domestic Violence Treatment	307,478
Education/Vocation Assistance	106,601
Interpreter Services	103,600
Emergency Housing	93,780
General Medical Assistance	82,786
Transportation Assistance	77,338
<i>Total</i>	<i>5,575,077</i>

88 Judicial Department, Public Defender -- In addition to the transfer authority provided in section 24-75-110, C.R.S., up to 2.5 percent of the total Public Defender appropriation may be transferred between line items in the Public Defender's Office.

Comment: The State Public Defender's Office is in compliance with this footnote. This footnote provides the Public Defender's Office with the authority to transfer up to 2.5 percent (\$872,947) of its total FY 2005-06 appropriation (\$34,917,861) between line items. In FY 2005-06, a total of \$872,244 was transferred between line items. These funds were transferred from Personal Services (\$855,244) and Leased Space (\$17,000) to cover unfunded Automation Plan costs (\$517,022), Operating Expenses (\$225,000), and Mandated Costs (\$130,222).

89 Judicial Department, Alternate Defense Counsel -- In addition to the transfer authority provided in section 24-75-110, C.R.S., up to 1.5 percent of the total Alternate Defense Counsel appropriation may be transferred between line items in the Alternate Defense Counsel's Office.

Comment: The Alternate Defense Counsel is in compliance with this footnote. This footnote provides the Alternate Defense Counsel with the authority to transfer up to 1.5 percent (\$221,203) of its total FY 2005-06 appropriation (\$14,746,841) between line items. In FY 2005-06, a total of \$216,202 was transferred between line items. These funds were transferred from Personal Services (\$1,633) and Mandated Costs (\$214,569) to cover unfunded Court Appointed Counsel (\$211,203), Operating Expenses (\$4,486), and Leased Space (\$513) costs.

90 Judicial Department, Office of the Child's Representative -- In addition to the transfer authority provided in section 24-75-110, 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 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 (\$244,579) of its total FY 2005-06 appropriation (\$9,783,159) between line items. In FY 2005-06, a total of \$45,000 was transferred between line items. These funds were transferred from Personal Services (\$30,000) and Court Appointed Counsel (\$15,000) to cover unfunded Operating Expenses (\$30,000) and Mandated Costs (\$15,000).

**FY 2007-08 Joint Budget Committee Staff Budget Briefing
JUDICIAL DEPARTMENT**

ISSUE: Judicial Department Performance Measures

DISCUSSION:

The Judicial Branch is comprised of four independent agencies: the Judicial Department, the Public Defender's Office (PDO), the Alternate Defense Council (ADC), and the Office of the Child's Representative (OCR). Each of these agencies submits its own budget request and develops its own strategic plan and performance measures. The performance measures for the PDO, ADC, and OCR are summarized *briefly* beginning on page 54. The briefing issue itself focuses on the largest agency within the Branch, the Judicial Department, and more specifically, the Probation program.

Department Mission

Mission Statement:

"The Colorado Judicial Branch is a fair and impartial system of justice that:

- Protects constitutional and statutory rights and liberties
- Assures equal access
- Provides fair, timely and constructive resolution of cases
- Enhances public safety
- Supervises offenders
- Facilitates victim and community reparation"

Goals and Performance Measures

The Department's strategic plan is 27 pages long. While its mission statement identifies six responsibilities, the strategic plan is organized around a vision statement that highlights four "strategic issues:"

- (1) Deliver the highest quality service to all with courtesy, dignity, and respect;
- (2) Ensure access for all to a fair and effective system of justice;
- (3) Protect the integrity of the judicial process while strengthening collaborative relationships with the public, bar, and other branches of government and hold their respect and confidence; and
- (4) Be the employer of choice.

Each strategic issue has one to five strategic "sub-issues" associated with it. Each sub-issue has associated goals and measures, although there is no actual data within the strategic plan to assess if

these goals and measures are being met. Approximately half of this document discusses factors that impact Department operations and the current status and accomplishments of the various programs. The following is an example of a strategic issue, a sub-issue, and associated goals and measures that would pertain to the Probation program:

Strategic Issue I: Deliver the highest quality service to all with courtesy, dignity, and respect

Strategic Sub-issue I-5: Build more effective responses to substance abuse and mental health

Goals & Measures

I-5-a: Employ individualized case management based on early screening and assessment using a continuum of evidence based treatment resources with appropriate and on going monitoring and feedback.

I-5-b: Provide Probation Officers, judges, and trial courts staff with current training relating to mental health and substance abuse screening, treatment and supervision.

Additionally, program crosswalks totaling 61 pages are included with the budget request. For each program, there is a program description, prioritized objectives, and performance measures. For each performance measure there is actual data for FY 2004-05 and FY 2005-06, and estimates for FY 2006-07 and FY 2007-08. The following are examples of a Prioritized Objective and Performance Measures for Regular Adult Probation:

Objective 1.CR.3: Provide supervision and monitoring services to adult probationers annually, prioritizing resources on the basis of assessed risk.

Measure 1.CR.3.2: Percentage of terminated probationers whose **LSI rater box scores** (indicating dynamic risk) increased (decreasing risk) between initial and final assessments.

Measure 1.CR.3.3: Percentage of terminated probationers whose **overall LSI risk/need score** have decreased between initial and final assessments (indicating decreased risk).

Measure 1.CR.3.2: Percentage of terminated probationers whose **LSI Substance Abuse Rater Box score** (indicating dynamic risk) increased (decreasing risk) between initial and final assessments.

Staff Analysis

Joint Budget Committee staff reviewed the strategic plan, prioritized objectives, and performance measures submitted with the FY 2007-08 budget request for the Probation Program. Staff assessed these performance measures using a common checklist of seven questions, each of which is addressed below.

1. Do the goals and performance measures correspond to the program's directives provided in statute?

Yes. The Probation Division is statutorily responsible for regular adult and juvenile probation (Sections 18-1.3-202 and 19-2-204, C.R.S., respectively), as well as several specialized probation programs, such as the Sex Offender Intensive Supervision Program (Section 18-1.3-1007, C.R.S.), the Juvenile Intensive Supervision Program (Section 19-2-306, C.R.S.), and the Female Offender Program (authorized generally under Section 18-1.3-208, C.R.S. which encourages the Judicial Department to establish specialized intensive probation programs). Each program has its own set of objectives and performance measures. Staff did not identify any performance measures that were in conflict with statute.

2. Are the performance measures meaningful to stakeholders, policymakers, and managers?

While some performance measures identified by the Department are relevant and useful, staff believes that the Department needs to address two issues to make its strategic plan and performance measures meaningful to stakeholders, policymakers, and managers: (a) Integrate Strategic Plan and Program Crosswalks; and (b) Increase Performance Measure Relevance.

(a) Integrate Strategic Plan and Program Crosswalks

As described above, there are three "levels" to the Department's strategic plan: the mission statement (which lists six responsibilities), the vision statement (which lists four strategic issues, multiple "sub-issues," and related goals and measures), and the prioritized goals and objectives identified in the program crosswalks. While a hierarchical system may make sense (beginning with an overall vision that becomes more and more specific as it is made applicable at the program level), it is not clear how the various levels in the Department's plan are connected.

For example, the mission statement is very straightforward and simply lists the Department's constitutional and statutory responsibilities. The vision statement provides four overarching strategic issues that are then defined a bit more specifically via the strategic sub-issues and related goals and measures. Above, staff provided the example of strategic sub-issue I-5, which is: *To build more effective responses to substance abuse and mental health*. While there are two generalized goals and measures for this sub-issue, there are no specific targets to define better define the goals, and no data provided to assess how well the Department is meeting the goals. In the program cross-walks for

Probation, there are no prioritized objectives or performance measures that specifically address the Department's responses to substance abuse and mental health issues.

While the strategic plan contains strategic issues that are clearly important to the Department, the performance measures are examining and measuring other things. The lack of cohesion between the strategic plan and program crosswalks makes it hard to tell what the actual priorities of the Department are. By better integrating the two documents, the Department could send a clearer measure to policy makers, stakeholders, and managers about its vision and the road it is taking to get there.

(b) Increase Performance Measure Relevance

Above, staff provided the example of Prioritized Objective 1.CR.3 for the Regular Adult Probation program: *Provide supervision and monitoring services to adult probationers annually, prioritizing resources on the basis of assessed risk*. To determine if the performance measures for this objective are relevant, the objective first must be broken down. The first clause of the objective - *Provide supervision and monitoring services to adult probationers annually* - simply states what the program does by definition and does not identify any strategic objective. The second clause - *prioritizing resources on the basis of assessed risk* - actually defines a specific strategic objective.

The three performance measures associated with this objective all look at changes in offenders' risk levels between initial and final assessments. While those measures would be appropriate if the strategic objective was to reduce offenders' risk over the course of supervision, they do nothing to measure how well the program is prioritizing resources. Potentially more valuable performance measures for this objective may be:

- Percentage of probationers' whose risk is assessed within one month of beginning supervision
- Percentage of probationer's with a high risk score for [x] that receive treatment, a referral, counseling....
- Resources spent per high risk offender and resources spent per low risk offender

Another problem with relevance is that not all of the performance measures actually measure performance. For example, each of the specialized probation programs has a "performance measure" that is actually a workload measure: the number of offenders in the program. This measure quantifies a program's statutory mandate, but does not help assess the program's performance.

Finally, not all of the strategic objectives that are important to the program are addressed by performance measures. Above staff provided the example of addressing substance abuse and mental health issues, which is identified in the strategic plan but not in the performance measures. Another example is the Probation program's growing problem with absconders. For FY 2007-08, the Department submitted a decision item to increase probation staff which is in part justified by the

need to do more to locate absconders. However, there are no performance measures addressing this issue.

The Department may suggest that the percent of successful terminations (a performance measure for each Probation program) indirectly addresses issues such as substance abuse, mental health services, and absconson, since addressing these issues improves its successful termination rates. However, by not addressing the specific needs and concerns of the program, the performance measures do not enlighten stakeholders, policy makers, or managers to the specific issues facing the program, or to the steps it is taking to improve the final outcome - successful terminations. Some examples of potentially meaningful performance measures are given in response to question #3 below.

