

The following file contains three documents:

- A memorandum to the Joint Budget Committee members dated March 18, 2013. This memorandum provides information about those line items within the Administration and Technology subsection of the Judicial Department's FY 2013-14 budget request. The Committee tabled action on this subsection on March 5, 2013.
- A memorandum to the Joint Budget Committee members dated March 8, 2013, concerning a clarification of Committee action on the Office of the State Public Defender's decision item concerning attorney pay parity (OSPD R-1).
- A "figure setting" packet dated March 5, 2013, including staff recommendations related to Judicial Branch budget requests for FY 2013-14.

# MEMORANDUM

**TO:** Chairman Steadman and Joint Budget Committee Members

**FROM:** Carolyn Kampman, Chief Legislative Analyst (303-866-4959)

**SUBJECT:** Staff "Comebacks" for Judicial, Administration and Technology Subsection

**DATE:** March 18, 2013

On March 5, 2013, the Committee took action on most of the Judicial Branch budget. However, the Committee tabled Subsection (2)(A) of the budget, which provides funding and staff associated with central administration of the State's Judicial system, including information technology systems. Staff has included below a summary of the staff recommendations for this subsection with brief explanations of each incremental change. For more details related to this subsection of the Long Bill, see pages 18 through 32 of the document titled, "FY 2013-14 Staff Figure Setting: Judicial Branch", dated March 5, 2013. This document is accessible online at:

[http://www.tornado.state.co.us/gov\\_dir/leg\\_dir/jbc/2012-13/judfig.pdf](http://www.tornado.state.co.us/gov_dir/leg_dir/jbc/2012-13/judfig.pdf)

<b>Staff Recommendations: Courts Administration, Administration and Technology Subsection</b>						
	<b>Total Funds</b>	<b>General Fund</b>	<b>Cash Funds</b>	<b>Reapprop. Funds</b>	<b>Federal Funds</b>	<b>FTE</b>
<b>FY 2012-13 Appropriation:</b>						
HB 12-1335 (Long Bill)	24,012,559	11,841,496	10,048,453	2,122,610	0	195.4
Other legislation	91,078		0	91,078	0	1.0
Mid-year appropriation changes	1,374,339		1,374,339	0	0	0.0
<b>TOTAL</b>	<b>\$25,477,976</b>	<b>\$11,841,496</b>	<b>\$11,422,792</b>	<b>\$2,213,688</b>	<b>\$0</b>	<b>196.4</b>
<b>FY 2013-14 Recommended Appropriation:</b>						
FY 2012-13 Appropriation	\$25,477,976	\$11,841,496	\$11,422,792	\$2,213,688	\$0	196.4
JUD R-3: Legal FTE	150,109	150,109	0	0	0	1.6
JUD R-5: Court appointed professionals coordinator	73,992	73,992	0	0	0	1.0
JUD R-7: Implementation of evidence-based practices	241,127	241,127	0	0	0	3.0
Employee benefits/common changes	(1,393,312)	220,785	(1,404,592)	(217,359)	7,854	0.0
Annualize prior year budget actions	(974,475)	0	(974,475)	0	0	4.0
BA-1: ICCES E-File Project	1,569,264		1,569,264	0	0	0.0
<b>TOTAL</b>	<b>\$25,144,681</b>	<b>\$12,527,509</b>	<b>\$10,612,989</b>	<b>\$1,996,329</b>	<b>\$7,854</b>	<b>206.0</b>
<b>Increase/(Decrease)</b>	<b>(\$333,295)</b>	<b>\$686,013</b>	<b>(\$809,803)</b>	<b>(\$217,359)</b>	<b>\$7,854</b>	<b>9.6</b>
Percentage Change	(1.3%)	5.8%	(7.1%)	(9.8%)	0.0%	4.9%
<b>FY 2013-14 Executive Request:</b>	<b>\$25,876,957</b>	<b>\$12,570,038</b>	<b>\$11,302,736</b>	<b>\$1,996,329</b>	<b>\$7,854</b>	<b>206.0</b>
Request Above/(Below) Recommendation	\$732,276	\$42,529	\$689,747	\$0	\$0	0.0

