

**COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE**



FY 2009-10 STAFF FIGURE SETTING

JUDICIAL BRANCH

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

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**JUDICIAL BRANCH
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JBC WORKING DOCUMENT - ALL DECISIONS SUBJECT TO CHANGE
Staff Recommendation Does Not Represent Committee Decision

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Judicial Branch
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	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
JUDICIAL BRANCH						
Chief Justice Mary Mullarkey						
(1) SUPREME COURT/COURT OF APPEALS						
The primary functions of the Supreme Court include: general supervisory control of lower courts; appellate review of lower court judgements; original jurisdiction for certain constitutional and other cases; 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. Cash fund sources include various fees and cost recoveries.						
Appellate Court Programs			11,217,738	11,958,419	11,981,895	
FTE			<u>146.0</u>	<u>146.0</u>	<u>146.0</u>	
General Fund			10,150,431	10,862,129	10,883,589	
FTE			132.5 S	132.5	132.5	
Cash Funds			1,067,307	1,096,290	1,098,306	
FTE			13.5 S	13.5	13.5	
Personal Services	9,277,099	9,482,068	Included in			
FTE	<u>126.5</u>	<u>129.9</u>	Appellate Court			
General Fund	9,277,099	9,482,068	Programs line			
FTE	126.5	129.9	item (above)			
Cash Funds	0	0				
Operating Expenses	<u>213,271</u>	<u>207,290</u>	Included in			
General Fund	152,832	147,630	Appellate Court			
Cash Funds	60,439	59,660	Programs line item			
Capital Outlay	<u>241,937</u>	<u>0</u>	<u>229,662</u>	<u>0</u>	<u>0</u>	
General Fund	241,937	0	0	0	0	
Cash Funds	0	0	229,662	0	0	

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	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
Attorney Regulation Committees - CF	6,326,619	6,083,891	4,700,000	4,700,000	4,700,000	
FTE	40.5	40.5	40.5	40.5	40.5	
Continuing Legal Education - CF	350,689	369,682	325,000	325,000	325,000	
FTE	4.0	4.0	4.0	4.0	4.0	
Law Examiner Board - CF	801,207	895,662	850,000	850,000	850,000	
FTE	8.2	8.2	8.2	8.2	8.2	
Law Library - CF	426,260	440,131	500,000	500,000	500,000	
TOTAL - Supreme Court/ Court of Appeals	17,637,082	17,478,724	17,822,400	18,333,419	18,356,895	
FTE	<u>179.2</u>	<u>182.6</u>	<u>198.7</u>	<u>198.7</u>	<u>198.7</u>	
General Fund	9,671,868	9,629,698	10,150,431	10,862,129	10,883,589	
FTE	126.5	129.9	132.5	132.5	132.5	
Cash Funds	7,965,214	7,849,026	7,671,969	7,471,290	7,473,306	
FTE	52.7	52.7	66.2	66.2	66.2	

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	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
(2) COURTS ADMINISTRATION						
(A) Administration						
This subdivision supports the Office of the State Court Administrator, which coordinates and controls budgeting, research, data processing and management services for the Judicial Department, and provides training, technical assistance and other support services. Cash fund sources include various fees and cost recoveries. Reappropriated funds include indirect cost recoveries and a transfer from the Department of Higher Education.						
Personal Services	4,443,273	4,935,270	5,179,789	5,525,225		5,536,372
FTE	<u>59.2</u>	<u>60.6</u>	<u>64.1</u>	<u>64.1</u>		<u>64.1</u>
General Fund	3,406,377	3,823,254	3,914,540 S	4,199,313		3,974,210
FTE	59.2	60.6	64.1	64.1		64.1
Cash Funds	0	0	150,000 S	0		150,000
Cash Funds Exempt/ Reappr. Funds	1,036,896	1,112,016	1,115,249	1,325,912		1,412,162
Operating Expenses	<u>366,799</u>	<u>368,135</u>	<u>371,106</u>	<u>371,106</u>		<u>371,106</u>
General Fund	366,152	367,984	370,106	370,106		370,106
Cash Funds	647	151	1,000	1,000		1,000
Capital Outlay - GF	6,010	7,042	6,220	0		0
Judicial/Heritage Program	716,189	588,441	746,769	749,176		749,176
FTE	<u>3.0</u>	<u>3.0</u>	<u>3.0</u>	<u>3.0</u>		<u>3.0</u>
General Fund	471,679	317,852	504,903	503,260		503,260
FTE	3.0	3.0	3.0	3.0		3.0
Cash Funds Exempt/ Reappr. Funds	244,510	270,589	241,866	245,916		245,916

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	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
Family-friendly Court Program	324,582	366,217	375,000	375,000	375,000	
FTE	<u>0.5</u>	<u>0.5</u>	<u>0.5</u>	<u>0.5</u>	<u>0.5</u>	
Cash Funds	323,561	339,668	375,000	375,000	375,000	
FTE	0.5	0.5	0.5	0.5	0.5	
Cash Funds Exempt/ Reappr. Funds	1,021	26,549	0	0	0	
FTE	0.0	0.0	0.0	0.0	0.0	
Office of Judicial Performance Evaluation	See Judicial	808,810	889,437	920,955	920,955	
FTE	Performance	<u>1.0</u>	<u>2.0</u>	<u>2.0</u>	<u>2.0</u>	
Cash Funds	subdivision	808,810	889,437	920,955	920,955	
FTE	(below)	1.0	2.0	2.0	2.0	
Cash Funds Exempt/ Reappr. Funds		0	0	0	0	
Courthouse Capital/ Infrastructure						
Maintenance	<u>1,103,359</u>	<u>948,680</u>	<u>1,000,000</u>	<u>4,100,000</u>	<u>4,100,000</u>	JUD DI #1
General Fund	1,103,359	948,680	1,000,000	4,100,000	1,000,000	
Cash Funds	0	0	0	0	3,100,000	
Courthouse Security - CF	n/a	344,307	2,944,622	S 3,194,622	3,194,622	JUD DI #4b
FTE		1.0	1.0	1.0	1.0	
Family Violence Justice Grants - GF	475,008	495,000	750,000	750,000	750,000	
Statewide Indirect Costs Assessment	<u>111,668</u>	<u>104,846</u>	<u>128,946</u>	<u>83,253</u>	<u>83,252</u>	
Cash Funds	105,244	99,438	124,593	75,364	75,363	
Cash Funds Exempt/ Reappr. Funds	6,424	5,408	0	2,469	2,469	
Federal Funds	0	0	4,353	5,420	5,420	

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	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
Departmental Indirect Cost Assessment - CF	925,228	1,007,170	986,303	1,242,659	1,328,909	
SUBTOTAL - Administration	8,472,116	9,973,918	13,378,192	17,311,996	17,409,392	
FTE	<u>62.7</u>	<u>66.1</u>	<u>70.6</u>	<u>70.6</u>	<u>70.6</u>	
General Fund	5,828,585	5,959,812	6,545,769	9,922,679	6,597,576	
FTE	62.2	63.6	67.1	67.1	67.1	
Cash Funds	1,354,680	2,599,544	5,470,955	5,809,600	9,145,849	
FTE	0.5	2.5	3.5	3.5	3.5	
Cash Funds Exempt/ Reappr. Funds	1,288,851	1,414,562	1,357,115	1,574,297	1,660,547	
FTE	0.0	0.0	0.0	0.0	0.0	
Federal Funds	0	0	4,353	5,420	5,420	

(B) Administrative Special Purpose

This subdivision includes centrally appropriated line items (which generally exclude funding associated with the three independent agencies) and ancillary programs. Cash fund sources include various court fees and fines, royalties from the sale of pattern jury instructions, and employee parking fees. Reappropriated funds include Victims and Witnesses Assistance and Law Enforcement funds transferred from the Trial Courts division, and federal funds transferred from the Department of Human Services.

Health, Life and Dental	<u>10,239,651</u>	<u>12,399,519</u>	<u>16,106,295</u>	<u>18,515,933</u>	<u>18,141,821</u>
General Fund	9,718,227	11,708,733	13,905,933 S	16,302,590	16,302,590
Cash Funds	521,424	690,786	2,200,362	2,213,343	1,839,231
Short-term Disability	<u>141,748</u>	<u>209,399</u>	<u>200,386</u>	<u>263,190</u>	<u>311,991</u>
General Fund	132,516	186,059	166,112 S	232,458	267,136
Cash Funds	9,232	23,340	34,274	30,732	44,855

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	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
S.B. 04-257 Amortization Equalization						
Disbursement	<u>1,055,252</u>	<u>1,885,200</u>	<u>3,014,203</u>	<u>4,186,953</u>	<u>3,968,247</u>	
General Fund	993,977	1,669,756	2,592,370	3,697,510	3,389,472	
Cash Funds	61,275	215,444	421,833	489,443	578,775	
S.B. 06-235 Supplemental Amortization						
Equalization Disbursement	n/a	<u>343,055</u>	<u>1,369,816</u>	<u>2,616,846</u>	<u>2,444,249</u>	
General Fund		298,170	1,172,082	2,310,944	2,082,515	
Cash Funds		44,885	197,734	305,902	361,734	
Salary Survey						
General Fund	<u>4,652,652</u>	<u>9,530,403</u>	<u>10,579,054</u>	<u>6,799,863</u>	<u>0</u>	
Cash Funds	4,447,399	8,998,492	9,410,617 S	6,061,700	0	
	205,253	531,911	1,168,437	738,163	0	
Anniversary Increases						
General Fund	<u>0</u>	<u>1,958,269</u>	<u>2,052,664</u>	<u>0</u>	<u>0</u>	
Cash Funds	0	1,847,001	1,828,268	0	0	
	0	111,268	224,396	0	0	
Workers' Compensation - GF	1,348,485	1,624,563	2,071,929	1,846,887 A	Pending	JUD BA #6
Legal Services - GF	195,912	195,616	217,448 S	317,448	Pending	
Hours	2,890.8	2,715.8	2,895.4 S	4,227.0	3,000.0	
Payment to Risk Management - GF	425,823	272,001	341,001	248,892 A	Pending	JUD BA #6
Vehicle Lease Payments - GF	32,743	33,363	44,932	72,122 A	Pending	JUD BA #6

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	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
Leased Space	<u>697,437</u>	<u>789,737</u>	<u>828,175</u>	<u>914,425</u>	<u>914,425</u>	
General Fund	663,042	754,032	788,935	788,935	875,185	
Cash Funds	34,395	35,705	39,240	125,490 A	39,240	JUD BA #4
Lease Purchase - GF	112,766	112,766	119,878	119,878	119,878	
Administrative Purposes	<u>154,015</u>	<u>178,613</u>	<u>195,554</u>	<u>195,554</u>	<u>195,554</u>	
General Fund	103,440	128,804	130,554	130,554	130,554	
Cash Funds	50,575	49,809	65,000	65,000	65,000	
Retired Judges - GF	1,530,382	1,695,955	1,894,006 S	1,894,006 A	1,894,006	JUD BA #3
Appellate Reports Publication - GF	31,988	45,535	37,100	37,100	37,100	
Child Support Enforcement	59,086	71,610	90,900	90,900	90,900	
FTE	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	
General Fund	20,054	24,254	30,904	30,904	30,904	
Cash Funds Exempt/ Reappr. Funds	39,032	47,356	59,996	59,996	59,996	
FTE	1.0	1.0	1.0	1.0	1.0	
Collections Investigators	3,923,925	4,379,225	4,806,009	5,011,321	5,069,351	
FTE	<u>69.0</u>	<u>74.7</u>	<u>83.2</u>	<u>83.2</u>	<u>83.2</u>	
Cash Funds	3,347,694	3,735,388	4,018,468	4,223,780	4,281,810	
FTE	69.0	74.7	83.2	83.2	83.2	
Cash Funds Exempt/ Reappr. Funds	576,231	643,837	787,541 S	787,541 A	787,541	JUD BA #5

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	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
SUBTOTAL - Administrative Special						
Purpose	24,601,865	35,724,829	43,969,350	43,131,318	33,187,522	
FTE	<u>70.0</u>	<u>75.7</u>	<u>84.2</u>	<u>84.2</u>	<u>84.2</u>	
General Fund	19,756,754	29,595,100	34,752,069	34,091,928	25,129,340	
Cash Funds	4,229,848	5,438,536	8,369,744	8,191,853	7,210,645	
FTE	69.0	74.7	83.2	83.2	83.2	
Cash Funds Exempt/ Reappr. Funds	615,263	691,193	847,537	847,537	847,537	
FTE	1.0	1.0	1.0	1.0	1.0	

Judicial Performance

This subdivision was responsible for Judicial Performance evaluations.

Personal Services - CF	89,700		See Administration
FTE	1.0		subdivision (above).
Operating Expenses - CF	55,460		

SUBTOTAL - Judicial Performance -						
CF	145,160					
FTE	1.0					

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	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
(C) Integrated Information Services						
This subdivision provides funding to develop and maintain information technology systems used by the courts (including ICON and CICJIS), provide associated staff training, and assure data integrity. Cash fund sources include various fees and other cost recoveries. Reappropriated funds are federal funds transferred from the Department of Public Safety.						
Personal Services	2,923,189	3,044,022	3,621,503	4,786,047	4,733,563	
FTE	<u>40.8</u>	<u>44.9</u>	<u>46.7</u>	<u>59.9</u>	<u>59.9</u>	
General Fund	2,876,413	3,011,093	3,187,013	3,324,660	3,331,315	
FTE	40.8	44.9	44.9	44.9	44.9	
Cash Funds	0	0	216,780 S	1,243,677 A	1,184,538	JUD BA #4
FTE	0.0	0.0	1.8 S	15.0 A	15.0	JUD BA #4
Cash Funds Exempt/ Reappr. Funds	46,776	32,929	217,710	217,710	217,710	
Operating Expenses	<u>224,569</u>	<u>226,444</u>	<u>327,604</u>	<u>657,490</u>	<u>398,840</u>	
General Fund	174,569	176,444	177,604	177,604	177,604	
Cash Funds	50,000	50,000	150,000 S	479,886 A	221,236	JUD BA #4
JAVA Conversion - GF	258,570	305,037	311,054	0	0	
FTE	4.0	4.7	5.0	0.0	0.0	
Capital Outlay	<u>15,025</u>	<u>7,042</u>	<u>2,765</u>	<u>0</u>	<u>35,000</u>	
General Fund	15,025	7,042	2,765	0	0	
Cash Funds	0	0	0	0	35,000	
Purchase of Services from Computer Center - GF	130,103	102,454	268,774	264,410 A	Pending	JUD BA #6
Multiuse Network Payments - GF	270,689	285,787	334,800	330,488 A	Pending	JUD BA #6

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	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
Communication Services Payments - GF	11,708	10,266	10,938	12,576	A	Pending JUD BA #6
Telecommunications Expenses	<u>383,169</u>	<u>479,627</u>	<u>533,392</u>	<u>593,410</u>		<u>593,230</u>
General Fund	309,777	256,235	310,000	310,000		310,000
Cash Funds	73,392	223,392	223,392	283,410	A	283,230 JUD BA #4
Hardware Replacement	<u>2,217,517</u>	<u>2,250,000</u>	<u>2,655,516</u>	<u>3,243,652</u>		<u>2,994,722</u>
General Fund	2,597	0	0	0		0
Cash Funds	2,214,920	2,250,000	2,655,516	3,243,652	A	2,994,722 JUD BA #4
Hardware/Software Maintenance	<u>1,063,035</u>	<u>1,174,424</u>	<u>1,178,094</u>	<u>1,178,094</u>		<u>1,491,243</u>
General Fund	1,028,035	1,039,424	1,043,094	1,043,094		1,043,094
Cash Funds	35,000	135,000	135,000	135,000		448,149
Information Technology Infrastructure						<u>5,079,195</u>
General Fund						1,353,094
Cash Funds						3,726,101
						<i>Non-add: recommended consolidated line item</i>
SUBTOTAL - Integrated Information						
Services	7,497,574	7,885,103	9,244,440	11,066,167		10,246,598
FTE	<u>44.8</u>	<u>49.6</u>	<u>51.7</u>	<u>59.9</u>		<u>59.9</u>
General Fund	5,077,486	5,193,782	5,646,042	5,462,832		4,897,013
FTE	44.8	49.6	49.9	44.9		44.9
Cash Funds	2,373,312	2,658,392	3,380,688	5,385,625		5,131,875
FTE	0.0	0.0	1.8	15.0		15.0
Cash Funds Exempt/ Reappr. Funds	46,776	32,929	217,710	217,710		217,710

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	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
TOTAL - Courts Administration	40,571,555	53,583,850	66,591,982	71,509,481	60,843,512	
FTE	<u>178.5</u>	<u>191.4</u>	<u>206.5</u>	<u>214.7</u>	<u>214.7</u>	
General Fund	30,662,825	40,748,694	46,943,880	49,477,439	36,623,929	
FTE	107.0	113.2	117.0	112.0	112.0	
Cash Funds	7,957,840	10,696,472	17,221,387	19,387,078	21,488,369	
FTE	70.5	77.2	88.5	101.7	101.7	
Cash Funds Exempt/ Reappr. Funds	1,950,890	2,138,684	2,422,362	2,639,544	2,725,794	
FTE	1.0	1.0	1.0	1.0	1.0	
Federal Funds	0	0	4,353	5,420	5,420	

(3) TRIAL COURTS

Trial courts consist of district courts (including water courts) and county 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 fund sources include various court fees and cost recoveries, Crime Victim Compensation funds, and Victims and Witnesses Assistance and Law Enforcement funds. Reappropriated funds are federal funds transferred from the Departments of Public Safety and Human Services.

Trial Courts Programs		116,705,643		132,951,161	128,295,754	JUD DI #2
FTE		<u>1,873.2</u>		<u>1,967.2</u>	<u>1,900.6</u>	JUD DI #2
General Fund		94,436,905	S	103,056,785	103,207,896	
FTE		1,628.1		1,637.6	1,637.1	
Cash Funds		22,268,738		28,542,591	24,122,858	
FTE		245.1		329.6	263.5	
Reappropriated Funds		0		0	965,000	
Federal Funds		0		1,351,785	0	

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	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
Personal Services	95,598,093	101,784,289	Included in			
FTE	<u>1,608.5</u>	<u>1,682.5</u>	Trial Courts			
General Fund	88,539,062	90,138,995	Programs line			
FTE	1,521.6	1,550.6	item (above)			
Cash Funds	5,860,931	10,293,509				
FTE	86.9	131.9				
Federal Funds	1,198,100	1,351,785				
Operating Expenses	<u>7,545,228</u>	<u>6,646,246</u>	Included in Trial			
General Fund	223,951	150,877	Courts Programs			
Cash Funds	7,321,277	6,495,369	line item (above)			
Capital Outlay	<u>1,029,387</u>	<u>866,829</u>	<u>1,465,794</u>	<u>1,404,339</u>	<u>1,353,895</u>	JUD DI #2
General Fund	0	141,023	0	146,643	62,724	
Cash Funds	1,029,387	725,806	1,465,794 S	1,257,696	1,291,171	
Court Costs, Jury Costs, and Court-						
appointed Counsel (previously "Mandated						
Costs")	<u>12,104,758</u>	<u>13,426,103</u>	<u>15,594,352</u>	<u>15,594,352</u>	<u>15,594,352</u>	
General Fund	11,940,646	13,249,563	15,109,352 S	15,109,352 A	15,109,352	JUD BA #1
Cash Funds	164,112	176,540	485,000	485,000	485,000	
Language Interpreters	3,181,249	3,520,983	3,393,469	3,457,604	3,457,604	
FTE	<u>25.0</u>	<u>25.0</u>	<u>25.0</u>	<u>25.0</u>	<u>20.0</u>	
General Fund	3,138,162	3,511,231	3,343,469 S	3,407,604 A	3,407,604	JUD BA #2
FTE	25.0	25.0	25.0	25.0	20.0	
Cash Funds	43,087	9,752	50,000	50,000	50,000	

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	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
District Attorney Mandated Costs	<u>2,027,885</u>	<u>2,223,648</u>	<u>2,226,052</u>	<u>2,226,052</u>	<u>2,226,052</u>	
General Fund	1,928,795	2,092,974	2,101,052 S	2,101,052 A	2,101,052	
Cash Funds	99,090	130,674	125,000	125,000	125,000	
Sex Offender Surcharge Fund Program - GF	21,021	24,988	0 S	21,635	0	
Victim Compensation - CF	9,316,013	10,314,242	12,120,121	12,120,121	12,120,121	
Victim Assistance - CF	13,032,626	14,314,518	15,095,039	15,095,039	15,095,039	
Federal Funds and Other Grants	1,292,011	1,085,401	2,296,627	2,296,627	2,400,000	
FTE a/	<u>8.5</u>	<u>10.9</u>	<u>8.5</u>	<u>8.5</u>	<u>14.0</u>	
Cash Funds	797,282	419,650	989,579	989,579	475,000	
FTE	0.0	3.0	0.0	0.0	3.0	
Cash Funds Exempt/ Reappr. Funds	37,379	85,095	256,890	256,890	300,000	
FTE a/	6.0	1.8	6.0	6.0	6.0	
Federal Funds	457,350	580,656	1,050,158	1,050,158	1,625,000	
FTE a/	2.5	6.1	2.5	2.5	5.0	

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	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
TOTAL - Trial Courts	145,148,271	154,207,247	168,897,097	185,166,930	180,542,817	
FTE	<u>1,642.0</u>	<u>1,718.4</u>	<u>1,906.7</u>	<u>2,000.7</u>	<u>1,934.6</u>	
General Fund	105,791,637	109,309,651	114,990,778	123,843,071	123,888,628	
FTE	1,546.6	1,575.6	1,653.1	1,662.6	1,657.1	
Cash Funds	37,663,805	42,880,060	52,599,271	58,665,026	53,764,189	
FTE	86.9	134.9	245.1	329.6	266.5	
Cash Funds Exempt/ Reappr. Funds	37,379	85,095	256,890	256,890	1,265,000	
FTE	6.0	1.8	6.0	6.0	6.0	
Federal Funds	1,655,450	1,932,441	1,050,158	2,401,943	1,625,000	
FTE	2.5	6.1	2.5	2.5	5.0	

a/ FTE figures for FY 2006-07 and 2007-08 reflected appropriated, rather than actual, levels.

(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, and various cost recoveries. Reappropriated funds include Victims and Witnesses Assistance and Law Enforcement funds transferred from the Trial Courts division, and funds transferred from other departments.

Personal Services	49,504,928	60,889,029	68,108,726	72,938,680	73,083,454	
FTE	<u>835.7</u>	<u>1,031.3</u>	<u>1,129.8</u>	<u>1,139.6</u>	<u>1,139.6</u>	
General Fund	45,676,920	51,535,119	58,805,464 S	63,399,402	63,266,411	JUD DI #3
FTE	768.0	877.4	975.9	989.9	985.7	JUD DI #3
Cash Funds	3,828,008	9,353,910	9,303,262	9,539,278	9,817,043	JUD DI #2 a/
FTE	67.7	153.9	153.9	149.7	153.9	JUD DI #2
Operating Expenses	<u>2,081,402</u>	<u>2,594,272</u>	<u>2,738,962</u>	<u>3,136,711</u>	<u>3,131,711</u>	
General Fund	1,963,799	2,244,603	2,262,118 S	2,317,862	2,312,862	JUD DI #3; 4d
Cash Funds	117,603	349,669	476,844 S	818,849	818,849	JUD DI #4c, 4d

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	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
Capital Outlay - GF	123,872	381,564	168,604	101,192	81,622	JUD DI #3
Offender Treatment and Services	<u>5,062,494</u>	<u>5,769,105</u>	<u>8,607,023</u>	<u>11,932,023</u>	<u>10,932,023</u>	
General Fund	487,193	487,193	0 S	487,193	0	JUD DI #4a; 4c
Cash Funds	3,663,767	3,656,855	8,294,290 S	11,132,097	10,619,290	a/
Cash Funds Exempt/ Reappr. Funds	911,534	1,625,057	312,733	312,733	312,733	
Alcohol/Drug Driving Safety Contract - CF	4,825,499	See Personal Services and Operating Expenses line items (above)				
FTE	70.7					
Victims Grants - CFE/RF	315,591	333,988	400,000	400,000	650,000	
FTE	17.3	17.3	17.3	17.3	6.0	
S.B. 91-94 Juvenile Services- CFE/RF	1,438,814	1,663,595	1,673,321 S	1,906,837	1,906,837	
FTE	25.0	25.0	25.0	25.0	25.0	
S.B. 03-318 Community Treatment Funding - GF	0	2,200,000	2,200,000	2,200,000	2,200,000	
Federal Funds and Other Grants	2,248,717	2,895,079	4,663,739	4,663,739	4,850,000	
FTE b/	<u>32.3</u>	<u>34.8</u>	<u>32.3</u>	<u>32.3</u>	<u>33.0</u>	
Cash Funds	982,088	1,330,103	2,605,422	2,605,422	1,200,000	
FTE b/	2.0	6.5	2.0	2.0	2.0	
Cash Funds Exempt/ Reappr. Funds	471,968	532,778	822,563	822,563	850,000	
FTE b/	17.8	10.9	17.8	17.8	18.0	
Federal Funds	794,661	1,032,198	1,235,754	1,235,754	2,800,000	
FTE b/	12.5	17.4	12.5	12.5	13.0	

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	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
TOTAL - Probation	65,601,317	76,726,632	88,560,375	97,279,182	96,835,647	
FTE	<u>981.0</u>	<u>1,108.4</u>	<u>1,204.4</u>	<u>1,214.2</u>	<u>1,203.6</u>	
General Fund	48,251,784	56,848,479	63,436,186	68,505,649	67,860,895	
FTE	768.0	877.4	975.9	989.9	985.7	
Cash Funds	13,416,965	14,690,537	20,679,818	24,095,646	22,455,182	
FTE	140.4	160.4	155.9	151.7	155.9	
Cash Funds Exempt/ Reappr. Funds	3,137,907	4,155,418	3,208,617	3,442,133	3,719,570	
FTE	60.1	53.2	60.1	60.1	49.0	
Federal Funds	794,661	1,032,198	1,235,754	1,235,754	2,800,000	
FTE	12.5	17.4	12.5	12.5	13.0	

a/ The Department's budget request included \$225,000 of the amount requested through decision item #4a in the Personal Services line item. The Department has since indicated that the full amount (\$300,000) should have been requested for the Offender Services and Treatment line item. Staff has reflected the intended request, above.

b/ FTE figures for FY 2006-07 and 2007-08 reflected appropriated, rather than actual, levels.

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	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
(5) PUBLIC DEFENDER						
Douglas Wilson, State Public Defender						
This agency provides legal counsel for indigent defendants in criminal and juvenile delinquency cases where there is a possibility of being jailed or imprisoned. Cash funds consist of training fees paid by private attorneys, and funds received from the City of Denver for contract services related to its drug court. Reappropriated funds are federal funds transferred from the Department of Public Safety.						
Personal Services	28,460,797	32,776,520	35,529,848	38,925,065	39,142,556	JUD DI #2; PD DI #1 and 3 a/
FTE	<u>367.0</u>	<u>424.9</u>	<u>534.1</u>	<u>570.9</u>	<u>576.3</u>	
General Fund	28,303,657	32,551,520	35,304,848	38,925,065	39,142,556	
FTE	364.6	420.9	530.1	570.9	576.3	
Cash Funds	157,140	225,000	225,000	0	0	
FTE	2.4	4.0	4.0	0.0	0.0	
Health, Life, and Dental - GF	1,436,316	1,806,462	2,642,260	2,939,489	3,683,543	JUD DI #2; PD DI #1 b/
Short-term Disability	<u>26,253</u>	<u>31,517</u>	<u>40,831</u>	<u>45,390</u>	<u>54,015</u>	JUD DI #2; PD DI #1 and 3
General Fund	26,253	31,517	40,814	45,390	54,015	
Cash Funds	0	0	17	0	0	
S.B. 04-257 Amortization						JUD DI #2; PD
Equalization Disbursement	<u>164,566</u>	<u>282,846</u>	<u>492,072</u>	<u>693,363</u>	<u>690,464</u>	DI #1 and 3
General Fund	164,566	282,846	491,865	693,363	690,464	
Cash Funds	0	0	207	0	0	

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	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
S.B. 06-235 Supplemental Amortization						JUD DI #2; PD
Equalization Disbursement	<u>0</u>	<u>50,508</u>	<u>222,483</u>	<u>210,739</u>	<u>424,572</u>	DI #1 and 3
General Fund	0	50,508	222,386	210,739	424,572	
Cash Funds	0	0	97	0	0	
Salary Survey	<u>843,026</u>	<u>934,562</u>	<u>1,342,685</u>	<u>0</u>	<u>0</u>	b/
General Fund	843,026	934,562	1,331,059	0	0	
Cash Funds	0	0	11,626	0	0	
Anniversary Increases	<u>0</u>	<u>403,490</u>	<u>477,544</u>	<u>0</u>	<u>0</u>	
General Fund	0	403,490	473,418	0	0	
Cash Funds	0	0	4,126	0	0	
Operating Expenses	<u>1,095,764</u>	<u>1,531,800</u>	<u>1,143,882</u>	<u>1,229,301</u>	<u>1,240,001</u>	JUD DI #2; PD
General Fund	1,080,014	1,514,300	1,126,382	1,199,301	1,210,001	DI #1
Cash Funds	15,750	17,500	17,500	30,000	30,000	PD DI #2
Purchase of Services from Computer Center - GF	12,633	18,453	19,579	19,579	Pending	
Multiuse Network Payments - GF	209,236	235,797	0	0	0	
Vehicle Lease Payments - GF	47,121	35,189	55,465	50,609	Pending	
Capital Outlay - GF	97,081	243,405	62,760	193,436	219,576	JUD DI #2; PD DI #1
Leased Space/Utilities - GF	2,572,318	3,312,971	4,221,743	5,177,879	5,177,879	PD DI #1

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	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
Automation Plan - GF	863,391	1,087,746	681,390 S	894,768	894,768	
Contract Services - GF	8,000	462	18,000	18,000	18,000	
Mandated Costs - GF	2,541,618	3,143,259	3,370,166 S	3,567,671	3,567,671	
Grants	84,040	81,788	78,237	63,745	63,745	
FTE	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>1.0</u>	<u>1.0</u>	
Cash Funds	0	0	0	56,245	56,245	BA #2a
FTE	0.0	0.0	0.0	1.0	1.0	
Cash Funds Exempt/ Reappr. Funds	84,040	81,788	78,237	7,500	7,500	
FTE	0.0	0.0	0.0	0.0	0.0	
TOTAL - Public Defender	38,462,160	45,976,775	50,398,945	54,029,034	55,176,790	
FTE	<u>367.0</u>	<u>424.9</u>	<u>534.1</u>	<u>571.9</u>	<u>577.3</u>	
General Fund	38,205,230	45,652,487	50,062,135	53,935,289	55,083,045	
FTE	364.6	420.9	530.1	570.9	576.3	
Cash Funds	172,890	242,500	258,573	86,245	86,245	
FTE	2.4	4.0	4.0	1.0	1.0	
Cash Funds Exempt/ Reappr. Funds	84,040	81,788	78,237	7,500	7,500	

a/ Please note that the Public Defender has *not* requested additional funding and staff associated with the third year of implementing H.B. 07-1054. Instead, the Public Defender has submitted as his top funding priority for FY 2009-10 an increase of \$2.4 million and 36.8 FTE (DI #1). The third year cost of implementing H.B. 07-1054 would be \$4,416,358 and 74.6 FTE.

b/ Please note that due to a misunderstanding about the Executive budget instructions, the November 2008 request from the State Public Defender *excluded* funding for salary increases or for increases in health, life, and dental benefits.

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	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
(6) ALTERNATE DEFENSE COUNSEL						
Lindy Frolich, State Alternate Defense Counsel						
This agency provides legal representation for indigent defendants in cases where the Public Defender is precluded from doing so because of an ethical conflict of interest. Cash funds are received from private attorneys and investigators for training.						
Personal Services - GF	452,719	561,708	663,976	707,765	706,089	
FTE	5.0	6.5	7.5	7.5	7.5	
Health, Life, and Dental - GF	20,693	34,369	45,809	62,947	62,947	
Short-term Disability - GF	455	643	707	845	951	
S.B. 04-257 Amortization Equalization Disbursement - GF	2,849	5,674	8,523	13,002	12,063	
S.B. 06-235 Supplemental Amortization Equalization Disbursement - GF	0	1,040	3,854	8,212	7,412	
Salary Survey - GF	10,983	18,422	29,321	27,975	0	
Performance-based Pay Awards - GF	0	4,701	8,382	10,721	0	
Operating Expenses	<u>96,837</u>	<u>75,857</u>	<u>67,030</u>	<u>67,030</u>	<u>67,030</u>	
General Fund	89,080	75,857	67,030	67,030	67,030	
Cash Funds	7,757	0	0	0	0	
Capital Outlay - GF	0	6,008	3,455	0	0	

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	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
Purchase of Services from Computer Center - GF	950	1,537	1,203	1,203	Pending	
Leased Space - GF	40,382	32,772	35,991	38,140	38,140	
Training and Conferences	<u>0</u>	<u>28,000</u>	<u>28,000</u>	<u>40,000</u>	<u>40,000</u>	
General Fund	0	20,000	20,000	20,000	20,000	
Cash Funds	0	8,000	8,000	20,000	20,000	ADC DI #2
Conflict of Interest Contracts - GF	16,201,867	17,925,541	20,777,821	21,141,531	21,092,467	ADC DI #1
Mandated Costs - GF	1,240,579	1,549,840	1,504,483	1,663,839	1,663,839	ADC DI #1
TOTAL - Alternate Defense Counsel	18,068,314	20,246,112	23,178,555	23,783,210	23,690,938	
FTE	<u>5.0</u>	<u>6.5</u>	<u>7.5</u>	<u>7.5</u>	<u>7.5</u>	
General Fund	18,060,557	20,238,112	23,170,555	23,763,210	23,670,938	
FTE	5.0	6.5	7.5	7.5	7.5	
Cash Funds	7,757	8,000	8,000	20,000	20,000	

(7) OFFICE OF THE CHILD'S REPRESENTATIVE

Theresa Spahn, Executive Director

This agency provides legal representation for children involved in the court system due to abuse or neglect, delinquency, truancy, high conflict divorce, alcohol or drug abuse, mental health issues, and probate matters.

Personal Services - GF	1,527,643	1,588,608	1,736,920	1,901,243	1,850,263	OCR DI #3
FTE	4.0	25.8	26.8	27.8	26.8	
Health, Life, and Dental - GF	74,600	97,102	129,401	163,296	154,215	OCR DI #3

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	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
Short-term Disability - GF	1,516	1,828	2,086	2,298	2,571	OCR DI #3
S.B. 04-257 Amortization Equalization Disbursement - GF	12,321	16,559	25,136	35,355	32,621	OCR DI #3
S.B. 06-235 Supplemental Amortization Equalization Disbursement - GF	0	2,942	11,365	9,656	20,043	OCR DI #3
Salary Survey - GF	40,544	53,159	87,642	37,954	0	
Anniversary Increases - GF	0	20,344	26,554	27,772	0	
Operating Expenses - GF	167,164	189,705	148,162	151,042	151,042	OCR DI #2
Capital Outlay - GF	0	0	3,455	3,998	0	OCR DI #3
Purchase of Services from Computer Center - GF	1,040	1,464	1,553	1,553	Pending	
Leased Space - GF	130,949	136,876	137,880	142,738	142,738	
CASA Contracts - GF	20,000	20,000	520,000	520,000	100,000	BA #1
Training - GF	27,963	37,753	38,000	38,000	38,000	
Court Appointed Counsel - GF	10,617,761	12,428,206	14,293,982	15,506,893	15,506,893	OCR DI #1
Mandated Costs - GF	26,342	41,080	26,228	26,228	26,228	

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	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
TOTAL - Office of the Child's Representative - GF						
	12,647,843	14,635,626	17,188,364	18,568,026	18,024,614	
FTE	4.0	25.8	26.8	27.8	26.8	
JUDICIAL GRAND TOTAL						
	338,136,542	382,854,966	432,637,718	468,669,282	453,471,213	
FTE	<u>3,356.7</u>	<u>3,658.0</u>	<u>4,084.7</u>	<u>4,235.5</u>	<u>4,163.2</u>	
General Fund	263,291,744	297,062,747	325,942,329	348,954,813	336,035,638	
FTE	2,921.7	3,149.3	3,442.9	3,503.2	3,497.9	
Cash Funds	67,184,471	76,366,595	98,439,018	109,725,285	105,287,291	
FTE	352.9	429.2	559.7	650.2	591.3	
Cash Funds Exempt/ Reappr. Funds	5,210,216	6,460,985	5,966,106	6,346,067	7,717,864	
FTE	67.1	56.0	67.1	67.1	56.0	
Federal Funds	2,450,111	2,964,639	2,290,265	3,643,117	4,430,420	
FTE	15.0	23.5	15.0	15.0	18.0	

Organization of the Judicial Branch

The Judicial Branch is comprised of four agencies, each falling under the jurisdiction of the Colorado Supreme Court. However, each agency is independent, has its own Director, and submits its own budget request with its own prioritized decision items. The *Judicial Department* is the largest of the four agencies, and is comprised of the Supreme Court, Court of Appeals, the State Court Administrator's Office, attorney regulation, victims programs, collections programs, Trial Courts, and Probation. The *Public Defender's Office* and the *Office of Alternate Defense Counsel* provide legal representation for indigent criminal defendants. Such cases are first assigned to the Public Defender's Office, which must refer cases to the Alternate Defense Counsel if there a conflict of interest. The *Office of the Child's Representative* oversees the provision of legal services to children entitled to legal representation at state expense.