3. Does the Department use a variety of performance measures (including input, output, efficiency, quality, outcome)?

The performance measures are primarily input (such as the number of offenders in a program), and outcome (changes in risk levels, number of pre-sentence evaluations completed, and successful terminations). While these measures provide some feedback with which to evaluate the programs, the use of intermediate outcomes could help stakeholders and policy makers see the issues facing the program, and provide managers with specific goals to help improve the programs and their results. Potentially meaningful measures of intermediate outcomes include:

- Percentage of offenders with identified mental health needs that receive mental health services while on probation
- Percentage of offenders with identified substance abuse issues that successfully complete treatment programs while on probation
- Percentage of absconders who re-enter supervision within one month, two months....

Additionally, instead of measuring whether probationers leave at a lower level of risk than they had upon entering (which does not provide any guidance to managers or insight to stakeholders or policy makers), the Department could also measure factors related to risk levels and the things it is doing to reduce those risk levels. Potentially meaningful measures of risk-reduction efforts include:

- Percentage of probation offices that provide GED classes to offenders
- Percentage of probationers without a high school diploma who obtain a diploma or GED while under supervision
- Percentage of adult probationers under supervision who are gainfully employed
- Percentage of adult probationers who are gainfully employed when they terminate probation
- Percentage of probationers receiving home visits by their probation officer monthly, quarterly....
- Ratio of probation officers to offenders [*while this measure is primarily budget driven and not under the program's control, it does provide information to stakeholders and policy makers*]

4. Do the performance measures cover all key areas of the budget?

There are performance measures for the Supreme Court and Court of Appeals, various lower court functions (such as civil and criminal dispute resolution, domestic violence cases, and dependency and neglect cases), and probation functions (including all regular and specialized probation programs, collections investigators, victim services, and victim funds).

There are no performance measures for the State Court Administrator's Office, which includes all of the Department's administrative functions, such as budgeting, planning, data analysis, human resources, and information technology services. While these functions comprise a relatively small portion of the Department's budget, they are essential to how well the Department functions. Performance measures in these areas could prove beneficial in identifying and helping the Department strive toward management-, efficiency-, and efficacy-related goals.

5. Are the data collected for the performance measures valid, accurate, and reliable?

Staff does not have reason to doubt the veracity of the reported data.

6. Are the performance measures linked to the proposed budget base?

There are no explicit links between the strategic plan, performance measures, and the base budget. Additionally, there is no discussion of how an increase or decrease in the budget would affect performance. However, in a FY 2007-08 decision item requesting additional probation officers, the Department cites the drop in success rates in Probation as evidence that the program is in need of additional staff. The rationale is that with more probation officers, each probationer would receive more attention and support, and therefore be more likely to succeed. The Department also uses the cost savings from the number of prison beds saved annually in its cost-benefit analysis of this decision item.

7. Is there a change or consequence if the Department's performance targets are not met?

Currently, judges are the only ones directly effected by performance targets. Judges are evaluated by the Judicial Performance Commissions for case processing timeliness and other measures that are tracked in the Trial Courts' performance measures. Their performance is taken into consideration when retention recommendations are made.

The Department reports that it is in the final stages of training to implement a pay for performance system for staff similar to that of the Executive Branch, and that future salary increases will be tied to meeting performance goals.

Summary

As a whole, the Judicial Department's goals are appropriate and cover the Department's major areas of responsibility. However, the Department's strategic plan and performance measures are not integrated, making it difficult to clearly identify the Department's priorities. More relevant and varied performance measures could make the documents more valuable. Finally, by adding specific objectives and performance measures for the State Court Administrator's Office, the Department would have assessment measures in place for all of its functions.

Questions for the Judicial Department

Staff recommends that the Committee discuss the following questions with the Department during the FY 2007-08 budget hearing:

1. How do your performance measures influence department activities and budgeting?
2. To what extent do the performance outcomes reflect appropriation levels?
3. To what extent do you believe that appropriation levels in your budget could or should be tied to specific performance measure outcomes?
4. As a department director, how do you judge your department's performance? What key measures and targets do you use?

Summaries of Other Judicial Branch Agency Strategic Plans

PUBLIC DEFENDER'S OFFICE

Mission Statement:

"The constitutions of Colorado and of the United States establish the right to counsel. The single overriding objective of the Office of the State Public Defender is to provide reasonable and effective criminal defense representation for our clients and fulfill this constitutional requirement."

Goals and Performance Measures: The strategic plan is 13 pages long. Seven objectives are defined and each objective has one to five performance measures. For each performance measure, there is actual data for FY 2004-05 and FY 2005-06, and estimates for FY 2006-07 and FY 2007-08.

ALTERNATE DEFENSE COUNCIL

Mission Statement:

"The mission of the Office of the Alternate Defense Counsel is to provide indigent individuals (adults and children) charged with crimes with the best legal representation possible. This representation *must* uphold the federal and state constitutional and statutory mandates, ethical rules and nationwide standards of practice for defense lawyers. As a state agency, the OADC strives to achieve this mission by balancing the obligation to the criminally accused and to the taxpayers of the State of Colorado. The OADC is committed to insuring that indigent defendants receive the best legal services available."

Goals and Performance Measures: The strategic plan is five pages long. Six objectives are identified, each with two to five generalized goals. Also included in the budget request are three pages of "prioritized objectives", which include nine objectives, each with several performance measures. There is actual data for a few of the performance measures for FY 2004-05 and FY 2005-06, and estimates for all of the performance measures for FY 2006-07 and FY 2007-08. There is some redundancy between the goals in the strategic plan and those identified in the "prioritized objectives," but the relationship between the two documents is not clear.

OFFICE OF THE CHILD'S REPRESENTATIVE

Mission Statement:

"The mission of the Office of the Child's Representative is to provide Colorado's children who are involved in the court system because they have been horrifically abused and neglected, are victims of high conflict divorce, or have found their way into the delinquency system, with competent and effective legal representation. As a state agency, the OCR must achieve this mission in the most cost-efficient manner that serves both the children and is accountable to the state of Colorado. The OCR is committed to ensuring that these children, Colorado's most vulnerable and under-represented population in the courts, receive the best legal services available."

Goals and Performance Measures: The strategic plan is seven pages long. Four priority objectives are identified under the Agency Overview section. However, in the Summary of Priority Objectives, Critical Performance Measures/Key Trends, a different set of somewhat overlapping objectives is given. In this second set of priority objectives, each objective has at least one performance measure associated with it, and for each performance measure, there is actual data for FY 2004-05 and FY 2005-06, and estimates for FY 2006-07 and FY 2007-08.

**FY 2007-08 Joint Budget Committee Staff Budget Briefing
JUDICIAL DEPARTMENT**

ISSUE: The Judicial Department's Five-Year Resource Plan

SUMMARY:

- ❑ Over the past year, the Judicial Department developed goals and identified budgetary priorities and potential decision items for the five-year period from FY 2006-07 through FY 2010-11. For the remaining four fiscal years, the plan projects a need for \$82.6 million in increased funding, and 869.1 additional FTE, for the courts, probation, information technology, and other Departmental needs.
- ❑ The Department proposes redirecting approximately \$25.0 million in annual fee revenue from the General Fund to the Judicial Stabilization Cash Fund to offset a portion of these costs. Such refinancing would require special legislation.
- ❑ The Department's Five-Year Resource Plan also includes the construction of a new State Justice Center. The Center would house all Appellate Court functions, the Office of the State Court Administrator, and other related state agencies. The plan requires the Colorado State History Museum to relocate to another location, and the Justice Center to encompass the entire site of the existing "Judicial/Heritage Complex."

STAFF RECOMMENDATION:

Staff recommends that the Committee ask the Department to discuss its funding priorities for FY 2007-08, and to discuss the implications of the proposed General Fund refinance. Staff also recommends that the Committee ask the Department to discuss possible financing options for the History Museum/Justice Complex project.

FIVE-YEAR RESOURCE PLAN

For the Judicial Department, the process of developing a comprehensive Five-Year Resource Plan began last year when the Joint Budget Committee asked all Departments to present such a plan during hearings. Since that time, the Department developed and refined a five-year plan to reach full staffing for judges, probation officers, and courts staff by FY 2010-2011.

The Five-Year Plan was developed based current staffing and anticipated caseloads, utilizing weighted caseload models. The weighted caseload model for the courts identified FTE need based on both the complexity and volume of new court filings. Similarly, the weighted caseload model for Probation factors in both the risk level and the number of new offenders. Both models project the needs for each Judicial district, and the needs of all the districts are then combined to determine

the total resources needed. Annual staffing goals are gradually increased, starting at 80 percent full staffing in FY 2007-08 and reaching 100 percent full staffing in FY 2010-11. FY 2006-07 is the first year of the plan. The remaining resource needs identified in the plan are summarized below (see Appendix A, page 79, for more details).

**Summary of Resources Needed by FY 2010-11
for the Judicial Department to Reach Full Staffing**

Program Area	Millions	FTE
Supreme Court/Court of Appeals	\$2.68	28.0
District & County Courts	\$44.78	450.0
Probation	\$30.20	374.1
Information Technology	\$3.52	(1.0)
Other	\$1.43	18.0
Total	\$82.60	869.1

- ***Supreme Court/Court of Appeals.*** In addition to the new Court of Appeals panel created pursuant to H.B. 06-1028, the Department anticipates two more panels and associated staff (a total of 27.0 FTE) will be needed by FY 2010-11. The Department also expects that it will need additional funding for judicial officer compensation and Judicial Nominating Commission staff (1.0 FTE).
- ***District & County Courts.*** In addition to the four new county court judgeships created pursuant to H.B. 06-1028, the Department anticipates it will need 49 district court judges and 8 county court judges, and associated staff (a total of 277.0 FTE), by FY 2010-11. In FY 2007-08, the Department plans to pursue legislation to create 13.0 additional district court judges. The Department also expects that it will need 112.0 new trial court staff, 10.5 new magistrates and associated support staff (a total of 42.0 FTE), plus miscellaneous other staff and funding increases related to respondent parent counsel, courthouse security, language interpreters, drug courts, training, mandated costs, and the retired judge program. For FY 2007-08, the Department submitted decision items for 28.8 additional trial courts staff and 0.3 magistrates and associated support staff (a total of 1.0 FTE).
- ***Probation.*** The Department anticipates needing \$4.8 million in additional funding for treatment, and \$25.4 million and 374.1 FTE for supervision (both regular and specialized probation officers and staff) by FY 2010-11. For FY 2007-08, the Department submitted a decision item for 96.5 additional probation officers and staff. The Department also submitted decision items for \$2.5 million General Fund for community treatment and

services related to S.B. 03-218 (see briefing issue on page 73), and for a \$330,000 cash funds exempt spending authority increase from the Drug Offender Surcharge Fund.