**JUD R-3: Legal FTE:** The recommendation includes a total of \$151,339 General Fund and 1.6 FTE (including \$150,109 and 1.6 FTE for this subsection) to expand the legal staff within the State Court Administrator's Office from 4.9 FTE to 6.5 FTE to address increased demands for

legal services related to contracts, grants, forms, and policies. *Overall, staff's recommendation is \$30,363 lower than the request for technical reasons, including a difference of \$14,228 related to this subsection.*

**JUD R-5: Court appointed professionals coordinator:** The recommendation includes a total of \$78,695 General Fund and 1.0 FTE (including \$73,992 and 1.0 FTE for this subsection) to add a staff position dedicated to administering the Respondent Parents' Counsel Program and to improve the quality of advocacy for respondent parents in dependency and neglect cases. *Overall, staff's recommendation is \$12,761 lower than the request for technical reasons, including a difference of \$6,640 related to this subsection.*

**JUD R-7: Implementation of evidence-based practices:** The recommendation includes a total of \$255,236 General Fund and 3.0 FTE (including \$241,127 and 3.0 FTE for this subsection) for the Division of Probation Services to support the implementation of several evidence-based/promising programs and practices. *Overall, staff's recommendation is \$36,212 lower than the request for technical reasons, including a difference of \$21,662 related to this subsection.*

**Employee Benefits/Common Changes:** The recommendation includes a reduction of \$1,393,312, comprised of the following changes:

- A reduction of \$1,393,312 (including a reduction of \$1,404,592 cash funds, an increase of \$3,426 reappropriated funds, and an increase of \$7,854 federal funds) due to a Long Bill format change. Rather than reflecting all indirect cost assessments in this subsection, the FY 2013-14 Long Bill will reflect indirect cost assessments in each section of the Long Bill that includes sources of funds from which assessments are collected.
- An increase of \$220,785 General Fund, offset by a reduction of \$220,785 reappropriated funds, to reflect an anticipated decrease in indirect cost recoveries available to offset General Fund appropriations in this subsection.

*Staff's recommendations are consistent with the request.* Staff requests permission to adjust these amounts as necessary once the Committee has finalized all common policies. Staff will utilize the indirect cost assessment methodology that was described in detail in Appendix D of the FY 2013-14 Staff Budget Briefing, dated December 3, 2012.

**Annualize Prior Year Budget Actions:** The recommendation includes a reduction of \$974,475 cash funds and an increase of 4.0 FTE, comprised of the following changes:

- An increase of \$339,785 cash funds and 4.0 FTE consistent with a decision item that was approved in FY 2010-11 (JUD R-1) to allow the Department to develop and implement public access and e-filing systems. Fiscal year 2013-14 is the first full year of implementation for the new e-filing system. This funding allows the Department to fully staff its Support Center for system users. The Support Center is staffed from 7:00 am to 12:00 am, Monday through Friday (including state holidays), and from 8:00 am to 5:00 pm on Saturday and Sunday (support staff are available on call after 5:00 pm).

- A reduction of \$454,260 cash funds consistent with a decision item that was approved in FY 2010-11 (JUD R-1) to allow the Department to develop and implement public access and e-filing systems. This funding was used for the purchase of hardware, software, and other one-time expenses required for system development and implementation.
- A reduction of \$860,000 cash funds consistent with a decision item that was approved in FY 2012-13 (JUD R-5) to allow the Department to purchase IT hardware necessary to maintain the reliability and efficiency of its IT infrastructure (*i.e.*, replacing four servers and three data storage controller units).