Summary of Significant Recommendations Included in this Packet

The following table provides a summary of the most significant staff recommendations included in this packet. Detailed recommendations for each line item follow.

Summary of Significant Staff Recommendations in this Packet (Excluding Common Policy Items)						
Description	Total Funds	General Fund	Cash Funds	Reapprop. Funds	Federal Funds	FTE
Restore one-time FY 2008-09 reductions	\$4,697,579	\$4,697,579	\$0	\$0	\$0	0.0
Court appointed counsel caseload/cost increases (PD DI#1; ADC DI#1; OCR DI#1)	4,117,962	4,117,962	0	0	0	36.8
Add probation staff and treatment resources to address caseload (JUD DI#3, #4a, #4c and #4d)	3,510,973	843,968	2,667,005	0	0	14.0
Furnish new courthouses (JUD DI#1)	3,100,000	0	3,100,000	0	0	0.0
Develop public access and e-filing systems (JUD BA#4)	1,872,437	0	1,872,437	0	0	13.2
Expand/enhance drug courts (JUD DI#2; PD DI#3, BA#2a)	1,321,055	529,429	791,626	0	0	19.4
Add judgeships and court staff (H.B. 07-1054)	1,207,431	0	1,207,431	0	0	5.4
Eliminate a portion of one-time increase for CASA contracts	(420,000)	(420,000)	0	0	0	0.0
Prior year legislation and decision items	(1,603,030)	65,881	(1,668,911)	0	0	(0.2)

(1) SUPREME COURT/COURT OF APPEALS

This section provides funding for the Colorado Supreme Court and the Colorado Appeals Court. The **Supreme Court** is the court of last resort, and its decisions are binding on the Court of Appeals and all county and district courts. Requests to review decisions of the Court of Appeals constitute the majority of the Supreme Court's filings. The Court also has direct appellate jurisdiction over cases in which a statute has been held to be unconstitutional, cases involving the Public Utilities Commission, writs of habeas corpus¹, cases involving adjudication of water rights, summary proceedings initiated under the Elections Code, and prosecutorial appeals concerning search and seizure questions in pending criminal proceedings. The Supreme Court also oversees the regulation of attorneys and the practice of law. The Supreme Court is composed of seven justices who serve renewable 10-year terms. The Chief Justice, selected by the justices of the Court, is the executive head of the Department. *[Article VI, Sections 2 through 8, Colorado Constitution; Section 13-2-101 et seq., C.R.S.]*

Created by statute, the **Court of Appeals** is generally the first court to hear appeals of judgements and orders in criminal, juvenile, civil, domestic relations, and probate matters. The Court of Appeals also has initial jurisdiction to review actions and decisions of several state agencies, boards, and commissions. Its determination of an appeal is final unless the Colorado Supreme Court agrees to review the matter. The Court of Appeals is currently composed of 22 judges who serve renewable 8-year terms. *[Section 13-4-101 et seq., C.R.S.]*

Supreme Court/ Court of Appeals: Staffing Summary				
Position Description	FY 2007-08 Actual	FY 2008-09 Approp.	FY 2009-10 Request	FY 2009-10 Recomm.
Supreme Court Justices	7.0	7.0	7.0	7.0
Court of Appeals Judges	18.9	22.0	22.0	22.0
Admin./Support Systems	32.4	34.6	33.0	33.0
Law Clerks	46.2	54.0	52.5	52.5
Staff Attorneys	21.5	24.7	27.5	27.5
Library Personnel	<u>3.9</u>	<u>3.7</u>	<u>4.0</u>	<u>4.0</u>
Subtotal - Appellate Court Programs line item	129.9	146.0	146.0	146.0
Attorney Regulation Committees	40.5	40.5	40.5	40.5

¹ A writ of habeas corpus is a judicial mandate to a prison official ordering that an inmate be brought to the court so it can be determined whether or not that person is imprisoned lawfully and whether or not he should be released from custody.

Supreme Court/ Court of Appeals: Staffing Summary				
Position Description	FY 2007-08 Actual	FY 2008-09 Approp.	FY 2009-10 Request	FY 2009-10 Recomm.
Continuing Legal Education	4.0	4.0	4.0	4.0
Law Examiner Board	<u>8.2</u>	<u>8.2</u>	<u>8.2</u>	<u>8.2</u>
Subtotal - Other line items	52.7	52.7	52.7	52.7
DIVISION TOTAL	182.6	198.7	198.7	198.7

Appellate Court Programs

This line item includes funding for both Personal Services and Operating Expenses. The Department requests a continuation level of funding for this line item for FY 2009-10 (a total of \$11,958,419 and 146.0 FTE, including \$10,862,129 General Fund and \$1,096,290 cash funds). **Staff recommends appropriating a total of \$11,981,895 and 146.0 FTE** (including \$10,883,589 General Fund and \$1,098,306 cash funds). The following table details staff's recommendation for this line item. Sources of cash funds include the Judicial Stabilization Cash Fund and various fees and cost recoveries.

Summary of Recommendation for Appellate Court Programs						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2008-09 Long Bill	\$9,997,369	\$976,957	\$0	\$0	\$10,974,326	146.0
Salary Survey awarded in FY 08-09	666,454	28,273	0	0	694,727	0.0
80% of Performance-based Pay awarded in FY 08-09	66,704	2,726	0	0	69,430	0.0
Base reduction (0.0%)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.0</u>
Subtotal: Personal Services	10,730,527	1,007,956	0	0	11,738,483	146.0
Operating Expenses:						
FY 2008-09 Long Bill	<u>153,062</u>	<u>90,350</u>	<u>0</u>	<u>0</u>	<u>243,412</u>	
Subtotal: Operating Expenses	153,062	90,350	0	0	243,412	
Staff Recommendation	\$10,883,589	\$1,098,306	\$0	\$0	\$11,981,895	146.0

The only difference between the recommendation and the request is the calculation of the base reduction. The request is based on the Office of State Planning and Budgeting (OSPB) policy of applying a 0.2 percent reduction (\$23,476).

Capital Outlay

In FY 2008-09, the General Assembly appropriated \$229,662 cash funds for this line item for the one-time costs associated with the second year of new judgeships created under H.B. 07-1054. **Staff recommends approving the request to eliminate this line item for FY 2009-10.**

Attorney Regulation Committees

Allegations of attorney misconduct are investigated by the Attorney Regulation Committee, the Attorney Regulation Counsel, the Presiding Disciplinary Judge, the Appellate Discipline Commission, the Advisory Committee, and/or the Colorado Supreme Court. A Client Protection Fund compensates persons who suffer certain monetary losses because of an attorney's dishonest conduct. This system emphasizes attorney education and rehabilitation, and resolution of problems for members of the public.

Staff recommends approving the requested continuing appropriation of \$4,700,000 and 40.5 FTE. The source of funding is attorney registration and other fees deposited in the Attorney Registration Fund. These funds are shown for informational purposes only, as they are continuously appropriated. They are part of the Supreme Court's constitutional responsibility for regulating the practice of law in Colorado.

Continuing Legal Education

This program administers mandatory continuing legal education for attorneys and judges, including the certification of courses and educational conferences. **Staff recommends approving the requested continuing appropriation of \$325,000 and 4.0 FTE.** The source of funding is attorney registration and other fees deposited in the Continuing Legal Education Cash Fund. These funds are shown for informational purposes only, as they are continuously appropriated. They are part of the Supreme Court's constitutional responsibility for regulating the practice of law in Colorado.

Law Examiner Board

The Law Examiner Board administers the Colorado bar exam. **Staff recommends approving the requested continuing appropriation of \$850,000 and 8.2 FTE.** The source of funding is law examination application and other fees deposited in the Law Examiner Board Cash Fund. These funds are shown for informational purposes only, as they are continuously appropriated. They are part of the Supreme Court's constitutional responsibility for regulating the practice of law in Colorado.

Law Library

This line item supports the Supreme Court Library, a public library located in the Judicial Building of the Judicial/Heritage Complex. **Staff recommends approving the requested continuing appropriation of \$500,000 cash funds.** The FTE associated with the library are appropriated through the Appellate Court Programs line item, above. The source of funding is appellate filing and other fees deposited in the Supreme Court Library Fund. These funds are shown for informational purposes only, as they are continuously appropriated. They are part of the Supreme Court's constitutional responsibility for regulating the practice of law in Colorado.

(2) COURTS ADMINISTRATION

The justices of the Supreme Court appoint a State Court Administrator to oversee the daily administration of the Department and provide technical and administrative support to the courts and probation. [Article VI, Section 5 (3) of the Colorado Constitution; Section 13-3-101, C.R.S.] The Courts Administration section of the budget is comprised of three subsections: Administration, Administrative Special Purpose, and Integrated Information Services.

(A) Administration

This subsection funds the activities of the State Court Administrator's Office, including the following central administrative functions: accounting and budget; human resources; facilities management; procurement; public information; and legal services. This section also includes funding for the Judicial Performance Program, family violence grants, and the Family Friendly Courts Program.

State Court Administrator's Office: Staffing Summary				
Position Description	FY 2007-08 Actual	FY 2008-09 Approp.	FY 2009-10 Request	FY 2009-10 Recomm.
Administration	19.8	19.6	19.6	19.6
Financial Services	19.1	20.0	20.0	20.0
Planning	11.0	13.5	13.5	13.5
Court/ Human Services	<u>10.7</u>	<u>11.0</u>	<u>11.0</u>	<u>11.0</u>
Subtotal - Personal Services line item	60.6	64.1	64.1	64.1
Judicial/Heritage Program	3.0	3.0	3.0	3.0
Family Friendly Courts	0.5	0.5	0.5	0.5
Judicial Performance Program	1.0	2.0	2.0	2.0
Courthouse Security	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>
Subtotal - Other line items	5.5	6.5	6.5	6.5
SUBDIVISION TOTAL	66.1	70.6	70.6	70.6

Personal Services

The Department requests \$5,525,225 and 64.1 FTE (including \$4,199,313 General Fund and \$1,325,912 reappropriated funds). **Staff recommends an appropriation of \$5,536,372 and 64.1 FTE** (including \$3,974,210 General Fund, \$150,000 cash funds, and \$1,412,162 reappropriated funds from indirect cost recoveries). The following table details staff's calculations.

Summary of Recommendation for Administration, Personal Services						
	GF	CF	RF	FF	TOTAL	FTE
FY 2008-09 Long Bill	\$3,914,540	\$150,000	\$1,115,249	\$0	\$5,179,789	64.1
Reverse one-time change due to hiring freeze	38,000	0	0	0	38,000	0.0
Annualize prior FY Decision Items #1, #2 and #8 (funding for 12th month due to payday shift)	10,099	0	0	0	10,099	0.0
Salary Survey awarded in FY 08-09	257,698	0	0	0	257,698	0.0
80% of Performance-based Pay awarded in FY 08-09	50,786	0	0	0	50,786	0.0
Fund mix adjustment (indirect costs)	(210,663)	0	210,663	0	0	0.0
JUD BA #4: Develop public access and e-filing systems	(86,250)	0	86,250	0	0	0.0
Base reduction (0.0%)	0	0	0	0	0	0.0
Staff Recommendation	\$3,974,210	\$150,000	\$1,412,162	\$0	\$5,536,372	64.1

There are three differences between staff's recommendation and the Department's request:

- The Department's official request does not reflect a \$150,000 shift from General Fund to cash funds that was recently approved for FY 2008-09; staff's recommendation includes continuation of that adjustment.
- The Department's official request does not reflect an \$86,250 shift from General Fund to reappropriated funds. This adjustment, associated with JUD BA #4, was suggested by the Department as the most appropriate way to reflect the leased space payments that will be financed from the IT Cash Fund. The net effect of this financing change (including all affected line items) is \$0 General Fund.
- The Department's request reflects a 0.2 percent base reduction (\$11,053).
- The Department's request includes a total of \$10,005 General Fund to "annualize" funding provided for three decision items (paying for the twelfth month of funding due to the payday shift). Staff's recommendation includes \$10,099 General Fund (a difference of \$94) based on staff work papers.

Operating Expenses

In FY 2008-09, the General Assembly added \$2,110 General Fund for this line item for the ongoing operating costs associated with three decision items (#1, #2, and #8). **Staff recommends approving the request for a continuation level of funding (\$371,106, including \$370,106 General Fund and \$1,000 cash funds).** The sources of cash funds are fees and cost recoveries.

Capital Outlay

In FY 2008-09, the General Assembly appropriated \$6,220 General Fund for this line item for the one-time costs associated with three decision items (#1, #2, and #8). **Staff recommends approving the request to eliminate this line item for FY 2009-10.**

Judicial/Heritage Program

The Judicial Department is responsible for maintenance and other related services for the Judicial Building (Two E. 14th Avenue) and the Colorado History Museum (1300 Broadway), collectively known as the Judicial Heritage Center. Every year, the Judicial Branch and the Historical Society renew and sign a joint memorandum of understanding which outlines the costs associated with running the facility. The agreement is based on square footage use and reflects payments for custodial services, maintenance costs, personal services costs of the 3.0 FTE maintenance staff, and other operating costs; each agency provides security for its part of the complex.

As the costs to run the facility change, the cost breakout between the Historical Society and the Judicial Department change. Consequently, there are annual adjustments to ensure that each agency is paying its fair share. **Staff recommends approving the request for \$749,176 and 3.0 FTE** (including \$503,260 General Fund and \$245,916 reappropriated funds transferred from the Historical Society), **as it is calculated in accordance with Committee policy.** The following table details these calculations.

Summary of Recommendation: Judicial/Heritage Program						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2008-09 Long Bill	\$426,887	\$0	\$77,119	\$0	\$504,006	3.0
Salary Survey awarded in FY 08-09	1,701	0	0	0	1,701	0.0
80% of Performance-based Pay awarded in FY 08-09	706	0	0	0	706	0.0
Base reduction (0.0%)	0	0	0	0	0	0.0
Judicial/Historical Society MOU Adjustment	(4,050)	0	4,050	0	0	0.0
Subtotal: Personal Services	425,244	0	81,169	0	506,413	3.0
Operating Expenses:						
FY 2008-09 Long Bill	78,016	0	164,747	0	242,763	
Subtotal: Operating Expenses	78,016	0	164,747	0	242,763	
Staff Recommendation	\$503,260	\$0	\$245,916	\$0	\$749,176	3.0

Family Friendly Courts

The Family-friendly Court Program provides funding for courts to create facilities or services designed to meet the needs of families navigating the court system. The program is funded with a \$1.00 surcharge on traffic violations. Pursuant to Section 13-3-113, C.R.S., the Judicial Department allocates money from the Family-friendly Court Program Cash Fund to judicial districts that apply for funding for the creation, operation, and enhancement of family-friendly court facilities. These programs primarily provide child care services for families attending court proceedings (either through on-site centers and waiting rooms located in courthouses or through vouchers for private child care services). Programs may also provide supervised parenting time and transfer of the physical custody of a child from one parent to another, as well as information and referral for relevant services (e.g., youth mentoring, crime prevention, and dropout prevention; employment counseling and training; financial management; legal counseling; substance abuse programs; etc.).

Staff recommends approving the request for a continuing appropriation of \$375,000 cash funds and 0.5 FTE. Staff also recommends renaming the line item, "Family-friendly Court Program", consistent with the statutory authorization for the Program.

Judicial Performance Program

This line item provides funding for the State Commission on Judicial Performance. Pursuant to Section 13-5.5-101, C.R.S., the State Commission is responsible for developing and administering a system of evaluating judicial performance. This program was most recently modified by S.B. 08-54, which added a second FTE to administer the program. This office is responsible for:

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

Staff recommends approving the request for \$920,055 cash funds and 2.0 FTE for FY 2009-10. In addition, staff recommends renaming the line item "Office of Judicial Performance Evaluation", consistent with Section 13-5.5-101.5 (1), C.R.S. The following table details staff's recommendation.

Summary of Recommendation: Judicial Performance Program						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2008-09 Long Bill	\$	\$102,722	\$0	\$0	\$102,722	1.0
S.B. 08-54	0	63,865	0	0	63,865	1.0
Salary Survey awarded in FY 08-09	0	4,220	0	0	4,220	0.0

Summary of Recommendation: Judicial Performance Program						
	GF	CF	RF	FF	TOTAL	FTE
80% of Performance-based Pay awarded in FY 08-09	0	753	0	0	753	0.0
Base reduction (0.0%)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.0</u>
Subtotal: Personal Services	0	171,560	0	0	171,560	2.0
Operating Expenses:						
FY 2008-09 Long Bill	0	478,445	0	0	478,445	
S.B. 08-54	0	274,405	0	0	274,405	
Eliminate Capital Outlay funding	<u>0</u>	<u>(3,455)</u>	<u>0</u>	<u>0</u>	<u>(3,455)</u>	
Subtotal: Operating Expenses	0	749,395	0	0	749,395	
Staff Recommendation	\$0	\$920,955	\$0	\$0	\$920,955	2.0

Courthouse Capital/ Infrastructure Maintenance

Section 13-3-108, C.R.S, requires each county to provide and maintain adequate courtrooms and other court facilities, and Section 13-3-104, C.R.S., requires that the State pay for the "operations, salaries, and other expenses of all courts of record within the state, except for county courts in the city and county of Denver and municipal courts." This line item provides funding to fulfill the State's responsibility to furnish court facilities.

Prior to FY 2002-03, the Department received an annual General Fund appropriation for county courthouse furnishings. A footnote limited this appropriation to expenditures on new construction projects and projects involving renovations of existing courthouses only; the appropriation was not to be used for capital outlay for the regular replacement and modernization of equipment or furnishings.

Historically, the appropriation for this purpose has varied significantly, depending on the number and size of new construction projects. In FY 2005-06, the Courthouse Capital/Infrastructure Maintenance line item was created to meet the on-going capital and infrastructure needs of courthouses and probation programs. The intent was to provide a consistent annual appropriation to assist the Department in its effort to manage the need for capital and infrastructure maintenance. The following table provides a recent history of expenditures.

Recent Expenditures/ Appropriations for Courthouse Capital/Infrastructure Maintenance	
FY 2000-01	\$5,808,916
FY 2001-02	2,317,321
FY 2002-03	317,302

Recent Expenditures/ Appropriations for Courthouse Capital/Infrastructure Maintenance	
FY 2003-04	433,463
FY 2004-05	1,027,533
FY 2005-06	910,616
FY 2006-07	1,103,359
FY 2007-08	948,680
Average Annual Expenditure	1,608,399
FY 2008-09 Appropriation	1,000,000
FY 2009-10 Request	4,100,000

Judicial Decision Item #1: Courthouse Furnishings

Due to the number and size of new construction projects, the Department requests additional \$3.1 million General Fund for FY 2009-10. Denver is building a new Justice Center and it plans to maintain the existing courthouse. Denver's investment for this project totals \$132 million, and the state share of costs for furnishings totals \$2.5 million. The Department proposes spreading the costs of furnishing this new Center over two fiscal years. In addition, another six counties have invested \$59 million in various courthouse facility projects; the state share of costs for furnishing these facilities totals \$2.9 million. Staff has included, in Appendix B, a table prepared by the Department detailing these projects and the estimated state share of the costs of furnishing each facility.

The Department anticipates a need for \$5.4 million in furnishings in FY 2009-10. Given the current budget environment, the Department is requesting a \$4.1 million appropriation for FY 2009-10 (an increase of \$3.1 million). The Department plans to supplement the request with a portion of the capital outlay funding requested in connection with the third year of implementing H.B. 07-1054 (\$800,000), along with \$521,000 from other existing fund sources.

Staff recommends approving the request for \$4,100,000 to cover the state share of the costs of furnishing courthouse facilities in FY 2009-10. However, staff recommends providing the \$3.1 million requested increase from the Judicial Stabilization Cash Fund, rather than the General Fund. This recommendation is made in conjunction with a recommendation to delay the new judges authorized by H.B. 07-1054 (see the discussion that begins on page 50).

Courthouse Security

Senate Bill 07-118 created the Courthouse Security Grant Program to provide grant funds to counties for use in improving courthouse security efforts. Such efforts include security staffing, security equipment, training, and court security emergency needs. The program is supported by the Court Security Cash Fund, which consists of a \$5 surcharge on: docket fees and jury fees for certain civil actions; docket fees for criminal convictions, special proceeding filings, and certain traffic infraction

penalties; filing fees for certain probate filings; and fees for certain filings on water matters. Moneys in the Fund are to be used for grants and related administrative costs. County-level local security teams may apply to the State Court Administrator's Office for grants.

In FY 2007-08, the Department hired a court security specialist and members were appointed to the Court Security Cash Fund Commission. A statewide webcast outlining the program, accompanied by site visits by the Specialist generated a significant level of statewide interest. For CY 2008, 46 counties received grants totaling \$1,000,000.

Judicial Decision Item #4b: Increased Spending Authority from the Court Security Cash Fund

The Department's FY 2009-10 request represents a \$250,000 increase above the adjusted FY 2008-09 appropriation. The Department intends to maintain sufficient fund balance to continue supporting ongoing personnel grants, while providing one-time grants for equipment and training. By FY 2011-12, the Department anticipates supporting ongoing grants of \$2.5 million and one-time grant awards of \$600,000 (in addition to associated administrative costs).

Due to the time lag in implementing this program and the practice of reimbursing counties rather than making grant payments up front (a prudent practice), the Department reverted \$1,850,315 of its FY 2007-08 appropriation for this program. The Committee previously approved a \$750,000 increase in the FY 2008-09 appropriation, as well as a transfer of \$1.5 million from this cash fund to the General Fund. The following table reflects the impact of the supplemental, the transfer, and the Department's request for FY 2009-10 on the Court Security Cash Fund.

Court Security Cash Fund: Projected Cash Flow				
	FY 2007-08 Actual	FY 2008-09 Estimate	FY 2009-10 Estimate	FY 2010-11 Estimate
Beginning FY Balance	\$0	\$2,363,329	\$818,707	\$487,054
Revenues	2,707,636	2,900,000	3,000,000	3,100,000
Expenditures (including requests for FY 08-09 and FY 09-10)	<u>(344,307)</u>	<u>(2,944,622)</u>	<u>(3,331,653)</u>	<u>(3,331,653)</u>
Ending FY Balance without transfer	\$2,363,329	\$2,318,707	\$487,054	\$255,401
Recommended Transfer	<u>0</u>	<u>(1,500,000)</u>	<u>0</u>	<u>0</u>
Ending FY Balance after transfer	\$2,363,329	\$818,707	\$487,054	\$255,401
<i>Balance as % of annual expenditures</i>	<i>686.4%</i>	<i>27.8%</i>	<i>14.6%</i>	<i>7.7%</i>

Staff recommends that the Committee approve the Department's request for \$3,194,622 cash funds and 1.0 FTE for this line item FY 2009-10.

Family Violence Grants

This line item provides funding for the State Court Administrator to award grants to qualifying organizations providing civil legal services to indigent Colorado residents. This program is the only

state-funded grant program for civil legal services in Colorado. Grant funds may be used to provide legal advice, representation, and advocacy for and on behalf of indigent clients who are victims of family violence. Colorado Legal Services (CLS), which provides legal services in almost every county, typically receives more than 80 percent of grant moneys each year. For FY 2007-08, CLS received \$423,568; the remaining funding was allocated to seven other agencies.

In addition to General Fund appropriations for this grant program, the State Court Administrator is authorized to receive gifts, grants, and donations for this program; such funds are credited to the Family Violence Justice Fund (see Section 14-4-107, C.R.S.). [Please note that S.B. 09-68, which recently passed out of the Senate, would increase the fees for petitions and responses in divorce proceedings by \$10 each (from \$220 and \$106 respectively) and specifies that \$5 each shall be deposited in the Colorado Domestic Abuse Program Fund and the Family Violence Justice Fund. This bill is anticipated to provide revenues totaling \$143,430 to the Family Violence Justice Fund.]

Last Session, the General Assembly approved a Department request to increase state funding for this program by \$250,000 to address the demand for affordable legal services. The Department requests a continuation level of funding for FY 2009-10 (\$750,000). **Staff recommends approving the request. In addition, staff recommends renaming this line item "Family Violence Justice Grants"**, consistent with the statutory authorization for the grant program.

Statewide Indirect Cost Assessment

Statewide indirect cost assessments are charged to cash and federal programs for statewide overhead costs (such as those generated by the Department of Personnel), and then the assessments are used in administrative divisions to offset General Fund appropriations. **Staff recommends an appropriation of \$83,252** (including \$75,363 cash funds, \$2,469 reappropriated funds, and \$5,420 federal funds), consistent with the FY 2008-09 statewide indirect cost allocation plan.

Departmental Indirect Cost Assessment

Departmental indirect cost assessments are charged to cash and federally-funded programs for departmental overhead costs (such as those generated by the Courts Administration Division), and then the assessments are used in Courts Administration Division to offset General Fund appropriations. **Staff recommends an appropriation of \$1,328,909 cash funds**, including the requested appropriation of \$1,242,659 plus \$86,250 associated with JUD BA #4 (Develop public access and e-filing systems).

(2) COURTS ADMINISTRATION

(B) Administrative Special Purpose

Unless otherwise noted, for this subdivision, the sources of cash funds include the Offender Services Fund, the Fines Collection Cash Fund, the Drug Offender Surcharge Fund, and the Alcohol and Drug Driving Safety Program Fund.

Administrative Special Purpose: Staffing Summary				
Position Description	FY 2007-08 Actual	FY 2008-09 Approp.	FY 2009-10 Request	FY 2009-10 Recomm.
Child Support Enforcement	1.0	1.0	1.0	1.0
Collections Investigators	74.7	83.2	83.2	83.2
SUBDIVISION TOTAL	75.7	84.2	84.2	84.2

Health, Life and Dental

This is the first of four line items that provide funding for the employer's share of the cost of group benefit plans providing health, life, and dental insurance for state employees. This line item provides funds for Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation staff. The Department requests \$18,515,933 (including \$16,302,590 General Fund and \$2,213,343 cash funds) for this line item for FY 2009-10. This request does not include any additional funding associated with staff requested through JUD DI #2 (Expand and enhance drug courts) or JUD DI #3 (Add probation staff). This request is consistent with Committee policy.

However, staff recommends reducing the cash funds portion of this amount by \$374,112 based on a proposed delay in the implementation of H.B. 07-1054 (see the discussion that begins on page 50). Thus, **staff recommends appropriating a total of \$18,141,821 (including \$16,302,590 General Fund and \$1,839,231 cash funds).**

The following table summarizes all four of staff's recommendations related to Health, Life, and Dental benefits.

Summary of Health, Life and Dental Recommendations					
	GF	CF	RF	FF	TOTAL
Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation	\$16,302,590	\$1,839,231	\$0	\$0	\$18,141,821
Public Defender	3,683,543	0	0	0	3,683,543
Alternate Defense Counsel	62,947	0	0	0	62,947
Office of the Child's Representative	154,215	0	0	0	154,215
Staff Recommendation	\$20,203,295	\$1,839,231	\$0	\$0	\$22,042,526

Short-term Disability

This is the first of four line items that provide funding for the employer's share of state employees' short-term disability insurance premiums. This line item provides funds for Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation staff. The Department requests

\$263,190 (including \$232,458 General Fund and \$30,732 cash funds) for this purpose for FY 2009-10, based on a rate of 0.13 percent.

Staff recommends an appropriation of \$311,991 (including \$267,136 General Fund and \$44,855 cash funds), **consistent with the Committee policy of applying a rate of 0.155 percent to base salaries** (including \$0 for salary increases for FY 2009-10; excluding PERA, Medicare, temporary and contract employees, etc.). **Staff requests authorization from the Committee to work with the Department to adjust these amounts as necessary**, based on Committee action on the Department's various decision items and the implementation of H.B. 07-1054.

S.B. 04-257 Amortization Equalization Disbursement (AED)

Pursuant to S.B. 04-257, this line item provides additional funding to increase the state contribution for Public Employees' Retirement Association (PERA). One of four such line items, this one provides funds for Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation staff. The Department requests a total of \$4,186,953 (including \$3,697,510 General Fund and \$489,443 cash funds) for FY 2009-10.

Pursuant to Committee policy [1.8 percent of base salaries for CY 2009 and 2.2 percent of base salaries for CY 2010 (including \$0 for salary increases for FY 2009-10)], **staff recommends an appropriation of \$3,968,247** (including \$3,389,472 General Fund and \$578,775 cash funds.) **Staff requests authorization from the Committee to work with the Department to adjust these amounts as necessary**, based on Committee action on the Department's various decision items and the implementation of H.B. 07-1054.

S.B. 06-235 Supplemental Amortization Equalization Disbursement (SAED)

Pursuant to S.B. 06-235, this line item provides additional funding to increase the state contribution for PERA. One of four such line items, this one provides funds for Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation staff. The Department requests a total of \$2,616,846 (including \$2,310,944 General Fund and \$305,902 cash funds).

Pursuant to Committee policy [1.0 percent of base salaries for CY 2009, and 1.5 percent of base salaries for CY 2010 (including \$0 for salary increases for FY 2009-10)], **staff recommends an appropriation of \$2,444,249** (including \$2,082,515 General Fund and \$361,734 cash funds). **Staff requests authorization from the Committee to work with the Department to adjust these amounts as necessary**, based on Committee action on the Department's various decision items and the implementation of H.B. 07-1054.

Salary Survey The Department uses this line item to pay for annual increases akin to salary survey increases in the Executive Branch. One of four such line items, this one provides funds for Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation staff. The Department requests \$6,799,863 (including \$6,061,700 General Fund and \$738,163 cash funds) for this line item for FY 2009-10. **Consistent with Committee policy, staff recommends appropriating \$0 for this line item for FY 2009-10.**

Anniversary Increases The Department uses this line item to pay for annual increases akin to performance-based pay increases in the Executive Branch. One of four such line items, this one provides funds for Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation staff. The Department did not request any funding for this line item for FY 2009-10. **Staff recommends approving the request, which is consistent with Committee policy.**

Workers' Compensation This line item is used to pay the Department's estimated share for inclusion in the state's workers' compensation program for state employees. This program is administered by the Department of Personnel and Administration. This line item includes funding for the Public Defender's Office, the Office of the Alternate Defense Counsel, and Office of the Child's Representative. The Department, through a budget amendment submitted in January 2009, requests \$1,846,887 General Fund for FY 2009-10. **Staff's recommendation for workers' compensation is pending a Committee common policy for workers' compensation.** Staff will ultimately reflect Committee policy in the appropriation for this line item.

Legal Services This line item provides funding for the Department to purchase legal services from the Department of Law. The Department requests \$317,448 to purchase 4,227 hours of services in FY 2009-10. This request was submitted prior to a mid-year adjustment to reduce FY 2008-09 funding for this line item by \$100,000 (the equivalent of 1,332 hours). **Staff recommends providing funding sufficient to purchase 3,000 hours of legal services in FY 2009-10.** While this recommendation represents a 29 percent reduction from the requested level, it provides a slight increase in hours compared to the adjusted FY 2008-09 appropriation. Based on actual expenditures in both FY 2006-07 and FY 2007-08, this level of service should be adequate. The funding will be calculated after the Committee sets the common policy for the legal services rate.

Payment to Risk Management and Property Funds This line item provides funding for the Department's share of the statewide costs for two programs operated by the Department of Personnel and Administration: (1) the liability program, and (2) the property program. The state's liability program is used to pay liability claims and expenses brought against the State. The property program provides insurance coverage for state buildings and their contents. This line item includes funding for the Public Defender, Alternate Defense Counsel, and Office of the Child's Representative. The Department, through a budget amendment submitted in January 2009, requests \$248,892 General Fund for this purpose for FY 2009-10. **The staff recommendation for this line item is pending a common policy approved by the Committee for this line item.** Staff will ultimately reflect Committee policy in the appropriation for this line item.

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

used by rural judges traveling to courthouses within their judicial district, computer technicians, and some probation officers performing home visits. At their December 2008 hearing, Department staff indicated that the State is saving \$143,192 by using fleet vehicles rather than reimbursing employees for travel in personal vehicles.

The Department's request for \$72,122 General Fund for FY 2009-10 represents an increase of \$27,190 compared to the FY 2008-09 appropriation. The Department is requesting funding to replace one full-size sedan. **Staff recommends the Committee approve the request to replace one vehicle**, as it already exceeds the 100,000 threshold and it projected to exceed 136,000 miles by March 2010. **The dollar amount of staff's recommendation is pending Committee policy.** Staff will ultimately reflect Committee policy in the appropriation for this line item.

Leased Space This line item provides funding for leased office space for the State Court Administrator's Office, the Attorney Regulation Committees, Court of Appeals staff, the Division of Integrated Information Services, and storage. The Department currently has five leases for a total of 51,150 square feet at several locations in Denver (including: 1301 Pennsylvania, 899 Logan, Grandview, and the Chancery), and at Denver West in Golden. Current annual rates per square foot range from \$15.00 to \$23.57, with an overall average of \$21.25. **Staff recommends the requested appropriation of \$914,425. However, staff recommends including \$875,185 General Fund and \$39,240 cash funds.** This recommendation includes the \$828,175 requested for this line item, plus \$86,250 General Fund (rather than cash funds) associated with JUD BA#4 (Develop public access and e-filing systems).

Please note that the Department is in the process of negotiating a new lease for FY 2009-10 to relocate to 1300 Logan. This will involve moving staff currently located at Denver West and at 1301 Pennsylvania. If necessary, the Department will submit a budget amendment or a supplemental request for this line item once the lease agreement has been executed.

Lease Purchase

The Judicial Department manages phone systems across the state in most of its 83 locations (in a few locations, the county owns and operates the system and the court and/or probation office pay a monthly usage charge). This line item provides funding for the lease purchase of its telephone systems. **Staff recommends approving the request for a continuation level of funding for this line item (\$119,878 General Fund).**

Administrative Purposes

This line item funds the costs of the Judicial Nominating Commission and the Jury Instruction Revision Committee, the printing of civil and criminal jury instructions, and the Branch's membership in the National Center for State Courts (NCSC). **Staff recommends approving the request for a continuation level of funding (\$195,554, including \$130,554 General Fund and \$65,000 cash funds).** The source of cash funds is royalties from the sale of pattern jury instructions.

Retired Judges

Pursuant to Section 24-51-1105, C.R.S., upon written agreement with the Chief Justice prior to retirement, a justice or judge may perform temporary judicial duties for between 60 and 90 days a year without pay. These agreements may not exceed three years (most are currently one-year contracts), but a retiree may enter into subsequent agreements for a maximum of 12 years. These retired judges cover sitting judges in case of disqualifications, vacations, sick leave, over-scheduled dockets, judicial education, and conflicts of interest. Retired judges provide flexibility in coverage as they can go anywhere in the state to fill a temporary need.

The individual receives reimbursement for travel expenses for out-of-town assignments, and is compensated by receiving a retirement benefit increase equal to 20 to 30 percent of the current monthly salary of individuals serving in the same position as that held by the retiree at the time of retirement. The Judicial Branch is required to reimburse the PERA Judicial Division Trust Fund for the payments of retired judges' additional benefits during the previous fiscal year (i.e., costs incurred in FY 2008-09 will be reimbursed by the Branch in FY 2009-10). Travel expenditures are reimbursed in the fiscal year in which they are incurred.

The Department's request for FY 2009-10 represents a continuation of the adjusted FY 2008-09 appropriation. The Committee recently approved a \$510,000 increase in the FY 2008-09 appropriation for this program.

The following table details the appropriation and expenditure history for this program.

Recent History of Funding for the Senior Judge Program						
Fiscal Year	Appropriation	Expenditures			Annual % Change	Approp.- Expend.
		PERA Payment	Travel	Total		
2002-03	\$882,825	\$788,018	\$94,807	\$882,825		\$0
2003-04*	1,121,775	1,026,968	40,408	1,067,376	20.9%	54,399
2004-05	1,384,006	1,292,979	103,991	1,396,970	30.9%	(12,964)
2005-06	1,384,006	1,433,085	90,383	1,523,468	9.1%	(139,462)
2006-07*	1,523,468	1,432,441	97,940	1,530,381	0.5%	(6,913)
2007-08*	1,665,571	1,574,544	121,411	1,695,955	10.8%	(30,384)
2008-09**	1,384,006	1,775,321	121,411	1,896,732	11.8%	(512,726)

* Appropriation includes a supplemental increase.
 ** FY 2008-09 expenditures reflect Branch estimate.