- **Information Technology.** The Department anticipates that funding will be needed to increase network bandwidth, maintain network infrastructure, provide court services staff, and purchase hardware. The cost of these needs will be partially offset by the elimination of 5.0 programming and support FTE that were approved for only three years beginning in FY 2006-07.
- **Other.** Additional needs identified by the Department include: Human Resource specialists (2.0 FTE); an emergency response coordinator (1.0 FTE); Collections Investigators (15.0 FTE); and additional funding for Courthouse Capital and Infrastructure Maintenance.

Staff recommends that the Committee ask the Department to discuss its funding priorities for FY 2007-08.

PROPOSED GENERAL FUND REFINANCE

To finance its judge and trial court staffing needs for the next five years, the Judicial Department is proposing a General Fund refinance. It collects approximately \$25 million in fine and fee revenue annually that is directed into the General Fund. Expenditures from the General Fund are then subject to the Arveschoug-Bird ("6 percent") spending limit. If these funds were instead deposited directly into the Judicial Stabilization Cash Fund, the Department could use court fees to cash fund all of its identified judge and related court staffing needs for the next four or five years (see table below).¹

Assuming there is sufficient revenue into the General Fund to make up for the loss of these fees, and assuming that the General Assembly would otherwise be appropriating General Fund to cover these court costs, the refinancing would reduce the state's General Fund obligations subject to the six percent limit and free up funding for other programs. This type of refinance would require special legislation.

¹ Please note that the estimates shown in this table were provided by the Judicial Department. JBC staff would increase the out-year costs of the judges each year to reflect increases due to salary survey, performance-based pay, state health/life/dental contributions, and other costs that will increase annually, which would result in greater out-year costs and a faster depletion of uncommitted reserves.

**The Judicial Department's General Fund Refinancing Plan:
Anticipated Costs and Offsetting Revenues**

	FY 07-08 (millions)	FY 08-09 (millions)	FY 09-10 (millions)	FY 10-11 (millions)	FY 11-12 (millions)
1 Projected Annual Revenue (millions)	25.1	25.4	25.7	26.0	26.3
2 FY 07-08 Judges & Trial Court Staff Costs	6.8	5.5	5.5	5.5	5.5
3 FY 08-09 Judges & Trial Court Staff Costs		11.0	9.2	9.2	9.2
4 FY 09-10 Judges & Trial Court Staff Costs			7.9	6.5	6.5
5 FY 10-11 Judges & Trial Court Staff Costs				6.5	5.1
6 Total Annual Judges & TC Staff Costs	6.8	16.5	22.6	27.7	26.3
7 Annual Uncommitted Reserve (Row 1 minus Row 6)	18.3	8.9	3.1	(1.7)	0.0

POLICY CONSIDERATIONS OF THE PROPOSED GENERAL FUND REFINANCE

Increasing Cash Funding of the Courts. There may be concerns that since the public's access to the courts is a constitutionally protected right, the courts should be funded primarily from general tax dollars: it could be argued that the proposed refinancing moves the courts in the direction of fee-for-service. On the other hand, since most of the fees and fines that would be refinanced are assessed in conjunction with court-related services (they primarily come from civil and criminal docket fees), it is also arguable that it may be fitting that such revenue is deposited into the Judicial Stabilization Cash Fund and used to directly support the trial courts that generate the revenue. A benefit of the financing change is that it would provide the courts with a guaranteed stream of revenue should the state face a fiscal crisis again in the future.

There is a precedent for cash-funding courts in other states. A 1998 report from the National Center of State Courts showed that 16 other states cash-funded at least some or all of their various courts (see Appendix B on page 80). In Colorado, prior to FY 2003-04, only 2.1 percent of the Trial Courts' appropriation was cash-funded (see table below).² However, in FY 2003-04, the Judicial Department's General Fund budget was cut by \$21 million; \$10.3 million of this cut was restored with various fee increases, raising the cash-funded portion of the Trial Courts' appropriation to 12.0 percent. The proportion of General Fund to cash funds has remained relatively constant since then.

² Staff did not include the appropriations for Victim Assistance, Victims Compensation, or Grants in any of the calculations in this paragraph or the table that follows.

**General Fund and Cash Fund Proportions of the Trial Courts' Appropriations
FY 2002-03 and FY 2003-04**

	FY 2002-03		FY 2003-04	
	Trial Courts Appropriation	Percent Total Appropriation	Trial Courts Appropriation	Percent Total Appropriation
Total ^a	98,637,040		99,501,899	
General Fund	96,572,202	97.9%	87,596,661	88.0%
Cash Funds	2,064,838	2.1%	11,905,238	12.0%

^a The figures in this table are total appropriations for the Trial Courts division, minus the appropriations for District Attorney Mandated Costs, Victims Assistance, Victims Compensation, Family Preservation Grant, and Federal Funds and Grants.

To avoid the appearance that Judicial decisions may be influenced by the need to generate revenue, it is important that the ability to set the fees and fines remains in the control of the Legislature.

The Arveschoug-Bird ("Six Percent") Spending Limit. Redirecting fee and fine revenue from the General Fund to a cash fund, and then using that cash fund for trial court costs that would otherwise be paid for with General Fund, reduces General Fund obligations subject to the six percent limit. The six percent limit is established in section 24-75-201.1, C.R.S. It limits increases in state General Fund appropriations to the lessor of either (a) five percent of Colorado personal income, or (b) six percent over the total state General Fund appropriations for the previous fiscal year.

Section 24-75-201.1 (1)(a)(V), C.R.S., was written to prevent the use of cash funds from supplanting General Fund appropriations in an attempt to circumvent the six percent limit. Exemptions from the "supplanting" clause are given in subparagraphs (A) and (B). The statute states that:

No state cash fund appropriation which either supplants any state general fund appropriation or, if not made, would necessitate a state general fund appropriation shall be made in order to circumvent the limitation on the level of state general fund appropriations set forth in subparagraph (II) of this paragraph (a). The provisions of this subparagraph (V) shall not apply to any state cash fund appropriation:

(A) Which authorizes an increase in expenditures necessary to offset an increase in costs to provide an existing program or service due to inflation or any increase in the number of recipients which does not result from any requirement of state law which either enlarges an existing class of recipients or adds a new class of recipients; or

(B) Which is funded by user charges that do not exceed the cost of the goods or services provided, and the purchase of such goods or services by the user is voluntary.

An argument could be made that changing how this fee revenue is directed would not violate section 24-75-201.1 (1)(a)(V), C.R.S., since the funding would be used to offset climbing costs generated by increased court filings (the exemption provided in subparagraph (A)). Last year, S.B. 06-182 (a JBC bill) would have implemented the General Fund refinance as described.

Transfers to the Department of Transportation ("S.B. 1 Transfers"). Senate Bill 97-1, as amended by H.B. 06-1398, diverts up to 10.355 percent of the state's sales and use taxes from the Highway Users Tax Fund (HUTF), provided the revenue forecast prepared by Legislative Council Staff (LCS) indicates that there is sufficient money to fully fund the four percent statutory reserve. Pursuant to House Bill 06-1398, revenues are allocated to the Sales and Use Tax Holding Fund throughout the fiscal year. Moneys in the Sales and Use Tax Holding Fund are periodically transferred to the HUTF (in February, April, and September). After the state's financial books are closed for that fiscal year, the fiscal year-end balance of the Sales and Use Tax Holding Fund, less the amount required to ensure that the four percent statutory reserve is fully funded, is transferred to the HUTF.

The proposed General Fund refinance would reduce the total amount of General Fund revenues. Since General Fund revenues are first used to fulfill the statutory reserve and fund the state's operating budget, the refinance would potentially reduce the S.B.97-1 transfer. Specifically, the refinance would reduce the amount of the S.B. 97-1 transfer in years when there is less than \$25.1 million (the approximate amount of the refinance) General Fund "surplus" after the S.B.97-01 transfer.

Another way to look at the proposed refinancing is to consider its effects on total non-exempt General Fund revenues. The September LCS economic forecast estimates FY 2007-08 non-exempt revenues of \$6,621.1 million. The proposed transfer of approximately \$25.1 million dollars represents only 0.4 percent of that total.

Staff recommends that the Committee ask the Department to discuss the implications of the proposed General Fund refinance.

PROPOSED NEW STATE JUSTICE CENTER

Also included in the Judicial Department's Five-Year Resource Plan is work on a New State Justice Center. Currently, the State Supreme Court Building and the Colorado State History Museum share a "Judicial/Heritage Complex" on the 1300 block between Broadway and Lincoln. This complex was constructed in 1977. Both occupants agree that the space is too small and poorly designed for their current needs.

Supreme Court Building. The Judicial Department outgrew this building in the mid-1980s when the State Court Administrator's Office (SCAO) had to be relocated several blocks away. Now the Judicial Department's offices are spread across six locations in the Greater Denver area (not including the Public Defender's Office, Alternate Defense Counsel Office, or the Office of the Child's Representative). Most recently, the creation of a new Court of Appeals panel pursuant to H.B. 06-1028 resulted in the need to move the Court of Appeals staff attorneys out of the Supreme Court Building and into nearby office space.