*Staff's recommendations are consistent with the request.*

**JUD BA-1: ICCES E-File Project:** The Committee recently approved a mid-year increase of \$1,374,339 cash funds from the Judicial Department Information Technology Cash Fund to pay for credit card processing and mailing expenses related to the new in-house e-filing system (called the Integrated Colorado Courts E-filing System or ICCES). This request was accompanied by a budget amendment for FY 2013-14 to provide a full year of funding (\$3,633,350 cash funds) for this purpose. Staff recommends appropriating \$2,943,603 for this purpose for FY 2013-14 based on updated information that the Department provided prior to staff presenting the supplemental request. The recommendation for FY 2013-14 represents an increase of \$1,569,264 compared to FY 2012-13. *Staff's recommendation is \$689,747 lower than the request.*

# MEMORANDUM

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**TO:** Chairman Steadman and Joint Budget Committee Members

**FROM:** Carolyn Kampman, Chief Legislative Analyst (303-866-4959)

**SUBJECT:** Staff "Comebacks" for Judicial, Office of the State Public Defender

**DATE:** March 8, 2013

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On March 5, 2013, the Committee took action on most of the Judicial Branch budget. With respect to the Office of the State Public Defender, the Committee approved staff's recommendations with one exception: the Committee approved the request for OSPD R-1 (Attorney Pay Parity). This decision item affects four line items. **In order to implement the Committee's action, staff requires further clarification on two issues:**

- **Does the Committee intend to provide 11 or 12 months of funding for salary increases?** Due to the paydate shift, salary increases that become effective July 1, 2013, will only be paid out for 11 months in FY 2013-14. The OSPD's request includes funding for a full 12 months.
- **Does the Committee intend to provide the extra 0.5 percent base salary increase for OSPD attorneys?** The OSPD request includes an increase of \$5,777,182 for attorney salaries (R-1), plus funds to provide an additional 1.5 percent base salary increase and an additional 1.6 percent merit-based salary increase for all OSPD employees (including attorneys). Staff's recommendation for the Salary Survey line item (which was approved by the Committee) included the additional 0.5 percent base salary increase for all OSPD staff, but staff's recommendation for R-1 was reduced to exclude this extra amount for attorneys (this recommendation was not approved by the Committee).

Based on clarification provided by Representative Duran (who made the motion for this division), staff has prepared the table on the following page to detail the implementation of the Committee's actions. Based on providing 11 (rather than 12) months of funding for salary increases, the Committee's action is \$483,258 lower than the amount requested through OSPD R-1. In addition, the Committee's action excludes \$152,093 that was included in staff's recommendations to provide an extra 0.5 percent base salary increase for attorneys. Staff has applied Committee policy to calculate the associated amounts required for Short-term Disability and supplemental PERA contributions.

For more details related to this decision item, see pages 90 through 97 of the document titled, "FY 2013-14 Staff Figure Setting: Judicial Branch", dated March 5, 2013. This document is accessible online at:

[http://www.tornado.state.co.us/gov\\_dir/leg\\_dir/jbc/2012-13/judfig.pdf](http://www.tornado.state.co.us/gov_dir/leg_dir/jbc/2012-13/judfig.pdf)