Staff recommends that the Committee approve the request for a continuation level of funding for FY 2009-10 (\$1,894,006). This program is a cost-effective way of managing dockets and covering judges' leave time.

Appellate Reports Publication

This line item provides funding to purchase volumes of the *Colorado Reporter*, which is the official publication of opinions of the Colorado Supreme Court and Court of Appeals. In accordance with Section 13-2-125, C.R.S., the Department purchases 194 copies of each book as it is published. These copies are located at various state offices, including district and county judges' offices, county court law libraries, district attorneys' offices, and state libraries. **Staff recommends approving the request for a continuation level of appropriation (\$37,100 General Fund).**

Child Support Enforcement

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

Staff recommends approving the request for a continuation level of funding (\$90,900 and 1.0 FTE, including \$30,904 General Fund and \$59,996 reappropriated funds transferred from the Department of Human Services). The General Fund appropriation is used to provide a required match for the federal funds.

Collections Investigators

Collection investigators are located in each judicial district as required by Section 18-1-105 (1) (a) (III) (C), C.R.S. These investigators are a component of efficient case management, and help impose monetary penalties for the commission of crimes. Monetary sanctions serve to punish offenders and provide restitution to victims. Recoveries are credited to the General Fund, victim restitution, victims compensation and support programs, and various law enforcement, trial court, probation and other funds. Investigators are supported from cash funds (the Judicial Collection Enhancement Fund and the Fines Collection Cash Fund), as well as grants from local Victims and Witness Assistance Law Enforcement (VALE) Boards.

The Department's FY 2009-10 request includes a continuation of a \$125,000 increase in reappropriated funds from VALE grants that was approved for FY 2008-09 to better reflect anticipated receipts. These funds are used to help court clerks' offices with increasing the moneys recovered for restitution and victim compensation/ assistance programs.

Staff recommends an appropriation of \$5,069,351 and 83.2 FTE, including \$4,281,810 cash funds and \$787,541 reappropriated funds (from local VALE boards; this funding is first appropriated in the Trial Courts division). The recommendation includes continuing the FY 2008-09 supplemental increase which allowed the program to utilize more VALE grants for victim assistance and compensation staff.

In addition, based on information provided by the Collections Program Manager, this amount includes an additional \$50,000 cash funds spending authority. The program currently incurs

costs related to more challenging collection cases (e.g., research and data access fees when attempting to locate offenders who have absconded and failed to pay restitution and fines). If additional spending authority is provided, the courts could collect moneys from offenders to cover these costs. The cost recovery per offender is estimated to range from \$1 to \$5.

Summary of Recommendation: Collections Investigators						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2008-09 Long Bill	\$	\$3,801,483	\$0	\$0	\$3,801,483	83.2
Salary Survey awarded in FY 08-09	0	172,785	0	0	172,785	0.0
80% of Performance-based Pay awarded in FY 08-09	0	40,557	0	0	40,557	0.0
Base reduction (0.0%)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.0</u>
Subtotal: Personal Services	0	4,014,825	0	0	4,014,825	83.2
Operating Expenses:						
FY 2008-09 Long Bill	0	216,985	0	0	216,985	
Spending authority to allow courts to recover (and expend) moneys to support the costs of research and data access fees	<u>0</u>	<u>50,000</u>	<u>0</u>	<u>0</u>	<u>50,000</u>	
Subtotal: Operating Expenses	0	266,985	0	0	266,985	0.0
VALE Grants	0	0	787,541	0	787,541	
Staff Recommendation	\$0	\$4,281,810	\$787,541	\$0	\$5,069,351	83.2

The difference between the staff recommendation and the request (\$8,030) is due to the Department's application of a 0.2 percent base reduction.

(2) COURTS ADMINISTRATION

(C) Integrated Information Services

This Division is responsible for developing and maintaining information technology systems used by the courts in all 22 judicial districts. Currently, these systems include the Integrated Colorado Online Network (ICON)/Eclipse, a unified, statewide court and probation case management system, as well as the Colorado Integrated Criminal Justice Information System (CICJIS), which is managed in cooperation with the Department of Public Safety. This Division trains court staff on the use of such systems and plays a central role in assuring data integrity. This Division provides all the technology services to the Department, including technical support, and develops new uses for technology to improve efficiency.

Integrated Information Services: Staffing Summary				
Position Description	FY 2007-08 Actual	FY 2008-09 Approp.	FY 2009-10 Request	FY 2009-10 Recomm.
Administration/ Support	4.0	5.0	5.0	5.0
Programming Services	15.0	13.0	13.0	13.0
Computer Technical Support	14.8	16.9	16.9	16.9
Programming/ Tech. Supervisors	4.6	5.0	5.0	5.0
Customer Support	6.5	5.0	5.0	5.0
Public Access System/E-Filing System Project (JUD BA #4)	n/a	<u>1.8</u>	<u>15.0</u>	<u>15.0</u>
Subtotal - Personal Services line item	44.9	46.7	59.9	59.9
JAVA Conversion	4.7	5.0	0.0	0.0
SUBDIVISION TOTAL	49.6	51.7	59.9	59.9

Personal Services

The request includes funding for one budget amendment, described below.

Judicial Budget Amendment #4: Develop Public Access and E-Filing System

Background Information. Over the last decade, the Department has partnered with vendors to develop and implement a public access system and an e-filing system. These systems, which are supported entirely by user fees, provide cost-effective services to the general public and attorneys, respectively, and they have positively affected court staff workloads. In response to a General Assembly request, the Department has studied the feasibility of providing its public access and e-filing programs in-house. The Department recommended that it be authorized to develop and deploy both systems in-house, beginning work on the public access system as soon as January 2009. The National Center for the State Courts critiqued the Department's feasibility study, and it supports the Department's recommendations.

Last November, staff recommended that the Committee authorize the Department to begin, as soon as possible, the development and implementation of in-house versions of both a public access system and an e-filing system. Staff further recommended that the Committee:

- introduce a supplemental bill that includes an appropriation from the Judicial Department Information Technology Cash Fund for FY 2008-09 sufficient to allow the Department to begin development of the public access system;

- authorize the Department to use net revenues generated once the public access system is functional to cover the costs of developing the e-filing system, and to ensure the Department is in a position to maintain its existing IT infrastructure; and
- direct the Department to plan on: (1) eliminating cost recovery fees associated with each system upon implementation; but (2) maintain existing user fees until the costs of developing the associated in-house system are recouped and the Department has some direct experience on which to base its revenue projections.

On December 23, 2008, the Committee voted to authorize the Department to begin development of the public access system as soon as possible. Subsequently, the Committee voted to appropriate moneys for FY 2008-09 for this project; these appropriations are included in S.B. 09-190.

Department Request. The Department seeks an increase in spending authority from the Information Technology (IT) Cash Fund for FY 2009-10 to proceed with development of an in-house public access and e-filing system. The general plan for this project is to first develop the public access system using revenues from the IT Cash Fund. This fund was established through H.B. 08-1253 (a JBC-sponsored bill), which allows the Department to retain fees and cost recoveries related to IT services, including providing public access to court records and e-filing services. The Department planned to use moneys in this fund for routine asset maintenance activities, including building up the fund balance to cover costs of significant infrastructure investments (e.g., an estimated \$700,000 to replace a mainframe computer in FY 2010-11). Pursuant to Section 13-32-114 (2), C.R.S., moneys in this fund may be appropriated to the Department "for any expenses related to the department's information technology needs".

The Committee approved a requested increase in FY 2008-09 appropriations totaling \$722,296 cash funds and 1.8 FTE (5.0 FTE for a portion of the fiscal year) to allow the Department to begin developing the public access system. Once that system is complete, it is expected that enough revenue will be generated from its use to fully fund the development of the in-house e-filing portion of the project. The Department also submitted an associated budget amendment for FY 2009-10.

Based on the most recent information provided by the Department, the following table summarizes estimated project expenditures for 2009-10.

Summary of Recommendation: JUD BA #4 (Develop Public Access and E-Filing Systems)		
Line Item and Description	FTE	Funding
Courts Administration, Administration		
Personal Services - General Fund		(\$86,250)
Personal Services - Reappropriated funds (indirect costs)		86,250
Departmental Indirect Cost Assessment - CF		86,250

Summary of Recommendation: JUD BA #4 (Develop Public Access and E-Filing Systems)		
Line Item and Description	FTE	Funding
Courts Administration, Administrative Special Purpose		
Leased Space - General Fund		<u>86,250</u>
Subtotal (all fund sources)		172,500
Courts Administration, Integrated Information Services		
Personal Services (includes \$15,000 for consultants)	15.0	1,184,538
Operating Expenses (including \$120,000 for training and travel, and \$51,236 in supplies and other operating expenses)		171,236
Capital Outlay		35,000
Telecommunications Expenses		59,838
Hardware Replacement		744,722
Hardware/Software Maintenance		<u>313,149</u>
Subtotal (all cash funds)	15.0	2,508,483
Total Recommendation for JUD BA#4		
General Fund		0
Cash Funds (IT Cash Fund)		2,594,733
Reappropriated Funds		86,250
	15.0	<u>2,680,983</u>

Consistent with the Committee's actions in December 2008 and January 2009, staff recommends appropriating \$2,594,733 from the IT Cash Fund and 15.0 FTE for this project for FY 2009-10. Based on projected IT Cash Fund revenues, sufficient cash funds will be available over and above the amounts currently appropriated for IT needs. Once the public access is system is implemented, revenues are projected to exceed ongoing operating costs. The net revenues from this project can then be used to cover the costs of developing a new electronic filing system and to "pay back" the seed money so that the Department is in a position to maintain its existing IT infrastructure.

In summary, staff recommends appropriating a total of \$4,733,563 and 59.9 FTE for this line item. The calculations supporting staff's recommendations are detailed in the following table.

Summary of Recommendation for Courts Administration, Integrated Information Services, Personal Services						
	GF	CF	RF	FF	TOTAL	FTE
FY 2008-09 Long Bill	\$3,153,413	\$0	\$217,710	\$0	\$3,371,123	44.9
H.B. 08-1010	33,600	0	0	0	33,600	0.0
Eliminate one-time funding (H.B. 08-1010)	(33,600)	0	0	0	(33,600)	0.0
FY 2008-09 Supplemental	0	216,780	0	0	216,780	1.8

Summary of Recommendation for Courts Administration, Integrated Information Services, Personal Services						
	GF	CF	RF	FF	TOTAL	FTE
Reverse FY 2008-09 Supplemental	0	(216,780)	0	0	(216,780)	(1.8)
Annualize prior FY Decision Items #1 and #2 (funding for 12th month due to paydate shift)	3,593	0	0	0	3,593	0.0
Salary Survey awarded in FY 08-09	142,112	0	0	0	142,112	0.0
80% of Performance-based Pay awarded in FY 08-09	32,197	0	0	0	32,197	0.0
Base reduction (0.0%)	0	0	0	0	0	0.0
JUD BA#4: Develop public access and e-filing systems	0	1,184,538	0	0	1,184,538	15.0
Staff Recommendation	\$3,331,315	\$1,184,538	\$217,710	\$0	\$4,733,563	59.9

Please note that the Department's request includes a 0.2 percent base reduction of \$6,655. Consistent with Committee policy, staff has not applied a base reduction.

Operating Expenses Staff recommends an appropriation of **\$398,840** (including \$177,604 General Fund and \$221,236 cash funds). Staff's recommendation is lower than the request based on updated cost estimates related to the public access/e-filing systems project. The calculations supporting staff's recommendation are detailed in the following table.

Summary of Recommendation for Operating Expenses					
	GF	CF	RF	FF	TOTAL
FY 2008-09 Long Bill	\$177,604	\$50,000	\$0	\$0	\$227,604
FY 2008-09 Supplemental	0	100,000	0	0	100,000
Reverse FY 2008-09 Supplemental	0	(100,000)	0	0	(100,000)
JUD BA #4: Develop public access and e-filing systems	0	171,236	0	0	171,236
Staff Recommendation	177,604	221,236	0	0	398,840

JAVA Conversion This line item was created in FY 2006-07 to provide funding and staff for a three-year project to convert Judicial's case management system database (ICON), from the RPG programming language to the JAVA programming language. At the end of FY 2008-09, the Department will no longer need the additional FTE and the positions and funding can be eliminated. **Staff recommends approving the request to eliminate this appropriation for FY 2009-10.**

Capital Outlay Staff recommends appropriating \$35,000 for capital outlay costs associated with the Public Access/E-Filing Systems Project. The calculations underlying staff's recommendation are detailed in the table below.

Summary of Recommendation for Capital Outlay					
	GF	CF	RF	FF	TOTAL
FY 2008-09 Long Bill	\$2,765	\$0	\$0	\$0	\$2,765
Elimination of One-time Funding for FY 2008-09	(2,765)	0	0	0	(2,765)
JUD BA #4: Develop public access and e-filing systems	0	35,000	0	0	35,000
Staff Recommendation	0	35,000	0	0	35,000

Purchase of Services from Computer Center This item provides funding for the Department's share of statewide computer services provided by the Department of Personnel and Administration, Division of Information Technology. One of four such line items, this one provides funds for services associated with Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation staff. The Department, through a budget amendment submitted in January 2009, requests \$264,410 General Fund for this purpose for FY 2009-10. **Staff's recommendation for the purchase of services from the computer center is pending Committee policy.** Staff will ultimately reflect Committee policy in the appropriation for this line item.

Multiuse Network Payments This line item is used to pay the Department's share of the statewide multi-use network. The Department, through a budget amendment submitted in January 2009, requests \$330,488 General Fund for multi-use network payments for FY 2009-10. **The Committee policy is pending for this decision item, so staff's recommendation for this purpose is pending.** Staff will ultimately reflect Committee policy in the appropriation for this line item.

Communication Services Payments This line item provides funding to pay to the Department of Personnel and Administration the Judicial Department's share of the costs associated with operating the public safety communications infrastructure. The Department requests \$12,576 for this purpose for FY 2009-10. **The staff recommendation on this line items is pending a Committee common policy for communications services.** Staff will ultimately reflect Committee policy in the appropriation for this line item.

Telecommunications Expenses The Department has not entirely converted to the Multi-use Network (MNT); it is experimenting with the MNT in a limited capacity and therefore, has a small MNT appropriation relative to other Departments of a comparable size. This line item pays for the majority of the Department's data line charges. **Staff recommends an appropriation of \$593,230**, including \$310,000 General Fund and \$283,230 cash funds. The recommendation includes \$533,392 in base funding, plus \$59,838 associated with JUD BA#4 (Develop public access and e-filing systems).

Hardware Replacement This line item is used to replace personal computers, servers, routers, switches, and so forth, based on useful life. **Staff recommends an appropriation of \$2,994,722 cash funds**, including \$2,250,000 in base funding and \$744,722 associated with JUD BA #4 (Develop public access and e-filing systems). The sources of cash funds are access fees on the Judicial Department's public access and e-filing applications.

Hardware/ Software Maintenance This line item is used to pay for software licenses, software updates and maintenance (ICON, CICJIS, other systems, and off-the-shelf software packages), all hardware/software maintenance agreements related to the Department's voice/data network, all anti-virus software, and the ongoing costs associated with the maintenance and upkeep of all of the Department's hardware (personal computers, terminals, printers, and remote controllers).

Staff recommends an appropriation of \$1,491,243, including \$1,043,094 General Fund and \$448,149 cash funds. The recommendation includes \$1,178,094 in base funding, plus \$313,149 associated with JUD BA#4 (Develop public access and e-filing systems). The sources of cash funds are access fees on the Judicial Department's public access and e-filing applications.

Finally, staff recommends consolidating the following three line items into a single line item entitled "Information Technology Infrastructure":

- Telecommunications Expenses
- Hardware Replacement
- Hardware/Software Maintenance

This consolidation will not affect the amounts or sources of funding available to the Department, but it will provide the Department with more flexibility in the expenditure of these funds.

(3) TRIAL COURTS

State trial courts include district courts in 22 judicial districts, water courts, and county courts.

District courts preside over felony criminal matters, civil claims, juvenile matters, probate, mental health, and divorce proceedings. In addition, district courts handle appeals from municipal and county courts, and review decisions of administrative boards and agencies. The General Assembly establishes judicial districts and the number of judges for each district in statute; these judges serve renewable 6-year terms. *[Article VI, Sections 9 through 12 of the Colorado Constitution; Section 13-5-101 et seq., C.R.S.]*

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

exclusive jurisdiction over cases involving the determination of water rights and the use and administration of water. [Sections 37-92-203 and 204, C.R.S.]

County courts have limited jurisdiction, handling civil actions involving no more than \$15,000, misdemeanor cases, civil and criminal traffic infractions, and felony complaints. County courts also issue search warrants and protection orders in cases involving domestic violence. In addition, county courts handle appeals from municipal courts. The General Assembly establishes the number of judges for each county in statute; these judges serve renewable 4-year terms. [Article VI, Sections 16 and 17 of the Colorado Constitution; Section 13-6-101 et seq., C.R.S.]

The following table provides an overview of the staffing composition for the Trial Courts section of the Long Bill.

Trial Courts: Staffing Summary				
Position Description	FY 2007-08 Actual	FY 2008-09 Approp.	FY 2009-10 Request	FY 2009-10 Recomm.
District Court Judges, including Water Judges (HB 07-1054)	152.0	164.0	176.0	164.7
County Court Judges (HB 07-1054)	82.2	89.0	92.0	89.5
Magistrates & Water Referees (HB 08-1407, JUD DI#2)	65.4	66.5	69.7	69.7
Division Staff (HB 07-1054, JUD DI #2)	86.3	146.0	167.3	156.0
Court Reporters (HB 07-1054)	99.6	161.0	173.0	161.7
Clerks' Offices (HB 07-1054, HB 08-1407, JUD DI#2)	986.6	1,012.1	1,053.6	1,023.4
Dispute Resolution	28.2	30.5	30.5	30.5
Administrative/ Support (JUD DI#2)	<u>182.2</u>	<u>204.1</u>	<u>205.1</u>	<u>205.1</u>
Subtotal - Trial Court Programs line item	1,682.5	1,873.2	1,967.2	1,900.6
Language Interpreters	25.0	25.0	25.0	20.0
Federal Funds and Other Grants	<u>10.9</u>	<u>8.5</u>	<u>8.5</u>	<u>14.0</u>
Subtotal - Other line items	35.9	33.5	33.5	34.0
DIVISION TOTAL	1,718.4	1,906.7	2,000.7	1,934.6

Trial Court Programs

This line item, established in the FY 2008-09 Long Bill, provides funding for Personal Services and Operating Expenses for judges, magistrates, court staff, and the Office of Dispute Resolution. This line item is affected by H.B. 07-1054 and JUD DI#2 (Expand and Enhance Drug Courts), which are discussed below.

3rd Year of Implementing H.B. 07-1054: New Judgeships

Beginning in FY 2007-08, H.B. 07-1054 (T. Carroll/Shaffer) created 43 new judgeships to be phased in over three years, and increased court-related fees starting July 1, 2007 to pay for most implementation costs. A summary of the schedule of the new judgeships is included in Appendix A. For FY 2009-10, H.B. 07-1054 anticipated adding 12 district court judges and three county court judges on July 1, 2009. The salaries for the judges and associated staff, as well as operating and capital outlay expenses, are supported by the Judicial Stabilization Fund.

Due to the revenue shortfall, staff asked the Department to explore the possibility of delaying the new judgeships scheduled for FY 2009-10. The primary purpose of the delay is to create one-time savings in FY 2009-10, and to utilize these savings to cover other appropriate one-time expenditures. Specifically, staff recommends appropriating cash funds from the Judicial Stabilization Cash Fund to cover the \$3.1 million requested increase in courthouse furnishings. Working with the affected judicial districts, the Department prepared a modified implementation schedule. This modified schedule adds four of the new district judges and all three new county court judges on May 1, 2010 (a 10 month delay), and it adds the remaining eight district court judges on July 1, 2010. The following table details this modified implementation schedule, by county and district.

Summary of Proposal to Delay 3rd Year Implementation of H.B. 07-1054							
Judicial District/ County		Scheduled Judge Increase for 7/1/09	Proposed Timing of Increases	FY 2009-10		FY 2010-11	
				Funding	FTE	Funding	FTE
District Courts							
1	Jefferson, Gilpin	+2	7/1/10	\$161,706	0.0	\$732,402	10.0
2	Denver	+1	5/1/10	141,887	0.8	366,201	5.0
		+1	7/1/10	80,853	0.0	366,201	5.0
4	El Paso, Teller	+1	5/1/10	141,887	0.8	366,201	5.0
		+1	7/1/10	80,853	0.0	366,201	5.0
8	Larimer, Jackson	+1	7/1/10	80,853	0.0	366,201	5.0
17	Adams, Broomfield	+1	5/1/10	141,887	0.8	366,201	5.0
		+1	7/1/10	80,853	0.0	366,201	5.0
18	Arapahoe, Douglas, Elbert, Lincoln	+1	5/1/10	141,887	0.8	366,201	5.0

Summary of Proposal to Delay 3rd Year Implementation of H.B. 07-1054							
Judicial District/ County		Scheduled Judge Increase for 7/1/09	Proposed Timing of Increases	FY 2009-10		FY 2010-11	
				Funding	FTE	Funding	FTE
19	Weld	+1	7/1/10	80,853	0.0	366,201	5.0
20	Boulder	+1	7/1/10	80,853	0.0	366,201	5.0
County Courts							
	Adams	+1	5/1/10	123,477	0.7	285,203	4.0
	El Paso	+1	5/1/10	123,477	0.7	285,203	4.0
	Jefferson	+1	5/1/10	123,477	0.7	285,203	4.0
	Statewide Total	15		1,584,801	5.3	5,250,021	72.0
	Less: Cost of 7/1/09 Implementation			(6,448,088)			
	One-time savings			(4,863,287)			

Under the proposed schedule, all district and county courts would receive capital outlay funding for the 15 new judges in FY 2009-10. For the seven judgeships that would be added May 1, 2010, personal services and operating funding would be provided for two of twelve months. As indicated at the bottom of the above table, compared to the costs of adding all 15 judgeships on July 1, 2009, this schedule provides one-time savings of more than \$4.8 million. **Staff recommends providing funding for the third year of implementing H.B. 07-1054 based on a delayed schedule (above). Staff proposes using \$3.1 million of the resulting one-time savings to cover the requested increase in courthouse furnishings. Staff further recommends using a portion of the remaining savings to fund a portion of the requested expansion/enhancement of adult drug courts.**

The following table details the calculations that support staff's recommendations related to H.B. 07-1054. Please note that the State Public Defender has not requested funding associated with H.B. 07-1054, as originally anticipated for FY 2009-10. **Due to the proposed implementation delay, staff recommends delaying appropriations to the Public Defender's Office until FY 2010-11.**

Summary of Recommendation: H.B. 07-1054 (3rd Year, Delayed Implementation)		
Line Item and Description	FTE	Funding
Courts Administration, Administrative Special Purpose		
Health, Life and Dental		(\$374,112)
Short-term Disability		(3,258)

Summary of Recommendation: H.B. 07-1054 (3rd Year, Delayed Implementation)		
Line Item and Description	FTE	Funding
Trial Courts		
<u>Personal Services (within Trial Courts Program line)</u>		
District Court Judges	0.7	
County Court Judges	0.5	
Law Clerks	0.7	
Court Reporters	0.7	
Court Judicial Assistant	<u>2.8</u>	
Total Personal Services (including: PERA; Medicare; Health, Life and Dental; and Short-term Disability)	5.4	378,228
Total Operating Expenses		8,508
Total Capital Outlay (one-time)		1,198,065
Public Defender (delay to FY 2010-11)	0.0	0
Total Recommendation for H.B. 07-1054	5.4	<u>1,584,801</u>
	General Fund	0
	Cash Funds (Judicial Stabilization Fund)	1,584,801

Judicial Decision Item #2: Enhance and Expand Drug Courts

The Joint Budget Committee submitted the following request for information to the Chief Justice in April 2008:

"The Department is requested to develop a general strategy and plan regarding the provision of drug courts statewide, including in rural areas, and to provide a report on this plan to the Judiciary Committees of the House and Senate by December 31, 2008."

In response to this request, the Branch requests 17.2 FTE to enhance adult drug court operations and unify the programs across the state while increasing the number of offenders served. The request includes an additional \$1,029,291 (including \$369,547 General Fund and \$659,744 cash funds) for 13.0 new FTE, and the transfer of \$258,131 and 4.2 FTE from the Probation division to the Trial Courts division.

Adult drug courts are currently operational in 11 judicial districts (including 19 counties)², and drug courts are expected to be implemented in the 1st (Jefferson) and 16th (Otero) judicial districts by the

² Adult drug courts are currently operational in the following judicial districts and counties: 2nd (Denver), 4th (El Paso and Teller), 6th (La Plata and Archuleta), 7th (Gunnison, Delta, and Montrose), 8th (Larimer), 9th (Rio Blanco, Garfield, and Pitkin), 11th (Fremont, Park, and Chaffee), 14th (Moffat), 19th (Weld), 20th (Boulder), and 22nd (Montezuma).

end of FY 2008-09. Existing drug courts currently target various criminal populations and adhere to different practices. Data indicates that existing courts are serving less than 25 percent of the probationers who meet drug court criteria³. This request is intended to: (a) enhance operational drug court practices by providing adequate court staff, probation staff, and drug court coordinators; and (b) allow operational drug courts to increase the number of high risk and high need offenders served (35 percent of projected capacity).

The Department provided the following data related to substance abusers:

- Approximately 78 percent of offenders housed by the Department of Corrections (DOC) have a substance abuse problem; less than 25 percent of offenders receive substance abuse services.
- About 32 percent of parolees have a drug offense as their most serious offense and the percentage is increasing.
- In FY 2007-08, there were at least 389 probationers revoked and sentenced to DOC on technical violations that would have met drug court criteria. Technical violations are noncompliance with terms of probation such as failure to complete drug treatment, continued drug use, and failure to keep probation appointments.

Drug Court is an innovative alternative to prison with emphasis on accountability and intensive monitoring for drug abusing criminal offenders. The drug court provides an environment where the offender undergoes treatment and counseling, submits to frequent and random drug testing, makes regular appearances before the judge, and is monitored closely for program compliance. In addition, drug courts increase the probability of defendants' success by providing ancillary services such as mental health treatment, trauma and family therapy, and job skills training.

Drug courts in Colorado have been created at the local level with little coordination with other judicial districts regarding staffing models, funding models, treatment, case management and program review, and evaluation. In an effort to streamline the drug court movement in the State of Colorado, Chief Justice Mullarkey established the Problem Solving Court Advisory Committee in April 2008. This committee is comprised of 19 judicial officers, district administrators, probation supervisors and magistrates who represent the various geographic regions of the state.

The drug court model the Department seeks to implement consistently statewide (in those judicial districts that choose to implement a drug court) has the following characteristics:

³ The Department indicates that adult drug courts should target drug dependent offenders who are in high need of treatment and are at high risk for recidivating (excluding violent offenders, sex offenders, and offenders who pose too large of risk to the community). The Department indicates that low risk and low need individuals are better served through standard probation services.

- The court's *target population* is defined as drug dependent offenders who are in high need of treatment and are at high risk for recidivating. The target population excludes violent offenders, sex offenders, and offenders who pose too large of risk to the community, as well as low risk/ low need individuals (who are better served through standard probation services⁴).
- The court conducts *regular, judicial review hearings* to continually monitor offenders' performance and impose *immediate sanctions and incentives* contingent on that performance.
- The *probation caseload* for drug court offenders is lower than for a regular adult probation program (e.g., 40 offenders per probation officer) to provide adequate time to prepare for and attend frequent hearings.
- A *drug court coordinator* serves as the “hub” of the drug court program, allowing judges and probation officers to perform other duties. This person is responsible for day-to-day program operations, including :developing policies and procedures, coordinating training, collecting data for program evaluation, and collaborating with drug court team members, community stakeholders, and state agencies.

Nationally, well-functioning drug courts have been found to reduce crime rates by 35 percent in high risk/high needs drug abusing criminal offender populations. One study indicated that for every \$1 invested in adult drug courts, communities have reaped approximately \$2 to \$4 in benefits.⁵ Examples of cost savings include the following:

- Offenders attend and remain in treatment longer, resulting in improved treatment outcomes
- Resources are targeted to offender need
- The re-arrest rate for offenders declines, reducing the need for jail and prison beds
- Offenders are more likely to be employed

In Colorado, the Boulder Adult Integrated Treatment Court documented a savings of 8,934 jail bed days in its first operational year, for an estimated annual savings of approximately \$545,000.

The Department indicates that in FY 2007-08 there were approximately 389 felony probationers revoked on technical violations who met the criteria for adult drug court. At an annual rate of \$30,388 per DOC bed, if half (195) of these offenders had successfully completed a drug court

⁴ Research indicates that placing low risk/low needs offenders in an intense program such as drug court or long term incarceration results in low risk/low needs offenders failing at a greater rate and will actually make them worse.

⁵ Doug B. Marlowe, J.D., Ph.D., NADCP National Drug Court Conference, May 2008. The Verdict IS IN.

program, the potential annual cost savings to the Colorado tax payers would have been over \$5.9 million.

Adult drug courts have been the subject of more national research than any other drug offender program and continue to demonstrate positive results for the high need and high risk drug offending population. Thirteen judicial districts in Colorado have invested existing resources to implement adult drug courts in their communities. These programs are limited to the number of clients they can serve and the quality of services provided based on available resources. This request seeks additional state resources to enhance drug court operations and increase the number of offenders served. By treating the high needs and high risk drug offenders in community based drug courts, jail and prison beds will be reduced while increasing the number of productive citizens in our communities.

Staff recommends approving this request to ensure that those judicial districts that have chosen to implement adult drug courts have a consistent level of state support, including funding, staff, and technical assistance. If implemented properly, these courts have proven effective in reducing the need for jail and prison beds, reducing crime rates, increasing treatment participation and effectiveness, and increasing employment among offenders. The General Assembly requested that the Department develop a plan for providing drug courts statewide. This plan continues to allow local judicial districts to determine whether to create an adult drug court, ensures existing drug courts are operating effectively, increases the number of offenders who are eligible and appropriate for drug court who can be offered drug court, and provides state resources in a consistent manner to each judicial district.

Staff recommends appropriating a slightly lower amount than requested. The calculations supporting staff's recommendations are detailed in the following table.

Summary of Recommendation: JUD DI #2, Expand/Enhance Drug Courts				
Line Item and Description	Monthly Salary	# of months funded	FTE	Funding
Trial Courts				
<u>Personal Services (within Trial Courts Program line)</u>				
Magistrates	\$9,170	12	2.0	\$220,080
Drug Court Coordinators	5,587	12	5.5	368,742
Court Judicial Assistant	2,694	12	4.9	158,407
Probation Officers	4,310	12	2.8	142,230
Probation Supervisors	6,584	12	1.0	79,008
Support Staff	2,692	12	<u>1.0</u>	<u>32,304</u>
Subtotal			17.2	1,000,771

Summary of Recommendation: JUD DI #2, Expand/Enhance Drug Courts				
Line Item and Description	Monthly Salary	# of months funded	FTE	Funding
PERA (10.15%)				101,578
Medicare (1.45%)				<u>14,511</u>
Total Personal Services			17.2	1,116,861
<u>Operating Expenses (within Trial Courts Program line)</u>				
Supplies (\$500/FY)			17.2	8,575
Travel (\$2,000/FY - probation officers and probation supervisors only)			3.8	7,500
Telephone (\$450/FY)			17.2	<u>7,717</u>
Total Operating Expenses				23,793
<u>Capital Outlay</u>				
Office furniture (\$3,998 per FTE)			17.2	68,566
Computer - desktop (\$900 per individual - magistrates and support staff only)			14.0	12,600
Computer - laptop (\$1,500 per individual - probation officers and probation supervisors only)			4.0	6,000
Office suite software (\$330 per computer)			18.0	<u>5,940</u>
Total Capital Outlay (one-time)				93,106
Probation and Related Services				
Total Personal Services (including PERA and Medicare) - General Fund, rather than cash funds			(4.2)	(258,131)
Total Recommendation for DI #2			13.0	<u>975,628</u>
General Fund				0
Cash Funds (Judicial Stabilization Fund)				975,628

Staff's recommendation is \$53,663 lower than the request, based on the following:

- As staff is recommending funding the net increase required for this request from the Judicial Stabilization Cash Fund (described below), staff is recommending providing the full 12 months of funding for all staff. This requires an additional \$23,581 for FY 2009-10.
- The operating expenses portion of the request includes \$50,593 in ongoing expenses, including \$2,000 for travel, \$500 for supplies, and \$450 for telephone expenses for 17.15 FTE. Staff's recommendation only includes travel funding for probation officers and probation supervisors, resulting in a difference of \$26,800.
- The capital outlay portion of the request includes funding for a laptop computer, a desktop computer, software, and a printer for 17.15 FTE, plus office furniture for 22.05 FTE. Staff's

recommendation includes a desktop computer for 14 individuals, a laptop computer for four individuals (probation officers and probation supervisors), software for each computer, and office furniture for 17.2 FTE. The total difference between the request and the recommendation for capital outlay is \$50,444.

Finally, with respect to financing, staff recommends reducing the General Fund portion of the Probation, Personal Services line item rather than the cash funded portion. Staff recommends transferring these General Fund moneys to the Trial Courts Program line item (along with the associated 4.2 FTE), and funding the remainder of the request (\$975,628) from the Judicial Stabilization Fund. This recommendation will require \$882,522 in ongoing annual expenditures. The Department's request was based on reducing the cash funds appropriation to probation, and increasing the General Fund appropriation for Trial Courts Programs by \$369,547 (of which, \$309,966 would be ongoing).

In summary, staff recommends appropriating a total of \$128,295,754 and 1,900.6 FTE for the Trial Courts Program line item (including \$103,207,896 General Fund, \$24,122,858 cash funds, and \$965,000 reappropriated funds), as detailed in the following table.

Summary of Recommendation: Trial Court Programs						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2008-09 Long Bill	\$95,553,641	\$15,249,289	\$0	\$0	\$110,802,930	1,867.0
H.B. 08-1082	0	350,890	0	0	350,890	6.2
FY 08-09 Supplemental (hiring freeze)	(1,600,000)	0	0	0	(1,600,000)	0.0
Reverse FY 08-09 Supplemental	1,600,000	0	0	0	1,600,000	0.0
Salary Survey awarded in FY 08-09	5,899,077	545,563	0	0	6,444,640	0.0
80% of Performance-based Pay awarded in FY 08-09	736,247	39,298	0	0	775,545	0.0
Base reduction (0.0%)	0	0	0	0	0	0.0
Reflect federal child support enforcement funds which are transferred from the Department of Human Services (matching funds and FTE are in this line item)	0	0	965,000	0	965,000	0.0
H.B. 07-1054 (delayed implementation; includes funding for insurance benefits)	0	378,228	0	0	378,228	5.4
H.B. 08-1407	268,986	0	0	0	268,986	4.8
JUD DI#2: Expand/enhance drug courts	0	858,730	0	0	858,730	13.0

Summary of Recommendation: Trial Court Programs						
	GF	CF	RF	FF	TOTAL	FTE
JUD DI #2: Expand/enhance drug courts - Transfer from Probation	<u>258,131</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>258,131</u>	<u>4.2</u>
Subtotal: Personal Services	102,716,082	17,421,998	965,000	0	121,103,080	1,900.6
Operating Expenses:						
FY 2008-09 Long Bill	483,264	6,658,664	0	0	7,141,928	
H.B. 08-1082	0	9,895	0	0	9,895	
H.B. 08-1407	8,550	0	0	0	8,550	
H.B. 07-1054 (delayed implementation)	0	8,508	0	0	8,508	
JUD DI#2: Expand/enhance drug courts	<u>0</u>	<u>23,793</u>	<u>0</u>	<u>0</u>	<u>23,793</u>	
Subtotal: Operating Expenses	491,814	6,700,860	0	0	7,192,674	
Staff Recommendation	\$103,207,896	\$24,122,858	\$965,000	\$0	\$128,295,754	1,900.6

Please note that the request included a \$246,822 base reduction (0.2 percent). Consistent with Committee policy, staff did not include any base reduction. The sources of the cash funds are the Judicial Stabilization Fund and various fees and cost recoveries.

Capital Outlay

The Department's request for this line item includes funding for fully implementing the third year of H.B. 07-1054. As described more fully above, staff's recommendation for this line item is based on a delayed implementation, but the full amount of capital outlay would still be provided in FY 2009-10. The recommendation for this line item also includes funding associated with JUD DI #2 (Expand/enhance drug courts). **Staff recommends appropriating \$1,353,895 for this line item for FY 2009-10**, as detailed in the following table.