Other inadequacies with the Supreme Court building include:

- ***Health/Life/Safety Concerns:*** The building's emergency egress systems are not up to code. Corridors and circulation areas are not within fire rated partitions. There are no mechanical systems to control smoke in the event of a fire. Electrical closets and stairway landings house copy machines and office support equipment. Many American with Disabilities Act (ADA) standards relating to circulation and access are not met.
- ***Design shortcomings:*** The physical design of the building and the placement of the building on the site make the building vulnerable to potential terrorists. The design also creates logistical problems, as the courts' extensive files must be kept at either end of the building since the unsupported center section cannot bear their weight
- ***Continued Controlled Maintenance Costs:*** The Department has submitted several controlled maintenance requests over the years and expects the number to continue to rise. The building has significant mechanical, electrical, plumbing, and other infrastructure issues. The combined total of estimated deferred maintenance needs for the entire complex is \$17 million - not including the cost to update the museum building to current museum standards (see discussion below).

State History Museum. The Museum was built thirty years ago at a cost of \$3.5 million. It was "value engineered" to the point that even as it was completed, it still contained many inadequacies. Subsequently, museum standards, collection stewardship standards, museum exhibition and program standards, and museum visitor expectations have evolved, further exacerbating the problems. Specific inadequacies with the History Museum building include:

- ***Health/Life/Safety Concerns:*** Similar to the Supreme Court Building, the Museum does not meet current code requirements regarding egress, fire prevention and suppression, electrical capacity, air handling, ventilation, and ADA guidelines.
- ***Insufficient Storage Space:*** The second floor was not engineered to hold compact storage and heavy library and manuscript loads. As a result, some of the Historical Society's collections are spread throughout the building to distribute the weight load. While the approach meets current load requirements, it results in a waste of limited storage space that would otherwise be available for collections. The Museum now maintains two off-site storage facilities for collections.
- ***Inadequate Storage Environments:*** The Museum was built with temperature controls, but not humidity controls. The collections are usually maintained at approximately 20 percent relative humidity (RH), far below the 40 to 50 percent RH artifact and archive conservation standards adhered to by most museums. Additionally, when Denver experiences a wet period, RH can rise to up to 60 percent. These broad swings in RH place undue stress on fragile historical artifacts and documents which tend to expand and contract in response to climate change.
- ***Water Leakage:*** Most of the storage and exhibit space is located underground and is susceptible to water damage; tarps and barrels are distributed throughout the lower level to catch drips. The risk of water damage, coupled with the lack of humidity control, limits the traveling exhibits the Museum can host since many other museums will not allow their artifacts to be subject to these conditions.
- ***Inadequate Exhibition Space:*** The Museum also lacks exhibition space: its 35,000 square feet is far less than the exhibition space in comparable state museums (the Oklahoma and Texas museums have 65,000 and 75,000 square feet, respectively). The Museum is able to exhibit only 10 percent of its collections at any given time. Furthermore, the exhibition space is not suited for the types of interactive and audio-visual exhibits visitors have come to expect. In addition, the ambient noise of the air handlers, coupled with the concrete but carpeted floors, cause visitor fatigue.

The Historical Society estimates that it would cost \$3 to \$4 million to upgrade the facility to current museum standards, and it would still be short of space.

New History Museum and State Justice Center. The Colorado Historical Society and the Judicial Department worked together to develop a joint proposal. The Museum would first be relocated to a site in the cultural and historical district near Civic Center Park. By constructing a new museum building, or retrofitting an existing building, the Historical Society will be able to address its concerns about space and meeting current museum standards.

Once the Museum has vacated the Judicial/Heritage complex, the Judicial Department would build a new Justice Center on the site. The proposed Justice Center would house the State Supreme Court and Court of Appeals, all SCAO functions, the Attorney General's Office, the Public Defender's Office, the Office of the Alternate Defense Counsel, and the Office of the Child's Representative.³

The intent of the Judicial Department is to design a facility that will be able to house the Judicial Department for at least the next 100 years. Currently it anticipates a building for the courts will be situated facing 14th Avenue, and a large office building located behind it. The court building would be smaller than the office building to maintain the view corridor from the Capitol to the mountains, but would be designed to project a sense of stature and dignity on par with the Capitol Building - the seat of the other two branches of government.

Current Status and Proposed Funding for the Project. To date, the Judicial Department has received \$268,500 in capital appropriations and \$181,500 in operating appropriations to begin the planning phase of the project. The Historical Society is already looking at new sites. The Judicial Department's contractor is currently working on a feasibility study which includes: reviewing current and future space and programming needs for all of the anticipated tenants; working with an architecture firm that is helping determine the programmatic requirements for the museum; and reviewing potential sites for the museum. The study will also determine project timelines and critical dates,⁴ and help develop the overall financing strategies for the entire project.

For FY 2007-08, the Department submitted a capital construction request for \$18 million capital construction funds exempt. This funding would primarily be used for land acquisition for the Museum, as well as Museum design, Justice Center design, and project management. The Department believes that private financing can be acquired for the project, allowing it to pay back the state for its FY 2006-07 and FY 2007-08 capital investment. The Department will ultimately make payments to the private financier through rent collections from the tenant agencies. Money would also be set aside for controlled maintenance needs, hopefully eliminating the need for future controlled maintenance requests.

Staff recommends the Committee ask the Department to discuss the possible financing options for this project.

³ All of these agencies have been involved in the planning process.

⁴ Currently, the Department estimates that the Museum will move in late fall of 2010, and the affected agencies will move into the new Justice Center in the summer of 2013.

**FY 2007-08 Joint Budget Committee Staff Budget Briefing
JUDICIAL BRANCH**

ISSUE: Public Defender's Office Staffing Needs

SUMMARY:

- Increasing caseloads and changes in the nature of the cases it handles has left the Public Defender's Office (PDO) severely understaffed. The PDO is requesting 66.5 additional FTE in FY 2007-08 at a cost of \$3.7 million General Fund. It anticipates needing a total of 490.6 additional FTE to reach 80 percent full staffing by FY 2011-12.

STAFF RECOMMENDATION:

Staff recommends that the Committee ask the Public Defender's Office the following questions:

- a. Is the weighted caseload model utilized by the PDO to determine its staffing needs comparable to models used in other states?
- b. Why is the PDO anticipating such a significant caseload increase (70 percent) between FY 2007-08 and FY 2011-12 when caseload has been growing at less than 8 percent per year in recent years? Why have caseload and staffing need estimates increased so much since last year's figure-setting?
- c. What effect have staffing levels had on indigent representation? On staff morale? What will be the effect if the PDO does not receive the additional staff requested?

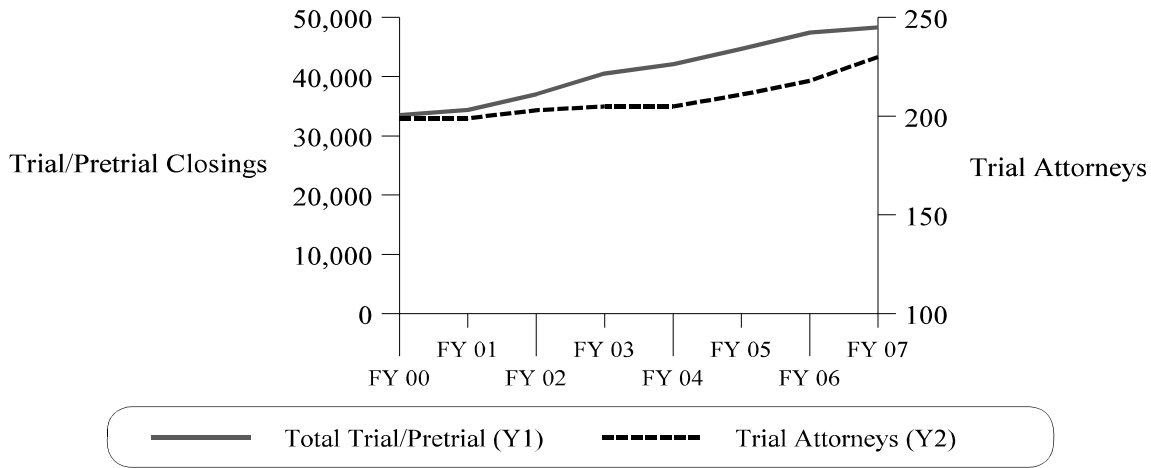
BACKGROUND:

The Office of the Public Defender (PDO) is established by Section 21-1-101, *et seq.*, C.R.S., as an independent agency within the Judicial Branch of government for the purpose of providing legal representation for indigent defendants who are facing incarceration. The Public Defender system includes 21 regional trial offices and one appellate office.

FACTORS DRIVING THE NEED FOR ADDITIONAL RESOURCES. The PDO's recent caseload growth exceeds the state's population growth. Over the past six years, closed trial and pretrial closings (the most labor intensive portion of the PDO's caseload)⁵ increased 44 percent, compared to an 11 percent increase in the state's population. In the same period, there has been an increase of nearly 37 attorneys - an increase of only 13 percent. The graph below illustrates change in PDO staffing relative to caseload growth since FY 1999-00.

⁵ Trial and pretrial closings reflect cases brought to a final disposition. Some cases are considered "partial service" because they are not brought to final disposition, including conflicts of interest or withdrawals because the client obtained private counsel or went *pro se*, and situations where the client fails to appear for a hearing. The PDO also handles probation revocations, sentence reconsiderations, Rule 35(c) hearings (ineffective representation), extradition matters, and appeals.

**Public Defender Caseload: Trial Cases Closed & Attorney Staffing
FY 1999-00 to FY 2006-07 (a)**



(a) FY 2006-07 includes projected Trial/Pretrial Closings. Data for this graph came from the Public Defender's Office Fiscal Year 2006-07 budget request, page 6, and from correspondence with the PDO.