Summary of JBC Action for OSPD Salary Increases for FY 2013-14								
Description	Salary Increase	PERA	Medicare	Subtotal	Short-term Disability	AED	SAED	Total
<b>Attorneys</b>								
Align Average Salaries for Each Classification With Market	\$4,711,599	\$478,227	\$68,318	\$5,258,144	\$8,952	\$168,761	\$152,056	\$5,587,914
1.5% and 1.6% Increases on Above Amount	157,907	16,028	2,290	176,224	300	5,656	5,096	187,276
Reduce Sum by 1/12 (Paydate Shift)	(405,792)	(41,188)	(5,884)	(452,864)	(771)	(14,535)	(13,096)	(481,266)
Less: Increases Per JBC Common Policy	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
<i>Subtotal: OSPD R-1 (Attorney Pay Parity)</i>	<i>4,463,714</i>	<i>453,067</i>	<i>64,724</i>	<i>4,981,505</i>	<i>8,481</i>	<i>159,882</i>	<i>144,056</i>	<i>5,293,924</i>
1.5% Increase on Base Salaries - Salary Survey (11 months)	384,716	39,049	5,578	429,343	731	13,780	12,416	456,269
Additional 0.5% Increase on Base Salaries - Salary Survey (11 months)	0	0	0	0	0	0	0	0
1.6% Increase on Base Salaries - Merit Pay (11 months)	<u>416,884</u>	<u>42,314</u>	<u>6,045</u>	<u>465,243</u>	<u>792</u>	<u>14,932</u>	<u>13,454</u>	<u>494,421</u>
<i>Subtotal: JBC Common Policy</i>	<i>801,600</i>	<i>81,362</i>	<i>11,623</i>	<i>894,586</i>	<i>1,523</i>	<i>28,712</i>	<i>25,870</i>	<i>950,691</i>
<b>Subtotal: Attorneys</b>	<b>5,265,314</b>	<b>534,429</b>	<b>76,347</b>	<b>5,876,091</b>	<b>10,004</b>	<b>188,594</b>	<b>169,926</b>	<b>6,244,615</b>
<b>Staff Other Than Attorneys</b>								
1.5% Increase on Base Salaries - Salary Survey (11 months)	154,105	15,642	2,235	171,982	293	5,520	4,973	182,768
Additional 0.5% Increase on Base Salaries - Salary Survey (11 months)	51,369	5,214	745	57,328	98	1,840	1,658	60,924
1.6% Increase on Base Salaries - Merit Pay	<u>166,999</u>	<u>16,950</u>	<u>2,421</u>	<u>186,371</u>	<u>317</u>	<u>5,982</u>	<u>5,390</u>	<u>198,060</u>
<b>Total: Non-Attorneys (JBC Common Policy)</b>	<b>372,474</b>	<b>37,806</b>	<b>5,401</b>	<b>415,681</b>	<b>708</b>	<b>13,341</b>	<b>12,021</b>	<b>441,751</b>
<b>Total Recommendation for Salary Increases</b>	<b>5,637,788</b>	<b>572,235</b>	<b>81,748</b>	<b>6,291,772</b>	<b>10,712</b>	<b>201,935</b>	<b>181,947</b>	<b>6,686,365</b>

**COLORADO GENERAL ASSEMBLY  
JOINT BUDGET COMMITTEE**



**FY 2013-14 STAFF FIGURE SETTING  
JUDICIAL BRANCH**

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

**Prepared By:  
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March 5, 2013**

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*JBC Staff Figure Setting: FY 2013-14*  
*Staff Working Document – Does Not Represent Committee Decision*

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## JUDICIAL BRANCH

### Branch Overview

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The Judicial Branch is comprised of five 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 five agencies, and is comprised of the Supreme Court, Court of Appeals, the Office of the State Court Administrator, attorney regulation, victims programs, collections programs, trial courts, and probation. The *Office of the State Public Defender* and the *Office of Alternate Defense Counsel* provide legal representation for indigent criminal defendants. Such cases are first assigned to the Office of the State Public Defender, 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. Finally, the *Independent Ethics Commission* gives advice and guidance on ethics-related matters concerning public officers, members of the General Assembly, local government officials, or government employees.

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### BRANCH REQUEST AND RECOMMENDATION SUMMARY

#### Branch Request

The Judicial Branch request reflects an increase of \$35.0 million total funds (6.9 percent) compared to the adjusted FY 2012-13 appropriation, including a \$23.3 million (6.6 percent) increase in General Fund appropriations. The requested increase is primarily related to increases in employee salaries and the state contribution for employee benefits; these items account for 62 percent of the overall requested increase and 82 percent of the requested increase in General Fund appropriations. The request also includes:

- \$3.8 million cash funds for furnishings and infrastructure for courthouse and probation facilities in multiple judicial districts; and
- \$1.8 million General Fund for substance abuse treatment for offenders (along with a matching amount of spending authority from reappropriated funds) as required by H.B. 13-1310.

Finally, the request includes a \$3.4 million increase in appropriations due to the relocation of various justice-related agencies to the Ralph L. Carr Colorado Judicial Center. This amount includes an increase of \$5.1 million reappropriated funds to allow the Judicial Department to spend lease payments from the Department of Law and Judicial Branch agencies to cover the operational costs of the Carr Center, and an increase of \$0.4 million General Fund to cover the increased leased space expenses of Judicial Branch agencies. These increases are offset by a decrease of \$2.1 million in cash funds appropriations from the Justice Center Cash Fund.