Summary of Recommendation for Capital Outlay					
	GF	CF	RF	FF	TOTAL
FY 2008-09 Long Bill	\$0	\$738,117	\$0	\$0	\$738,117
FY 2008-09 Supplemental	0	727,677	0	0	727,677
Elimination of One-time Funding for FY 2008-09	0	(1,465,794)	0	0	(1,465,794)
H.B. 07-1054 (3rd year, delayed implementation)	0	1,198,065	0	0	1,198,065
H.B. 08-1407	62,724	0	0	0	62,724

Summary of Recommendation for Capital Outlay					
	GF	CF	RF	FF	TOTAL
JUD DI #2: Expand/enhance drug courts	0	93,106	0	0	93,106
Staff Recommendation	62,724	1,291,171	0	0	1,353,895

There are two differences between the request and staff's recommendation. First, as described on page 52, staff's recommendation related to JUD DI#2 is \$50,444 less than the request. Second, staff recommends providing capital outlay funding for JUD DI#2 from cash funds, rather than General Fund.

Court Costs, Jury Costs, and Court-appointed Counsel

Previously called "Mandated Costs", this line item provides funding for three types of costs:

Court Costs. Similar to mandated costs incurred by other judicial agencies, this line item provides funding for transcripts, expert and other witness fees and expenses, interpreters, psychological evaluations, sheriffs' fees, subpoenas, and other costs mandated by statute.

Jury Costs. This line item includes funding to cover fees and expenses for jurors. Pursuant to Sections 13-71-125 through 13-71-131, C.R.S., jurors must be compensated \$50 daily, beginning on their fourth day of service. These provisions also allow self-employed jurors to be compensated for their lost wages and unemployed jurors to be reimbursed for their travel, child care, and other necessary out-of-pocket expenses for the first three days of service; such compensation is limited to \$50 per day. In addition, this line item provides funding for printing, preparing, and mailing summons.

Court-appointed Counsel. This line item includes funding to cover fees and expenses for court-appointed counsel and other representatives for children and indigent persons. While the Department's three independent agencies provide legal representation for adults and children in certain matters, this appropriation covers the costs of providing representation for indigent parties who:

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

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

The Department requested, and the Committee approved, a mid-year increase in this line item for FY 2008-09. The Department has requested a continuation level of funding for FY 2009-10. **Consistent with Committee action on the supplemental request, staff recommends approval of the FY 2009-10 request** to ensure that parties are appropriately represented and receive due process as their cases move through the courts, and that jurors are compensated as required.

Language Interpreters

This line item provides funding for foreign language interpreter services for indigent individuals. Sections 13-90-113 and 114, C.R.S., provide for the payment of language interpreters “when the judge of any court of record in this state has occasion to appoint an interpreter for his court.” Title VI of the Civil Rights Act of 1964 prohibits recipients of federal financial assistance from discriminating based upon national origin by, among other things, failing to provide meaningful access to individuals who are limited English proficient (LEP). Additionally, Executive Order 13166 requires that all recipients of federal funding develop a plan for providing that access, and Colorado’s plan for providing access to LEP persons is Chief Justice Directive (CJD) 06-03.

This Chief Justice Directive indicates that the court shall pay for interpreter services in the following circumstances:

- during court proceedings when a defendant, one of the parties, a victim, a witness, or the parent/legal guardian of a minor charged as a juvenile is a non-English speaker;
- to facilitate communication outside the judge's presence in order to allow the court proceeding to continue as scheduled (e.g., pre trial conferences between defendants and district attorneys);
- to facilitate communication between the client and court-appointed counsel;
- during contempt proceedings when loss of liberty is a possible consequence;
- in the development of payment plans and completion of pre-sentence investigations; and
- during mental health evaluations performed for the purpose of aiding the court in making a determination concerning competency or sanity.

Prosecutors and clients' attorneys pay for or provide language interpretation that is necessary for other purposes, such as case preparation and general communication.

The Department requested, and the Committee approved, a mid-year increase in this line item for FY 2008-09. The Department has requested a continuation level of funding for FY 2009-10. The following table details the history of annual appropriations and expenditures for language interpreter services.

Recent History of Funding for Language Interpreter Services				
Fiscal Year	Appropriation	Expenditures	Annual % Change	Approp.-Expend.
1999-00	n/a	\$1,390,769		n/a
2000-01	n/a	1,736,343	24.8%	n/a
2001-02	n/a	2,135,898	23.0%	n/a
2002-03	n/a	2,261,106	5.9%	n/a
2003-04	n/a	2,224,287	-1.6%	n/a
2004-05	n/a	2,545,831	14.5%	n/a
2005-06	n/a	2,879,595	13.1%	n/a
2006-07*	2,883,666	3,181,250	10.5%	(297,584)
2007-08	2,892,427	3,520,983	10.7%	(628,556)
2008-09	3,393,469			
2009-10 Request	3,407,604			

* Prior to FY 2006-07, funding was included in "Mandated Costs" line item appropriation.

Consistent with Committee action on the supplemental request, staff recommends approval of the FY 2009-10 request to ensure that individuals with limited English proficiency are provided their constitutional right to due process and to provide meaningful access to the courts. However, staff recommends reducing the FTE authorization from 25.0 to 20, based on the actual mix of employees and contractors. Staff's recommendation is detailed in the following table.

Summary of Recommendation for Language Interpreters						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2008-09 Long Bill	\$2,787,427	\$0	\$0	\$0	\$2,787,427	25.0
FY 2008-09 Supplemental	501,042	0	0	0	501,042	0.0
Adjustment to reflect actual FTE levels	0	0	0	0	0	(5.0)
Salary Survey awarded in FY 08-09	56,660	0	0	0	56,660	0.0
80% of Performance-based Pay awarded in FY 08-09	13,300	0	0	0	13,300	0.0
Base reduction (0.0%)	0	0	0	0	0	0.0
Adjustment based on actual request	<u>(5,825)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>(5,825)</u>	<u>0.0</u>
Subtotal: Personal Services	3,352,604	0	0	0	3,352,604	20.0
Operating Expenses	55,000	50,000	0	0	105,000	
Total Recommendation	3,407,604	50,000	0	0	3,457,604	20.0

District Attorney Mandated Costs

Background Information. Colorado's district attorneys' offices (DA's) are responsible for prosecuting all criminal and traffic cases filed in district and county courts. The State provides funding for DA's in three areas. First, the Department of Corrections' budget includes an appropriation for "Payments to District Attorneys" for costs associated with prosecuting a crime alleged to have been committed by a person in the custody of the Department (\$150,000 in FY 2008-09 Long Bill). Second, the Department of Law's budget includes an appropriation for DA salaries (\$1,654,706 in the FY 2008-09 Long Bill). Third, the District Attorney Mandated Costs line item in the Judicial Department's budget provides state funding for DA's "mandated costs" (described below). The remainder of DA's budgets are set and provided by boards of county commissioners within each respective judicial district.

This line item provides state funding to reimburse DA's for costs incurred for prosecution of state matters, as required by state statute. Section 16-18-101, C.R.S., states that, "The costs in criminal cases shall be paid by the state pursuant to section 13-3-104, C.R.S.⁶, when the defendant is acquitted or when the defendant is convicted and the court determines he is unable to pay them." Pursuant to Section 18-1.3-701 (2), C.R.S., when a person is convicted of an offense or a juvenile is adjudicated, the Court shall give judgement in favor of the State, the prosecuting attorney, or the law enforcement agency and against the offender or juvenile for the amount of the costs of prosecution. The costs assessed pursuant to this provision or Section 16-18-101, C.R.S. (above), may include the following types of expenditures:

- court reporter fees for transcripts (including transcripts of preliminary hearings)
- expert witness fees
- witness fees and mileage
- lodging and transportation expenses for witnesses required to travel more than 50 miles, as well as for parents of witnesses under age 18
- exemplification and copy fees
- deposition fees
- fees for service of process or publications
- fees for interpreters required during depositions or during trials
- costs for obtaining a governor's warrant
- costs for photocopying reports, developing film, and purchasing videotape as necessary for use in the case
- any other cost specifically authorized by statute
- any other reasonable and necessary costs that are directly the result of the prosecution of the defendant upon motion and order of the court

⁶ This section states that the State "shall provide funds by annual appropriation for the operations, salaries, and other expenses of all courts of record within the state, except for county courts in the city and county of Denver and municipal courts".

Prior to FY 2000-01, funding for DA's Mandated Costs was included within the Mandated Costs line item appropriation to the Judicial Department. In 1999, an ad hoc committee on mandated costs released a report recommending that responsibility for managing court costs be transferred to the entities that incur them. Thus, beginning in FY 2000-01, the General Assembly has provided a separate appropriation for DA's Mandated Costs. This line item has been accompanied by a footnote (e.g., #4 in the FY 2008-09 Long Bill) indicating that DAs in each judicial district are responsible for allocations made by an oversight committee (currently the CDAC). Any increases in the line item are to be requested and justified in writing by the Colorado CDAC, rather than the Judicial Department.

The CDAC allocates funds among judicial districts based on historical spending (using a three-year average). However, the DAC holds back \$300,000 of appropriation. District Attorneys submit information quarterly concerning costs incurred, as well as projections of annual expenditures. The CDAC has a special process for requesting additional funds above the allocated amount. In order to limit state expenditures, the CDAC has required DA's offices to continue to follow the old C.J.D. 87-01, which limits expert witness fees. Fees paid in excess of the limits established in this Directive are only reimbursed if funds remain available at the end of the fiscal year. In FY 2007-08, \$66,799 of DAs' expenditures were not reimbursed due to this policy.

Through a supplemental request, the CDAC requested an increase of \$300,000 in the FY 2008-09 appropriation to address the increased costs of prosecuting criminal cases. This figure was based on expenditures incurred through the middle of November 2008 (\$751,731), and an estimate from districts regarding expenditures for the rest of the fiscal year (\$1,474,321). The requested increase would be base building and carry forward into FY 2009-10.

The CDAC indicates that mandated costs have increased in the last two fiscal years due to increases in the mileage reimbursement rate and the costs of air travel (increasing from \$0.28 per mile in 2005 to \$0.53 per mile). In addition, mandated costs are directly related to the number and nature of the cases filed. Violent crimes and sex crimes generally take more time to resolve, are more likely to go to trial, and are more likely to involve expert witnesses, and thus require greater expenditures than other types of cases. As indicated in the following table, while overall felony filings have decreased (4.5 percent) since FY 2003-04, violent crime filings are up 7.9 percent and sex offense filings are up 12.5 percent.

Fiscal Year	Total Cases Filed	Violent Crimes	% of Total	Sex Crimes	% of Total
FY 2007-08	40,494	10,104	24.95%	1,822	4.50%
FY 2006-07	44,245	9,848	22.26%	1,910	4.32%
FY 2005-06	46,501	10,666	22.94%	1,809	3.89%
FY 2004-05	45,405	9,767	21.51%	1,657	3.65%
FY 2003-04	42,427	9,366	22.08%	1,619	3.82%

In addition, the CDAC indicates that the number of district court trials increased 22.5 percent from FY 2004-05 to FY 2007-08, and jury trials in particular increased by 41.5 percent. In county courts, trials increased by 15.7 percent, and jury trials increased by 32 percent. This data is detailed in the following table.

Fiscal Year	Total Trials in District Court	Jury Trials in District Court	Total Trials in County Court	Jury Trials in County Court
FY 2007-08	1,309	982	1,624	1,171
FY 2006-07	1,255	915	1,491	1,063
FY 2005-06	1,201	857	1,522	1,037
FY 2004-05	1,069	694	1,404	887

Staff Analysis. Based on FY 2007-08 expenditure data provided by the CDAC, DAs' mandated costs consist of the following:

- Witness fees and travel expenses (\$710,389 or 34 percent of costs in FY 2007-08)
- Mailing subpoenas (\$560,813 or 27 percent)
- Service of process (\$357,244 or 17 percent)
- Expert witness fees and travel expenses (\$261,206 or 12 percent)
- Court reporter fees for transcripts (\$222,356 or 10 percent)

The CDAC specifically identifies recent increases in mileage reimbursement rates and air travel costs, increases in the number of cases involving violent crimes and sex crimes, and increases in the number of cases going to trial as the primary factors increasing DA's costs. The following table provides a history of appropriations and actual expenditures for this line item.

District Attorneys' Mandated Costs								
	Appropriation			Actual Expenditures				
Fiscal Year	General Fund	Cash Funds	Total	General Fund	Cash Funds	Total	Annual % Change	Over/ (Under) Budget
2000-01	\$1,938,724	\$0	\$1,938,724	\$1,889,687	\$0	\$1,889,687		(\$49,037)
2001-02	1,938,724	0	1,938,724	1,978,963	0	1,978,963	4.7%	40,239
2002-03	2,025,199	125,000	2,150,199	1,833,410	71,117	1,904,527	-3.8%	(245,672)
2003-04	2,025,199	125,000	2,150,199	1,847,369	59,334	1,906,703	0.1%	(243,496)
2004-05	1,911,899	0	1,911,899	1,911,970	0	1,911,970	0.3%	71
2005-06	1,911,899	0	1,911,899	1,772,849	106,325	1,879,174	-1.7%	(32,725)

District Attorneys' Mandated Costs								
	Appropriation			Actual Expenditures				Over/ (Under) Budget
Fiscal Year	General Fund	Cash Funds	Total	General Fund	Cash Funds	Total	Annual % Change	
2006-07	1,841,899	125,000	1,966,899	1,928,795	99,090	2,027,885	7.9%	60,986
2007-08	1,837,733	125,000	1,962,733	2,092,974	130,674	2,223,648	9.7%	260,915
2008-09	2,101,052	125,000	2,226,052					
2009-10 Request	2,101,052	125,000	2,226,052					

The CDAC indicates that budgets for DA offices do not include funding for mandated costs. If this request is not approved, DAs will have to seek additional funding from their county commissioners, essentially shifting responsibility to local jurisdictions. Representatives of Colorado Counties, Inc. have indicated that due to county revenue shortfalls, it is unlikely that additional funds will be available at the local level. If DAs do not have the resources to adequately prosecute appropriate cases, victims, justice and community safety may be adversely affected.

Consistent with Committee action on the supplemental request, staff recommends approving the request for a continuation level of funding for FY 2009-10 to ensure that DAs have adequate resources to prosecute criminal cases. The CDAC is effectively managing this line item through its allocation process, and the increase in costs associated with energy costs and the violent crimes and sex crimes is largely out of the control of DAs.

Sex Offender Surcharge Fund Program

Section 18-21-103 (2) , C.R.S., establishes a surcharge on sex offenders to cover the direct and indirect costs associated with the evaluation, identification, treatment, and continued monitoring of sex offenders. This provision specifies that 95 percent of the surcharge shall be credited to the Sex Offender Surcharge Fund, and five percent shall be retained for administrative costs. The latter amount is to be credited to the General Fund and "such amount shall be subject to appropriation by the general assembly for the costs of such administration". In response to a suggestion from the Department, the Committee approved a recommendation to eliminate the \$23,559 General Fund appropriation for FY 2008-09 associated with the sex offender surcharge. **Staff recommends eliminating this appropriation for FY 2009-10, consistent with the Committee's recent action with respect to FY 2008-09.**

Victim Compensation and Victim Assistance

These line items represent funds that are collected by the courts from offenders and then transferred to local governments for compensation and assistance of victims, in accordance with Articles 4.1 and 4.2 of Title 24, C.R.S. These amounts are included for informational purposes only, as they are

continuously appropriated by statute. However, the Department request tries to most accurately reflect anticipated activity with these accounts.

Staff recommends approving both requests for continuation level funding, including \$12,120,121 for Victim Compensation and \$15,095,039 for Victim Assistance. The sources of cash funds are the Crime Victim Compensation Funds (for Victim Compensation) and the Victims and Witnesses Assistance and Law Enforcement Funds (for Victim Assistance).

Federal Funds and Other Grants

This line item reflects miscellaneous grants and federal funds associated with the Trial Courts. The FTE shown in the Long Bill are not permanent employees of the Department, but instead represent the Department's estimates of the full-time equivalent people that are working under the various grants. Based on more recent information provided by the Department, **staff recommends appropriating a total of \$2,400,000 and 14.0 FTE**, comprised of \$475,000 cash funds, \$300,000 reappropriated funds, and \$1,625,000 federal funds.

Long Bill Footnotes and Requests for Information Concerning the Courts and Department Administration

Staff recommends that the following footnotes be **continued, as amended**:

- 42 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 FY</u> <u>2009-10 Salary</u>	<u>Increase</u>	<u>FY 2008-09</u>
Chief Justice, Supreme Court	132,027 142,708	10,681	142,708
Associate Justice, Supreme Court	129,207 139,660	10,453	139,660
Chief Judge, Court of Appeals	126,932 137,201	10,269	137,201
Associate Judge, Court of Appeals	124,089 134,128	10,039	134,128
District Court Judge	118,973 128,598	9,625	128,598
County Court Judge	113,856 123,067	9,211	123,067

The salary increases provided for FY 2008-09 include the statewide salary survey percentage increase for professional employees, the statewide performance-based pay percentage increase, and a 3.0 increase as part of an effort to make judge salaries more competitive. Funding is also provided in the Long Bill to maintain the salary of the Public Defender at the level of an associate judge of the Court Appeals, and to maintain the salaries of the Alternate Defense Counsel and the Executive Director of the Office of the Child's Representative at the level of a district court judge.

Sections 13-30-103 and 104, C.R.S., establish judicial salaries for various fiscal years during the 1990s. These provisions state that any salary increases above those set forth in statute "shall be determined by the general assembly as set forth in the annual general appropriations bill." The General Assembly annually establishes judicial salaries through a footnote in the Long Bill. Based on the Committee's policy of not providing funding for salary increases for state employees in FY 2009-10, the above footnote is written in the same manner as in FY 2003-04 (with no increases).

Staff recommends that the following information requests be **eliminated**:

- Judicial Department, Integrated Information Services** -- ~~The Department is requested to contract with an outside party to study the feasibility of providing its public access and e-filing programs in-house and to report its findings to the Joint Budget Committee by November 1. It is the intent of the Committee that this effort be funded with existing appropriations.~~

The Department submitted a report concerning the feasibility of migrating both of the current vendor supported systems in-house, as requested.

- 2 ~~**Judicial Department, Trial Courts, Trial Court Programs**~~--The Department is requested to develop a general strategy and plan regarding the provision of drug courts statewide, including in rural areas, and to provide a report on this plan to the Judiciary Committees of the House and Senate by December 31, 2008.

The Department submitted a plan to expand drug courts statewide, as requested. The Department and the State Public Defender also submitted decision items (priorities #2 and #3, respectively) to continue, expand, and enhance existing adult drug court programs in 13 judicial districts.

- 3 ~~**Judicial Department, Trial Courts, Court Costs, Jury Costs, and Court-appointed Counsel**~~-- The Department is requested to pilot alternative methods of providing respondent parent counsel services in dependency and neglect cases and to report to the Joint Budget Committee on the progress of such pilots in the Department's annual budget request.

The Department included a response to this request in its FY 2009-10 budget request, which was summarized in staff's Fall briefing document.

Staff recommends that the following information request be **continued, as amended**:

- 4 **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.

The Judicial Department's budget request included information provided by the Colorado District Attorneys' Council (DAC)⁷, as requested. This footnote ensures that the District Attorneys comply with the State's regular budget process and provides some accountability as to how they are spending the appropriation.

⁷ The DAC is a quasi-government agency, supported by assessments charged to each DA's office (through an intergovernmental agreement). Denver is not currently a member of the DAC.

(4) PROBATION AND RELATED SERVICES

Persons convicted of certain offenses are eligible to apply to the court for probation. If the court determines that "the ends of justice and the best interests of the public, as well as the defendant, will be served thereby," the court may grant a defendant probation [Section 18-1.3-202 (1), C.R.S.]. The offender serves a sentence in the community under the supervision of a probation officer, subject to conditions imposed by the court. The length of probation is at the discretion of the court and it may exceed the maximum period of incarceration authorized for the offense of which the defendant is convicted, but it cannot exceed five years for any misdemeanor or petty offense. The conditions of probation should ensure that the defendant will lead a law-abiding life and assist the defendant in doing so. These conditions always include requirements that the defendant:

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

Managed by the Chief Probation Officer in each judicial district, 1,200 employees prepare assessments and provide pre-sentence investigation services to the courts, supervise offenders sentenced to community programs, and provide notification and support services to victims. The Chief Probation Officer is supervised by the Chief Judge in each district -- not the Department's Division of Probation Services. Investigation and supervision services are provided based on priorities established by the Chief Justice and each offender's risk of re-offending. Adult and juvenile offenders are supervised in accordance with conditions imposed by the courts. A breach of any imposed condition may result in revocation or modification of probation, or incarceration of the offender.

Personal Services

The following table details the staffing composition for the Probation Division.

Probation and Related Services: Staffing Summary				
Position Description	FY 2007-08 Actual	FY 2008-09 Approp.	FY 2009-10 Request	FY 2009-10 Recomm.
Chief Probation Officers	24.9	25.0	25.0	25.0
Probation Supervisors (JUD DI#3)	84.4	90.5	101.0	92.0
Probation Officers (JUD DI#2 and DI#3)	734.8	810.4	805.8	816.2
Administrative/ Support (JUD DI#3)	<u>187.2</u>	<u>203.9</u>	<u>207.8</u>	<u>206.4</u>
Subtotal - Personal Services line item	1,031.3	1,129.8	1,139.6	1,139.6

Probation and Related Services: Staffing Summary				
Position Description	FY 2007-08 Actual	FY 2008-09 Approp.	FY 2009-10 Request	FY 2009-10 Recomm.
Victims Grants	17.3	17.3	17.3	6.0
Senate Bill 91-94	25.0	25.0	25.0	25.0
Federal Funds and Other Grants	<u>34.8</u>	<u>32.3</u>	<u>32.3</u>	<u>33.0</u>
Subtotal - Other line items	77.1	74.6	74.6	64.0
DIVISION TOTAL	1,108.4	1,204.4	1,214.2	1,203.6

The request for this line item includes funding for one decision item that has not yet been addressed in this packet.

Judicial Decision Item #3: Add Probation Staff

The Judicial Department requests funding to add 14.0 FTE probation staff (including 10.0 FTE probation officers, 1.5 FTE probation supervisors, and 2.5 FTE support staff) **and \$868,538 General Fund**. The intent of the request is to improve probation officers' ability to utilize intermediate sanctions in response to offenders' technical violations or offenders absconding from supervision. Absent the ability to impose intermediate sanctions, the probation officer will generally file a motion to revoke probation, resulting in the offender being sentenced to the Department of Corrections or the Division of Youth Corrections.

In determining the need for probation officers, the Judicial Department employs a workload model that differentiates the amount of time necessary to support and notify victims, prepare pre- and post-sentence investigations and reports and supervise offenders based on the assessed risk level in each case type (regular adult and juvenile, domestic violence, juvenile sex offenders and non-Sex Offender Intensive Supervision Probation adult sex offenders).⁸ The total of the time values representing the work necessary to complete investigations and reports and to provide supervision are used to derive the FTE need. Intensive programs for the highest risk cases are included in the staffing need calculations starting in FY2008-09.

Based on this methodology, *probation officers* performing supervision tasks are currently staffed at 91 percent of full staffing, and *probation supervisors* are staffed at 81 percent. Probation officers are most responsible for achieving the improved outcomes desired. Based on caseload growth projections, the total need would be approximately 280 additional probation staff to reach full staffing by FY 2013-14. As detailed in the table below, the Judicial Department prepared a five year plan which distributes this increase over the next several years.

⁸ The workload value reflects the average amount of time required to complete the average activities required to supervise each case or complete each report.

Probation Workload and Staffing, FY2007-08 through FY 2013-14 per Five-Year Plan							
	FY 07-08 ^{1/}	FY 08-09 ^{2/}	FY 09-10 (est.)	FY 10-11 (est.)	FY 11-12 (est.)	FY 12-13 (est.)	FY 13-14 (est.)
Staffed Cases ^{3/}	88,928	83,452	86,353	89,385	92,557	95,874	99,344
Pre-Sentence Investigations (PSIs) ^{4/}	49,279	47,217	47,689	48,166	48,648	49,134	49,626
FTE Required ^{5/}	1,061	1,208	1,232	1,257	1,282	1,308	1,334
FTE Appropriated ^{6/}	875	1,072	1,130	1,186	1,242	1,298	1,354
Annual Change		197	58	56	56	56	56
Staffing Deficit	(186)	(136)	(102)	(71)	(40)	(10)	20
Percent Full Staffing ^{7/}	82.5%	88.7%	91.7%	94.3%	96.9%	99.2%	101.5%

- 1/ In FY 2007-08, the Alcohol/Drug Driving Program was integrated into probation, resulting in higher numbers than previous years. The ratio used to calculate "staffed cases" was changed to a more conservative estimate in FY 2008-09, resulting in lower projected "staffed cases" from that year forward.
- 2/ In FY 2008-09, intensive programs were included in the staffing model and decision item.
- 3/ In FY 2009-10 thru FY 20013-14, growth in staffed cases was estimated at an annual increase of 5.0 percent for adult regular supervision, 5.0 percent for private supervision, 1.0 percent for juvenile regular supervision, 1.0 percent for intensive programs, and 1.0 percent for monitored cases.
- 4/ In FY 2009-10 thru FY 20013-14, growth in PSI's was estimated at an annual increase of 1.0 percent.
- 5/ In FY 2009-10 thru FY 20013-14, FTE need is based on growth of 2.0 percent per year for all probation categories (e.g. adult, juvenile, regular, intensive etc.).
- 6/ Appropriation assumes 56 per year (fiscal years 2010 thru 2014) as outlined in the department's five year plan.
- 7/ Percent Full Staffing and FTE Need is inclusive of probation officers, supervisors and support staff and will be impacted by the 2008 workload value study.

In order to address workload demands and to provide adequate staff supervision, while at the same time considering budgetary constraints, the Branch is requesting an additional 14.0 FTE probation officers for FY 2009-10⁹ (this compares to the 58.0 FTE increase included in the five-year plan, above). This represents an incremental step towards achieving the goals set out in the five-year plan for full staffing.

The Department provided an analysis of data from FY 2001-02 through FY 2006-07 which reflects a primary area of concern for probation: the limited ability to effectively employ intermediate sanctions in response to offender technical violations or to spend time locating and recovering offenders that abscond from supervision.

The Department is taking steps to improve results with existing resources. With the funds available in the Offender Treatment and Services line and the new funding available under S.B. 03-318, probation is able to offer added treatment for offenders who cannot meet some or all of their treatment costs when treatment resources are available in the community. Probation is also

⁹ Supervisory and clerical staff is requested using a probation officer staff ratio of 4:1 for clerical and a combined probation officer and clerical staff ratio of 8:1 for supervisors. Additionally, human resources and information technology support staff are requested at a ratio of 1:82 and 1:50 to new FTE to properly reflect the complete cost of staff resources.

reviewing and applying evidence-based research to ensure good return on investment. For example, training on motivation interviewing and relapse prevention have been upgraded for delivery to field probation officers. If the implementation of these practices is to be successful and produce the expected improvements in outcomes, it is necessary to address the existing shortfall in probation staffing.

When an officer's caseload is too high, he or she does not have adequate time to fully utilize intermediate sanctions and monitor their effectiveness. The average caseload size on regular probation - particularly in adult probation - is too large to allow for full use of intermediate sanctions. Instead, for public safety reasons, the filing of a motion to revoke probation has often become the default response resulting in a significant number of cases being incarcerated.

Revocations based on technical violations usually occur after the offender has engaged in a series of rule violations, such as failure to report or comply with treatment, or testing positive for drug use. The same patterns of non-compliance also often precede an offender absconding from supervision. These occurrences are viewed as indicators of increased risk and require the application of intermediate sanction responses designed to interdict the behavior of the offender in order to protect public safety and to deliver a consequence for the violation. Intermediate sanctions are intended to cause the offender to come back into compliance with the court's orders and are designed to respond to any underlying cause for the violations. Since technical violations are, in many cases, precursor behavior to the commission of new crime it is likely that efforts to reduce revocations due to technical violations will directly reduce the number of adult and juvenile offenders committing new crimes. Absent sufficient regular probation staff to appropriately manage offenders at the beginning of their sentence it is unlikely that the incidence of technical violation or absconder revocations can be significantly reduced.

The Department provided data from a Maryland study which evaluated the outcomes when caseloads for moderate and high risk probationers and parolees were reduced and evidence-based practices were employed. This program reduced rearrest rates (40.9 percent compared to 32.1 percent) and technical violation rates (29.2 percent compared to 20.1 percent). The Department also provided similar results from a study in Connecticut, which reduced the rate of technical violations among the probationers, most dramatically among those who were failing under regular supervision and were referred to a special unit for supervision.

Staff recommends approving the request to add 10.0 FTE probation officers, along with the associated supervisory and support staff, to improve probation officers' ability to utilize intermediate sanctions in response to offenders' technical violations or offenders absconding from supervision. Absent the ability to impose intermediate sanctions, the probation officer will generally file a motion to revoke probation, resulting in the offender being sentenced to the Department of Corrections and the Division of Youth Corrections. The request is a modest one, only adding 25 percent of the staff that the Department would need to achieve its five year goal of reaching full staffing.

However, staff recommends appropriating a slightly smaller dollar amount, primarily due to technical errors in the Department's request (e.g., requesting a desktop computer, a laptop computer, and a printer for each FTE). The following table details the calculations supporting staff's recommendation.

Summary of Recommendation: JUD DI #3, Add Probation Staff				
Line Item and Description	Monthly Salary	# of months funded	FTE	Funding
Probation and Related Services				
<u>Personal Services</u>				
Probation Officers	\$4,310	11	10.0	\$474,100
Probation Supervisors	6,584	11	1.5	108,636
Support Staff	2,467	11	<u>2.5</u>	<u>67,843</u>
Subtotal		11	14.0	650,579
PERA (10.15%)				66,034
Medicare (1.45%)				<u>9,433</u>
Total Personal Services			14.0	726,046
<u>Operating Expenses</u>				
Supplies (\$500/FY)			14.0	7,000
Travel (\$2,000/FY - probation officers and supervisors only)			11.5	23,000
Telephone (\$450/FY)			14.0	<u>6,300</u>
Total Operating Expenses				36,300
<u>Capital Outlay</u>				
Office furniture (\$3,998 per FTE)			14.0	55,972
Computer - desktop (\$900 per individual - support staff only)			3.0	2,700
Computer - laptop (\$1,500 per individual - probation officers and supervisors only)			12.0	18,000
Office suite software (\$330 per computer)			15.0	<u>4,950</u>
Total Capital Outlay (one-time)				81,622
Total Recommendation for DI #3			14.0	843,968

In summary, staff recommends an appropriation of \$73,083,454 and 1,139.6 FTE (including \$63,266,411 General Fund and \$9,817,043 cash funds) for FY 2009-10 as detailed in the table below.

Summary of Recommendation: Probation, Personal Services						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2008-09 Long Bill	\$59,565,464	\$9,303,262	\$0	\$0	\$68,868,726	1,129.8
FY 08-09 Supplemental (hiring freeze)	(760,000)	0	0	0	(760,000)	0.0
Reverse FY 08-09 Supplemental	760,000	0	0	0	760,000	0.0
Annualize JUD DI#2 (FY 07-08) - Add probation staff (funding for 12th month due to paydate shift)	227,442	0	0	0	227,442	0.0
Salary Survey awarded in FY 08-09	2,442,916	417,596	0	0	2,860,512	0.0
80% of Performance-based Pay awarded in FY 08-09	562,674	96,185	0	0	658,859	0.0
Base reduction (0.0%)	0	0	0	0	0	0.0
JUD DI #2: Enhance and expand drug courts	(258,131)	0	0	0	(258,131)	(4.2)
JUD DI #3: Add probation staff	<u>726,046</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>726,046</u>	<u>14.0</u>
Personal Services Recommendation	63,266,411	9,817,043	0	0	73,083,454	1,139.6

Please note that the Department's request includes a 0.2 percent base reduction (\$144,776). Consistent with Committee policy, staff has not included a base reduction.

Operating Expenses

The Department's request for this line item includes two decision items that have not yet been covered in this packet.

Judicial Decision Item #4c: Increased Spending Authority from the Offender Services Fund

The Department requests a \$3,325,000 increase in spending authority from the Offender Services Fund. The Department anticipates using the requested amount for a variety of purposes, with the estimated allocations and purposes described below:

- \$2,000,000 for sex offender assessment and treatment, drug and alcohol abuse treatment, domestic violence treatment, emergency housing, juvenile treatment services, and complex assessment services (e.g., neuropsychological, IQ, and developmental disability);
- \$525,000 to purchase up to 129 short-term (90 days) community corrections beds for unstable adult offenders;
- \$500,000 to provide motivational interviewing training (via contractors) to accelerate the implementation of this practice statewide;

- \$255,000 for probation officer travel expenses required to perform supervision and surveillance activities (e.g., home visits, curfew checks, meetings related to work verification and treatment, and training); and
- \$45,000 for the purchase of safety equipment (e.g., body armor that is often used when making home visits, and radios that can communicate with local law enforcement).

Pursuant to Section 16-11-214, C.R.S., the Offender Services Fund consists of probation supervision fees paid by offenders, and payments related to the cost of care for juveniles. The General Assembly may appropriate moneys in the Fund for: (a) administrative and personnel costs for adult and juvenile probation services; (b) adjunct services, including treatment services, contract services, drug and alcohol treatment services, and program development, and for associated administrative and personnel costs; and (c) to continue the demonstration drug court program. A transfer from this fund to the General Fund can help support existing General Fund appropriations for probation staff and operations.

The Committee recently approved a transfer of \$250,000 from this fund, as well as a \$487,193 increase in annual appropriations. Based on projected fund revenues (as detailed in the following table), **staff recommends approving only \$2,325,000 of the request.** If the Department's request is approved, fund expenditures are projected to exceed fund revenues by \$3.6 million in FY 2009-10 (30 percent), and the fund balance would be exhausted by FY 2011-12. Rather than putting the General Assembly in a position that would require a significant increase in General Fund appropriations in FY 2011-12 or reduce offender services, staff recommends approving only a portion of the requested increase.

Offender Services Fund				
Department Request and Staff Recommendation				
	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11
	Actual	Estimate	Estimate	Estimate
Beginning FY Balance	\$6,227,078	\$8,365,847	\$7,835,290	\$5,250,689
Projected Revenues	10,723,009	11,366,389	12,048,373	12,771,275
Expenditures (with staff's recommendation)	<u>(8,584,240)</u>	<u>(11,159,753)</u>	<u>(14,145,781)</u>	<u>(14,145,781)</u>
Ending FY Balance without transfer	\$8,365,847	\$8,572,483	\$5,737,882	\$3,876,183
FY 2008-09 Supplemental (continued in out-years)		(487,193)	(487,193)	(487,193)
Approved Transfer	<u>0</u>	<u>(250,000)</u>	<u>0</u>	<u>0</u>
Ending FY Balance after transfer	\$8,365,847	\$7,835,290	\$5,250,689	\$3,388,990

Judicial Decision Item #4d: Increased Spending Authority from the Offender Identification Fund

The Department requests an additional \$111,750 cash funds from the Offender Identification Fund to cover costs related to DNA testing, including \$20,000 for test kits for local jails and community corrections programs. Of the amount requested, \$69,745 would be used to refinance existing appropriations, and \$42,500 would be used to increase funding related to these activities due to a growing caseload.

Senate Bill 06-150 required DNA testing for every convicted adult and juvenile felony offender, and H.B. 07-1343 further expended the population requiring DNA testing. Offenders are required to pay a \$128 fee to cover the costs of collecting DNA samples; fee revenue is deposited into the Offender Identification Fund. Senate Bill 06-150 included an appropriation of \$164,065 and 1.9 FTE to the Department; only \$8,250 of this amount was appropriated from the Offender Identification Fund, with the balance from the General Fund.

The Committee recently approved a mid-year change in the appropriation for this line item, reducing the General Fund appropriation by \$69,745 and increasing the appropriation from the Offender Identification Fund by a like amount. Staff's recommendation includes a continuation of this change. In addition, **staff recommends approving the Department's request to increase spending authority from this fund by an additional \$42,500 to address a growing caseload.** This will allow the Branch to spend fees paid by offenders to cover their costs related to genetic testing. As detailed in the following table, approval of staff's recommendation for this Department, as well as continuation of a financing change previously approved for the Department of Public Safety, is sustainable.

	Offender Identification Fund Staff Recommendation			
	FY 2007-08 Actual	FY 2008-09 Estimate	FY 2009-10 Estim./Request	FY 2010-11 Estimate
Beginning FY Balance	\$149,670	\$303,454	\$335,770	\$334,015
Revenues	268,119	392,000	399,840	403,838
<u>Expenditures:</u>				
Judicial - Probation (with FY 2008-09 supplemental)	(8,250)	(78,599)	(120,510)	(120,510)
Corrections	(4,960)	(4,960)	(4,960)	0
Department of Public Safety - CBI (with FY 2008-09 supplemental and continuation of change)	<u>(101,125)</u>	<u>(276,125)</u>	<u>(276,125)</u>	<u>(276,125)</u>
Subtotal	(114,335)	(359,684)	(401,595)	(396,635)
Ending FY Balance	\$303,454	\$335,770	\$334,015	\$341,218

Staff recommends approving an appropriation of \$3,131,711 for Operating Expenses, including \$2,312,862 General Fund and \$818,849 cash funds. Staff's recommendation includes funding for DI #3 (Add probation staff). The following table provides the calculations supporting staff's recommendation.