Factors affecting both PDO caseload and workload include:

- **Cases are increasingly complex:** More counts are being filed per case; more discovery is being generated; juveniles are being treated as adults; cases that had been misdemeanors are being filed as felonies; and trials are lasting longer due to an increase in the number of witnesses being called and the complexity of the evidence.
- **PDO caseload has increased in severity:** The portion of felony trial and pretrial closings has increased 4.6 percent as a portion of all trial and pretrial closings since FY 1999-00. Additionally, the portion of trial and pretrial closings to the rest of the PDO's caseload has increased 2.6 percent since FY 1999-00. This shift in caseload places a heavier reliance on attorney resources because the cases are more complicated and time consuming.
- **Changes in laws,** particularly those relating to sentencing and parole, are creating significantly adverse potential consequences for clients, making defendants less likely to enter pleas to charges they once would have agreed to. Some of these changes include: no possibility of parole in life sentences for first degree homicide convictions; aggravated sentencing provisions that apply to a broad category of crimes; habitual criminal statutes; special sentencing enhancements; mandatory parole; new post-parole supervision requirements; life sentences and lifetime supervision of sex offenders; and changes in the state's death penalty statutes. These types of changes make cases more difficult and time consuming for attorneys to provide effective representation.

- ***Increased poverty:*** The state populace earning income at or below 125 percent of the poverty level⁶ has continued to grow at an annual average rate of 7.6 percent since FY 1998-99, increasing the number of people eligible for representation.
- ***Unusually high attrition rates:*** Attorney attrition has increased from 11.5 percent in FY 1999-00 to 16.0 percent in FY 2005-06, averaging 14.0 percent annually over a seven year period. While this increase in attrition is primarily due to the loss of entry-through third-year employees, the PDO is anticipating an increase in the number of retirees in the near future. Attrition results in the loss of skilled attorneys, which is occurring at a time when the PDO's caseload is becoming increasingly difficult, as described above.

CASELOAD STANDARDS. To determine the level of staffing needed for a given number of cases, there must be reasonable caseload standards. The American Bar Association (ABA) standards and the "Felony Equivalent Standards" (derived from the ABA standards) were developed in response to the establishment of public defender offices across the country in the late 1960s and early 1970s. The ABA standards, and the PDO's own weighted caseload standards, are discussed below.

ABA Standards. The ABA standards for public defenders were established by the American Bar Association in 1973 - and have not been revised since. One of the primary problems with these standards is that they are too generic. For example, the ABA standards do not differentiate between a Class 1 felony (which may include homicide) and a Class 6 felony (which may include eavesdropping). In one case, the defendant is facing a life sentence without the possibility of parole, and in the other, the least restrictive form of probation.

Another problem with the ABA standards is that they are out of date. Since their adoption, there have been many changes in criminal law. Many of these changes relate to sentencing and parole, and create significantly adverse potential consequences for clients. Because of these changes, defendants are less likely to enter pleas to charges they once would have agreed to. Attorneys are required to be aware of the future consequences of convictions or guilty pleas that are made today, which demands a thorough consideration and knowledge of a complex web of interrelated statutes - including federal INS statutes and regulations if the client is not a U.S. citizen.

⁶ The standard of eligibility for indigent defense representation by the State Public Defender is 125 percent of poverty level in accordance with Chief Justice Directive 04-04.

The PDO's Weighted Caseload Standards. For the reasons explained above, the ABA standards are no longer an adequate method for determining appropriate caseloads. In 2002, the PDO contracted with the Spangenberg Group⁷ to conduct an objective assessment of attorney workload. Over half of the state's public defenders tracked their time on specially designed time sheets for 10 weeks. The time records were used to translate *caseload* (the number of cases a lawyer handles) into *workload* (the amount of effort, measured in time, a lawyer needs to complete work on the caseload). This data was used to develop the PDO's weighted caseload standards. Weighted caseload standards are also used by the State Court Administrator's Office to determine appropriate trial court and probation caseloads and staffing needs.

The table below shows the PDO's averaged caseload standards for urban and rural offices (cases in rural areas are often more time consuming due to increased travel time). For example, an attorney with a caseload of six Class 1 felonies annually would have about the same *workload* as an attorney with 249 juvenile cases annually because Class 1 felonies are so much more labor intensive.

The PDO's Weighted Caseload Standards

Case Type	Cases per Year	Hours:Minutes per Case
Class 1 Felony	6	285:20
Class 2 Felony & Felony Sex Assault	32.6	52:27
Class 3 Felony	105.5	16:14
Class 4 & 5 Felonies	200.2	8:33
Class 6 Felony	386.2	4:26
Class 1 Misdemeanor & Sex Assault	196.4	8:43
Class 2 & 3 Misdemeanor & Traffic & Other	429.8	3:59
All Juvenile	248.7	6:53

Staff recommends asking the PDO if the weighted caseload model utilized by the Office to determine its staffing needs is comparable to models used in other states.

⁷ The Spangenberg Group is a private consulting firm located in Massachusetts that specializes in the study of indigent defense delivery systems. It has conducted similar studies in California, Minnesota, Tennessee, Wisconsin, King County (Seattle) Washington, New York City, and Phoenix and Tucson Arizona.

STAFFING NEEDS. Typically, attorneys have a mixed caseload. To determine staffing needs for the year, the PDO's weighted caseload standards are applied to all closed cases for a given office from the preceding year. Based on these calculations, the PDO had a staffing deficit of approximately 20 percent in FY 2005-06. In response to this staffing deficit, the PDO received 20.0 new staff in FY 2006-07 (12.0 attorneys, 5.0 secretaries, and 3.0 investigators). At the time, it was thought that the increase in staffing, coupled with the anticipated increase in caseload, would maintain the attorney deficit at 20 percent. However, based on actual caseload growth since then, the PDO estimates it now has an attorney staffing deficit of 34.2 percent. As caseloads continue to rise, it is expected that the deficit will reach 40 percent in FY 2007-08 without the requested staff increase.

The PDO set a goal of achieving 80 percent full staffing by FY 2011-12. Using an estimated caseload increase of 70 percent over the five years beginning with the end of FY 2006-07, the Office projects it will need a total staffing increase of 490.6 FTE at a total cost of over \$27.0 million. The table below outlines the PDO's accumulated five-year staffing needs.

The PDO's Accumulated Five-Year Staffing Needs

	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12
80% Full Staffing	562.7	620.4	693.0	787.5	915.1
Current Staffing	424.5	424.5	424.5	424.5	424.5
Staffing Deficit	138.2	195.9	268.5	363	490.6

Staff recommends asking the PDO why the Office is anticipating such a significant caseload increase (70 percent) between FY 2007-08 and FY 2011-12, when caseload has been growing at less than 8 percent per year in recent years. Staff also recommends asking why caseload and staffing need estimates increased so much since last year's figure-setting.

FY 2007-08 STAFFING DECISION ITEM. For FY 2007-08, the PDO has requested an increase of 66.5 FTE,⁸ less than half of the FTE it estimates it needs to reach 80 percent full staffing as shown in the table above. If fully staffed, caseloads would average 267:1. Currently, 11 of the PDO's 21 trial offices carry 73 percent of the caseload. In FY 2007-08, average caseloads in these offices are estimated to reach 467:1. These offices are where the 40.0 attorneys requested for FY 2007-08 would be located (see the table below). The remaining 10 offices carry 27 percent of the total caseload and maintain an average attorney caseload of 366:1.

⁸ The 66.5 FTE requested include 40.0 attorneys, 13.0 investigators/paralegals, 10.0 trial secretaries, and 3.5 administrative positions.

Current Attorney Staffing Levels and Need in the PDO's Busiest Offices

Office	Total Staffing Need	80 % Staffing Need	Current Staffing	FTE to be Allocated
Alamosa	5.1	4.1	3.0	1.0
Arapahoe	48.7	39.0	24.0	10.0
Brighton	40.3	32.2	24.0	4.0
Colorado Springs	63.1	50.5	35.0	9.0
Fort Collins	20.7	16.6	9.0	6.0
Golden	35.1	28.1	21.0	4.0
Grand Junction	15.0	12.0	10.0	1.0
Greeley	24.8	19.8	16.0	1.0
Pueblo	22.9	18.3	15.0	1.0
Salida	7.5	6.0	3.0	2.0
Trinidad	2.4	1.9	1.0	1.0
Totals	285.6	228.5	161.0	40.0

CONCERNS REGARDING THE PROVISION OF EFFECTIVE REPRESENTATION. Attorney caseloads have reached a critical point in the PDO. Staff attorneys are so concerned that some have written to their supervisors and the State Public Defender, and have sent articles on ethics for public defenders and American Bar Association caseload standards. The attorneys fear that their ability to provide effective representation may be compromised due to excessive caseloads. It is possible that the PDO caseloads have reached a point where individual attorneys may begin turning down cases on these grounds.

If caseloads become too high, it is possible for the PDO to refuse cases. The PDO is obligated in statute (section 21-1-101, C.R.S.) to conduct the office in accordance with the Colorado rules of professional conduct and American Bar Association standards. These rules and standards prohibit lawyers from carrying a workload that, by reason of its excessive size, interfere with the rendering of quality representation. Such cases could be referred to the Alternate Defense Counsel (ADC). However, section 21-2-103 (1.5) (c), C.R.S. explicitly states that "case overload, lack of resources, and other similar circumstances shall not constitute a 'conflict of interest' " for the sake of referring

cases to the ADC. Since the passage of section 21-2-103 (1.5) (c), C.R.S., caseloads at the PDO have not been so extreme as to challenge the apparent discrepancy between the PDO's and ADC's statutes.

Staff recommends asking the PDO about the effect have staffing levels have had on indigent representation and on staff morale. Staff also recommends asking what the effect will be if the PDO does not receive the additional staff requested.

**FY 2007-08 Joint Budget Committee Staff Budget Briefing
JUDICIAL BRANCH**

ISSUE: Senate Bill 03-318 Funding and Drug Crime Penalties

SUMMARY:

- ❑ Senate Bill 03-318 reduced the penalty for certain drug crimes by reclassifying them from Class 5 felonies to Class 6 felonies.
- ❑ Senate Bill 03-318 requires the General Assembly to annually appropriate at least \$2.2 million General Fund to the Drug Offender Treatment Fund every year beginning in FY 2007-08, or the bill is repealed and the penalties for the affected drug crimes revert to their prior levels. The requirement for the General Fund appropriation was intended to direct the use of anticipated savings from the bill. The Judicial Department submitted a FY 2007-08 decision item for \$2.5 million General Fund to meet the funding requirement of this bill.
- ❑ Senate Bill 03-318 required interagency reports to be released in January 2005 and 2007 with estimates of the anticipated savings from the bill. The January 2005 report indicated that the total savings ranged between \$8.5 million and \$28.8 million. JBC staff believes those savings may be overstated. A March 2006 report by the Department of Corrections indicates the savings to be much less.