## **Committees of Reference SMART Act Recommendations**

The House Judiciary Committee did not send a letter to the Joint Budget Committee concerning the Judicial Branch's FY 2013-14 budget request.

Senate Judiciary Committee

Received January 24, 2013

Recommendations

The Senate Judiciary Committee recommended that the Joint Budget Committee approve the Office of the State Public Defender's \$5.8 million request for attorney pay parity (OSPD R-1 in the FY 2012-13 budget request).

## **Staff Recommendation**

Overall, the staff recommendation is \$2.6 million lower than the request (including \$1.2 million General Fund). Major differences between the recommendation and the request include the following:

- Staff's recommendation for the Office of the State Public Defender's decision item R-1 (Attorney Pay Parity) is \$1,595,386 less than the request due to differences in methodology and application of the Committee's common policies;
- Staff's recommendations for various court- and probation-related decision items and budget amendments is \$873,276 less than the request (including \$113,301 General Fund), with one recommendation exceeding the request (JUD R-6: Problem-solving Court Coordinators), one matching the request (JUD R-2: Procedural Fairness and Leadership Education); and the remainder falling short of the request;
- Staff recommends reducing cash funds appropriations for the Courthouse Security grant program and the Senior Judge Program by \$650,844 and \$100,000, respectively;
- Staff recommends an increase of \$334,489 General Fund to cover a projected increase in the Office of the Alternate Defense Counsel's contract counsel expenses; and
- Based on the application of the Committee's policies, staff recommends \$226,434 more than the request (including \$158,562 General Fund) for employee salary and benefits.

The staff recommendation is summarized in the table below, followed by brief description of each incremental change (comparing the FY 2012-13 appropriation to the FY 2013-14 recommendation).

*JBC Staff Figure Setting: FY 2013-14*  
*Staff Working Document – Does Not Represent Committee Decision*

<b>Judicial Department: Summary of Staff Recommendations</b>						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
<b>FY 2012-13 Appropriation:</b>						
HB 12-1335 (Long Bill)	502,529,529	352,071,327	129,120,172	16,913,030	4,425,000	4,266.6
Other legislation	5,923,624	16,115	3,707,509	2,200,000	0	1.0
Mid-year appropriation changes	2,923,660	1,324,346	1,393,322	205,992	0	2.0
<b>TOTAL</b>	<b>\$511,376,813</b>	<b>\$353,411,788</b>	<b>\$134,221,003</b>	<b>\$19,319,022</b>	<b>\$4,425,000</b>	<b>4,269.6</b>
<b>FY 2013-14 Recommended Appropriation:</b>						
FY 2012-13 Appropriation	\$511,376,813	\$353,411,788	\$134,221,003	\$19,319,022	\$4,425,000	4,269.6
JUD R-2: Procedural fairness and leadership education	517,500	0	517,500	0	0	0.0
JUD R-3: Legal FTE	151,339	151,339	0	0	0	1.6
JUD R-4: Self-represented litigant coordinators	335,442	0	335,442	0	0	5.0
JUD R-5: Court appointed professionals coordinator	78,695	78,695	0	0	0	1.0
JUD R-6: Problem-solving court coordinators	750,951	0	750,951	0	0	8.8
JUD R-7: Implementation of evidence-based practices	255,236	255,236	0	0	0	3.0
JUD R-8: Courthouse capital and infrastructure maintenance	3,848,500	0	3,848,500	0	0	0.0
OSPD R-1: Attorney pay parity	4,119,866	4,119,866	0	0	0	0.0
OSPD R-2: Operating shortfalls	600,613	600,613	0	0	0	0.0
OADC R-1: Legal resource and technology coordinator	0	0	0	0	0	0.9
Employee benefits/common changes	16,158,919	13,987,146	2,381,278	(217,359)	7,854	0.0
Annualize prior year legislation	3,842,391	1,874,841	123,750	1,843,800	0	0.0
Relocation to Carr Center	3,418,919	438,771	(2,009,533)	4,989,681	0	0.0
DA Mandated costs	122,387	102,387	20,000	0	0	0.0
Annualize prior year budget actions	(2,688,806)	163,315	(2,852,121)	0	0	6.2
Other adjustments	(651,890)	(1,890)	(650,000)	0	0	0.0
JUD BA-1: ICCES E-File project	1,569,264	0	1,569,264	0	0	0.0
JUD BA-3: Law library staff	417	0	0	417	0	0.0
JUD BA-4: Law library operations	(143,288)	0	0	(143,288)	0	0.0
Staff-initiated increase for OADC contracts	334,489	334,489	0	0	0	0.0
Staff-initiated decrease for Senior Judge Program	(100,000)	0	(100,000)	0	0	0.0
<b>TOTAL</b>	<b>\$543,897,757</b>	<b>\$375,516,596</b>	<b>\$138,156,034</b>	<b>\$25,792,273</b>	<b>\$4,432,854</b>	<b>4,296.1</b>
<b>Increase/(Decrease)</b>	<b>\$32,520,944</b>	<b>\$22,104,808</b>	<b>\$3,935,031</b>	<b>\$6,473,251</b>	<b>\$7,854</b>	<b>26.5</b>
<b>Percentage Change</b>	<b>6.4%</b>	<b>6.3%</b>	<b>2.9%</b>	<b>33.5%</b>	<b>0.2%</b>	<b>0.6%</b>
<b>FY 2013-14 Executive Request:</b>	<b>\$546,459,415</b>	<b>\$376,699,070</b>	<b>\$139,406,991</b>	<b>\$25,920,500</b>	<b>\$4,432,854</b>	<b>4,297.3</b>
Request Above/(Below) Recommendation	\$2,561,658	\$1,182,474	\$1,250,957	\$128,227	\$0	1.2