Summary of Recommendation for Operating Expenses					
	GF	CF	RF	FF	TOTAL
FY 2008-09 Long Bill	\$2,331,863	\$407,099	\$0	\$0	\$2,738,962
FY 2008-09 Supplemental	(69,745)	69,745	0	0	0
Common policy: fleet fuel increase	14,444	0	0	0	14,444
JUD DI #3: Add probation staff	36,300	0	0	0	36,300
JUD DI #4c: Increase spending authority from Offender Services Fund	0	300,000	0	0	300,000
JUD DI #4d: Increase spending authority from Offender Identification Fund	<u>0</u>	<u>42,005</u>	<u>0</u>	<u>0</u>	<u>42,005</u>
Total Recommendation	2,312,862	818,849	0	0	3,131,711

Capital Outlay

As part of JUD - DI #3, the Department requests \$101,192 for capital outlay for FY 2009-10. Consistent with Legislative Council Staff fiscal note policies, the request includes \$3,998 for furniture, \$900 for a computer, and \$330 for standard office software for each FTE. In addition, the request includes \$1,500 for a laptop and \$500 for a printer for each FTE. Staff's recommendation includes only one computer for each FTE (laptops for probation officers and desktops for supervisory and support staff), and one printer. **Staff recommends appropriating \$81,622 General Fund for this line item for FY 2009-10**, as detailed in the following table.

Summary of Recommendation for Capital Outlay					
	GF	CF	RF	FF	TOTAL
FY 2008-09 Long Bill	\$168,604	\$0	\$0	\$0	\$168,604
Elimination of One-time Funding for FY 2008-09	(168,604)	0	0	0	(168,604)
JUD DI #3: Add probation staff	81,622	0	0	0	81,622
Staff Recommendation	81,622	0	0	0	81,622

Offender Treatment and Services

In the FY 2006-07 Long Bill, the appropriations for the Probation Division were reorganized. Multiple line items were eliminated and their appropriations moved to the Personal Services or Operating Expenses line item within this division; all other treatment-related funding was

consolidated into this line item. The Department reports annually about how funding from this line item is utilized each year.

The Offender Treatment and Services line item provides block grants to each judicial district based on the number of FTE and probationers under supervision in each district. Each probation department then develops a local budget to provide treatment and services, including the following:

Substance abuse treatment	Sex offender assessment, treatment, and polygraphs
Mental health treatment	Domestic violence treatment
Electronic home monitoring	Transportation assistance
Emergency housing	Educational/vocational assistance
Restorative justice	Global positioning satellite (GPS) tracking
Interpreter services	General medical assistance
Incentives	

The Department is also using some existing funding to build capacity in rural/under served parts of the state, and to research evidence-based practices.

Judicial Decision Item #4a: Increased Spending Authority - Drug Offender Surcharge Fund

The Department requests a \$300,000 increase in spending authority from the Drug Offender Surcharge Fund, including \$250,000 for treatment and \$50,000 for training. The Department indicates that success for drug offenders relies on the ability of the criminal justice system to place the offender in an effective treatment program, and provide financial support for the cost of treatment-related expenses when necessary. As the number of offenders sentenced to probation increases, so does the need for treatment services. Treatment services most often required for substance abusing probation offenders include: weekly outpatient therapy, intensive outpatient therapy (nine hours per week), and inpatient treatment.

The additional \$50,000, if approved, would be used to provide multi-agency substance abuse training. Evidence-based training curriculum will be made available to treatment providers who deliver services to offenders on probation, on parole, and in community corrections.

Staff recommends approving the request to ensure that sufficient substance abuse services are available to substance abusing offenders sentenced to probation. Pursuant to Section 18-19-103 (4), C.R.S., the Drug Offender Surcharge Fund consists of 90 percent of drug offender surcharge revenues. These surcharges range from \$100 to \$4,500 for each conviction or deferred sentence. Moneys in the Fund are subject to annual appropriation to the Judicial Department, the Department of Corrections, the Department of Public Safety's Division of Criminal Justice, and the Department of Human Services to cover the costs associated with substance abuse assessment, testing, education, and treatment. Pursuant to Section 16-11.5-102 (3), C.R.S., these four departments are required to cooperate and develop a plan for the allocation of moneys deposited in this fund. The Judicial Department is required to submit this plan with its annual budget request.

The Committee recently approved a transfer from this fund to the General Fund as proposed by the Judicial Department. The following table details the impact of the transfer and approving all agencies' requests for spending authority from this fund for FY 2009-10.

Drug Offender Surcharge Fund Department Request and Staff Recommendation				
	FY 2007-08 Actual	FY 2008-09 Estimate	FY 2009-10 Estimate	FY 2010-11 Estimate
Beginning FY Balance	\$3,005,884	\$2,851,059	\$3,327,622	\$3,023,568
Projected Revenues	4,862,410	4,965,668	5,064,981	5,216,930
Expenditures	<u>(5,017,235)</u>	<u>(4,337,764)</u>	<u>(5,369,035)</u>	<u>(5,653,335)</u>
Ending FY Balance without transfer	\$2,851,059	\$3,478,963	\$3,023,568	\$2,587,163
JBC Recommended Transfer	<u>0</u>	<u>(151,341)</u>	<u>0</u>	<u>0</u>
Ending FY Balance after transfer	\$2,851,059	\$3,327,622	\$3,023,568	\$2,587,163

In summary, staff recommends approving the request for a total of \$10,932,023. However, staff's recommendation includes \$0 General Fund, \$10,619,290 cash funds (from the Offender Services Fund, the Drug Offender Surcharge Fund, the Sex Offender Surcharge Fund, and various fees and cost recoveries), **and \$312,733 reappropriated funds transferred from the Department of Human Services** (to pay a portion of the costs for intervention and treatment services for persistent drunk drivers who are unable to pay).

Staff's recommendation includes funding for JUD DI #4c (Offender Services Fund Increase). In addition, the Committee recently approved the elimination of the General Fund portion of this line item, offset by an increase in the appropriation from the Offender Services Fund. Staff's recommendation reflects a continuation of this financing change. The following table details the calculations supporting staff's recommendations.

Summary of Recommendation for Offender Treatment and Services					
	GF	CF	RF	FF	TOTAL
FY 2008-09 Long Bill	\$487,193	\$7,807,097	\$312,733	\$0	\$8,607,023
FY 2008-09 Supplemental	(487,193)	487,193	0	0	0
JUD DI #4c: Increase spending authority from Offender Services Fund	0	2,025,000	0	0	2,025,000
JUD DI #4a: Increase spending authority from Drug Offender Surcharge Fund	<u>0</u>	<u>300,000</u>	<u>0</u>	<u>0</u>	<u>300,000</u>
Total Recommendation	0	10,619,290	312,733	0	10,932,023

Victims Grants

These grants are used to provide program development, training, grant management, and technical assistance to each of the 23 probation departments as they continue to improve their victim services programs and provide direct services and notification to victims of crime. The source of funding is victim assistance surcharges collected from offenders and administered by the State Victim Assistance and Law Enforcement (VALE) Board, grants from local VALE boards, and a Victims of Crime Act (VOCA) grant that is received by the Division of Criminal Justice as federal funds and transferred to Judicial. Based on more recent information provided by the Department, **staff recommends reflecting \$650,000 and 6.0 FTE.**

S.B. 91-94

Each fiscal year, each local juvenile services planning committee develops a plan for the allocation of the Judicial Department's S.B. 91-94 funds within the judicial district, and each plan is approved by the Department of Human Services (DHS). Senate Bill 91-94 funds are used to fund service alternatives to placing juveniles in the physical custody of the Division of Youth Corrections. The types of services provided include individual and family therapy, substance abuse treatment, mental health treatment, education, vocational and life skills training, mentoring, electronic monitoring, community service programs, gang intervention, mediation services, and anger management classes.

The DHS receives a General Fund appropriation for this program and then contracts with the Judicial Department to provide the services. The funds are then expended in the judicial districts according to the pre-approved juvenile services plans. The total amount of S.B.91-94 funding that the Judicial Department receives depends on a number of factors including: the number of available treatment providers, the structural organization of the districts' programs, and the level and types of treatment services required per district each year. When the amount of funding need is determined, each district submits its request directly to DHS. Once all district requests have been received, the Judicial Department and DHS execute the annual contract. The timing of this process does not tie to the budget submission, so each year the Judicial Department submits a supplemental request to true-up the appropriation with actual contract amount.

Staff recommends approving the requested appropriation of \$1,906,837 reappropriated funds (transferred from DHS) and a continuation of 25.0 FTE. Staff also recommends renaming this line item, "S.B. 91-94 Juvenile Services" to more clearly indicate its purpose.

Senate Bill 03-318 Community Treatment Funding

This line item was created in response to S.B. 03-318 (Gordon/Hefley). Senate Bill 03-318 reduced the penalties for use and possession of certain controlled substances. It also contained a provision that would have revoked those sentencing changes if at least \$2.2 million in estimated cost-avoidance was not directed to community treatment beginning in FY 2007-08. Joint Budget Committee staff evaluated the January 2007 Interagency Task Force report on S.B. 03-318 and concluded that the minimum threshold of cost-avoidance had likely been met. For FY 2007-08, the Legislature appropriated \$2.2 million General Fund for this line item. Subsequently, the substantive

criminal omnibus bill (S.B. 07-114) repealed the language linking the appropriation and the sentencing changes.

Each judicial district drug treatment board must submit a plan for how it intends to utilize funds made available through this line item to the Inter-agency Task Force on Treatment for evaluation by September 1 of each year [see Section 16-11.5-102 (7) (a), C.R.S.].

Staff recommends approving the request for a continuation level of funding (\$2.2 million).

Federal Funds and Other Grants

This line item reflects miscellaneous grants and federal funds associated with the Probation program. The FTE shown in the Long Bill are not permanent employees of the Department, but represent the Department's estimates of the full-time equivalent people that are working under the various grants. Based on more recent information provided by the Department, **staff recommends reflecting a total of \$4,850,000 and 33.0 FTE**, including \$1,200,000 cash funds, \$850,000 reappropriated funds, and \$2,800,000 federal funds.

Long Bill Footnotes and Requests for Information Concerning Probation

Staff recommends that the following footnote be **continued, as amended**:

- 2 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, AND COLORADO BUREAU OF INVESTIGATION --** State agencies involved in multi-agency programs requiring separate appropriations to each agency are requested to designate one lead agency to be responsible for submitting a comprehensive annual budget request for such programs to the Joint Budget Committee, including prior year, request year, and three year forecasts for revenues into the fund and expenditures from the fund by agency. The requests should be sustainable for the length of the forecast based on anticipated revenues. Each agency is still requested to submit its portion of such request with its own budget document. This applies to requests for appropriation from the Drug Offender Surcharge Fund, THE OFFENDER IDENTIFICATION FUND, the Sex Offender Surcharge Fund, the Persistent Drunk Driver Cash Fund, and the Alcohol and Drug Driving Safety PROGRAM Fund, among other programs.

This footnote ensures that the various agencies that receive appropriations from these funds coordinate their annual budget requests related to these funds. Staff recommends adding the Offender Identification Fund, and staff recommends an amendment to correct the name of one fund.

Staff recommends that the following information requests be **continued, as amended**:

- 5 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; AND 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.

Staff recommends continuing to request this information. This report provides information on the success of the various probation programs that is useful in decision making. However, staff recommends deleting the reference to the Specialized Drug Offender Program, which was eliminated in FY 2002-03.

- 6 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 how this appropriation is used, including the amount spent on testing, treatment, and assessments for offenders.

The Department provided the information requested. In FY 2006-07, the Joint Budget Committee approved a request to combine various appropriations from the General Fund, Offender Services Cash Fund, Drug Offender Surcharge Fund, and the Sex Offender Surcharge Fund, to create a single line item entitled "Offender Treatment and Services." The purpose of this organizational change was to: (a) provide increased flexibility to local probation departments to allocate funds for treatment and services for indigent offenders or those otherwise unable to pay; and (b) reduce year-end reversions of unspent cash funds. This report ensures that the General Assembly is apprised of the actual allocation and expenditure of these funds.

(5) PUBLIC DEFENDER

The federal¹⁰ and state¹¹ constitutions provide that an accused person has the right to be represented by counsel in criminal prosecutions. This constitutional right has been interpreted to mean that counsel will be provided at state expense for indigent persons in all cases in which actual incarceration is a likely penalty. The Office of the Public Defender 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. This provision requires the Public Defender to provide legal representation to indigent defendants "commensurate with those available to nonindigents, and conduct the office in accordance with the Colorado rules of professional conduct and with the American bar association standards relating to the administration of criminal justice, the defense function." The Office is comprised of a central administrative office, an appellate office, and 21 regional trial offices.

Personal Services

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

PD Table 1: Public Defender Staffing Summary				
Position Description	FY 2007-08 Actual	FY 2008-09 Approp.	FY 2009-10 Request	FY 2009-10 Recomm.
State Public Defender and Chief Deputies and Administrative Officer	4.0	4.0	3.4	3.4
Statewide Complex Case Management	1.8	6.0	6.0	6.0
Accounting, Payroll, Budget, Human Resources, and Training	6.0	8.3	8.3	8.3
Information Technology	7.5	9.0	9.0	9.0
Administrative Staff and Senior Management Assistants	<u>0.9</u>	<u>2.3</u>	<u>2.9</u>	<u>2.9</u>
Subtotal - Central Office	20.2	29.6	29.6	29.6
Appellate Attorneys (PD DI #1)	22.7	30.1	32.0	32.0
Supervisory Attorneys	1.5	1.9	2.0	2.0
<i>Ratio: Supervisory Attys. to Appellate Attys.</i>	<i>6.6%</i>	<i>6.3%</i>	<i>6.3%</i>	<i>6.3%</i>
Investigators/ Paralegals	2.8	3.0	3.0	3.0

¹⁰ U.S. Const. amend. VI (Rights of accused).

¹¹ Colorado Const. art. II, § 16 (Criminal prosecutions - rights of defendant).

PD Table 1: Public Defender Staffing Summary				
Position Description	FY 2007-08 Actual	FY 2008-09 Approp.	FY 2009-10 Request	FY 2009-10 Recomm.
Administrative Assistants	3.6	4.5	4.5	4.5
Other Management and Support Staff Supervision	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>
Subtotal - Support Staff	7.4	8.5	8.5	8.5
<i>Ratio: Support Staff to Appellate Attys.</i>	32.6%	28.2%	26.6%	26.6%
Subtotal - Appellate Office	31.6	40.5	42.5	42.5
Trial Attorneys (JUD DI #2; PD DI #1)	213.1	280.1	312.8	315.8
Supervisory Attorneys	13.6	17.9	20.0	20.0
<i>Ratio: Supervisory Attys. to Trial Attys.</i>	6.4%	6.4%	6.4%	6.3%
Investigators/ Paralegals (JUD DI #2)	81.8	91.5	91.5	92.6
Administrative Assistants (JUD DI #2)	46.0	53.5	53.5	54.3
Other Management and Support Staff Supervision (JUD DI #2)	<u>18.6</u>	<u>21.0</u>	<u>21.0</u>	<u>21.5</u>
Subtotal - Support Staff	146.4	166.0	166.0	168.4
<i>Ratio: Support Staff to Trial Attys.</i>	68.7%	59.3%	53.1%	53.3%
Subtotal - Regional Trial Offices	373.1	464.0	498.8	504.2
DIVISION TOTAL	424.9	534.1	570.9	576.3

Public Defender Decision Item #1: Caseload and Workload Growth

The Public Defender requests funding to add 36.8 FTE attorneys to meet minimum case staffing standards and maintain its ability to ethically, responsibly, and successfully comply with its constitutional and statutory mission. The statutory mandate of the Public Defender's Office is to "...provide legal services to indigent persons accused of crime that are commensurate with those available to nonindigents, and conduct the office in accordance with the Colorado rules of professional conduct and with the American bar association standards relating to the administration of criminal justice, the defense function." [Section 21-1-101 (1), C.R.S.]. The budget request states: "Under the Colorado Rules of Professional Conduct if caseloads are too high, an attorney is not competent to provide effective representation of counsel. Recent caseload increases make attorney staffing a serious concern."

Caseload Standards. The Guidelines for Legal Defense Systems in the United States provide that public defender systems should establish maximum caseloads for individual attorneys and that such standards reflect national standards and take into consideration objective statistical data and factors related to local practice.

In 1996, the Office contracted with The Spangenberg Group (a criminal justice research and consulting firm that specializes in the study of indigent defense delivery systems) to develop a case weighting standard that takes into account the workload associated with various types of cases. This study was first updated in 2002, and was most recently updated in 2008. It is important to update the study periodically in order to take into consideration changes in Colorado criminal law, court rules and procedures, and professional practices. Results from the 2008 study indicate that the number of hours required for various types of cases has generally increased since the 2002 study. In particular, the new study reveals significant increases in the average number of hours required for cases involving: class 6 felonies (64 percent), class 2-3 misdemeanors, DUI, and traffic cases (36 percent), class 4-5 felonies (34 percent), and juvenile cases (29 percent).

The Office identifies several factors that have impacted public defender caseload and workload:

- National case law expanding the right to counsel
- Public defender attorney and staff attrition rates
- Changes to Colorado Supreme Court rules concerning conflicts of interest
- General Assembly action to add judgeships
- Legislation identifying and codifying new crimes
- Legislation enhancing penalties for existing crimes
- Legislation expanding the scope of conviction consequences (e.g., sex offender registration)
- Changes in prosecutorial charging and plea negotiation practices

From FY 1999-00 to the current fiscal year, the Public Defender's trial attorney staffing deficit, based on new case filings, has increased from 21.9 percent to 37.3 percent of minimum staffing standards. When appellate attorneys and support staff are included, the current staffing deficit is 49.2 percent.

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

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

"The current breakdown is so bad that even a 7 to 8 year plan will not get us to 100% of attorney staffing with appropriate/recommended levels of support staffing. The workload of the attorneys in support of their current cases and the number of cases they must carry

so far exceeds what is responsible and ethical, that the need to fulfill the attorney requirements first and to ensure we have attorneys to serve our clients, new dockets, and new court rooms as they are created drastically outweighs the benefits of a few support staff in terms of direct client and caseload impact."

The Public Defender anticipates allocating the requested 36.8 FTE attorneys as follows: 2.0 FTE to the appellate office to mitigate a growing backlog, and 34.8 FTE to regional trial offices. The request emphasizes the importance of this request by prioritizing this request above any funding for salary increases for existing staff.

Staff recommends approving this request. The Public Defender is statutorily required to conduct the office in accordance with the Colorado Rules of Professional Conduct and with American Bar Association standards relating to the defense function. An individual public defender has an ethical and professional obligation to refuse further Court appointments if his or her caseload is too high to provide competent and diligent representation. In addition, the State Public Defender and his supervisors have a duty to assure that staff attorneys do not have excessive caseloads. If they fail to take steps to remedy this situation, they are committing disciplinary violations.

Based on the most recent weighted caseload study, the Public Defender estimates that even if this request is approved, his staff will fall 289 FTE short of minimum staffing standards -- a deficit of over 33 percent. If the Public Defender will be required to provide counsel to defendants at, before, or immediately after initial appearance (i.e., as indicated in the recent U.S. Supreme Court decision in *Rothgery v. Gillespie County*), this deficit will increase to 378 FTE (43.9 percent).

Public Defender Decision Item #3: Refinance Denver Drug Court Staff

The Public Defender requests a \$236,947 General Fund increase to continue to support 4.0 FTE who represent defendants in the Denver Drug Court. These staff are currently supported by cash revenues received from Denver; these funds will no longer be available in FY 2009-10.

The Denver Drug Court was initiated as a pilot program in February 2007 to improve the efficiency of processing an increasing number of drug cases through Denver County Court's docket. The pilot program has been successful in reducing case processing time, and the Public Defender staff's participation in the pilot program has been vital to that success. If this request is not approved, the Denver Drug Court will cease to exist.

Staff recommends approving this request. The docket for this court should be supported in the same manner as those of other district courts. Denver has provided temporary funding to support public defender staff in order to initiate the program sooner than it could have had it waited for the public defender to secure additional state funding. The benefits of drug courts (to local government, the courts, and society) are contingent on intensive supervision and treatment protocols in the short-term. The public defender's participation in this process is necessary and appropriate. Consistent with this request, staff's recommendation does not include any cash funds to support existing staff.

Based on the application of the Committee's common policies, this requires an increase of \$239,927 General Fund.

In summary, staff recommends appropriating \$39,142,556 General Fund and 576.3 FTE as detailed in the table below.

PD Table 2: Summary of Recommendation for Personal Services						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2008-09 Long Bill	\$35,304,848	\$225,000	\$0	\$0	\$35,529,848	534.1
Annualize 2nd Year of Funding per H.B. 07-1054 (funding for 12th month due to paydate shift)	61,859	0	0	0	61,859	0.0
Annualize prior FY PDO DI#4 (funding for 12th month due to paydate shift)	4,091	0	0	0	4,091	0.0
Salary Survey awarded in FY 08-09	1,331,059	11,626	0	0	1,342,685	0.0
80% of Performance-based Pay awarded in FY 08-09	378,734	3,301	0	0	382,035	0.0
Base reduction (0.0%)	0	0	0	0	0	0.0
JUD DI #2: Enhance and Expand Drug Courts	220,847	0	0	0	220,847	5.4
PD DI #1: Address caseload and workload growth	1,601,191	0	0	0	1,601,191	36.8
PD DI #3: Refinance Denver Drug Court staff	<u>239,927</u>	<u>(239,927)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.0</u>
Personal Services Recommendation	39,142,556	0	0	0	39,142,556	576.3

The recommendation is \$217,491 and 5.4 FTE higher than the request, including the following differences:

- The request includes \$73,432 General Fund to annualize funding for the 2nd year of implementing H.B. 07-1054 (adding 17.1 FTE in FY 2008-09); staff has added \$61,859 to pay for the full 12 months of salary for these positions (\$680,451/11) -- a difference of \$11,573.
- The request did not include funding to annualize funding for the 0.5 FTE added in FY 2008-09 for cyber security; staff has added \$4,091 to pay for the full 12 months of salary for this position.
- The request included 80 percent of performance-based pay (called "Anniversary Increases" in the Judicial Branch), but the amount is calculated incorrectly; staff has included \$382,035, consistent with Committee policy -- a difference of \$4,126.

- The request did not include \$220,847 and 5.4 FTE for additional staff for expanded/enhanced drug courts (per JUD DI #2). Staff's recommendation includes this amount based on information provided by the Public Defender, following discussions with the Judicial Department.

Health, Life, and Dental

This is the second of four line items that provide funding for the employer's share of the cost of group benefit plans providing health, life, and dental insurance for state employees. This line item provides funds for Public Defender staff. The Public Defender requests \$2,939,489 General Fund for FY 2009-10. However, as noted during the November 25, 1008 staff budget briefing, this request is understated by \$518,346 due to a misunderstanding about the Executive Branch budget instructions. **Staff recommends a base appropriation of \$3,457,835 General Fund, consistent with Committee policy.**

In addition, given the significant number of FTE requested, staff's recommends an additional \$194,214 General Fund for PD DI #1 (Address Caseload and Workload Growth) and \$31,494 General Fund for JUD DI #2 (Expand and Enhance Drug Courts).

Short-term Disability

This is the second of four line items that provide funding for the employer's share of state employees' short-term disability insurance premiums. This line item provides funds for Public Defender staff. The Public Defender requests \$45,390 General Fund for this purpose for FY 2009-10, based on a rate of 0.13 percent. **Staff recommends a base appropriation of \$51,844 General Fund, consistent with the Committee policy of applying a rate of 0.155 percent to base salaries (including \$0 for salary increases for FY 2009-10; excluding PERA, Medicare, temporary and contract employees, etc.).**

In addition, staff recommends an additional \$1,908 for PD DI #1 (Address Caseload and Workload Growth) and \$263 for JUD DI #2 (Expand and Enhance Drug Courts).

S.B. 04-257 Amortization Equalization Disbursement (AED)

Pursuant to S.B. 04-257, this line item provides additional funding to increase the state contribution for Public Employees' Retirement Association (PERA). The second of four such line items, this one provides funds for Public Defender staff. The Public Defender requests a total of \$693,363 General Fund. **Pursuant to Committee policy [1.8 percent of base salaries for CY 2009 and 2.2 percent of base salaries for CY 2010 (including \$0 for salary increases for FY 2009-10)], staff recommends a base appropriation of \$657,811 General Fund.**

In addition, staff recommends an additional \$28,695 for PD DI #1 (Address Caseload and Workload Growth) and \$3,958 for JUD DI #2 (Expand and Enhance Drug Courts).

S.B. 06-235 Supplemental Amortization Equalization Disbursement (SAED)

Pursuant to S.B. 06-235, this line item provides additional funding to increase the state contribution for PERA. The second of four such line items, this one provides funds for Public Defender staff. The Public Defender requests a total of \$210,739 General Fund. **Pursuant to Committee policy** [1.0 percent of base salaries for CY 2009, and 1.5 percent of base salaries for CY 2010 (including \$0 for salary increases for FY 2009-10)], **staff recommends a base appropriation of \$404,164 General Fund.**

In addition, staff recommends an additional \$17,934 for PD DI #1 (Address Caseload and Workload Growth) **and \$2,474 for JUD DI #2** (Expand and Enhance Drug Courts).

Salary Survey The Department uses this line item to pay for annual increases akin to salary survey increases in the Executive Branch. The second of four such line items, this one provides funds for Public Defender staff. The Public Defender did not request any funding for this line item for FY 2009-10. **Staff recommends approving the request, which is consistent with Committee policy.**

Anniversary Increases The Department uses this line item to pay for annual increases akin to performance-based pay increases in the Executive Branch. The second of four such line items, this one provides funds for Public Defender staff. The Public Defender did not request any funding for this line item for FY 2009-10. **Staff recommends approving the request, which is consistent with Committee policy.**

Operating Expenses

This line item provides funding for basic office operating costs, including travel, equipment maintenance, office supplies, telephone, printing, postage, motor pool expenses, etc. This line item also provides funding for the Public Defender's training program.

Public Defender Decision Item #2: Training Cash Spending Authority

This line item includes funding for the Public Defender to host an annual training conference for state and private attorneys and investigators. Private attorneys and investigators pay for the continuing legal education credits they earn by attending the conference.

Both conference attendance and the cost of providing training materials have increased. In both FY 2007-08 and the current fiscal year, fee revenues exceeded the cash funds appropriation for this line item. Cash revenues that exceed the appropriation are credited to the state General Fund, and the Office is required to use existing General Fund appropriations to cover any excess costs (or to limit attendance). **The Office is thus requesting a \$12,500 increase in its cash funds spending authority for its training program for FY 2009-10**, followed by another \$5,750 increase in FY 2010-11.

Staff recommends approving the request. The requested spending authority will allow the Office to continue to provide training opportunities for private attorneys and investigators, and ensure Office attorneys maintain up-to-date knowledge of Colorado law and procedural changes.

In summary, staff recommends appropriating \$1,240,001 for FY 2009-10, including \$1,210,001 General Fund and \$30,000 cash funds. The recommendation excludes funding for the second year of H.B. 07-1054 implementation, but it includes funding for PD DI #1 (Address Caseload and Workload Growth) and PD DI #2 (Increase Training Cash Fund Spending Authority). In addition, consistent with staff's recommendation for JUD DI #2 (Expand and Enhance Drug Courts), staff has included \$10,700 for the 5.4 FTE public defender staff necessary to support existing drug courts statewide. The source of cash funds is registration fees paid by private attorneys at the Public Defender's annual training conference.

PD Table 3: Summary of Recommendation for Operating Expenses					
	GF	CF	RF	FF	TOTAL
FY 2008-09 Long Bill	\$1,126,382	\$17,500	\$0	\$0	\$1,143,882
Third Year of Implementing H.B. 07-1054	0	0	0	0	0
JUD DI #2: Expend and Enhance Drug Courts	10,700	0	0	0	10,700
PD DI #1: Address Caseload and Workload Growth	72,919	0	0	0	72,919
PD DI #2: Increase Training Cash Fund Spending Authority	0	12,500	0	0	12,500
Staff Recommendation	1,210,001	30,000	0	0	1,240,001

Purchase of Services from Computer Center This item provides funding for the Department's share of statewide computer services provided by the Department of Personnel and Administration, Division of Information Technology. The second of four such line items, this one provides funds for services associated with Public Defender staff. The Public Defender requests \$19,579 General Fund for this purpose for FY 2009-10. **Staff's recommendation for the purchase of services from the computer center is pending Committee policy.** Staff will ultimately reflect Committee policy in the appropriation for this line item.

Vehicle Lease Payments This line item provides funding for annual payments to the Department of Personnel and Administration for the cost of administration, loan repayment, and lease-purchase payments for new and replacement motor vehicles [see Section 24-30-1117, C.R.S.]. The current appropriation covers costs associated with a total of 17 vehicles. Fifteen vehicles are used by regional office staff for daily business (driving to a courthouse, visiting clients in jail, interviewing witnesses, etc.). One vehicle is assigned to an investigator who does not have a physical office and whose responsibilities require him to drive statewide throughout the year. Finally, one vehicle is assigned to the central administrative office for statewide support functions (e.g., information technology, audit, facility review, inventory). At their December 2008 hearing, Office staff indicated that the State is saving about \$70,000 annually by using fleet vehicles rather than reimbursing employees for travel in personal vehicles.

The Office's request for \$50,609 General Fund for FY 2009-10 represents a decrease of \$4,856 compared to the FY 2008-09 appropriation. **The dollar amount of staff's recommendation is pending Committee policy.** Staff will ultimately reflect Committee policy in the appropriation for this line item.

Capital Outlay

As part of PDO - DI #1, the Office requests \$193,436 for capital outlay for FY 2009-10. Consistent with Legislative Council Staff fiscal note policies, this request includes \$3,998 for furniture, \$900 for a computer, and \$330 for standard office software for each FTE. In addition, consistent with staff's recommendation for JUD DI #2 (Expand and Enhance Drug Courts), staff has included \$26,140 capital outlay for 5.0 FTE. This amount is offset by the elimination of capital outlay funding associated with the 2nd year of implementing H.B. 07-1054 (\$58,735), and the 0.5 FTE IT Security Officer added in FY 2008-09 (\$4,025). **Staff recommends appropriating \$219,576 General Fund for this line item for FY 2009-10,** as detailed in the following table.

PD Table 4: Summary of Recommendation for Capital Outlay					
	GF	CF	RF	FF	TOTAL
FY 2008-09 Long Bill	\$62,760	\$0	\$0	\$0	\$62,760
Elimination of One-time Funding for FY 2008-09	(62,760)	0	0	0	(62,760)
JUD DI #2: Expend and Enhance Drug Courts	26,140	0	0	0	26,140
PD DI #1: Address Caseload and Workload Growth	193,436	0	0	0	193,436
Staff Recommendation	219,576	0	0	0	219,576

Leased Space/ Utilities

This line item currently funds leases for a total of 192,216 square feet of leased space in 23 locations statewide. Typically, leases are negotiated for ten years. The PDO estimates how quickly the office will grow and opts for slightly more space than it needs, intending to fully fill the space in approximately seven years, and then expand into common spaces in the final three years of the lease agreement. Current annual rates per square foot range from \$5.92 in Sterling to \$36.69 in Brighton, with an overall average of \$21.00. For FY 2009-10, the overall square footage is anticipated to increase for locations in Denver, Grand Junction, Steamboat Springs, and Salida, for a total of 207,298 square feet. The average rate per square foot is anticipated to increase to \$23.43, with the most significant rate increases anticipated in Grand Junction, Dillon, and Steamboat Springs.

Staff recommends the request for an appropriation of \$5,177,879 General Fund, including \$4,857,127 in base funding and an increase of \$320,752 for PD DI #1 (Address Caseload and Workload Growth). Staff has not included any additional funding for the 5.4 FTE added through JUD DI #2 (Expand and Enhance Drug Courts), as these staff will have a minimal impact on various regional trial offices statewide.

PD Table 5: Summary of Recommendation for Leased Space/Utilities					
	GF	CF	RF	FF	TOTAL
FY 2008-09 Long Bill	\$4,305,439	\$0	\$0	\$0	\$4,305,439
FY 2008-09 Supplemental	(83,696)	0	0	0	(83,696)
Reverse One-time FY 2008-09 Supplemental	83,696	0	0	0	83,696
Annual Contract Changes	551,688	0	0	0	551,688
PD DI #1: Address Caseload and Workload Growth	320,752	0	0	0	320,752
Staff Recommendation	5,177,879	0	0	0	5,177,879

Automation Plan

This line item funds basic information technology equipment and software maintenance, supplies, and life cycle replacement (including personal computers, a limited number of laptops, network printers), the basic office suite software packages, and telecommunications equipment and networking for all Public Defender offices and staff.

Staff recommends approving the request for a continuation level of funding (\$894,768 General Fund). In light of the revenue shortfall, the Public Defender offered up a one-time reduction in the current fiscal year of \$213,378, which requires delays in certain purchases and renewals. The recommendation includes restoration of this funding for FY 2009-10.

PD Table 6: Summary of Recommendation for Automation Plan					
	GF	CF	RF	FF	TOTAL
FY 2008-09 Long Bill	\$894,768	\$0	\$0	\$0	\$894,768
FY 2008-09 Supplemental	(213,378)	0	0	0	(213,378)
Reverse One-time FY 2008-09 Supplemental	213,378	0	0	0	213,378
Staff Recommendation	894,768	0	0	0	894,768

Contract Services

This line item allows the Public Defender to hire attorneys to represent the Public Defender's attorneys in grievance claims filed by former clients. **Staff recommends the requested continuation level of funding (\$18,000 General Fund).**

Mandated Costs

Mandated costs are costs associated with activities, events, and services that accompany court cases that are required in statute and/or the U.S. and Colorado Constitutions to ensure a fair and speedy trial, and to ensure the right to legal representation. For the Public Defender, these costs primarily include the following:

- transcripts (37.7 percent of mandated costs in FY 2007-08)
- reimbursement of district attorney offices for discovery costs (28.2 percent)
- expert witnesses (26.0 percent)
- expert witness travel reimbursement (4.8 percent)
- interpreters - out of court (2.7 percent)

The Public Defender requests a continuation level of funding (\$3,567,671 General Fund) for this line item for FY 2009-10.

PD Table 7: Mandated Costs Per Case						
Description	FY 04-05 (actual)	FY 05-06 (actual)	FY 06-07 (actual)	FY 07-08 (actual)	FY 08-09 (estim.)	FY 09-10 (estim.)
Total Cases Closed	82,563	88,475	90,611	90,969	96,557	102,945
<i>annual percent change</i>		7.2%	2.4%	0.4%	6.1%	6.6%
Average Mandated Costs Per Case	\$17	\$25	\$28	\$35	\$35	\$35
<i>annual percent change</i>		45.4%	13.9%	23.2%	1.0%	-0.7%
Total Mandated Costs	1,398,292	2,178,921	2,541,618	3,143,259	3,370,166	3,567,671
<i>annual percent change</i>		55.8%	16.6%	23.7%	7.2%	5.9%

Staff recommends approving the request for this line item. Two-thirds of the costs incurred by the Public Defender are for transcripts (where the per page rate is established by the Judicial Department) and discovery (where rates are established by each district attorney's office). While the Public Defenders Office has some discretion to determine what documents to request, the Office has no control over the rates charged. The funding requested by the Public Defender assumes that the average costs incurred per case would remain at the same level as in FY 2007-08. Staff's calculation for this line item is detailed in the following table.

PD Table 8: Summary of Recommendation for Mandated Costs					
	GF	CF	RF	FF	TOTAL
FY 2008-09 Long Bill	\$3,567,671	\$0	\$0	\$0	\$3,567,671
FY 2008-09 Supplemental	(197,505)	0	0	0	(197,505)
Reverse One-time FY 2008-09 Supplemental	197,505	0	0	0	197,505
Staff Recommendation	3,567,671	0	0	0	3,567,671

Grants

This line item provides spending authority for the Public Defender's Office to receive and expend various grants. The FY 2008-09 appropriation relates to federal grant moneys that originate with the U.S. Department of Justice, and are transferred to the Public Defender from the Department of Public Safety. These funds are used to support the addition of a social work component to compliment the State Public Defender's indigent legal services.

Public Defender Budget Amendment #2a: Boulder Juvenile Integrated Treatment Court

The Public Defender requests \$56,245 cash funds spending authority and 1.0 FTE to support the Boulder County's Juvenile Integrated Treatment Court (JITC). The Boulder District Court is creating JITC to reduce juvenile criminal activity and improve family functioning by integrating substance abuse treatment, mental health treatment, intensive family services, intensive supervision, and substantial judicial oversight for juveniles and their families who are involved in the juvenile delinquency system. The Public Defender would use the grant funds to hire an attorney to represent defendants in the JITC. Absent a public defender, the JITC could not take indigent cases. The contract with IMPACT calls for one half-time attorney for FY 2009-10, plus a designated lead/supervising attorney to provide supervision, serve as a liaison, and ensure quality legal representation.