RECOMMENDATIONS:

Staff recommends that the JBC ask the Judicial Department the following questions:

- a. Does the Department agree that the savings in the January 2005 Interagency Advisory Committee Report may be overstated? Please address the concerns raised by staff about the analysis in that report.
- b. Another Interagency Advisory Committee report is due in January 2007. Will it be released on time? Will the concerns raised by JBC staff be addressed?
- c. Please discuss the significant discrepancies in estimated savings between the S.B. 03-318 Interagency Advisory Committee report and the Department of Corrections report, and the factors that should be considered in assessing the impacts of the bill.

Staff also recommends that the JBC discuss the issues of sentencing reform and substance abuse treatment with the new administration.

DISCUSSION:

SENATE BILL 03-318 (GORDON/HEFLEY)

The General Assembly enacted S.B. 03-318 to reduce the penalty for use and possession of certain controlled substances. Specifically, S.B. 03-318: (a) reduced the penalties for *use* of a schedule I or II controlled substance from a Class 5 felony to a Class 6 felony; and (b) reduced the penalty for *possession* of one gram or less of a schedule I through IV controlled substance from a Class 5 felony to a Class 6 felony (excluding the "date rape drug"). The presumptive range for a Class 5 felony is 1 year to 3 years in prison compared with a presumptive range of 1 year to 18 months for a Class 6 felony. The bill was anticipated to save money over time because of a reduction in inmates' length of stay in prison, and also a reduction in the number of offenders sent to prison.

Required Appropriations. Senate Bill 03-318 also contained a provision that requires an annual appropriation of at least \$2.2 million General Fund to the Drug Offender Treatment Fund each year beginning in FY 2007-08. In any year the General Assembly fails to make this appropriation, all portions of the act to return to the statutory language that existed prior to the enactment of the bill and the felony class changes will be reversed.

INTERAGENCY ADVISORY COMMITTEE AND REPORTS

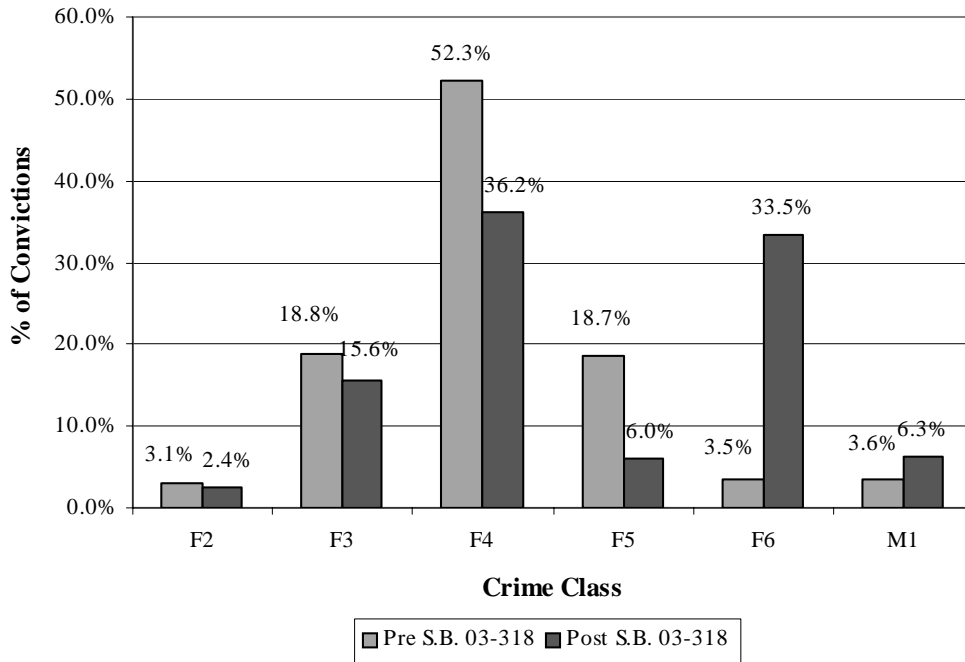
The bill created an interagency task force⁹ to distribute the funds to local drug offender treatment boards, which were also created by the bill. These boards would be charged with developing plans to use the money appropriated to treat substance abuse in their respective jurisdictions. The bill contained two reporting requirements, in January 2005 and in January 2007.

The January 2005 report indicated that the bill generated a cumulative savings ranging between \$8.5 million and \$28.8 million. The report concluded that the savings exceeds the \$2.2 million floor created by the bill. The report included data indicating that while the number of drug cases continues to climb, drug convictions following the passage of S.B. 03-318 were typically for lower class felonies. This change in felony convictions was the basis for the estimated cost savings. Figure 1 below shows drug case conviction data by felony class for the 18 months prior to and immediately following the implementation of S.B. 03-318.

⁹ The S.B. 03-318 Interagency Advisory Task Force includes representatives of: the Adult Parole, Community Corrections and Youthful Offender System (DOC); the Division of Criminal Justice (DPS); the Alcohol and Drug Abuse Division (DHS); Youth Corrections (DHS); the Division of Mental Health Services (DHS); and the Division of Probation Services (Judicial).

Figure 1.

Drug Use & Possession Conviction Classes



Source: Colorado Judicial Department, Interagency Task Force on Drug Treatment, Final Report, February 14, 2005.

JBC Staff concerns with the Interagency Advisory Committee Report. JBC staff believes that there could be savings associated with the bill. However, the report may have overstated the potential savings for the following reasons:

1. The DOC costs used in determining cost savings were average annual costs (\$28,283), not the marginal cost of a private prison bed at the time the report was written (\$18,089). Marginal costs are a more accurate representation of savings. The average costs include the cost of overhead (such as salaries of state employees, workers' compensation, and risk management), that will not be reduced. A lower inmate population will only reduce the need for private prison beds, although it would be appropriate to include additionally quantifiable DOC costs (such as appropriated funds for medical expenses) in the marginal cost estimates. Using average costs instead of marginal costs overestimates the savings derived from the bill.
2. The report assumed \$7,815 average annual cost per offender for community corrections. At the time the report was written, the DOC budget report cited costs for residential programs to be \$14,651 per year. Non-residential community corrections were estimated by DOC to

cost \$8,683. The savings generated by the bill was based on the assumption that more offenders would be in community corrections, at a lower cost. Underestimating the average annual cost of community corrections overestimates the savings derived from the bill.

3. The report examined cases, as opposed to individuals. According to the report, approximately 45 percent of the drug offenders sentenced to DOC are sentenced with multiple convictions. The sentences and length of stay for these individuals may not be affected by S.B. 03-318. Using the number of cases, rather than individuals, may overestimate the savings derived from the bill.
4. The report calculated the total savings, not the annual savings. However, the General Assembly needs to appropriate \$2.2 million General Fund *annually* or the statute is repealed.
5. The range of estimated savings from the bill stems from an analysis of the length of stay for offenders. The length of stay is crucial in estimating savings. An inmate's length of stay in prison is dictated by three factors: (a) judicial discretion at the time of sentencing; (b) whether the inmate can be placed in a community corrections program prior to their parole; and (c) whether the Parole Board authorizes a discretionary parole prior to the inmate's mandatory parole date. The minimum sentence for a Class 5 felony and a Class 6 felony is 1 year for both felony classifications. It is possible that the lengths of stay could be unchanged because of S.B. 03-318. Incorrect assumptions about length of stay may overestimate the savings derived from the bill.

Staff recommends that the Committee ask the Judicial Department if it agrees that the savings in the January 2005 Interagency Advisory Committee Report may be overstated, and to address the concerns raised by staff about the analysis in that report. Staff also recommends the Committee ask the Department if the January 2007 Interagency Advisory Committee report will it be released on time and if it will address the concerns raised by JBC staff.

DEPARTMENT OF CORRECTIONS S.B. 03-318 REPORT

In part because of the above concerns about the Interagency Advisory Committee analysis,¹⁰ the Department of Corrections released a report in March 2006 examining the prison impact of S.B. 03-318. The report, *Trend Analysis of Felony Drug Convictions Resulting in Prison Sentences and Prison Impact of S.B. 03-318*,¹¹ includes an analysis of prison population trends, prison admission trends, court commitments with a drug conviction as the most serious offense, and all felony drug

¹⁰ These concerns were first raised by JBC analyst Karl Spiecker during the Department of Corrections briefing on January 3, 2006.

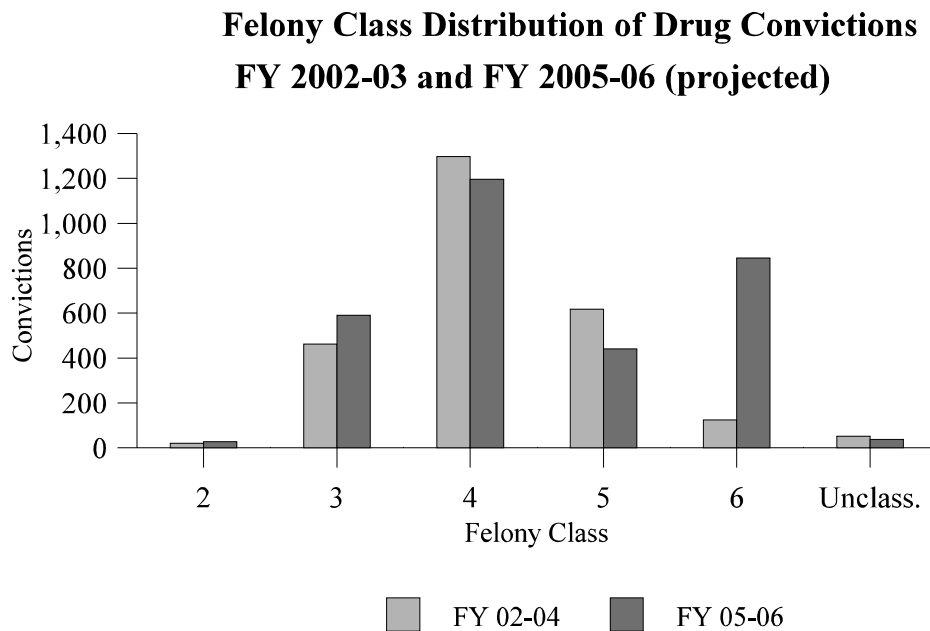
¹¹ Colorado Department of Corrections, Office of Planning and Analysis, Kristi Rosen, *Trend Analysis of Felony Drug Convictions Resulting in Prison Sentences and Prison Impact of S.B. 03-318*, March 1, 2006.

convictions. The report also includes information on other recent legislative changes affecting drug sentencing, and incorporates into its analysis previous research the Office has conducted on convicted drug offenders.