**Description of Recommended Incremental Changes**

**JUD R-2: Procedural fairness and leadership education:** The recommendation includes \$517,500 cash funds from the Judicial Stabilization Cash Fund to provide training and technical assistance on procedural fairness to judges, district administrators, chief probation officers, and senior staff in the Office of the State Court Administrator.

**JUD R-3: Legal FTE:** The recommendation includes \$151,339 General Fund to expand the legal staff within the State Court Administrator's Office from 4.9 FTE to 6.5 FTE to address increased demands for legal services related to contracts, grants, forms, and policies.

**JUD R-4: Self-represented litigant coordinators:** The recommendation includes \$335,442 cash funds from the Judicial Stabilization Cash Fund to expand a statewide network of services to assist self-represented parties in court cases. The requested funding would expand the staff in judicial districts that coordinate and provide these services from 12.0 FTE to 17.0 FTE.

**JUD R-5: Court appointed professionals coordinator:** The recommendation includes \$78,695 General Fund to add a staff position dedicated to administering the Respondent Parents' Counsel Program and to improve the quality of advocacy for respondent parents in dependency and neglect cases.

**JUD R-6: Problem-solving court coordinators:** The recommendation includes \$750,951 cash funds from the Judicial Stabilization Cash Fund to add a total of 8.8 FTE Problem-solving Court Coordinators, including: (1) 6.8 FTE for existing family dependency treatment courts; and (2) 2.0 FTE for veterans treatment courts that do not have permanent funding for a coordinator.

**JUD R-7: Implementation of evidence-based practices:** The recommendation includes \$255,236 General Fund and 3.0 FTE for the Division of Probation Services to support the implementation of several evidence-based/promising programs and practices.

**JUD R-8: Courthouse capital and infrastructure maintenance:** The recommendation includes \$3,848,500 cash funds from the Judicial Stabilization Cash Fund to address required infrastructure and courthouse furnishing needs.

**OSPD R-1: Attorney pay parity:** The recommendation includes \$4,119,866 General Fund to increase Office of the State Public Defender (OSPD) attorney salaries to a competitive level with Colorado public sector attorney compensation practices.

**OSPD R-2: Operating shortfalls:** The recommendation includes \$600,613 General Fund to address ongoing funding shortfalls for OSPD information technology asset maintenance and mandated costs.