The JITC will be evaluated by the Boulder Integrated Managed Partnership for Adolescent and Child Community Treatment ("IMPACT") Program. The IMPACT Program is a collaborative effort involving government agencies and providers of social services, mental health services, probation supervision, and public health services. If IMPACT and the Boulder District Court determine that the JITC is successful, the one year agreement may be extended.

Staff recommends approving the request for \$63,745 and 1.0 FTE for FY 2009-10, including \$56,245 cash funds (Budget Amendment #2a) and \$7,500 reappropriated funds.

Long Bill Footnotes and Requests for Information Concerning Public Defender's Office

Staff recommends the following footnote be continued, as amended:

43 Judicial Department, Public Defender -- In addition to the transfer authority provided in Section ~~24-75-108, C.R.S.~~, 24-75-108 (5), 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.

Staff recommends continuing this footnote. In FY 2007-08, this footnote provided the Public Defender with the authority to transfer up to 2.5 percent (\$1,148,027) of its total FY 2007-08 appropriation (\$45,921,073) between line items. A total of \$1,005,547 (2.2 percent) was transferred between line items. The following table details the line items affected by such transfers.

PD Table 9	
Long Bill Line Item	Transfers In/ (Out)
Personal Services	(\$863,293)
Operating Expenses	405,000
Leased Space/ Utilities	(142,255)
Vehicle Lease Payments	2,547
Automation Plan	598,000

PD Table 9	
Long Bill Line Item	Transfers In/ (Out)
Net Transfers*	(1)

* \$1 difference due to rounding.

(6) ALTERNATE DEFENSE COUNSEL

The Office of the Alternate Defense Counsel (OADC) provides legal representation for indigent defendants in criminal and juvenile delinquency cases in which the State Public Defender's Office is precluded from doing so because of an ethical conflict of interest [Section 21-2-101 *et seq.*, C.R.S.]. Common types of conflicts include cases in which the State Public Defender represents co-defendants or represents both a witness and a defendant in the same case. Section 21-2-103, C.R.S., specifically states that case overload, lack of resources, and other similar circumstances shall not constitute a conflict of interest. In FY 2007-08, conflict of interest was discovered by the Public Defender's Office in 5.9 percent of all new cases¹². This conflict rate represents a decline from 6.5 percent in FY 2006-07.

The OADC provides legal representation by contracting with licensed attorneys and investigators. Such contracts must provide for reasonable compensation (based on either fixed fee or hourly rates) and reimbursement for expenses necessarily incurred (e.g., expert witnesses, investigators, paralegals, and interpreters). The OADC is to establish a list of qualified attorneys for use by the court in making appointments to conflict cases¹³.

The OADC is governed by the nine-member Alternate Defense Counsel Commission, appointed by the Supreme Court. The Commission appoints an individual to serve as the Alternate Defense Counsel, who manages the Office. The compensation for this individual is fixed by the General Assembly and may not be reduced during his or her five-year term of appointment. OADC staff duties include: selecting and assigning attorneys, executing contracts, examining attorney case assignments to evaluate nature of conflict of interest, reviewing attorney invoices for appropriateness, and approving payments.

Personal Services

This line item provides funding to support a central administrative office in Denver. The following table details the staffing composition of the office.

OADC Table 1: Alternate Defense Counsel Staffing Summary				
Position Description	FY 2007-08 Actual	FY 2008-09 Approp.	FY 2009-10 Request	FY 2009-10 Recomm.
Alternate Defense Counsel (Director of Office)	1.0	1.0	1.0	1.0
Deputy Director	1.0	1.0	1.0	1.0

¹² The Spangenberg Group, "Updated Weighted Caseload Study: Colorado Public Defender", February, 2009, page 9.

¹³ Please note that the court also has judicial discretion to appoint a private attorney who is not on the approved OADC list. However, the ADC is not required to pay for such representation.

OADC Table 1: Alternate Defense Counsel Staffing Summary				
Position Description	FY 2007-08 Actual	FY 2008-09 Approp.	FY 2009-10 Request	FY 2009-10 Recomm.
Budget/ Billing/ Office Administration	3.0	3.0	3.0	3.0
Appellate Case Manager	1.0	1.0	1.0	1.0
Attorney Oversight & Training	0.5	1.0	1.0	1.0
Administrative Support Staff	<u>0.0</u>	<u>0.5</u>	<u>0.5</u>	<u>0.5</u>
DIVISION TOTAL	6.5	7.5	7.5	7.5

The FY 2008-09 appropriation includes funding to add 0.5 FTE for oversight and training and 0.5 FTE administrative support staff.

Staff recommends appropriating \$706,089 General Fund and 7.5 FTE as detailed in the table below.

OADC Table 2: Summary of Recommendation for Personal Services						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2008-09 Long Bill	\$663,976	\$0	\$0	\$0	\$663,976	7.5
Annualize prior FY DI#1 (funding for 12th month due to paydate shift)	4,454	0	0	0	4,454	0.0
Annualize prior FY DI#2 (funding for 12th month due to paydate shift)	1,632	0	0	0	1,632	0.0
Salary Survey awarded in FY 08-09	29,321	0	0	0	29,321	0.0
80% of Performance-based Pay awarded in FY 08-09	6,706	0	0	0	6,706	0.0
Base reduction (0.0%)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.0</u>
Personal Services Recommendation	706,089	0	0	0	706,089	7.5

The only difference between the recommendation and the request is that the OADC request includes 100 percent of performance-based pay (called "anniversary increases" in the Judicial Branch); staff has included only 80 percent, consistent with Committee policy -- a difference of \$1,676.

Health, Life, and Dental

This is the third of four line items that provide funding for the employer's share of the cost of group benefit plans providing health, life, and dental insurance for state employees. This line item provides

funds for OADC staff. The OADC requests \$62,947 General Fund. **Staff recommends approving the request, consistent with Committee policy.**

Short-term Disability

This is the third of four line items that provide funding for the employer's share of state employees' short-term disability insurance premiums. This line item provides funds for OADC staff. The OADC requests \$845 General Fund for this purpose for FY 2009-10, based on a rate of 0.13 percent. **Staff recommends an appropriation of \$951, consistent with the Committee policy of applying a rate of 0.155 percent to base salaries** (including \$0 for salary increases for FY 2009-10; excluding PERA, Medicare, temporary and contract employees, etc.).

S.B. 04-257 Amortization Equalization Disbursement (AED)

Pursuant to S.B. 04-257, this line item provides additional funding to increase the state contribution for Public Employees' Retirement Association (PERA). The third of four such line items, this one provides funds for OADC staff. The OADC requests a total of \$13,002 General Fund. **Pursuant to Committee policy** [1.8 percent of base salaries for CY 2009 and 2.2 percent of base salaries for CY 2010 (including \$0 for salary increases for FY 2009-10)], **staff recommends an appropriation of \$12,063 General Fund.**

S.B. 06-235 Supplemental Amortization Equalization Disbursement (SAED)

Pursuant to S.B. 06-235, this line item provides additional funding to increase the state contribution for PERA. The third of four such line items, this one provides funds for OADC staff. The OADC requests a total of \$8,212 General Fund. **Pursuant to Committee policy** [1.0 percent of base salaries for CY 2009, and 1.5 percent of base salaries for CY 2010 (including \$0 for salary increases for FY 2009-10)], **staff recommends an appropriation of \$7,412 General Fund.**

Salary Survey

The Department uses this line item to pay for annual increases akin to salary survey increases in the Executive Branch. The third of four such line items, this one provides funds for OADC staff. The ADC requests \$27,975 General Fund for this line item for FY 2009-10. **Consistent with Committee policy, staff recommends appropriating \$0 for this line item for FY 2009-10.**

Anniversary Increases

The Department uses this line item to pay for annual increases akin to performance-based pay increases in the Executive Branch. The third of four such line items, this one provides funds for OADC staff. The ADC requests \$10,721 General Fund for this line item for FY 2009-10. **Consistent with Committee policy, staff recommends appropriating \$0 for this line item for FY 2009-10.**

Operating Expenses

The OADC requests a continuation level of funding for operating expenses. **Staff recommends approving the request for \$67,030 General Fund, which is consistent with Committee policy.**

Capital Outlay

The OADC requests elimination of this line item for FY 2009-10. Funding for FY 2008-09 included \$3,455 in capital outlay associated with the 1.0 FTE added in FY 2008-09. **Staff recommends approving the request.**

Purchase of Services From Computer Center

This item provides funding for the Department's share of statewide computer services provided by the Department of Personnel and Administration, Division of Information Technology. The third of four such line items, this one provides funds for services associated with OADC. The OADC requests \$1,203 General Fund for this purpose for FY 2009-10. **Staff's recommendation for the purchase of services from the computer center is pending Committee policy.** Staff will ultimately reflect Committee policy in the appropriation for this line item.

Leased Space

This line item currently funds a lease for 1,993 square feet at 1580 Logan Street, as well as space for 1.0 FTE in Grand Junction. **Staff recommends the requested appropriation of \$38,140 General Fund.** This recommendation includes an increase of \$2,149 due to the scheduled increase from \$17.43 to \$18.00 per square foot at 1580 Logan Street.

Training and Conferences

This line item is used to provide training opportunities for ADC contract lawyers, investigators, and paralegals. Training sessions are open to attorneys from the Public Defender's Office, as well as the private bar. The OADC conducts live training sessions, which are recorded and made available statewide via webcast and DVD reproductions for those who are unable to attend in person. In the current fiscal year, the OADC plans to provide training sessions on the following topics:

- Technology for advocates
- Investigator training
- Post-conviction training
- Ethics for lawyers
- Juvenile case law
- Mental health training
- Death penalty mitigation
- Trial advocacy

Over the last two fiscal years the General Assembly has approved funding to support 1.0 FTE staff attorney who is responsible for conducting evaluations and training. The training program has been expanded, but further expansion is constrained by this line item.

Alternate Defense Counsel Decision Item #2: Training Cash Spending Authority

The OADC is requesting a \$12,000 increase in its cash funds spending authority for training. In FY 2007-08, the Office held four training sessions and collected \$8,090. Approval of this request would allow the Office to collect reimbursement (registration fees and DVD sales) to cover

increasing training costs associated with providing more training sessions and making training sessions more widely available via webcast and DVD reproductions.

Staff recommends approving the request for a total appropriation of \$40,000, comprised of \$20,000 General Fund and \$20,000 cash funds.

Conflict of Interest Contracts

This line item pays for contract attorneys and investigators who are appointed to represent indigent and partially indigent defendants. Payments cover hourly rates and any associated PERA contributions for PERA retirees, as well as reimbursement for costs such as mileage, copying, postage, and travel expenses.

Alternate Defense Counsel Decision Item #1: Caseload/ Case Cost Increases

The OADC requests an increase of \$474,002, including \$314,646 for Conflict of Interest Contracts and \$159,356 for Mandated Costs, based on a projected 1.6 percent caseload increase and a 1.4 percent increase in the average cost per case. The increase in the average cost per case is primarily related to increases in the number of attorney hours needed for felony cases. Table 3 details caseload history, by type of case, as well as the OADC's estimates for FY 2008-09 and FY 2009-10. Table 4 details the associated contract expenses over the same time period.

OADC Table 3: OADC Caseload (Annual number of cases paid)						
Case Type	FY 04-05 (actual)	FY 05-06 (actual)	FY 06-07 (actual)	FY 07-08 (actual)	FY 08-09 (estim.)	FY 09-10 (estim.)
Felony	7,113	7,912	8,162	7,169	7,674	7,519
<i>annual percent change</i>		11.2%	3.2%	-12.2%	7.0%	-2.0%
Juvenile	1,274	1,433	1,621	1,526	1,518	1,600
<i>annual percent change</i>		12.5%	13.1%	-5.9%	-0.5%	5.4%
Misdemeanor/ DUI/ Traffic	1,035	1,111	1,278	1,256	1,200	1,314
<i>annual percent change</i>		7.3%	15.0%	-1.7%	-4.5%	9.5%
Appeals	540	595	660	709	724	777
<i>annual percent change</i>		10.2%	10.9%	7.4%	2.1%	7.3%
Post-Conviction	468	465	506	520	558	566
<i>annual percent change</i>		-0.6%	8.8%	2.8%	7.3%	1.4%
Special Proceedings/ Other	673	798	862	902	892	986
<i>annual percent change</i>		18.6%	8.0%	4.6%	-1.1%	10.5%
Total	11,103	12,314	13,090	12,082	12,566	12,762
<i>annual percent change</i>		10.9%	6.3%	-7.7%	4.0%	1.6%

OADC Table 4: OADC Conflict of Interest Contract Expenditures						
Description	FY 04-05 (actual)	FY 05-06 (actual)	FY 06-07 (actual)	FY 07-08 (actual)	FY 08-09 (estim.)	FY 09-10 (estim.)
Total Cases Paid	11,103	12,314	13,090	12,082	12,566	12,762
<i>annual percent change</i>		10.9%	6.3%	-7.7%	4.0%	1.6%
Average Cost Per Case*	\$1,020	\$1,433	\$1,621	\$1,526	\$1,518	\$1,600
<i>annual percent change</i>		40.4%	13.1%	-5.9%	-0.5%	5.4%
Total	11,328,626	13,283,794	16,201,867	17,925,541	20,777,821	21,141,531
<i>annual percent change</i>		17.3%	22.0%	10.6%	15.9%	1.8%

* Please note that the average costs per case in FY 2006-07, FY 2007-08, and FY 2008-09 reflect approved increases in hourly rates.

Staff recommends approving the increases requested through this decision item. The OADC's caseload projections reflect a modest increase compared to FY 2007-08, and they are actually below actual caseload levels experienced in FY 2006-07. The projected increase in the cost per case (4.8 percent) is based on the actual number of hours paid per case (for various case types) in FY 2007-08. The increase requested through this decision item is primarily related to the most serious adult felony cases¹⁴, which require significantly more hours of attorney, investigator, and paralegal time compared to other case types.

Staff recommends appropriating \$21,092,467 General Fund for this line item for FY 2009-10, as detailed in the following table.

OADC Table 5: Summary of Recommendation for Conflict of Interest Contracts					
	GF	CF	RF	FF	TOTAL
FY 2008-09 Long Bill	\$20,826,885	\$0	\$0	\$0	\$20,826,885
FY 2008-09 Supplemental	(49,064)				
ADC DI #1: Caseload/Case Cost Increase	314,646	0	0	0	314,646
Staff Recommendation	21,092,467	0	0	0	21,092,467

The difference between staff's recommendation and the request (\$49,064) is due to staff's continuation of the mid-year reduction related to the IRS mileage reimbursement rate that became effective January 1, 2009 (assuming that this rate will remain effective through the end of CY 2009).

Mandated Costs

Mandated costs are costs associated with activities, events, and services that accompany court cases that are required in statute and/or the U.S. and Colorado Constitutions to ensure a fair and speedy

¹⁴ These case types, categorized as "class A" felonies by the OADC, include the following: murder, attempted murder, accessory to murder, manslaughter, vehicular homicide, sexual assault, attempted sexual assault, sexual exploitation of a child, child abuse, incest, assault, vehicular assault, attempted assault, kidnaping, aggravated robbery, and arson.

trial, and to ensure the right to legal representation. For the OADC, these costs primarily include the following:

- expert witnesses (42.2 percent of mandated costs in FY 2007-08)
- reimbursement of district attorney offices for discovery costs/ electronic replication grand jury proceedings (30.3 percent)
- transcripts (21.7 percent)
- expert witness travel reimbursement (3.6 percent)
- interpreters - out of court (1.6 percent)

The OADC requests an appropriation of \$1,663,839 General Fund for this line item for FY 2009-10. Table 3 details annual mandated costs in comparison to the number of cases paid.

OADC Table 6: Mandated Costs						
Description	FY 04-05 (actual)	FY 05-06 (actual)	FY 06-07 (actual)	FY 07-08 (actual)	FY 08-09 (estim.)	FY 09-10 (estim.)
Total Cases Paid	11,103	12,314	13,090	12,082	12,566	12,762
<i>annual percent change</i>		10.9%	6.3%	-7.7%	4.0%	1.6%
Average Mandated Costs Per Case*	\$94	\$90	\$95	\$128	\$130	\$130
<i>annual percent change</i>		-5.0%	5.6%	35.4%	1.1%	0.6%
Total Mandated Costs	1,048,313	1,104,890	1,240,579	1,549,840	1,628,893	1,663,839
<i>annual percent change</i>		5.4%	12.3%	24.9%	5.1%	2.1%
Conflict of Interest Contract	11,328,626	13,283,794	16,201,867	17,925,541	20,777,821	21,141,531
<i>Mandated Costs as a percent of Total Case Costs</i>	8.5%	7.7%	7.1%	8.0%	7.3%	7.3%

Staff recommends approving the request for this line item. While the OADC's projections reflect continued annual increases in mandated costs, the rate of increase is expected to slow. In FY 2007-08, despite a decrease in the number of cases paid, mandated costs increased by 25 percent. While this increase is primarily attributable to expert witness costs, the OADC experienced increases in every category of mandated costs. The request for this line item appears reasonable when compared to actual FY 2007-08 expenditures. Staff's calculation for this line item is detailed in the following table.

OADC Table 7: Summary of Recommendation for Mandated Costs					
	GF	CF	RF	FF	TOTAL
FY 2008-09 Long Bill	\$1,504,483	\$0	\$0	\$0	\$1,504,483
ADC DI #1: Caseload/Case Cost Increase	159,356	0	0	0	159,356
Staff Recommendation	1,663,839	0	0	0	1,663,839

Long Bill Footnotes and Requests for Information Concerning the Alternate Defense Counsel

Staff recommends the following footnote be **continued as amended**:

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

Staff recommends continuing this footnote. The OADC is a small agency and utilizes this flexibility to stay within its appropriation and avoid excess supplemental requests.

In FY 2007-08, this footnote provided the OADC with the authority to transfer up to 2.5 percent (\$541,007) of its total FY 2007-08 appropriation (\$21,640,265) between line items. In FY 2007-08, a total of \$64,913 (0.3 percent) was transferred between line items. The following table details the line items affected by such transfers.

OADC Table 8	
Long Bill Line Item	Transfers In/ (Out)
Operating Expenses	\$9,778
Court Appointed Counsel	(55,135)
Mandated Costs	45,357
Net Transfers	0

(7) OFFICE OF THE CHILD'S REPRESENTATIVE

Pursuant to Section 13-91-104, C.R.S., the Office of the Child's Representative (OCR) is responsible for "ensuring the provision of uniform, high-quality legal representation and non-legal advocacy to children involved in judicial proceedings in Colorado". The OCR's responsibility to enhance the legal representation of children, includes:

- enhancing the provision of services by attorneys who are appointed by the court to act in the best interests of the child involved in certain proceedings (known as *guardians ad-litem* or GALs);
- enhancing the provision of services by attorneys¹⁵ appointed to serve as a *child's legal representative child* or as a *child and family investigator* in matters involving parental responsibility when the parties are found to be indigent; and
- enhancing the *court-appointed special advocate* (CASA) program in Colorado.

The OCR provides legal representation for children involved in the court system due to abuse or neglect, delinquency, truancy, high conflict divorce, alcohol or drug abuse, mental health issues, and probate matters¹⁶. The OCR was established as an agency of the Judicial Department by the General Assembly, effective July 1, 2000. Previously, these services were provided by the Judicial Department and supported by appropriations for trial courts and mandated costs.

In most judicial districts, OCR provides legal representation through contract attorneys. The OCR is required to maintain and provide to the courts, on an ongoing basis, a list of qualified attorneys to whom appointments may be given. In the 4th Judicial District (El Paso county only), the OCR employs attorneys to provide GAL services through a centralized office rather than through contracted services. This office was established in response to S.B. 99-215, which directed the Judicial Department to pilot alternative methods of providing GAL services.

¹⁵ If the court appoints a *mental health professional* to be a child and family investigator, and the clients are indigent, the State Court Administrator's Office compensates the investigator for their services.

¹⁶ Pursuant to Section 19-1-111, C.R.S., the court is required to appoint a GAL for a child in all dependency and neglect cases (including a child who is a victim of abuse or neglect, or who is affected by an adoption proceeding or paternity action), and the court may appoint a GAL for a child involved in: (a) a delinquency proceeding (if no parent appears at hearings, the court finds a conflict of interest exists between the child and the parent, or the court finds it in the best interests of the child); and (b) truancy proceedings. The court may appoint a GAL for a minor involved in certain probate or trust matters, mental health proceedings, or an involuntary commitment due to alcohol or drug abuse, or for a pregnant minor who elects not to allow parental notification concerning an abortion (see Chief Justice Directive 04-06). Finally, the court may appoint an attorney to serve as a child's legal representative or a child and family investigator in a parental responsibility case [Section 14-10-116 (1), C.R.S.].

The OCR is governed by the Child's Representative Board, which is comprised of nine members appointed by the Colorado Supreme Court. The Board appoints the OCR Director, provides fiscal oversight, participates in funding decisions related to the provision of OCR services, and assists with OCR training for GALs and court-appointed special advocates (CASAs). The Board currently meets every other month.

Personal Services

This line item provides funding to support a central administrative office in Denver, as well as the El Paso county "staff model" office which provides legal representation for children in El Paso county. The following table details the staffing composition of both offices.

OCR Table 1: Office of the Child's Representative Staffing Summary				
Position Description	FY 2007-08 Actual	FY 2008-09 Approp.	FY 2009-10 Request	FY 2009-10 Recomm.
Executive Director	1.0	1.0	1.0	1.0
Deputy Director	1.0	1.0	1.0	1.0
Staff Attorney		1.0	1.0	1.0
Controller/ Budget Officer	1.0	1.0	1.0	1.0
Training Coordinator	0.0	0.5	0.5	0.5
Billing and office administration	<u>0.9</u>	<u>0.5</u>	<u>0.5</u>	<u>0.5</u>
Subtotal - Administrative Office	3.9	5.0	5.0	5.0
Attorneys (DI #3)	12.8	15.5	16.5	15.5
Social Workers/Case Coordinators	3.0	3.0	3.0	3.0
Administrative/Support Staff	<u>3.3</u>	<u>3.3</u>	<u>3.3</u>	<u>3.3</u>
Subtotal - El Paso County Office	19.1	21.8	22.8	21.8
DIVISION TOTAL	3.9	26.8	27.8	26.8

The FY 2008-09 budget includes funding to add 1.0 FTE staff attorney, requested through Decision Item #3 last year. Partly in response to a recommendation from the State Auditor's Office, this position was added to expand the OCR's internal audit process.

OCR Decision Item #3: Staff Attorney for El Paso County Office

The OCR requests \$64,900 to add 1.0 FTE staff attorney for the OCR office in El Paso County (including: \$50,127 for personal services; \$9,081 for health, life, and dental benefits; \$65 for short-term disability; \$1,003 for AED; \$626 for SAED; and \$3,998 for capital outlay). This office was created in response to footnote #135 in the FY 1999-00 Long Bill, which directed the Judicial

Department to pilot alternative methods of providing GAL services. This "staff model" office is now in its ninth year of operation, employing attorneys, social workers, case coordinators, and support staff. Over the past five fiscal years, the office has represented an average of 650 cases per year. The OCR has found that the staff model provides direct accountability, continual mentoring, consistent training, and effective representation through all phases of each case -- particularly litigation. The OCR also found that this model is cost-effective, costing \$38 per hour compared to the \$65 hourly rate paid to contract GALs.

The OCR indicates that the workload for this office has increased for a number of reasons, including the following:

- The turnover among El Paso County caseworkers is extremely high, requiring GALs to spend more time on each case.
- In El Paso County, GALs are expected to attend a variety of meetings to discuss a case (e.g., team decision making meetings that occur prior to any change in placement; treatment planning meetings at the beginning of every case; meetings to discuss global assessments of parents; staffings concerning "wrap" services, which occur every 2 to 4 weeks; mediations that are required when a parent contests a termination of parental rights; weekly treatment support meetings for cases in Family Drug Treatment Court; multi-disciplinary team meetings involving juvenile sex offenders; individual education plan staffings at schools; expulsion hearings; and periodic meetings that are held by child placement agencies and residential treatment facilities).
- Senate Bill 07-226 brought Colorado into compliance with federal law requiring that youth be given a voice and opportunity to participate in the legal system. This change in practice requires GALs to spend additional time communicating with youth, preparing him/her to participate in court and other meetings, and explaining court proceedings.
- Some attorneys are experiencing more contested hearings.
- Those attorneys who handle delinquency cases are seeing more clients being arrested as a result of a "complaint and revocation" filed by Probation, which results in more detention hearings and sometimes placement hearings.

Staff analysis: Prior to FY 2007-08, the FTE employed in the El Paso office were not reflected in the Long Bill. OCR indicates that the last time funding was approved to add staff for this office was in FY 2003-04, when 1.0 of 2.0 FTE attorneys requested was approved. OCR has explained that since FY 2003-04, the composition of the office has changed due to various personal needs (illness, birth of a child, etc.). By FY 2006-07, this office employed 12.75 FTE attorneys, and as of last November, there were 11.25 FTE. The office is in the process of hiring additional attorneys. Both the FY 2007-08 and FY 2008-09 appropriations authorize 15.5 FTE attorneys.

In FY 2006-07, the OCR reverted or transferred \$57,106 from the Personal Services line item to cover over expenditures in other areas; in FY 2007-08, transfers from this line item totaled \$45,749. Thus, perhaps due to changes in the composition of the El Paso office (e.g., more part-time staff), it appears that the OCR is using Personal Services funding to support fewer FTE than in previous fiscal years.

With regard to the workload of the El Paso office, the number of cases handled by this office has actually declined in recent years. Specifically, from FY 2004-05 to FY 2007-08, the total number of cases declined by 44 (6.6 percent), the total number of children served declined by 34 (4.3 percent), the number of dependency and neglect cases declined by 5.1 percent, and the number of juvenile delinquency cases declined by 12.6 percent.

It is reasonable to assume that the average number of hours required per case has increased, similar to the hours billed by contract attorneys. However, as the El Paso office does not keep records in the same manner as contract attorneys, staff is unable to verify increases in the number of hours required per case.

Staff agrees that the El Paso office is an efficient and effective model for providing legal representation for children. The OCR estimates that this office provides representation at a cost of about \$38 per hour, compared to the \$65 per hour rate paid to contract attorneys. However, there is little data to support the increase from 15.5 to 16.5 FTE attorneys. Based on recent staffing and expenditure trends, it appears unlikely that the office could actually hire 16.5 FTE attorneys even if the request is approved. Thus, **staff does not recommend approving this request.**

However, in order to assist this office in filling its authorized FTE, staff does not recommend applying the 1.0 percent base reduction to this office. In addition, if the workload of this office increases to the point that the office can no longer ethically accept cases, the OCR Director has the authority to transfer funds from the Court Appointed Counsel line item to allow this office to fill its authorized FTE and avoid the need to hire contract attorneys.

Staff recommends appropriating \$1,850,263 General Fund and 26.8 FTE for this line item, as detailed in the table below.

OCR Table 2: Summary of Recommendation for Personal Services						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2008-09 Long Bill	\$1,736,920	\$0	\$0	\$0	\$1,736,920	26.8
Annualize prior FY DI#3 (funding for 12th month due to paydate shift)	4,458	0	0	0	4,458	0.0
Salary Survey awarded in FY 08-09	87,642	0	0	0	87,642	0.0

OCR Table 2: Summary of Recommendation for Personal Services						
	GF	CF	RF	FF	TOTAL	FTE
80% of Performance-based Pay awarded in FY 08-09	21,243	0	0	0	21,243	0.0
Base reduction (0.0%)	0	0	0	0	0	0.0
OCR Decision Item #3: Add staff attorney for El Paso office	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.0</u>
Personal Services Recommendation	1,850,263	0	0	0	1,850,263	26.8

The recommendation is \$50,980 and 1.0 FTE lower than the request, including the following differences:

- The request did not include funding to annualize funding for the 1.0 FTE added in FY 2008-09; staff has added \$4,458 to pay for the full 12 months of salary for this position.
- The request included 100 percent of performance-based pay (called "Anniversary Increases" in the Judicial Branch); staff has included only 80 percent, consistent with Committee policy -- a difference of \$5,311.
- As discussed above, staff's recommendation does not include the requested \$50,127 for an additional staff attorney in the El Paso office.

Health Life and Dental

This is the fourth of four line items that provide funding for the employer's share of the cost of group benefit plans providing health, life, and dental insurance for state employees. This line item provides funds for Office of the Child's Representative staff. The OCR requests a total of \$163,296 General Fund for FY 2009-10. This request includes \$9,081 for OCR DI #3. **Staff recommends an appropriation of \$154,215** General Fund, consistent with Committee policy. Consistent with staff's recommendation on OCR DI #3, this recommendation excludes the \$9,081 requested for this line item.

Short-term Disability

This is the fourth of four line items that provide funding for the employer's share of state employees' short-term disability insurance premiums. This line item provides funds for Office of the Child's Representative staff. The OCR requests \$2,298 General Fund for this purpose for FY 2009-10, based on a rate of 0.13 percent. **Staff recommends an appropriation of \$2,571, consistent with the Committee policy of applying a rate of 0.155 percent to base salaries** (including \$0 for salary increases for FY 2009-10; excluding PERA, Medicare, temporary and contract employees, etc.). Consistent with staff's recommendation on OCR DI #3, this recommendation excludes the \$65 requested for this line item.

S.B. 04-257 Amortization Equalization Disbursement (AED)

Pursuant to S.B. 04-257, this line item provides additional funding to increase the state contribution for Public Employees' Retirement Association (PERA). The fourth of four such line items, this one provides funds for Office of the Child's Representative staff. The OCR requests a total of \$35,355 General Fund. **Pursuant to Committee policy** [1.8 percent of base salaries for CY 2009 and 2.2 percent of base salaries for CY 2010 (including \$0 for salary increases for FY 2009-10)], **staff recommends an appropriation of \$32,621** General Fund. Consistent with staff's recommendation on OCR DI #3, this recommendation excludes the \$1,003 requested for this line item.

S.B. 06-235 Supplemental Amortization Equalization Disbursement (SAED)

Pursuant to S.B. 06-235, this line item provides additional funding to increase the state contribution for PERA. The fourth of four such line items, this one provides funds for Office of the Child's Representative staff. The OCR requests a total of \$9,656 General Fund. **Pursuant to Committee policy** [1.0 percent of base salaries for CY 2009, and 1.5 percent of base salaries for CY 2010 (including \$0 for salary increases for FY 2009-10)], **staff recommends an appropriation of \$20,043** General Fund. Consistent with staff's recommendation on OCR DI #3, this recommendation excludes the \$626 requested for this line item.

Salary Survey The Department uses this line item to pay for annual increases akin to salary survey increases in the Executive Branch. The fourth of four such line items, this one provides funds for Office of the Child's Representative staff. The OCR requests \$37,954 General Fund for this line item for FY 2009-10. **Consistent with Committee policy, staff recommends appropriating \$0 for this line item for FY 2009-10.**

Anniversary Increases The Department uses this line item to pay for annual increases akin to performance-based pay increases in the Executive Branch. The fourth of four such line items, this one provides funds for Office of the Child's Representative staff. The OCR requests \$27,772 General Fund for this line item for FY 2009-10. **Consistent with Committee policy, staff recommends appropriating \$0 for this line item for FY 2009-10.**

Operating Expenses

The OCR requests a continuation level of funding for operating expenses, plus an increase described below.

OCR Decision Item #2: Mileage Expenses

The Office requests an increase of \$2,880 for mileage reimbursement for GAL staff in the El Paso County office and OCR staff. The request is based on an increase in the mileage rate (\$0.56 per mile for FY 09-10) and an increase in the number of miles traveled (1.0 percent per year in FY 2008-09 and FY 2009-10).

Staff recommends approving the requested appropriation of \$151,042 General Fund. The recommendation includes funding for OCR DI #2 (mileage expenses).

OCR Table 3: Summary of Recommendation for Operating Expenses					
	GF	CF	RF	FF	TOTAL
FY 2008-09 Long Bill	\$148,162	\$0	\$0	\$0	\$148,162
OCR Decision Item #2: Mileage expenses	<u>2,880</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>2,880</u>
Operating Expenses Recommendation	151,042	0	0	0	151,042

Capital Outlay

The OCR requests \$3,998 in capital outlay associated with its request to add a staff attorney in the El Paso office (Decision Item #3). The increase is offset by the elimination of \$3,455, the capital outlay funding associated with the 1.0 FTE added in FY 2008-09. Consistent with staff's recommendation on DI #3, **staff recommends eliminating this line item for FY 2009-10.**

Purchase of Services from Computer Center This item provides funding for the Department's share of statewide computer services provided by the Department of Personnel and Administration, Division of Information Technology. The fourth of four such line items, this one provides funds for services associated with Office of the Child's Representative staff. The OCR requests \$1,553 General Fund for this purpose for FY 2009-10. **Staff's recommendation for the purchase of services from the computer center is pending Committee policy.** Staff will ultimately reflect Committee policy in the appropriation for this line item.

Leased Space

This line item currently funds a lease for 2,300 square feet at 1580 Logan Street in Denver and 9,000 square feet in Colorado Springs. **Staff recommends the requested appropriation of \$142,738 General Fund.** This recommendation includes an increase of \$4,858 due to the scheduled increase from about \$15 to \$18.00 per square foot at 1580 Logan Street, and from \$11.09 to \$11.26 per square foot in Colorado Springs.

CASA Contracts

Court-appointed special advocates (CASA) are trained volunteers who may be appointed to enhance the quality of representation for children¹⁷. Pursuant to Section 19-1-202, C.R.S., CASA programs may be established in each judicial district pursuant to a memorandum of understanding between the district's chief judge and a community-based CASA program. A CASA volunteer may: conduct an independent investigation regarding the best interests of the child; determine if an appropriate treatment plan has been created for the child, whether appropriate services are being provided to the child and family, and whether the treatment plan is progressing in a timely manner. A CASA volunteer may also make recommendations consistent with the best interests of the child regarding

¹⁷ Pursuant to Section 19-1-206 (1), C.R.S., any judge or magistrate may appoint a CASA volunteer in any domestic or probate matter when a child who may be affected by the matter may require services that a CASA volunteer can provide.

placement, visitation, and appropriate services. The Judicial Department may contract with a nonprofit entity for the coordination and support of CASA activities in Colorado.

Pursuant to Section 13-91-105 (1) (b), C.R.S., the OCR is charged with enhancing the CASA program in Colorado by cooperating with and serving as a resource to the contract entity to: ensure the development of local programs; seek to enhance existing funding sources; ensure the provision and availability of high-quality, accessible training; and allocate moneys appropriated to the Judicial Department for CASA programs to local CASA programs based on recommendations made by the contract entity.

This line item provides funding for grants to Colorado CASA, the nonprofit organization of volunteer CASA volunteers. This funding is used to pay both personnel and operating costs. Prior to FY 2008-09, the General Assembly appropriated \$20,000 General Fund annually for this line item. Last Session, the Committee initiated a \$500,000 increase in the appropriation for this line item. Through Budget Amendment #1, the OCR has requested continuation of this increase. **In light of the revenue shortfall, staff recommends appropriating \$100,000 General Fund to support CASA programs for FY 2009-10.** While this level of funding is only 20 percent of the support provided for FY 2008-09, it represents a five-fold increase in the level of support provided prior to FY 2008-09.

Training

Pursuant to Section 13-91-105 (1), C.R.S., the OCR is charged with "ensuring the provision and availability of high-quality, accessible training" for GALs, judges and magistrates who regularly hear matters involving children and families, CASA volunteers, and attorneys who are appointed to serve as a child's legal representative or a child and family investigator. The OCR is also charged with making recommendations to the Chief Justice concerning minimum practice standards for GALs and overseeing the practice of GALs to ensure compliance with all relevant statutes, orders, rules, directives, policies, and procedures.

In addition to the individuals noted above, the OCR invites respondent parent counsel, county attorneys and social workers, foster parents, and law enforcement to their training programs. In FY 2007-07, the General Assembly approved a request to increase funding for training by \$10,000. The OCR requests a continuation level of funding for FY 2009-10. **Staff recommends approving the request for a continuation level of funding.**

Court Appointed Counsel

This line item pays for contract attorneys appointed by the Court to serve as GALs, Child Representatives, and Child Family Investigators in abuse or neglect, delinquency, truancy, high conflict divorce, alcohol or drug abuse, mental health issues, and probate matters. Pursuant to Section 13-91-105 (1) (a) (VI), C.R.S., the OCR is charged with enhancing the provision of GAL services by "establishing fair and realistic state rates by which to compensate state-appointed guardians ad litem, which will take into consideration the caseload limitations place on guardians

ad litem and which will be sufficient to attract and retain high-quality, experienced attorneys to serve as guardians ad litem".

OCR Decision Item #1: Caseload/ Case Cost Increases

The Office requests an increase of \$1,212,911 (8.5 percent) for this line item compared to the adjusted FY 2008-09 appropriation. The request is based on a projected 3.4 percent caseload increase and a 5.8 percent increase in the average cost per case.