The report notes that the population incarcerated for drug convictions as the most serious offense has had extensive experience in the criminal justice system prior to placement in prison. They typically have prior placements in prison; repeated placements in probation and diversion programs; multiple felony convictions; additional law enforcement contacts such as arrests or deportations; or a combination of these categories. No incarcerated individuals were found to be first time offenders sentenced to prison for possession or use of a controlled substance.

There is also a disclaimer that measuring the impact of S.B. 03-318 is extremely difficult. Factors complicating the analysis including: (a) changes in drug commitment trends that were noticed immediately prior to the enactment of S.B. 03-318; (b) a spike in court commitments beginning in 2004 immediately after the enactment of S.B. 03-318; (c) large increases in felony Class 2 and 3 drug convictions after the enactment of S.B. 03-318; and (d) shifts in convictions from the possession categories into distribution, manufacturing, and sale that are evident in recent data along with the shift to more serious felony classes. Figure 2 below illustrates the felony class distributions before and after the enactment of S.B. 03-318.

Figure 2.



Source: Colorado Department of Corrections, Office of Planning and Analysis, Kristi Rosen, *Trend Analysis of Felony Drug Convictions Resulting in Prison Sentences and Prison Impact of S.B. 03-318*, March 1, 2006.

DOC Estimates of S.B. 03-318 Savings. The report concludes by estimating savings of just under \$223,000 in FY 2004-05, and potentially as high as \$1,076,000 in FY 2005-06. However, it notes that other factors, may reduce those savings. By FY 2007-08, the Department believes that all savings associated with the bill are lost, primarily due to recent shifts in more serious convictions for the extraordinary risk crimes of distribution, manufacturing, and sales of controlled substances.

Staff recommends the Committee ask the Department to discuss the significant discrepancies in estimated savings between the S.B. 03-318 Interagency Advisory Committee report and the Department of Corrections report, as well as other factors that should be considered in assessing the impacts of the bill.

STAFF CONCLUSION

Clearly there are significant discrepancies between the Interagency Advisory Committee savings estimates and the Department of Corrections savings estimates. The Interagency Advisory Committee is scheduled to provide an updated report in January 2007 that will hopefully address staff's concerns about its earlier data analysis and shed more light on this issue. In truth, however, the criminal justice system is very dynamic: District Attorneys have flexibility in making plea bargains; judges have discretion in sentencing; there are numerous placement options for those who are sentenced; and multiple pieces of legislation enacted in the same time period affect the process. The myriad interacting factors influencing sentencing and incarceration rates may make it impossible to accurately estimate the effects of S.B. 03-318. Instead of focusing on savings related to a specific bill that may be impossible to accurately gauge, it may be more useful to revisit the issues of sentencing reform and substance abuse treatment with the new administration.

Appendix A. The Judicial Department's Five-Year Resource Plan

Colorado Judicial Department 5 - Year Plan (FY2007 - FY2011)

Figure 13.

Vision Area/ Strategic Issue	FY2007 Appropriation		FY2008 Request		FY2009 Need		FY2010 Need		FY2011 Need		FY08-FY11 Projected Need		5-Year Total		
	FTE	Total millions	FTE	Total millions	FTE	Total millions	FTE	Total millions	FTE	Total millions	FTE	Total millions	FTE	Total millions	
Courts															
District Court Judges and Case Processing Staff *	II-1	30.0	\$2.395	65.0	\$5.385	60.0	\$5.008	60.0	\$5.008	60.0	\$5.008	245.0	\$20.409	275.0	\$22.804
Court of Appeals Panel and Support Staff *	II-1	13.5	\$1.263	-	-	13.5	\$1.300	-	-	13.5	\$1.300	27.0	\$2.600	40.5	\$3.863
County Court Judges and Case Processing Staff *	II-1	16.0	\$1.237	-	-	20.0	\$1.694	12.0	\$1.016	-	-	32.0	\$2.710	48.0	\$3.947
Trial Court Staff	II-1	31.0	\$1.382	28.0	\$1.323	28.0	\$1.323	28.0	\$1.323	28.0	\$1.323	112.0	\$5.292	143.0	\$6.674
Magistrates and Case Processing Staff	II-1	14.0	\$0.895	1.0	\$0.122	9.0	\$1.694	12.0	\$0.740	20.0	\$1.190	42.0	\$3.746	56.0	\$4.641
Respondent Parent Counsel	II-2	-	-	-	-	2.0	\$0.750	-	-	-	-	2.0	\$0.750	2.0	\$0.750
Courthouse Security	II-3	-	-	-	\$1.300	-	-	-	-	-	-	-	\$1.300	-	\$1.300
Judicial Officer Compensation	II-1	-	-	-	-	-	\$1.500	-	\$1.500	-	\$1.500	-	\$4.500	-	\$4.500
Supreme Court Staff (Nominating Commission)	II-2	-	-	-	-	1.0	\$0.075	-	-	-	-	1.0	\$0.075	1.0	\$0.075
Court Appointed Counsel Rate Increases	II-2	-	\$1.802	-	-	-	\$1.500	-	-	-	-	-	\$1.500	-	\$3.302
Language Interpreters	II-2	-	\$0.410	-	-	-	\$0.500	-	\$0.500	-	\$0.500	-	\$1.500	-	\$1.910
Senior Judges	II-1	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Statewide Drug Court	I-5	-	-	-	-	1.0	\$0.570	-	-	-	-	1.0	\$0.570	1.0	\$0.570
Training	I-5, II-1, IV-1	-	-	-	-	-	-	16.0	\$1.000	-	-	16.0	\$1.000	16.0	\$1.000
Mandated Caseload Growth	II	-	-	-	-	-	\$0.500	-	\$0.500	-	\$0.500	-	\$1.500	-	\$1.500
Subtotal		104.5	\$9.383	94.0	\$8.130	134.5	\$16.414	128.0	\$11.587	121.5	\$11.321	478.0	\$47.452	582.5	\$56.835
Probation															
Funding for Mental Health Treatment Services	I-5	-	\$1.500	-	-	-	-	-	\$2.000	-	-	-	\$2.000	-	\$3.500
SB03-318 Funding	I-5	-	-	-	\$2.500	-	-	-	-	-	-	-	\$2.500	-	\$2.500
Intensive Supervision Program Probation Officers and staff	I	-	-	-	-	-	-	35.8	\$2.134	11.5	\$0.685	47.3	\$2.819	47.3	\$2.819
Colorado Unified Supervision and Treatment Pilot (CUSP)	I	-	-	-	-	11.0	\$1.900	-	-	-	-	11.0	\$1.900	11.0	\$1.900
Regular Probation Officers and Staff	I	20.0	\$1.362	93.5	\$6.033	74.1	\$4.874	74.1	\$4.874	74.1	\$4.874	315.8	\$20.655	335.8	\$22.017
Drug Offender Surcharge Spending Authority Increase	I-5	-	-	-	\$0.325	-	-	-	-	-	-	-	\$0.325	-	\$0.325
Subtotal		20.0	\$2.862	93.5	\$8.858	85.1	\$6.774	109.9	\$9.008	85.6	\$5.559	374.1	\$30.199	394.1	\$33.061
Information Technology															
JAVA Programming Staff	I-4	3.0	\$0.227	-	-	-	-	(3.0)	(\$0.227)	-	-	(3.0)	(\$0.227)	-	-
Network Bandwidth	I-4	-	\$0.188	-	-	-	\$0.150	-	\$0.150	-	\$0.150	-	\$0.450	-	\$0.638
Network Infrastructure	I-4	-	-	-	-	-	\$0.500	-	\$0.500	-	\$0.500	-	\$1.500	-	\$1.500
Court Services Staff	I-4, IV-1	-	-	-	-	4.0	\$0.200	-	-	-	-	4.0	\$0.200	4.0	\$0.200
Information System Specialists	I-4	2.0	\$0.108	-	-	-	-	(2.0)	(\$0.108)	-	-	(2.0)	(\$0.108)	-	-
Hardware Replacement	I-4	-	-	-	-	-	\$0.500	-	\$0.500	-	\$0.500	-	\$1.500	-	\$1.500
AS400 Replacement	I-4	-	-	-	-	-	\$0.850	-	(\$0.850)	-	-	-	-	-	-
Probation laptops	I-4	-	-	-	-	-	-	-	-	-	\$0.200	-	\$0.200	-	\$0.200
Subtotal		5.0	\$0.523	-	-	4.0	\$2.200	(5.0)	(\$0.035)	-	\$1.350	(1.0)	\$3.515	4.0	\$4.038
Other/Capital Construction															
Human Resource Specialists	IV-1	2.0	\$0.151	-	-	2.0	\$0.151	-	-	-	-	2.0	\$0.151	4.0	\$0.302
Emergency Response Coordinator	II-3	-	-	-	-	1.0	\$0.080	-	-	-	-	1.0	\$0.080	1.0	\$0.080
Collections Investigators (cash funds)	I-1	15.0	\$0.691	-	-	-	-	-	-	15.0	\$0.700	15.0	\$0.700	30.0	\$1.391
Courthouse Capital/Infrastructure Maintenance	II-3	-	-	-	-	-	\$1.500	-	(\$1.000)	-	-	-	\$0.500	-	\$0.500
New Judicial Complex *	II-3, III-1	-	\$0.450	-	-	-	-	-	-	-	-	-	-	-	\$0.450
Subtotal		17.0	\$1.292	-	-	3.0	\$1.731	-	(\$1.000)	15.0	\$0.700	18.0	\$1.431	35.0	\$2.723
Total New Resource Requests		146.5	\$14.060	187.5	\$16.988	226.6	\$27.119	232.9	\$19.560	222.1	\$18.930	869.1	\$82.597	1,015.6	\$96.657