Caseload Projections. To project caseload, the OCR looks at recent caseload growth for each case type. Table 4, below, caseload history by type of case, as well as the OCR's projections for FY 2008-09 and FY 2009-10.

OCR Table 4: Annual Number of Cases Paid						
Case Type	FY 04-05 (actual)	FY 05-06 (actual)	FY 06-07 (actual)	FY 07-08 (actual)	FY 08-09 (estim.)	FY 09-10 (proj.)
Dependency & Neglect	6,975	7,619	8,012	8,269	8,517	8,775
<i>annual percent change</i>	7.4%	9.2%	5.2%	3.2%	3.0%	3.0%
Juvenile Delinquency	3,371	3,458	3,594	3,874	4,087	4,256
<i>annual percent change</i>	25.6%	2.6%	3.9%	7.8%	5.5%	4.1%
Domestic Relations	762	673	624	606	618	625
<i>annual percent change</i>	-20.9%	-11.7%	-7.3%	-2.9%	2.0%	1.1%
Truancy	280	374	458	514	540	575
<i>annual percent change</i>	-24.1%	33.6%	22.5%	12.2%	5.1%	6.5%
Paternity	86	107	126	108	115	120
<i>annual percent change</i>	-30.1%	24.4%	17.8%	-14.3%	6.5%	4.3%
Probate	149	137	105	73	80	81
<i>annual percent change</i>	33.0%	-8.1%	-23.4%	-30.5%	9.6%	1.3%
All Other Case Types	36	39	44	56	56	60
Total	11,659	12,408	12,963	13,500	14,013	14,492
<i>annual percent change</i>	8.0%	6.4%	4.5%	4.1%	3.8%	3.4%

The OCR projects increases in all case types, ranging from a 1.3 percent increase in probate cases to a 6.5 percent increase in truancy cases. For both dependency and neglect cases and delinquency cases, the projected rate of growth is lower than that experienced in FY 2007-08.

Cost per Case. As mentioned above, the average cost per case varies by case type. Historically, dependency and neglect cases have required the most amount of attorney time, and have thus cost the most; truancy cases have been the least expensive. Table 5 details the history of costs per case by type of case, as well as the OCR's projections for FY 2008-09 and FY 2009-10.

Please note that the cost per case is a function of both the number of hours billed and the hourly rate. Thus, a portion of the increases over time are attributable to increases in hourly rates. Data provided

by the OCR indicates that the average number of hours billed per case has increased from 9.4 hours to 15.8 hours since FY 2004-05 -- a 68 percent increase. The largest annual increase occurred in FY 2005-06 (37 percent), followed by annual increases of 10 and 11 percent in FY 2006-07 and FY 2007-08, respectively.

The Office indicates that the number of hours billed per dependency and neglect case increased from 17 to 18 in FY 2007-08. The Office attributes this increase to a number of factors:

- Colorado experienced a significant number of child maltreatment fatalities in 2007. This experience appears to have led to an increase in the number of cases filed as well as an increased focus on safety considerations, requiring more in-person contact with children and caregivers.
- Senate Bill 07-226 brought Colorado into compliance with federal law requiring that youth be given a voice and opportunity to participate in the legal system. This change in practice requires GALs to spend additional time communicating with youth, preparing him/her to participate in court and other meetings, and explaining court proceedings.
- Chief Justice Directive 04-06, OCR audits and reviews of GALs, programs that promote best practices in courts and encourage specialization in juvenile law have all heightened expectations of GALs in Colorado.
- Constraints on county departments of social services' budgets often lead to a reduction in services for youth. Guardians ad litem are expected to advocate for the best interests of the child, often requiring more time when county budgets are constrained.

OCR Table 5: Annual Costs Per Case						
Case Type	FY 04-05 (actual)	FY 05-06 (actual)	FY 06-07 (actual)	FY 07-08 (actual)	FY 08-09 (estim.)	FY 09-10 (proj.)
Dependency & Neglect	\$759	\$707	\$971	\$1,083	\$1,183	\$1,243
<i>annual percent change</i>	-5.0%	-6.8%	37.4%	11.6%	9.3%	5.0%
Juvenile Delinquency	\$397	\$386	\$557	\$656	\$759	\$836
<i>annual percent change</i>	26.5%	-2.9%	44.4%	17.9%	15.6%	10.1%
Domestic Relations	\$559	\$648	\$842	\$901	\$934	\$962
<i>annual percent change</i>	-13.6%	15.8%	30.0%	7.0%	3.7%	3.0%
Truancy	\$246	\$175	\$330	\$330	\$335	\$335
<i>annual percent change</i>	7.6%	-29.0%	88.8%	0.0%	1.5%	0.0%
Paternity	\$315	\$601	\$583	\$633	\$649	\$665
<i>annual percent change</i>	-33.1%	90.5%	-2.9%	8.5%	2.5%	2.5%
Probate	\$590	\$750	\$565	\$1,231	\$1,237	\$1,237
<i>annual percent change</i>	-1.0%	27.2%	-24.7%	118.0%	0.5%	0.0%
All Other Case Types	\$550	\$743	\$648	\$998	\$1,109	\$1,220
All cases	\$623	\$598	\$819	\$921	\$1,012	\$1,070
<i>annual percent change</i>	0.0%	-4.0%	37.0%	12.4%	9.9%	5.8%

* Please note that the average costs per case in FY 2006-07, FY 2007-08, and FY 2008-09 reflect approved increases in hourly rates.

Staff Analysis. Increases in the cost per case reflect both increases in hourly rates, and increases in the number of hours required for each case. The OCR provided additional data that breaks out changes in the number of hours billed for each case type to differentiate time spent by attorneys in court versus out of court, as well as legal support. From FY 2004-05 to FY 2007-08, the average hours paid per case increased from 9.4 to 15.8 (68.1 percent). The most significant change in the average number of hours paid per case occurred in dependency and neglect cases, nearly doubling from 9.5 to 18.2; the average number of hours paid for delinquency cases increased from 7.4 to 11.3 (a 52.7 percent increase). For both these case types, the number of hours attorneys spent out of court increased at more than twice the rate of in court time.

OCR Table 6: Calculation of FY 2009-10 Request						
Case Type	Dependency & Neglect	Juvenile Delinquency	Domestic Relations	Truancy	Other	Total
Caseload	8,775	4,256	625	575	261	14,492
Average Cost Per Case	\$1,243	\$836	\$962	\$335	\$970	\$1,070
Total Costs	\$10,903,314	\$3,556,165	\$601,351	\$192,864	\$253,199	\$15,506,893

Staff recommends approving the increases requested through this decision item. While the caseload and average cost per case are projected to increase in FY 2009 by 3.4 percent and 5.8 percent, respectively, these rates of growth are lower than those experienced in recent years.

Staff recommends approving the request for \$15,506,893 General Fund for this line item for FY 2009-10, as requested and detailed in the following table.

OCR Table 7: Summary of Recommendation for Court Appointed Counsel					
	GF	CF	RF	FF	TOTAL
FY 2008-09 Long Bill	\$13,160,939	\$0	\$0	\$0	\$13,160,939
FY 2008-09 Supplemental	1,133,043	0	0	0	1,133,043
OCR DI #1: Caseload/Case Cost Increases	1,212,911	0	0	0	1,212,911
Staff Recommendation	15,506,893	0	0	0	15,506,893

Mandated Costs

Mandated costs are costs associated with activities, events, and services that accompany court cases that are required in statute and/or the U.S. and Colorado Constitutions to ensure a fair and speedy trial, and to ensure the right to legal representation. For the OCR, these costs primarily include the following:

- expert witnesses (53.0 percent of mandated costs in FY 2007-08)
- printing/ reproduction services (27.4 percent)
- transcripts (9.8 percent)

- interpreters - out of court (6.5 percent)
- process servers (3.2 percent)

The OCR requests a continuation level of funding (\$26,288 General Fund) for this line item for FY 2009-10. **Staff recommends approving the request for this line item.** This amount is less than the amount expended in FY 2007-08, but similar to amounts expended in FY 2004-05 through FY 2006-07.

Long Bill Footnotes and Requests for Information Concerning the Office of the Child's Representative (OCR)

Staff recommends the following footnote be **continued as amended**:

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

Staff recommends continuing this footnote. The OCR is a small agency and utilizes this flexibility to stay within its appropriation and avoid excess supplemental requests.

In FY 2007-08, this footnote provided the OCR with the authority to transfer up to \$345,770 between line items. A total of \$73,383 (0.5 percent) was transferred between line items. The following table details the line items affected by such transfers.

OCR Table 8	
Long Bill Line Item	Transfers In/ (Out)
Personal Services	(\$45,748)
Operating Expenses	42,493
Leased Space	1,037
Training	(246)
Court Appointed Counsel	(27,389)
Mandated Costs	29,853
Net Transfers	0

Appendix A

Summary of H.B. 07-1054 Judge Increases							
Judicial District/ County	FY 06-07	FY 07-08	FY 08-09	FY 09-10	Total New Judges	Increase	
Court of Appeals							
	19	–	+3	–	22	3	
District Courts							
1	Jefferson, Gilpin	12	–	+1	+2	15	3
2	Denver	20	–	+1	+2	23	3
4	El Paso, Teller	19	–	+1	+2	22	3
8	Larimer, Jackson	5	+1	+1	+1	8	3
9	Rio Blanco, Garfield	3	–	+1	–	4	1
10	Pueblo	6	–	+1	–	7	1
11	Park, Chaffee, Fremont, Custer	3	+1	–	–	4	1
12	Saguache, Rio Grande, Mineral, Alamosa, Costilla, Conejos	2	+1	–	–	3	1
14	Moffat, Routt, Grand	2	+1	–	–	3	1
17	Adams, Broomfield	10	+1	+2	+2	15	5
18	Arapahoe, Douglas, Elbert, Lincoln	17	+1	+2	+1	21	4
19	Weld	6	+1	+1	+1	9	3
20	Boulder	8	–	–	+1	9	1
21	Mesa	4	+1	–	–	5	1
22	Dolores, Montezuma	1	+1	–	–	2	1
	District Subtotal	118	9	11	12	150	32

Summary of H.B. 07-1054 Judge Increases							
Judicial District/ County	FY 06-07	FY 07-08	FY 08-09	FY 09-10	Total New Judges	Increase	
County Courts							
Adams	6	-	+1	+1	8	2	
Arapahoe	7	-	+1	-	8	1	
El Paso	8	-	+1	+1	10	2	
Jefferson	7	-	+1	+1	9	2	
Larimer	4	-	+1	-	5	1	
County Subtotal	32	0	5	3	40	8	
Statewide Total	169	9	19	15	212	43	

FY2010 and FY2011 COURTHOUSE FURNISHINGS PROJECTS

<u>District</u>	<u>County</u>	<u>Project Description</u>	<u>Est. Completion</u>	<u>FY2010 Cost</u>	<u>FY2011 Cost</u>
2nd	Denver	This is the largest project and drives the majority of the need. A ballot initiative was passed by the citizens in 2005 to fund a new justice center, which is currently under construction. It will include 29 finished courtrooms, 5 shelled courtroom spaces, Judicial Officer and staff offices and related Probation, District Attorney, and Public Defender offices. It will house the court functions for 12 Criminal County Courts, 10 Felony District Courts and 7 Juvenile Courts. The City and County Building will continue to be utilized for District Civil and Domestic Relations Courts. As the Criminal Courts move into the New Justice Center, County and District Courtrooms and Clerks Offices will be moving back into the City and County Building from off site locations. A working group including KLIPP Architecture and administrators from both the City and State has been established to determine the furnishing needs for both the New Justice Center and the City and County Building.	May 2010	\$ 2,500,000	\$ 550,000
4th	El Paso	Asbestos was discovered in the existing court facility and last year a new facility was constructed. FY2010 is the last phase of replacing all the courtroom bench seating, which has asbestos.	December 2009	\$ 105,000	
5th	Eagle	A brand new justice center is being constructed and will include 3 courtrooms, jury assembly space, and expanded staff offices. This facility will help address a growing space deficiency throughout the entire district.	June 2010	\$ 300,000	
10th	Pueblo	The County is constructing a new Judicial Building which is planned to have 16 finished courtrooms, jury assembly space, mediation suites, a pro se self-help center, clerk's office space, file and records storage and appropriate staff and training space. It will incorporate both probation and court needs.	January 2010		\$ 1,250,000
11th	Chaffee	The county has purchased a building and has preliminary plans to use it to house the Department of Social Services. The intent is then to remodel the old social services space for the courts. While this project is preliminary, plans are to include a new courtroom, jury deliberation space and expanded space for both court and probation staff.	June 2010	\$ 141,000	
12th	Alamosa	The county is proposing to remodel county office space for use by the courts. The new space would include 2 new courtrooms, judge and staff space, and new meeting/conference rooms.	December 2010		\$ 100,000
15th	Baca	The county is renovating existing courtrooms, judge chambers and general office space.	June 2010	\$ 65,000	
17th	Adams	The county is constructing an addition to the east wing of the existing justice center. It will include a 500-seat jury deliberation room, 10 new courtroom, mediation space, a portion of the clerk's office and other staff space. 4 of the courtrooms will remain as shells for future growth.	May 2010	\$ 1,000,000	
18th	Arapahoe	The Littleton County Court clerk's office as well as the public entrance will be expanded as the current space is inadequate, does not meet ADA standards and is unsafe.	September 2009	\$ 80,000	
18th	Arapahoe	The county has embarked on a 3-phase renovation of the Arapahoe County Justice Center. FY2010 will be phase 2 and includes the construction of 7 new courtrooms, renovation of 2 courtrooms, the addition of staff offices, renovation of the clerk's office, construction of the family court clerk's office and expansion of existing jury assembly space.	December 2009 - Phase 2	\$ 1,130,000	\$ 500,000
18th	Elbert	Elbert County is constructing a new 2-room courthouse that will accommodate both court and probation staff. The existing courthouse has been plagued with mold and other issues which has generated the need for a new facility.	July 2009	\$ 100,000	
TOTAL				\$ 5,421,000	\$ 2,400,000

MEMORANDUM

TO: Members of the Joint Budget Committee

FROM: Carolyn Kampman, Joint Budget Committee Staff (303-866-4959)

SUBJECT: Figure Setting for the Judicial Branch for FY 2009-10 -
Budget Balancing Options

DATE: March 23, 2009

On February 26, 2009, staff presented funding recommendations for the Judicial Branch for FY 2009-10. The Committee took action on all line items, other than those that are pending common Committee policies. While staff's recommendations included several actions designed to minimize General Fund increases for FY 2009-10 (e.g., delaying new judgeships), staff did not present other options for the Committee to consider in balancing the FY 2009-10 budget in light of the projected revenue shortfall. This memorandum describes these other budget balancing options.

Other Balancing Options

Letter from State Court Administrator

Mr. Gerry Marroney (the State Court Administrator) sent a letter to Senator Keller dated February 20, 2009 concerning potential budget balancing options related to the Courts and Probation. The plan identifies potential reductions in General Fund appropriations and cash fund transfers totaling \$12.3 million (more than nine percent of FY 2008-09 General Fund appropriations). The dollar amount of the potential reductions is based on assumptions underlying the Governor's budget balancing plan for FY 2009-10¹, plus another \$3.1 million the Department requested to furnish new courthouses.

Staff has included below some, but not all, of the reductions and transfers identified in the February 20 letter. Staff has excluded potential savings associated with staff layoffs and base reductions to operating and information technology maintenance line items. While staff appreciates the Department's willingness to identify and quantify these base reductions in order to achieve a targeted amount of savings, staff believes these options are inconsistent (i.e., more drastic) with those offered by staff to date for other departments.

¹ Todd Saliman's February 23, 2009 letter to Senator Keller indicates that the Governor's budget request for FY 2009-10 assumes General Fund appropriations totaling \$329.7 million to the Judicial Branch. This level of funding represents a \$3.8 million (1.2 percent) increase compared to the adjusted FY 2008-09 appropriation, and it is \$19.2 million lower than the Branch's request for FY 2009-10.

Letter from the State Public Defender

Mr. Doug Wilson (the State Public Defender) sent a letter to Senator Keller, dated January 25, 2009, concerning actions his office has taken to reduce expenditures, as well as some cost saving proposals. The State Public Defender also presented these cost saving proposals to the Judiciary Committees on January 26, 2009. Staff provided a brief description of these proposals in the January 27, 2009 supplemental packet, and the Committee authorized staff to continue to work with the Branch and other agencies to gather information related to these options. Staff has included below further information related to these options.

Information Provided by the Office of the Child's Representative (OCR)

Staff has had a number of discussions with Theresa Spahn, Executive Director of the OCR, about potential options for the Committee to consider to reduce OCR expenditures. A number of the options she and her staff have been working on are matters internal to the Branch, such as working with individual judicial districts to manage court dockets efficiently, thereby reducing the time attorneys spend waiting for a case to be heard. However, the OCR has identified several potential options related to those case types for which the appointment of state-paid counsel is discretionary. Staff has provided a brief description of these options below, with details provided in Appendix B.

This memorandum presents these options in three sections: (I) Potential statutory changes; (II) Expenditure reductions that do not require a statutory change; and (III) Cash fund transfers.

I. POTENTIAL STATUTORY CHANGES

Costs of Discovery

Colorado Supreme Court Rule 16 requires the prosecuting attorney to make available to the defense certain material and information which is within his or her possession or control², and to provide duplicates upon request. The prosecuting attorney is to make such materials and information available as soon as practicable, but not later than 30 days before trial. The rule indicates that when some parts of such material are discoverable and other parts are not, the nondiscoverable parts may be excised and the remainder made available. With regard to the cost and location of discovery, the rule indicates the following:

² Rule 16 lists the following types of material and information that shall be provided: police reports; grand jury testimony transcripts; reports or statements of experts; documents, photographs or objects held as evidence; any record of prior criminal convictions of the accused; tapes and transcripts of any electronic surveillance; names and addresses of witnesses; and written or recorded statements of the accused or of a codefendant.

"The cost of duplicating any material discoverable under this rule shall be borne by the party receiving the material, based on the actual cost of copying the same to the party furnishing the material. Copies of any discovery provided to a defendant by court appointed counsel shall be paid for by the defendant. The place of discovery and furnishing of materials shall be at the office of the party furnishing it, or at a mutually agreeable location." [Rule 16, Part V (c)]

Section 18-1-403, C.R.S., states that "all indigent persons who are charged with or held for the commission of a crime are entitled to legal representation and supporting services at state expense...". Thus, discovery costs are paid by entities that provide legal representation for indigent defendants.

The State Public Defender has proposed a statutory change that would exempt legal counsel for indigent defendants and *pro se* defendants from paying district attorneys for the costs of duplicating discoverable material. The Public Defender's Office (PDO) currently pays approximately \$944,000 annually to district attorney offices for discovery, and the Office of the Alternate Defense Counsel (OADC) pays approximately \$379,000 annually. If these offices were exempted from paying these costs, mandated costs would decrease accordingly. This proposal would reduce revenues to district attorney offices.

Staff does not recommend that the Committee introduce a bill as suggested by the State Public Defender. Staff has several concerns with the proposal:

- The proposal would reduce revenues to district attorney offices without making a commensurate reduction in the offices' workload. Given the proportion of defendants who are indigent and thus require state-funded legal representation, it does not appear to be feasible or fair to shift the costs of discovery to non-indigent clients. Specifically, data provided by the PDO indicates that the PDO is involved in about 53 percent of non-traffic criminal cases, 73 percent of felony cases, 35 percent of misdemeanor cases, and 68 percent of juvenile cases.
- Mandated costs, including discovery costs, were previously included in a single line item appropriation to the Judicial Branch. Each judge had the responsibility of approving costs incurred by each party in a case. It is staff's understanding that these costs are now reflected in separate line items for the purpose of transferring the responsibility for managing these costs to the entities responsible for incurring them. Staff agrees with this approach and believes that it serves to limit expenditures.

However, given the magnitude of state funds expended for discovery, this issue merits further analysis and attention. For example, data provided by the PDO indicates that their discovery costs

increased by 16.5 percent in FY 2006-07 and by 16.4 percent in FY 2007-08, while the PDO's overall caseload increased by only 1.5 percent and 3.3 percent, respectively.

In addition, a comparison of the allocation of discovery costs by location to the allocation of cases by location reveals significant disparities. For example, data provided by the PDO indicates that in FY 2007-08, 17.6 percent of PDO discovery costs were incurred in the 18th judicial district (Arapahoe/Douglas), while this district accounted for only 10.2 percent of the PDO's caseload.

Finally, given the variance in discovery costs charged by district attorney offices (based on data provided by the PDO), it appears that district attorneys utilize different methodologies when calculating rates related to discovery. For example:

- per page copy rates range from \$0.10 in Denver (where the PDO makes their own copies) to \$0.35 in Montrose;
- audio rates range from \$3.50 in La Junta to \$13.00 in Arapahoe/Douglas;
- video rates range from \$2.50 in Montrose to \$26.00 in Arapahoe/Douglas; and
- DVD rates range from \$10.00 in Greeley, Pueblo, and Sterling to \$25.00 in Colorado Springs.

Based on discussions with various Judicial Branch staff, as well as the Colorado District Attorney's Council (CDAC), **staff believes that this issue is best addressed internally by the Branch. Staff thus recommends that the Committee include the following request for information in its letter to the Chief Justice:**

N Judicial Department, Courts Administration -- The Department is requested to review and analyze the impact of Colorado Supreme Court Rule 16 on state expenditures, and to determine whether amendments to Rule 16 and/or statutory changes are warranted. Specifically, the Department is requested to collect and analyze data concerning rates currently charged to state agencies by each district attorney's office for duplicating discoverable material, the methodology used by each office to calculate these rates, as well as the timing and frequency of rate changes. The Department is requested to determine the following: (a) whether existing rates are consistent with Part V (c) of Rule 16 and appropriately reimburse district attorneys' duplication costs; and (b) whether the existing process of establishing these rates allows state agencies to effectively manage their resources. Finally, the Department is requested to provide a report to the Joint Budget Committee and to the House and Senate Judiciary Committees by November 1, 2009, summarizing its findings, including any recommended rule changes and/or statutory changes.

Court Transcripts

The Chief Judge in each judicial district is responsible for court reporting services in his or her district. Chief Justice Directive (CJD) 05-03 indicates that state-employed court reporters are generally used in those types of cases in which an appeal is likely (e.g., felony cases, district civil court and jury trials, termination of parental rights trials, and water cases). In other cases, either digital sound recordings or contract court reporting services are utilized.

Pursuant to Section 13-5-128, C.R.S., court reporters are compensated "for preparation of the original and any copies of the typewritten transcript of his shorthand notes at such rates as from time to time may be established and promulgated by the supreme court of the state of Colorado". It is staff's understanding that work hours and compensation of court reporters beyond the normal work week are governed by the Fair Labor Standards Act [29 USC 207 (o) 6]. Existing court rules provide for a rate of \$2.35 per page for the first copy of a transcript (\$3.50 per page for an expedited transcript); subsequent copies are free. The Judicial Department has indicated that this rate has not been changed for several years, and is lower than rates paid in most other states.

Judicial Branch court reporters are allowed to prepare transcripts for the judge or magistrate who presided over a case during work hours, and they are not paid the transcript page rate in addition to their regular salary for this work. However, for "state-paid transcripts" that are requested by other state-paid parties (such as the public defender), CJD 05-03 allows Judicial Branch court reporters as a normal part of their job and compensation to prepare state-paid transcripts during work hours and receive the per-page rate of \$2.35.

The State Public Defender has proposed a statutory change that would exempt legal counsel for indigent defendants and *pro se* defendants from paying for transcripts. Public agencies currently spend approximately \$1,977,000 annually for transcripts (including \$1,386,000 for the PDO, \$365,000 for OADC, \$4,000 for OCR, and \$222,000 for district attorneys). If these offices were exempted from paying these costs, mandated costs would decrease accordingly. This proposal would reduce revenues received by individual court reporters.

Staff does not recommend that the Committee introduce a bill as suggested by the State Public Defender. Similar to the above proposal, staff believes that requiring each agency to incur the costs associated with transcript requests serves to limit expenditures. Staff also understands that elimination of compensation for work performed by a court reporter outside of work hours may violate the Fair Labor Standards Act.

However, given the magnitude of state funds expended for transcripts, staff believes that it is important to ensure that publicly funded agencies are not paying a per page rate for transcripts that are prepared by court reporters during work hours. **Staff recommends that the Committee**

introduce a bill to amend Section 13-5-128, C.R.S., to state that Judicial Branch court reporters shall only be compensated for preparation of transcripts that are prepared outside of work hours.

Staff has been informed that most, if not all of the work for which court reporters receive a per page rate is performed outside of normal work hours. In addition, CJD 05-03 indicates that the standard in Colorado courts is "realtime", which "...allow reporters to get the bulk of transcript work done as they are reporting". Further, this CJD requires all current court reporters to become realtime certified by July 1, 2012. Thus, staff assumes that this statutory change will have a limited impact on state expenditures for transcripts.

Office of the Child's Representative (OCR) - Limit or Eliminate Services in Certain Cases

As detailed in Appendix B, the OCR has identified several potential options related to those case types for which the appointment of state-paid counsel is discretionary. Staff has provided a brief description of each option, along with associated recommendations.

Domestic Relation Cases (FY 07-08: 4.5% of OCR cases; \$546,087 expenditures)

Pursuant to Section 14-10-116.5, C.R.S., the Court may appoint an individual to serve as a child and family investigator (CFI) in a domestic relations case that involves allocation of parental responsibilities. The Court may appoint an attorney, a mental health professional, or any other individual with appropriate training and qualifications to be a CFI. The CFI is required to investigate, report, and make recommendations in the form of a written report filed with the Court; the CFI may be called to testify as a witness regarding his/her recommendations. If the Court appoints someone other than an attorney as a CFI, costs are paid by the State Court Administrator's Office (SCAO) rather than OCR.

In addition, pursuant to Section 14-10-116, C.R.S., the Court may appoint an attorney to serve as a child's legal representative (CLR) in any domestic relations proceeding that involves the allocation of parental responsibility. An individual may not serve as both a CFI and a CLR in the same case.

The OCR has offered the following alternatives for consideration:

1. Eliminate state payment for all CLRs and CFIs (saving about \$600,000 General Fund annually).
- 1a. Statutorily limit state payment for CLRs and CFIs to those domestic relations cases involving domestic violence.

☞ **Staff recommends statutorily limiting state payment for CLR's to those domestic relations cases involving domestic violence.** These appointments would continue to be paid by OCR.

2. Eliminate state payment for attorney CLR's and CFI's; increase the rate paid by the SCAO for non-attorney CFI's and shift a portion of funding from OCR to SCAO (saving about \$320,000 General Fund annually).

☞ **Staff recommends making the following changes:**

Statutorily eliminate state payment for attorneys to serve as a CFI. Shift a portion of funding from OCR to the SCAO based on an increase in the hourly rate paid by the SCAO for non-attorney CFI's from \$25 to \$30. Delay the effective date of this change to September 1, 2009 to allow SCAO time to publish new rate and recruit sufficient number of non-attorney CFI's.

Statutorily clarify how the Court should determine whether the parties in a domestic relations case are indigent (and thus warrant a state-paid CLR or CFI).

3. Pilot efficient and effective alternatives to CLR's and CFI's in select judicial districts (estimated to require \$20,800).

☞ **Authorize OCR, through a footnote in the FY 2009-10 Long Bill, to use up to \$25,000 of existing funding for a pilot program to evaluate the use of alternatives to CLR's and CFI's** (such as the "Early Neutral Assessment" program in Adams county) **in domestic relations cases.**

4. Promote more efficient use of CLR's and CFI's through greater monitoring of appointments and indigency findings.

☞ **Staff recommends that the Committee include the following request for information in its letter to the Chief Justice:**

N Judicial Department, Courts Administration; Office of the Child's Representative -- The State Court Administrator's Office is requested to work with the Office of the Child's Representative (OCR) to explore options for providing the OCR with timely access to filing and appointment information for the purpose of allowing the OCR to better monitor its caseload and manage its annual appropriation. The Department is requested to provide a report to the Joint Budget

Committee by September 1, 2009, describing the status of its efforts to provide timely filing and appointment information.

Truancy Cases (FY 07-08: 3.8% of OCR cases; \$169,856 expenditures)

Pursuant to Section 22-33-108 (5), C.R.S., court proceedings shall be initiated to compel compliance with the compulsory attendance laws after the parent and the child have been given written notice by the attendance officer of the school district that proceedings will be initiated if the child does not comply. The Court may order that a child attend school or that a parent take reasonable steps to assure the child's attendance, and may order the child and parent to follow an appropriate treatment plan. Failure to follow the court order can result in sanctions including community service, incarceration in a juvenile detention facility, and fines or confinement in county jail until the order is complied with. Section 19-1-11 (2) (b), C.R.S., authorizes a Court to appoint a GAL in a truancy proceeding, but it does not set forth any guidance for such appointments.

The number of truancy cases in which a GAL is appointed increased by 233 (83 percent from FY 2004-05 to FY 2007-08); OCR annual expenditures increased from \$68,983 to \$169,856 over the same time period.

The OCR has offered the following alternatives for consideration:

1. Statutorily limit the appointments of GALs in truancy proceedings to "exceptional and extraordinary circumstances" (potential annual savings of \$97,000).

☞ **Staff recommends the Committee introduce a bill to make this change.**

2. Pilot the use of non-attorney community educational advocates (such as those used in Pueblo) to provide advocacy and support services for children and youth involved in truancy proceedings.

☞ The Committee previously approved a staff recommendation to allocate \$1.0 million of the constitutionally required increase for categorical programs (\$500,000 more than proposed by the Governor) for the Department of Education's Expelled and At-risk Student Services Grant Program (EARSS) for FY 2009-10. **Staff recommends statutorily earmarking \$500,000 of funding for EARSS to annually fund pilot programs designed to reduce the number of truancy cases requiring court involvement and/or to offer appropriate alternatives to GAL representation.**

3. Pilot the use of non-attorney GALs in the districts that currently spend greater funds on GAL appointments in truancy cases (potential savings of \$53,000 annually).

Delinquency Cases (FY 07-08: 28.7% of OCR cases; \$2,542,716 expenditures)

Section 19-1-11 (2) (a), C.R.S., authorizes a Court to appoint a GAL in a delinquency proceeding where: (a) no parent, guardian, etc. appears at the first or any subsequent hearing in the case; (b) the Court finds that a conflict of interest exists between the child and the parent, guardian, etc.; or (c) the Court finds that the best interests of the child will be served by the appointment.

The OCR has offered the following alternatives for consideration:

1. Statutorily clarify that a GAL appointment in a delinquency case ends at conclusion of sentencing, and that a GAL may be reappointed in probation revocation proceedings. Include a statutory exception preserving a GAL appointment in cases where a youth is sentenced to an out-of-home placement as a condition of probation (these cases resemble dependency and neglect cases).

☞ **Staff recommends the Committee introduce a bill to make this change.**

2. Statutorily clarify that GAL appointment ends when a juvenile turns 18.

State Public Defender - Proposed Sentencing Changes

The Public Defender has recommended a series of changes to the Colorado Criminal Code effective July 2009 that would reduce his office's caseload and resource deficit. [These changes may also offset the \$5.7 million and 88.4 FTE estimated to be required by the Public Defender for an estimated 18,000 misdemeanor cases if the General Assembly makes statutory changes consistent with the U.S. Supreme Court decision in *Rothgery*.] As there is currently a bill pending that would repeal the death penalty (H.B. 09-1274), staff has excluded this element of the proposal here.

Preliminary information indicates that the proposed statutory changes would save at least \$5.4 million in FY 2009-10, \$9.7M in FY 2010-11, and higher amounts in subsequent fiscal years. Savings in FY 2009-10 reflect only the costs of providing legal representation (the PDO and the OADC). Savings in FY 2010-11 and subsequent fiscal years also include conservative estimates of the impact on the Department of Corrections' average daily population (at the private prison rate of \$59.28/day). In addition, savings related to court operations would occur for cases reduced from felonies to misdemeanors. The following breakdown identifies estimated savings by type of crime [details are provided in Appendix A]:

- Drug-related crimes: \$228,232 in FY 09-10 and \$1,055,485 in FY 10-11
- Property crimes: \$2,168,009 in FY 09-10 and \$2,981,942 in FY 10-11
- Crimes involving fraud: \$683,237 in FY 09-10 and \$2,789,210 in FY 10-11
- Crimes related to government operations: \$636,215 in FY 09-10 and \$972,726 in FY 10-11

- Habitual offender sentencing: \$1,473,046 in FY 09-10 and \$1,664,253 in FY 10-10
- Other crimes: \$258,429 in FY 09-10 and \$282,805 in FY 10-11

Staff continues to recommend that the Committee work with members of the Judiciary Committee to determine which of these proposed changes, or any other potential changes to statutes affecting sentencing or mandatory parole, should be pursued. In addition, the Committee should work with these Committees to determine whether statutory changes are warranted in response to the *Rothgery* decision, and, should such changes be warranted, how to offset the funding required by the PDO.

II. EXPENDITURE REDUCTIONS THAT DO NOT REQUIRE A STATUTORY CHANGE

The options in the following table are presented without staff recommendation in order to maximize the Committee's choices. The Committee may wish to consider these options now or in the future. **Numbering does not indicate priority.**

Options with Appropriation Impacts	GF	CF	RF	FF	Total	FTE
<p>1</p> <p>Judicial Department - S.B. 03-318 Community Treatment Funding</p> <p>Senate Bill 03-318 reduced felony class level and sentences for use and possession of small amounts of certain controlled substances. The continuation of these changes was contingent on the realization of at least \$2.2 million in cost-avoidance in FY 2007-08. Based on a JBC staff evaluation of a January 2007 report concluding that the minimum threshold of cost-avoidance had likely been met, the General Assembly appropriated \$2.2 million General Fund for community treatment services. Local boards submit annual plans concerning the use of these funds to treat substance abuse in their respective jurisdictions. Judicial districts are using these funds to provide a continuum of treatment services for drug abusing offenders. The figure above represents a 10.0 percent reduction in funding for community treatment services.</p>	(\$220,000)				(\$220,000)	0.0
<p>2</p> <p>Judicial Department - Community Mediation Grants</p> <p>Since FY 2004-05, \$60,000 of the General Fund appropriation for Trial Court Programs has been used to provide seed money for development of local community conflict resolution and restorative justice programs and services around the state. Grants ranging from \$5,500 to \$15,000 are awarded through a competitive process. Fiscal year 2009-10 is the second year of a two-year grant cycle in which the following four grantees are receiving \$15,000 annually: Teaching Peace (Longmont); The Resolution Center (Grand Junction); Gunnison Valley Alliance for Community Restorative Justice (Gunnison); and Institute on the Common Good (Denver). The Committee could eliminate or reduce funding for these grants.</p>	(60,000)				(60,000)	

Options with Appropriation Impacts	GF	CF	RF	FF	Total	FTE
3	727,195				727,195	0.0
Furloughs						
The above figure provide an estimate of the savings associated with one day of furlough . This figure includes: \$568,000 for court, probation, and administrative staff, excluding all judges and justices; \$149,450 for the Public Defender's Office; \$7,027 for the Office of the Child's Representative (including the El Paso County staff office); and \$2,718 for the Alternate Defense Counsel. Furloughs reduce staffing levels for the courts and probation, impairing court operations and the ability of probation officers to adequately monitor offenders in the community.						
4	696,223				696,223	0.0
Court Appointed Counsel Rate Rollback						
The above figure provide an estimate of the savings associated with each dollar of hourly rate reduction, effective for all 12 months of FY 2009-10 . The current hourly rate paid to court-appointed counsel is \$65. The estimated savings include: \$169,800 for the State Court Administrator; \$287,855 for the Alternate Defense Counsel; and \$238,568 for the Office of the Child's Representative. The OCR indicates that last time the General Assembly took this action, some attorneys stopped contracting with the State, causing disruptions for some open cases.						

III. CASH FUND TRANSFERS

Through S.B. 09-208, the Committee has proposed transferring a total of \$3,391,841 from various Judicial cash funds to the General Fund. The Department identified the following additional potential cash fund transfers to the General Fund.

Offender Services Fund (\$2,498,439)

Pursuant to Section 16-11-214, C.R.S., the Offender Services Fund consists of probation supervision fees paid by offenders, and payments related to the cost of care for juveniles. The General Assembly may appropriate moneys in the Fund for: (a) administrative and personnel costs for adult and juvenile probation services; (b) adjunct services, including treatment services, contract services, drug and alcohol treatment services, and program development, and for associated administrative and personnel costs; and (c) to continue the demonstration drug court program. A transfer from this fund to the General Fund can help support existing General Fund appropriations for probation staff and operations.

However, if the General Assembly were to transfer an additional \$2,498,439 to the General Fund, the fund balance would be exhausted by FY 2011-12 and would not be sufficient to support services for a growing offender population until at least FY 2012-13. The following table details the projected cash flow.

Offender Services Fund					
Department Request and Staff Recommendation					
	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
	Actual	Estim.	Estim.	Estim.	Estim.
Beginning FY Balance	\$6,227,078	\$8,365,847	\$7,299,140	\$2,012,980	\$200,308
Projected Revenues	10,723,009	10,830,239	11,371,751	12,622,643	14,263,587
Expenditures	<u>(8,584,240)</u>	<u>(11,159,753)</u>	<u>(11,347,279)</u>	<u>(11,623,122)</u>	<u>(11,623,122)</u>
Subtotal	\$8,365,847	\$8,036,333	\$7,323,612	\$3,012,501	\$2,840,773
Refinancing/ Increased Expenditures		(487,193)	(2,812,193)	(2,812,193)	(2,812,193)
Transfer	<u>0</u>	<u>(250,000)</u>	<u>(2,498,439)</u>	<u>0</u>	<u>0</u>
Ending FY Balance	\$8,365,847	\$7,299,140	\$2,012,980	\$200,308	\$28,580

Drug Offender Surcharge Fund (\$1,360,000)

Pursuant to Section 18-19-103 (4), C.R.S., this fund consists of 90 percent of drug offender surcharge revenues. These surcharges range from \$100 to \$4,500 for each conviction or deferred sentence. Moneys in the Fund are subject to annual appropriation to the Judicial Department, the Department of Corrections, the Department of Public Safety's Division of Criminal Justice, and the Department of Human Services to cover the costs associated with substance abuse assessment, testing, education, and treatment. Pursuant to Section 16-11.5-102 (3), C.R.S., these four departments are required to cooperate and develop a plan for the allocation of moneys deposited in this fund. The Judicial Department is required to submit this plan with its annual budget request. A transfer from this fund to the General Fund can help support existing General Fund appropriations for probation staff and operations.

However, if the General Assembly were to transfer an additional \$1,360,000 to the General Fund, the fund balance is projected to be insufficient to support planned assessment, treatment, training, and research expenditures in FY 2010-11; the fund could only support an increase of \$151,463 (2.8 percent) in FY 2010-11. The following table details the projected cash flow.

Drug Offender Surcharge Fund Department Request and Staff Recommendation				
	FY 2007-08 Actual	FY 2008-09 Estimate	FY 2009-10 Estimate	FY 2010-11 Estimate
Beginning FY Balance	\$3,005,884	\$2,851,059	\$3,327,622	\$303,568
Projected Revenues	4,862,410	4,965,668	5,064,981	5,216,930
Expenditures	<u>(5,017,235)</u>	<u>(4,337,764)</u>	<u>(5,369,035)</u>	<u>(5,653,335)</u>
Subtotal	\$2,851,059	\$3,478,963	\$3,023,568	(\$132,837)
Transfer	<u>0</u>	<u>(151,341)</u>	<u>(1,360,000)</u>	<u>0</u>
Ending FY Balance after transfer	\$2,851,059	\$3,327,622	\$303,568	(\$132,837)

Court Security Cash Fund (\$500,000)

Senate Bill 07-118 (Sen. Shaffer/Rep. King) created the Courthouse Security Grant Program to provide grant funds to counties for use in improving courthouse security efforts. Such efforts include security staffing, security equipment, training, and court security emergency needs. The program is supported by the Court Security Cash Fund, which consists of a \$5 surcharge on: docket fees and jury fees for certain civil actions; docket fees for criminal convictions, special proceeding filings, and certain traffic infraction penalties; filing fees for certain probate filings; and fees for certain filings on water matters. Moneys in the Fund are to be used for grants and related administrative costs. County-level local security teams may apply to the State Court Administrator's Office for grants.

However, if the General Assembly were to transfer an additional \$500,000 to the General Fund, the fund balance is projected to be insufficient to support planned grants and administrative expenditures in FY 2009-10. The following table details the projected cash flow.

	Court Security Cash Fund Staff Recommendation			
	FY 2007-08 Actual	FY 2008-09 Estimate	FY 2009-10 Estimate	FY 2010-11 Estimate
Beginning FY Balance	\$0	\$2,363,329	\$818,707	(\$12,946)
Revenues	2,707,636	2,900,000	3,000,000	3,100,000
Expenditures	<u>(344,307)</u>	<u>(2,944,622)</u>	<u>(3,331,653)</u>	<u>(3,331,653)</u>
Subtotal	\$2,363,329	\$2,318,707	\$487,054	(\$244,599)
Transfer	<u>0</u>	<u>(1,500,000)</u>	<u>(500,000)</u>	<u>0</u>
Ending FY Balance after transfer	\$2,363,329	\$818,707	(\$12,946)	(\$244,599)

Proposed Statutory Change						Fiscal Impacts (assuming effective date of 7/1/09)											
						Public Defender's Office		Judicial Department (Courts and Probation)		Alternate Defense Counsel		Department of Corrections			Totals		
Statute	Court Affected	Description	Current Case Class or Equivalent (based upon sentence)	Change Recommended by State Public Defender	Equivalent New Case Class	FY 09-10	FY 10-11	FY 09-10	FY 10-11	FY 09-10	FY 10-11	FY 09-10	FY 10-11	FY 11-12	FY 09-10	FY 10-11	FY 11-12 (use FY 10-11 for PD, ADC, and Courts/Prob)
Drug-Related Crimes:																	
18-18-404	County	Unlawful use of controlled substance Schedules I & II = F-6	F6	Make I & II (so all I through V) M-1. No jail first offense. Treatment.	M1	(\$14,391)	(\$15,945)	Potential savings		(\$31,301)	(\$31,301)				(\$45,692)	(\$133,735)	(\$133,735)
	County		F6		PO	(7,644)	(8,469)	Potential savings		(80,717)	(80,717)		(86,489)	(86,489)	(88,361)	(89,186)	(89,186)
	County	Schedules III, IV & V = M-1	M1	Strike driver's license revocation.	PO	(1,609)	(1,782)			-	-		0	0	(1,609)	(1,782)	(1,782)
18-18-405	District	Unlawful activity relating to controlled substances. F3, F4, F5 and M1	F5	Reduce to M-1, no jail first offense. Take out word possess. Delete words: if a person is convicted of a first offense for such activity in the case of schedule IV controlled substances.	M1	(9,785)	(10,855)	Potential savings		(2,744)	(2,744)				(12,529)	(742,033)	(1,168,955)
	District		F5		PO	(3,133)	(3,476)	Potential savings		-	-		(728,434)	(1,155,356)	(3,133)	(3,476)	(3,476)
	District		F5	Make F5 w/prior: If the offense is committed subsequent to a prior conviction of the same offense.	F5	0	0			-	-		0	0	0	0	0
18-18-406	County	Possession of Marijuana 1-8 oz.	M1	Raise to 2-8 oz	M1	0	0			-	-		0	0	0	0	0
	County	M-1	M1	Possession of less 2 oz (vs. less than 1 oz. currently): PO2, raise fine from \$100.00 to \$200.00	PO	(34,181)	(37,873)			-	-		0	0	(34,181)	(37,873)	(37,873)
18-18-406	District	Offenses relating to marijuana – F5 (Second conviction and more than 8 ozs)	F5	Change to F6. Change (4)(a)(II) to possession of more than 2 but less than 8 ounces (rather than more than one and less than 8).	F6	(1,100)	(1,220)			-	-		0	(85,352)	(1,100)	(1,220)	(86,572)
18-18-406.5(1)	District	Unlawful use of marijuana in a detention facility	F5	Change to F6. Change to possessing more than 2 ounces (rather than one oz).	F6	0	0			-	-		0	0	0	0	0
18-18-415(2)(a)	District	Fraud and deceit (to obtain a controlled substance) F5	F5	Change to F6.	F6	(39,165)	(43,448)			-	-		0	(51,283)	(39,165)	(43,448)	(94,731)
18-18-422(1)(b)(I)	District	Manufacture, distribute, or possess with intent to distribute an imitation controlled substance – F5 (first time, and not distributed to someone under 18)	F5	Change to F6.	F6	(2,463)	(2,733)			-	-		0	0	(2,463)	(2,733)	(2,733)
18-18-423(3)	District	Counterfeit controlled substances – F5	F5	Change to F6.	F6	0	0			-	-		0	0	0	0	0
Subtotal: Drug-Related Crimes						(113,470)	(125,800)			(114,762)	(114,762)	0	(814,923)	(1,378,480)	(228,232)	(1,055,485)	(1,619,042)
Property Crimes:																	
12-56-104 (5)	District	False info to pawnbroker F6	F6	Reduce to M-1, no jail first offense	M1	(7,623)	(8,457)	Potential savings		(11,252)	(11,252)				(18,875)	(117,079)	(117,079)
	District		F6		PO	(4,049)	(4,492)	Potential savings		(34,112)	(34,112)		(97,370)	(97,370)	(38,161)	(38,604)	(38,604)
18-4-203(2)	District	Second degree burglary – F4 (break into a building, excluding a dwelling or with objective of taking controlled substance)	F4	Reduce to F5	F5	(161,047)	(178,660)			(90,917)	(90,917)		0	(237,001)	(251,964)	(269,577)	(506,578)
18-4-204(1)	District	Third degree burglary F5 (break into safe or piece of equipment)	F5	Reduce to M1	M1	(12,425)	(13,784)	Potential savings		(10,506)	(10,506)		(124,545)	(173,916)	(22,931)	(148,835)	(198,206)
18-4-204(2)	District	Third degree burglary F4 (same as above, with objective of taking controlled substance)	F4	Reduce to F5	F5	(218)	(241)			-	-		0	0	(218)	(241)	(241)
18-4-205(2)	District	Possession of burglary tools F6	F6	Reduce to M-1	M1	(12,924)	(14,338)	Potential savings		(981)	(981)		0	0	(13,905)	(15,319)	(15,319)
18-4-401	County	Thefts / Criminal Mischief	M2	Less than \$100 - M2 to petty offense	PO	(51,730)	(57,317)			(35,154)	(35,154)		0	0	(86,884)	(92,471)	(92,471)
	County		M2	\$100-\$500- M2 to M3, no jail first offense	M3	0	0			(324)	(324)		0	0	(324)	(324)	(324)
	County		M2		PO	(6,796)	(7,530)			-	-		0	0	(6,796)	(7,530)	(7,530)
	County		M1	\$500-\$1,000, M1 to M2, no jail first offense	M2	(23,896)	(26,477)			(705)	(705)		0	0	(24,601)	(27,182)	(27,182)
	County		M1		PO	(3,820)	(4,233)			(7,215)	(7,215)		0	0	(11,035)	(11,448)	(11,448)
	County		F4	\$1,000-\$20,000, F4 to F5	F5	(10,472)	(11,603)			(1,953)	(1,953)		0	0	(12,425)	(13,556)	(13,556)
	County		F3	\$20,000+, F3 to F4	F4	(882,264)	(977,548)			(112,800)	(112,800)		0	0	(995,064)	(1,090,348)	(1,090,348)
18-4-401(5)	District	Theft from a person F5 (other than the use of force, threat, or intimidation)	F5	Reduce to F6	F6	(11,823)	(13,116)			-	-		(37,425)	(130,374)	(11,823)	(50,541)	(143,490)
18-4-402	County	Theft of Rental Property	M2	Less than \$100 - M2 to petty offense	PO	(321)	(356)			-	-		0	0	(321)	(356)	(356)
	County		M2	\$100-\$500- M2 to M3, no jail first offense	M3	0	0			-	-		0	0	0	0	0
	County		M2		PO	(48)	(53)			-	-		0	0	(48)	(53)	(53)
	County		M1	\$500-\$1,000, M1 to M2, no jail first offense	M2	0	0			-	-		0	0	0	0	0
	County		M1		PO	0	0			-	-		0	0	0	0	0
	County		F4	\$1,000-\$20,000, F4 to F5	F5	(655)	(725)			(217)	(217)		0	0	(872)	(942)	(942)
	County		F3	\$20,000+, F3 to F4	F4	(4,391)	(4,865)			(940)	(940)		0	(13,479)	(5,331)	(5,805)	(19,284)

Proposed Statutory Change						Fiscal Impacts (assuming effective date of 7/1/09)														
						Public Defender's Office		Judicial Department (Courts and Probation)		Alternate Defense Counsel		Department of Corrections			Totals					
Statute	Court Affected	Description	Current Case Class or Equivalent (based upon sentence)	Change Recommended by State Public Defender	Equivalent New Case Class	FY 09-10	FY 10-11	FY 09-10	FY 10-11	FY 09-10	FY 10-11	FY 09-10	FY 10-11	FY 11-12	FY 09-10	FY 10-11	FY 11-12 (use FY 10-11 for PD, ADC, and Courts/Prob)			
18-4-410	County	Theft by Receiving	M2	Less than \$100 - M2 to petty offense	PO	(11,246)	(12,460)			(3,906)	(3,906)				(15,152)	(16,366)	(16,366)			
	County		M2	\$100-\$500- M2 to M3, no jail first offense	M3	0	0			(36)	(36)				(36)	(36)	(36)			
	County		M2			PO	(498)	(552)			-	-				(498)	(552)	(552)		
	County		M1	\$500-\$1,000, M1 to M2, no jail first offense	M2	(2,515)	(2,787)			(94)	(94)					(2,609)	(2,881)	(2,881)		
	County		M1			PO	(402)	(446)			(962)	(962)				(1,364)	(1,408)	(1,408)		
	County		F4	\$1,000-\$20,000, F4 to F5	F5	(104,286)	(115,549)			(22,072)	(22,072)				(12,451)	(126,358)	(137,621)	(150,072)		
	County		F3	\$20,000+, F3 to F4	F4	(22,322)	(24,733)			(2,820)	(2,820)				(25,142)	(27,553)	(27,553)			
18-4-501	County	Criminal Mischief	M2	Less than \$100 - M2 to petty offense	PO	(33,095)	(36,669)			(5,660)	(5,660)				(38,755)	(42,329)	(42,329)			
	County		M2	\$100-\$500- M2 to M3, no jail first offense	M3	0	0			(2,669)	(2,669)				(2,669)	(2,669)	(2,669)			
	County		M2			PO	(9,543)	(10,573)			(18,517)	(18,517)				(28,060)	(29,090)	(29,090)		
	County		M1	\$500-\$1,000, M1 to M2, no jail first offense	M2	(29,179)	(32,330)			(108)	(108)					(29,287)	(32,438)	(32,438)		
	County		M1			PO	(4,665)	(5,168)			(6,057)	(6,057)				(10,722)	(11,225)	(11,225)		
	County		F4	\$1,000-\$20,000, F4 to F5	F5	(143,775)	(159,302)			(18,267)	(18,267)				(371,579)	(162,042)	(177,569)	(549,148)		
	County		F3	\$20,000+, F3 to F4	F4	(5,855)	(6,487)			(3,955)	(3,955)				(9,810)	(10,442)	(10,442)			
18-4-502	District	First degree criminal trespass F6 (entering/remaining in a dwelling or motor vehicle of another with intent to commit a crime therein)	F6	Reduce to M-1, no jail first offense	M1															
	District		F6			PO	(137,319)	(152,337)	Potential savings		(981)	(981)				(138,300)	(515,947)	(515,947)		
						(72,940)	(80,918)	Potential savings		(2,685)	(2,685)				(362,629)	(362,629)	(75,625)	(83,603)	(83,603)	
Subtotal: Property Crimes						(1,772,144)	(1,964,108)			(395,865)	(395,865)	0	(621,969)	(1,398,799)	(2,168,009)	(2,981,942)	(3,758,772)			
Crimes Involving Fraud:																				
18-5-102	District	Forgery	F5	Reduce to M-1, no jail first offense	M1	(210,103)	(233,081)	Potential savings		(45,828)	(45,828)				(255,931)	(1,639,778)	(2,555,734)			
	District		F5			PO	(31,871)	(35,357)	Potential savings		(142,956)	(142,956)				(174,827)	(178,313)	(178,313)		
18-5-104	County	Second Degree Forgery	M1	Reduce to M-2	M2	(530)	(587)			-	-			0	0	(530)	(587)	(587)		
18-5-105	District	Criminal possession of first degree forgery instrument F6	F6	Reduce to M-1, no jail first offense	M1															
	District		F6			PO	(37,934)	(42,082)	Potential savings		-	-				(37,934)	(178,645)	(178,645)		
						(20,149)	(22,353)	Potential savings		-	-				(20,149)	(22,353)	(22,353)			
18-5-113	District	Criminal Impersonation F6	F6	Reduce to M-1, no jail first offense	M1	(72,142)	(80,031)	Potential savings		(15,414)	(15,414)				(87,556)	(595,900)	(595,900)			
	District		F6			PO	(38,320)	(42,511)	Potential savings		(58,014)	(58,014)				(96,334)	(100,525)	(100,525)		
18-5-205	County	Fraud by Check	M2	Less than \$500, M2 to M3 no jail first offense	M3	0	0			(690)	(690)				(690)	(690)	(690)			
	County		M2			PO	(305)	(338)			(1,036)	(1,036)				(1,341)	(1,374)	(1,374)		
	County		M1	\$500-\$1,000, M1 to M2, no jail first offense	M2	0	0			(50)	(50)					(50)	(50)	(50)		
	County		M1			PO	0	0			(568)	(568)				(568)	(568)	(568)		
	County		F6	\$1,000 or more, F6 to M1	M1	(7,155)	(7,928)			(173)	(173)					(62,327)	(62,327)	(7,328)	(70,428)	(70,428)
										Potential savings		(173)	(173)				(7,328)	(70,428)	(70,428)	
Subtotal: Crimes Involving Fraud						(418,508)	(464,267)			(264,729)	(264,729)	0	(2,060,214)	(2,976,170)	(683,237)	(2,789,210)	(3,705,166)			
Crimes Related to Government Operations:																				
18-8-111	County	False reporting to authorities	M3	To petty offense	PO	(89,966)	(99,682)			(9,395)	(9,395)			0	0	(99,361)	(109,077)	(109,077)		
18-8-204	County	Introduction of contraband into a detention facility in the second degree (e.g., key, wire cutter, money, stamps, forged ID, matches, drug other than controlled substance, disguise, etc.)	F6	Reduce to M-2	M2															
18-8-204.2	County	Possession of contraband in the second degree	F6	Reduce to M-2	M2	(11,853)	(13,133)	Potential savings		(2,345)	(2,345)			0	0	(14,198)	(15,478)	(15,478)		
						(2,305)	(2,554)	Potential savings		(2,345)	(2,345)			(11,747)	(11,747)	(4,650)	(16,646)	(16,646)		
18-8-208	District	Escape - F3 (while in custody following conviction of F3-F6)	F3	(2) F3 to F4	F4	(197,845)	(219,482)			(27,424)	(27,424)				(225,269)	(246,906)	(246,906)			
	District		F4	(3) F4 to F5	F5	(1,523)	(1,690)			-	-			0	(788,090)	(1,523)	(1,690)	(789,780)		
	District		F5	(6)(c) & (8) F5 to F6	F6															
	District		F5	(9) repeal consecutive language.			(4,926)	(5,465)			-	-			0	0	(4,926)	(5,465)	(5,465)	
	District					0	0			-	-				0	0	0			
18-8-208.1	District	Attempt to Escape - F4 (in custody following conviction of a felony; shall run consecutively)	F4	(1) F4 to F5	F5									0	(383,272)	(653)	(724)	(383,996)		
						(653)	(724)			-	-									

Proposed Statutory Change						Fiscal Impacts (assuming effective date of 7/1/09)											
						Public Defender's Office		Judicial Department (Courts and Probation)		Alternate Defense Counsel		Department of Corrections			Totals		
Statute	Court Affected	Description	Current Case Class or Equivalent (based upon sentence)	Change Recommended by State Public Defender	Equivalent New Case Class	FY 09-10	FY 10-11	FY 09-10	FY 10-11	FY 09-10	FY 10-11	FY 09-10	FY 10-11	FY 11-12	FY 09-10	FY 10-11	FY 11-12 (use FY 10-11 for PD, ADC, and Courts/Prob)
	District	Attempt to Escape - F5 (while in custody for but not yet convicted of a felony)	F5	(2) change F5 to F6	F6	(739)	(820)			-	-	(164,569)	(1,247,259)		(739)	(165,389)	(1,248,079)
	District			(2) Repeal the following sentence: If the person is convicted of the felony or other crime for which he was originally in custody or confinement, the sentence imposed pursuant to this subsection (2) shall run consecutively with any sentences being served		(653)	(724)			-	-				(653)	(724)	(724)
	District	Attempt to Escape - F5 (in custody following conviction of a misdemeanor or petty offense) - 2 to 4 mos jail		(3) Repeal the following sentence: The sentence imposed pursuant to this subsection (3) shall run consecutively with any sentences being served by the offender.		(653)	(724)			-	-				(653)	(724)	(724)
	District	Attempt to Escape - F5 (while in custody for but not yet convicted of a misdemeanor or petty offense) - 2 to 4 mos jail		(4) Repeal the following sentence: If the person is convicted of the misdemeanor or petty offense for which he was originally in custody or confinement, the sentence imposed pursuant to this subsection (4) shall run consecutively with any sentences being		0	0			-	-				0	0	0
	District			and repeal sub-para (5), which makes attempt to escape sentence mandatory (unless sentenced to YOS).		0	0			-	-				0	0	0
18-8-212	County	Violation of Bail Bond conditions	F6	Repeal; revoke bond and put in jail	PO	(171,745)	(190,293)	Potential savings		(68,987)	(68,987)				(240,732)	(367,044)	(367,044)
	County			Or		0	0			-	-				0	0	0
	County	(3) requires imprisonment of at least 1 year for F6 violation and at least 6 mos for M3 violation	F6	Repeal section 3	F6	0	0			-	-				0	0	0
	County			and		0	0			-	-				0	0	0
	County		F6	M1, section 1	M1	0	0	Potential savings		(42,859)	(42,859)		(107,764)	(107,764)	(42,859)	(42,859)	(42,859)
Subtotal: Crimes Related to Government Operations						(482,860)	(535,291)			(153,355)	(153,355)	0	(284,080)	(2,538,132)	(636,215)	(972,726)	(3,226,778)
Habitual Offender Sentencing:																	
18-1.3-801	District	(1.5) Little Habitual: A person convicted of F1-F5 who, within last 10 years, has 2 prior convictions any felony type - 3X maximum presumptive sentence range for the class of felony of which he/she is convicted.	F1	A. Repeal B. Change to 2 prior crimes of violence + 3rd (as defined in 18-1.3-406)	F2	(960,446)	(1,071,008)			Unable to Determine				(960,446)	(1,071,008)	(1,071,008)	
	District	<i>Current Class adjusted to reflect equivalent Case Class based upon 3x max presumptive.</i>	F2		F3	(311,139)	(346,955)			-	-				(311,139)	(346,955)	(346,955)
	District		F3		F4	(76,004)	(84,753)			-	-				(76,004)	(84,753)	(84,753)
	District		F4		F5	(9,246)	(10,310)			-	-				(9,246)	(10,310)	(10,310)
	District		F5		F6	(16,352)	(18,234)			-	-				(16,352)	(18,234)	(18,234)
	District	(2) Big Habitual: A person convicted of F1-F6 who has 3 prior convictions if any felony type and 4th of any type - 4X maximum presumptive sentence range for the class of felony of which he/she is convicted.	F1	A. Repeal B. Change to 3 prior crimes of violence + 4th	F2	(19,803)	(22,083)			-	-				(19,803)	(22,083)	(22,083)
	District	<i>Current Class adjusted to reflect equivalent Case Class based upon 4x max presumptive.</i>	F2		F3	(42,428)	(47,312)			-	-				(42,428)	(47,312)	(47,312)
	District		F3		F4	(21,437)	(23,905)			-	-				(21,437)	(23,905)	(23,905)
	District		F4		F5	(4,351)	(4,852)			-	-				(4,351)	(4,852)	(4,852)
	District		F5		F6	(11,841)	(13,204)			-	-		(21,637)	(43,274)	(11,841)	(34,841)	(56,478)
Subtotal: Habitual Offender Sentencing						(1,473,046)	(1,642,616)			0	0	0	(21,637)	(43,274)	(1,473,046)	(1,664,253)	(1,685,890)
Other Crimes:																	

Proposed Statutory Change						Fiscal Impacts (assuming effective date of 7/1/09)												
Statute	Court Affected	Description	Current Case Class or Equivalent (based upon sentence)	Change Recommended by State Public Defender	Equivalent New Case Class	Public Defender's Office		Judicial Department (Courts and Probation)		Alternate Defense Counsel		Department of Corrections			Totals			
						FY 09-10	FY 10-11	FY 09-10	FY 10-11	FY 09-10	FY 10-11	FY 09-10	FY 10-11	FY 11-12	FY 09-10	FY 10-11	FY 11-12 (use FY 10-11 for PD, ADC, and Courts/Prob)	
18-3-204 (6 mos-24 mos)	County	Third Degree Assault M-1; defined as an extraordinary risk crime subject to modified sentencing range (maximum sentence is increased by 6 mos)	M1	Strike extraordinary risk, thus reducing maximum sentence to 18 mos	M1													
						0	0			-	-	0	0	0	0	0	0	0
18-6-801	County	Domestic Violence (underlying factual basis for crime)		No jail <u>first offense</u> . Treatment.		0	0					0	0	0	0	0	0	0
	County	Third Degree Assault (18-3-204)	M1		PO	(29,396)	(32,570)			(7,680)	(7,680)	0	0	(37,076)	(40,250)	(40,250)	(40,250)	(40,250)
	County	Harassment M-3 (not M-1)	M3		PO	(2,635)	(2,919)			(1,838)	(1,838)	0	0	(4,473)	(4,757)	(4,757)	(4,757)	(4,757)
18-7-302(1)	County	Indecent Exposure M-1 (1st or 2nd violation only; otherwise F6)	M1	Reduce to M-2	M2	(21,977)	(24,350)			(1,448)	(1,448)	0	0	(23,425)	(25,798)	(25,798)	(25,798)	(25,798)
18-9-106(d)	County	Disorderly conduct ((1)(d): a person fights with another in a public place except in an amateur or professional contest of athletic skill)	M3	petty offense	PO													
						(23,134)	(25,633)			(19,636)	(19,636)	0	0	(42,770)	(45,269)	(45,269)	(45,269)	(45,269)
42-2-138 (5 days-6 months in county jail)	County	Driving Under Suspension, Restraint – non-alcohol-related	M3	No jail <u>first offense</u>	PO	(100,890)	(111,786)			-	-	0	0	(100,890)	(111,786)	(111,786)	(111,786)	(111,786)
42-4-1301	County	DUI	M2	No jail <u>first offense</u>	PO	(47,409)	(52,529)			(505)	(505)	0	0	(47,914)	(53,034)	(53,034)	(53,034)	(53,034)
	County	DWAI	M3		PO	(273)	(303)			(1,608)	(1,608)	0	0	(1,881)	(1,911)	(1,911)	(1,911)	(1,911)
Subtotal: Other Crimes						(225,714)	(250,090)			(32,715)	(32,715)	0	0	0	(258,429)	(282,805)	(282,805)	(282,805)
Grand Totals						(4,485,742)	(4,982,173)			(961,426)	(961,426)	0	(3,802,823)	(8,334,855)	(5,447,168)	(9,746,422)	(14,278,454)	(14,278,454)

PROPOSED EFFICIENCIES IN DOMESTIC RELATIONS CASES

<p>Alternative 1: Eliminate state payment for all CFIs and CLRs. There is not a federal or constitutional right to attorneys in domestic proceedings, and the State of Colorado has generously provided this service to indigent parties. Many states do not provide this service, and Colorado could suspend this service temporarily or permanently in order to achieve savings.</p>	
<p>ADVANTAGES</p> <ul style="list-style-type: none"> • Potential savings of approximately \$600,000 per fiscal year. A small percentage of savings could be achieved this fiscal year if services were immediately suspended. • Presumption is that parents can act in best interests of children. Parents can reach decisions in best interests of children. When parents cannot reach decision, court can base decision on evidence presented at hearings. • CFIs/CLRs can still be appointed where necessary; parties to the case will bear costs. Even indigent parties are sometimes able to obtain funds to retain private counsel through the assistance of families and other supports. • Children's safety is generally not at stake. If an allegation of abuse arises, the Court can order the department of social services to investigate. • Private pay cases provide natural incentive to resolve disputes without excess reliance on a CFI. 	<p>POTENTIAL ISSUES</p> <ul style="list-style-type: none"> • When parties are truly indigent and without resources, they will not be able to pay for CFIs/CLRs, and this resource will not be available to the court or the parties. In such cases, the court will be dependent on the parties to the case to present information about the child's best interests. This makes the court's task more difficult and time-consuming, and the lack of an independent investigative arm may be particularly problematic in cases involving allegations of domestic violence, sexual abuse, substance abuse, etc. • This would result in the elimination of a service for poor families, who sometimes are the individuals most in need of the service.
<p>Alternative 1 (a): Statutorily limit the appointment of state-paid CFIs and CLRs to cases involving domestic violence.</p>	
<p>Same pros and cons of Alternative 1, but fewer cost savings and greater provision of services in category of cases in which courts may be in greater need of independent information.</p>	
<p>Alternative 2: Eliminate state payment for attorney CLRs and CFIs; increase the state rate for non-attorney CFIs. CFI services may be provided by attorneys and non-attorneys who have undergone requisite training. In contrast to private-pay cases, in which there is a relatively even balance between attorney and non-attorney appointments, attorney appointments are disproportionately used in state pay cases due to lack of non-attorneys available at current rate of pay (\$25/ hour). This alternative would increase the non-attorney rate to a rate higher than \$25 /hour but lower than the \$65/ hour attorney rate.</p>	
<p>ADVANTAGES</p> <ul style="list-style-type: none"> • Potential savings of approximately \$320,000, assuming rate of \$30/hour. Potential savings of approximately \$230,000 assuming rate of \$40/week. • Attorney skills are not requisite for CFI appointments. • A qualified group of professionals already provide CFI services on private-pay cases. Trainings and support networks are in place. More professionals would be available to provide state-paid services if compensated adequately. 	<p>POTENTIAL ISSUES</p> <ul style="list-style-type: none"> • Because some recruitment efforts will need to take place, judicial officers may lack this independent investigative arm as the pool of qualified professionals is being developed. This will result in a temporary increased workload for judicial officers making decisions in DR cases during this time period.
<p>Alternative 3: Pilot efficient and effective alternatives to CFIs/CLRs in select districts.</p>	
<p>ADVANTAGES</p> <ul style="list-style-type: none"> • Reduced costs. • Similar benefits to parties. • At least one district is currently interested in implementing an Early Neutral Evaluation pilot, which may also result in decreased litigation and overall use of judicial resources. 	<p>POTENTIAL ISSUES</p> <ul style="list-style-type: none"> • Change in legal culture. • Pilots may not completely eliminate courts' desire to use state-paid CFI/CLR in all cases
<p>Alternative 4: Promote more efficient use of CFIs and CLRs through greater monitoring of appointments and indigency findings. The DCR currently lacks direct access to appointment information, and it is dependent on receipt of attorney bills to identify that an appointment has been made.</p>	
<p>ADVANTAGES</p> <ul style="list-style-type: none"> • If OCR has immediate access to filing and appointment information, problem appointments can be addressed before costs are incurred. • More thorough indigency analysis and more accurate indigency findings ensure appropriate use of taxpayer dollars. 	<p>POTENTIAL ISSUES</p> <p>NONE.</p>

PROPOSED EFFICIENCIES IN TRUANCY CASES

Alternative 1: Statutorily limit the appointment of GALs in truancy proceedings to “exceptional and extraordinary circumstances.” Currently, the appointment statute does not set forth any criteria to guide a judicial officer’s discretion in appointing GALs in truancy proceedings. The OCR has surveyed judicial officers who preside over truancy proceedings, and it has found that while most judicial officers appoint GALs in extremely limited circumstances, with the best intentions, a few judicial officers make more routine use of GALs.

<p>ADVANTAGES</p> <ul style="list-style-type: none"> • Potential savings of \$97,000 , assuming 75% reduction in appointments in two metro districts and 50% reduction in appointments in three mid-sized districts. • Greater uniformity of GAL services in truancy cases. • Preservation of service for cases in which GAL is the only option for a child/youth. • Children and youth facing contempt charges in truancy cases are appointed counsel; these attorneys are paid by the State in indigency cases. • If judicial officers have concerns about the safety or well-being of a child, they can order the department of social services to investigate. Under the Children’s Code, educational neglect is the basis for filing a dependency and neglect petition. 	<p>POTENTIAL ISSUES</p> <ul style="list-style-type: none"> • The term “exceptional and extraordinary” circumstances may require further explanation to some judicial officers, which can be achieved through chief justice directive and training. • Educational success is the foundation of future success for children, and GALs do provide helpful educational advocacy to children and families in the cases in which they are appointed, particularly in cases in which children are in need of or receiving special education services.
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Alternative 2: Pilot the use of non-attorney Community Educational Advocates, such as those used in Pueblo, to provide advocacy and support services for children and youth involved in truancy proceedings; fund such pilots with Exceptional and At-Risk Student Services (EARSS) funds.

<p>ADVANTAGES</p> <ul style="list-style-type: none"> • Reduced costs. • Similar benefits to parties as a GAL. • Success with such professionals has been documented in the Pueblo truancy program. 	<p>POTENTIAL ISSUES</p> <ul style="list-style-type: none"> • Since EARSS funding is allocated to school districts, community educational advocates may not have the same independence as GALs to challenge school districts on special educational issues or other matters in which the best interests of the child may be in conflict with the school. • Since EARSS funding is time-limited, it is unclear how long-term funding for such programs can be sustained.
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Alternative 3: Pilot the use of non-attorney GALs in the districts that currently spend greater funds on GAL appointments in truancy cases.

<p>ADVANTAGES</p> <ul style="list-style-type: none"> • Potential savings of approximately \$53,000 per fiscal year, assuming the same reductions discussed in Alternative 1 and assuming a rate of \$40 /hour. Potential savings of \$74,000 at a rate of \$30/hour. • Attorney skills are not requisite for the type of investigation and advocacy that is done by GALs in truancy proceedings. • Children and youth facing contempt charges in truancy cases are appointed counsel; these attorneys are paid by the State if the family is indigent. 	<p>POTENTIAL ISSUES</p> <ul style="list-style-type: none"> • Unlike CFIs, a ready pool of non-attorney professionals and professional support does not currently exist for the GAL role in truancy proceedings. Hence, it may take time and training to develop this resource. • Legal skills appear to be particularly helpful in cases involving special education issues; non-attorneys would need to be trained in educational advocacy skills in order to continue to provide effective advocacy. • Better cost savings could be achieved through the use of community educational advocates funded through the use of EARSS dollars.
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Recommendation: The OCR recommends pursuing both Alternative 1 and Alternative 2. From surveying judicial officers who handle truancy proceedings, it appears that there are exceptional cases in which a GAL is the only option for a child who is the subject of truancy proceedings. The smaller judicial districts may not have a sufficient number of filings to support a court-based EARSS-funded pilot. Hence, it would be beneficial to preserve GAL service for those rare instances in which a GAL is the only option. However, the use of GALs could be reduced without jeopardizing the well-being of children if an alternative were to be put in place. Modification to the EARSS statutes allowing for up to a specific percentage of EARSS funding to be allocated to nonprofit advocacy organizations (versus the school districts) may eliminate the potential conflicts discussed under Alternative 2. Further planning will be required to ensure the long-term success and funding of such pilots.

PROPOSED EFFICIENCIES IN DELINQUENCY CASES

Alternative 1: Statutorily clarify that GAL appointment ends at conclusion of sentencing (and that GAL may be reappointed in probation revocation proceedings).	
<p><u>ADVANTAGES</u></p> <ul style="list-style-type: none"> • <i>Cost savings.</i> • <i>Greater uniformity of GAL services in delinquency cases.</i> • <i>Other professionals, such as probation officers and case managers, are available to provide treatment and supervision of youth after sentencing.</i> • <i>When a youth is sentenced to NYC, the court's jurisdiction terminates, and there is no longer a role for GAL to provide investigation for the court.</i> 	<p><u>POTENTIAL ISSUES</u></p> <ul style="list-style-type: none"> • <i>When youth are sentenced to out-of-home placement as a condition of probation, the department of social services provides the placement and the court retains jurisdiction over the case by monitoring the placement through six-month reviews. These cases often resemble D&N cases, and a statutory exception preserving the GAL appointment in this limited category of cases may be appropriate.</i>
Alternative 2: Statutorily clarify that GAL appointment ends when a juvenile turns 18.	
<p><u>ADVANTAGES</u></p> <ul style="list-style-type: none"> • <i>Limited cost savings.</i> • <i>Because the role of the GAL is limited and generally premised on the assumption that a parent is unable or limited in his/her ability to look out for the best interests of the juvenile, the rationale for a GAL appointment generally ends when a juvenile reaches the age of majority.</i> 	<p><u>POTENTIAL ISSUES</u></p> <ul style="list-style-type: none"> • <i>Because of GALs' expertise and experience, courts and juveniles may continue to benefit from a GAL's recommendation even after the juvenile turns 18.</i>