* requires legislation

Appendix B: Cash Funding in Courts Nationally ^a

State	Court	Percent of Budget Generated by Fees and Surcharges
Connecticut	Probate Court	95%
Delaware	Court of Chancery	1%
	Superior Court	11%
	Court of Common Pleas	37%
	Family Court	1%
	Justice of the Peace Court	74%
Idaho	District Court	60%
Iowa	District Court	60%
Louisiana	District Court	31%
	Juvenile Court	21%
	City & Parish Court	56%
	Justice of the Peace Court	80%
	Mayor's Court	100%
Michigan	Circuit Court	12%
	District Court	70%
	Municipal Court	38%
	Probate Court	9%
Missouri	Circuit Court	10%
Nebraska	Worker's Comp Court	3%
New Jersey	Tax Court	100%
New Mexico	District Court	1%
	Municipal Court	1%
	Probate Court	1%
	Metro Court of Bernalillo	1%
Ohio	Court of Claims	1%
South Carolina	Magistrate Court	100%
	Municipal Court	100%
South Dakota	Circuit Court	7%

State	Court	Percent of Budget Generated by Fees and Surcharges
Texas	District Court	5%
	Constitutional County Court	5%
	Probate Court	5%
	Justice of the Peace Court	1%
	County Court at Law	5%
	Municipal Court	1%
Utah	Juvenile Court	4%
Vermont	District Court	4%
	Superior Court	44%
	Family Court	7%
	Probate Court	20%
	Environmental Court	6%
	Judicial Bureau Court	142%
Number of States		16

^a This information for this table was provided from the National Center for State Courts, *State Court Structure*, on the percent of funding received by the courts from fines and fees. This information was last published in 1998 and is currently being updated.

^b Since this information was published in 1998, Colorado has begun funding a portion of its courts budget with fees. In FY 2005-06, 27.7 percent of the total appropriation for Trial Courts was cash funds or cash funds exempt.

COLORADO GENERAL ASSEMBLY

JOINT BUDGET COMMITTEE



FY 2006-07 EMERGENCY SUPPLEMENTAL

JUDICIAL BRANCH:

PUBLIC DEFENDER'S OFFICE

JBC Working Document - Subject to Change

Staff Recommendation Does Not Represent Committee Decision

Prepared By:

Stephanie Walsh, JBC Staff

November 28, 2006

For Further Information Contact:

**Joint Budget Committee
200 East 14th Avenue, 3rd Floor
Denver, Colorado 80203
Telephone: (303) 866-2061**

**JUDICIAL DEPARTMENT - PUBLIC DEFENDER'S OFFICE
 FY 2006-07 EMERGENCY SUPPLEMENTAL RECOMMENDATION
 JBC WORKING DOCUMENT - SUBJECT TO CHANGE**

FY 2006-07 Public Defender's Office Appropriation	
TOTAL	\$ 37,805,592
FTE	<u>393.9</u>
General Fund	37,711,514
Cash Fund	79,140
Cash Funds Exempt	14,938
Federal Funds	0

**Total Supplemental Request/
 Staff Recommendation**

	Supplemental Request	JBC Staff Recommendation
TOTAL	\$ 168,750	\$ 0
FTE	<u>0.0</u>	<u>0.0</u>
General Fund	0	0
Cash Fund	0	0
Cash Funds Exempt	168,750	0
Federal Funds	0	0

**JUDICIAL DEPARTMENT - PUBLIC DEFENDER'S OFFICE
 FY 2006-07 EMERGENCY SUPPLEMENTAL RECOMMENDATION
 JBC WORKING DOCUMENT - SUBJECT TO CHANGE**

Public Defender's Office 1331 Emergency Supplemental: Denver Drug Court Staff

Applicable Criteria:

- An Emergency or Act of God
- A Technical Error in Calculating the Original Appropriation
- Data Which Was Not Available When the Original Appropriation Was Made
- An Unforeseen Contingency

**PUBLIC DEFENDER'S OFFICE
 Line Item Name: Personal Services**

	FY 2005-06 Actual	FY 2006-07 Appropriated	Year-to-Date 09/03/06	Supplemental Request	Staff Recommendation
TOTAL	\$ 26,024,434	\$ 28,892,200	\$ 9,745,379	\$ 168,750	\$ 0
FTE	<u>357.9</u>	<u>393.9</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
General Fund	25,961,044	28,892,200	9,745,379	0	0
Cash Funds	63,390	28,892,200	0	0	0
Cash Funds Exempt	0	0	0	168,750	0
Federal Funds	0	0	0	0	0

Background: The *City and County of Denver's Crime Prevention and Control Commission* was established in September 2005 as a broad-based group aimed at reducing recidivism, and reducing growth of Denver's incarcerated population, through a focus on diversionary programs and alternatives to sentencing. The Commission is re-establishing a drug court in Denver.

A *drug court* is a specialized court designed to handle cases involving offenders who abuse addictive substances. The judiciary, prosecution, defense bar, probation, law enforcement, mental health, social service, and treatment communities work together to break the cycle of addiction. Drug courts offer offenders charged with less-serious crimes the option of entering the drug court system in lieu of serving a jail sentence (the new Denver drug court will not handle any cases with possible Department of Corrections sentencing). Offenders must plead guilty to the charge, and agree to take part in treatment, regular drug screenings, and regular reporting to the drug court judge, for a minimum of one year. If the offender fails to comply with one or more of the requirements, they may be removed from the drug court and incarcerated at the judge's discretion. If they complete the drug court program, the charges brought against them are dropped.

**JUDICIAL DEPARTMENT - PUBLIC DEFENDER'S OFFICE
FY 2006-07 EMERGENCY SUPPLEMENTAL RECOMMENDATION
JBC WORKING DOCUMENT - SUBJECT TO CHANGE**

Approximately 42 percent of Denver's felony cases are drug cases. The Commission hopes to process 1,800 to 2,000 of these cases each year in the new drug court. In addition to providing more intensive supervision and treatment for these offenders, the Commission hopes that the drug court will expedite these cases, reducing the amount of jail bed days the offenders utilize.

The new drug court will be comprised of three magistrates in two courtrooms. All funding for the court is being provided by the City and County of Denver. Denver is currently entering into a contract with the State Court Administrator's Office (the SCAO in the Judicial Department) regarding the hiring of magistrates and court staff. The Judicial Department will be receiving funding (as cash funds exempt monies) from Denver for these costs. Since the Judicial Department's appropriation for grants is so large, it can accept this funding without problems at this time, although it may need an adjustment to its cash funds exempt appropriation during supplementals in January.

Request: The *Public Defender's Office* (PDO) will need three public defenders and one secretary to cover the new courtrooms. The City and County of Denver would like to enter into a 15 month contract with the PDO; upon termination of the contract, the agreement can be renewed annually provided that both parties agree and the PDO has been appropriated sufficient cash funds exempt spending authority. Denver would pay the PDO for the cost of these staff in two lump sums each year, the first of which would be received in FY 2006-07. The PDO intends to submit a FY 2007-08 budget amendment for 12 months worth of services, based on the assumption that the initial contract will be continued.

The drug court attorneys and staff would be hired as contract employees, so no additional FTE are required. If the program does not continue in the future, the PDO would discontinue the contract positions, and the people filling those positions would likely be shifted into vacant FTE positions in the Denver area (the Denver office has a very high attrition rate).

When the PDO was asked to provide these services earlier this fall, it thought it could accept the funding under its Grants appropriation and then submit a supplemental request to the Joint Budget Committee to adjust the appropriation in January. However, the Controller's Office will not allow the PDO to spend this funding via its Grants appropriation because its appropriation is not sufficient and because will be used to hire contract staff. The PDO cannot begin hiring for these positions until it is sure its funding is secure.

According to the Executive Director of the Commission, once the contracts with the SCAO and the PDO are finalized, Denver needs approximately 30 days to get the court started, and it would like to start as soon as possible. Without the public defenders to represent defendants, the court can not operate. The City Attorney cannot take these types of cases, and it is not feasible to limit the caseload to only those defendants with private counsel. Since the monies are coming from another government, they are cash funds exempt.

**JUDICIAL DEPARTMENT - PUBLIC DEFENDER'S OFFICE
FY 2006-07 EMERGENCY SUPPLEMENTAL RECOMMENDATION
JBC WORKING DOCUMENT - SUBJECT TO CHANGE**

Staff Recommendation: *Staff does not recommend this request because it does not meet emergency supplemental criteria.* The request meets regular supplemental criteria because the proposed court and the PDO's contract with the City and County of Denver was an "unforeseen contingency" when the FY 2006-07 budget was being developed. However, emergency supplementals are intended for situations that are urgent and emergencies in nature. Although the City and County of Denver is eager to establish this new drug court (in fact, the original contract is dated from October 2006 to December 2007), the court has been delayed this long and can wait another two months until regular supplementals are considered.

If the Committee approves the supplemental, staff recommends increasing the PDO's cash funds exempt spending authority as requested. Staff was concerned about the use of long-term contractors to fill these positions since they do not meet IRS standards for independent contractors (the attorneys would be under the direct supervision and control of the PDO). However, the PDO informed me that because of budget decisions made several years ago, it has approximately 30 positions that are funded as long-term contractors yet are under the PDO's direct supervision and control. The PDO hires people to fill these positions, and as turnover occurs, they are typically moved into FTE positions within six months. The PDO anticipates a similar pattern with the contract attorneys and staff that would be hired under this request. However, in the interest of transparency, since these attorneys and staff would for all intents and purposes be FTE, *staff recommends an increase of 4.0 FTE if this supplemental request is approved* (three attorneys and one support staff).