**OADC R-1: Legal resource and technology coordinator:** The recommendation includes \$101,321 General Fund to add a full-time Legal Resource and Technology Coordinator to maintain and administer the Office of the Alternate Defense Counsel's (OADC's) centralized system of legal resources and technology for contractors. The funding for this position is fully offset by additional savings achieved in the "Conflict of Interest Contracts" line item.

**Employee benefits/common changes:** The recommendation includes an increase of \$16,162,159 total funds, including \$13,990,386 General Fund, for employee benefits and other statewide common policy adjustments.

**Annualize prior year legislation:** The recommendation includes an increase of \$3,842,391 total funds to reflect the FY 2013-14 impact of legislation that was passed in previous legislative sessions, including the following acts:

- H.B. 12-1310 (Criminal proceedings omnibus changes): increase of \$3,781,350 total funds, including \$1,843,800 General Fund
- S.B. 08-054 (Judicial performance evaluations): increase of \$30,000 cash funds
- H.B. 07-1054 (Increase number of court judges): increase of \$31,041 General Fund

**Relocation to Carr Center:** The recommendation includes an increase of \$3,418,919 total funds (including \$438,771 General Fund) related to the relocation of various Judicial Branch agencies and the Department of Law to the new Ralph L. Carr Colorado Judicial Center. Overall, this request includes the following components:

- An increase of \$2,980,148 to reflect the first full year of Carr Center operations, including a \$1,025,000 increase in the amount appropriated for future controlled maintenance expenses; and
- An increase of \$438,771 General Fund to cover the increase in Judicial Branch agencies' leased space and security expenses.

The total recommended appropriations for Carr Center operations for FY 2013-14 (\$7,312,220) reflect a change in fund sources. For FY 2012-13, the Justice Center Cash Fund is supporting the full operational costs of the Carr Center (totaling \$4,160,592). Beginning in FY 2013-14, tenant's lease payments will cover each tenant's relative share of operational expenses. The amount recommended from reappropriated funds (\$4,989,681) includes \$2,926,487 that will be transferred from the Department of Law to cover its share of leased space expenses, and \$2,063,194 that will be transferred from the Judicial Branch's leased space appropriation for its share of such expenses. The recommended cash funds appropriation for FY 2013-14 (\$2,322,539) reflects the share of facility expenses attributed to the courthouse side of the Carr Center.

**DA Mandated costs:** The recommendation includes an increase of \$122,387 total funds (including \$102,387 General Fund) to reimburse district attorneys for costs incurred for prosecution of state matters.

**Annualize prior year budget actions:** The recommendation includes a decrease of \$2,688,806 total funds and an increase of 6.2 FTE to reflect the FY 2013-14 impact of the following eight prior year budget decisions:

FY 2012-13 budget actions

- JUD R-2: Protective Proceedings (decrease of \$130,593 cash funds)
- JUD R-3: Pro Se Case Managers (decrease of \$56,436 cash funds)
- JUD R-4: Supervision of Sex Offenders on Probation (decrease of \$89,357 cash funds)
- JUD R-5: Hardware Improvements for E-File (decrease of \$860,000 cash funds)
- JUD R-6: Judicial Education and Training (decrease of \$125,000 cash funds)

- JUD R-8: Courthouse Furnishings (decrease of \$1,378,000 cash funds)
- OSPD R-3: Refinance for Denver Sobriety Court (increase of \$65,055 total funds and 2.2 FTE)

FY 2010-11 budget action

- JUD R-1: Implement Public Access System and Develop E-Filing System (decrease of \$114,475 cash funds and increase of 4.0 FTE)

**Other adjustments:** The recommendation includes two other adjustments resulting in a decrease of \$651,890 total funds, including: a decrease of \$650,000 cash funds for the Courthouse Security grant program (which is administered by the State Court Administrator's Office); and a decrease of \$1,890 General Fund for the OSPD's expenses related to attorney registration fees.

**JUD BA-1: ICCES E-File p**

**roject:** The recommendation includes an increase of \$1,569,264 cash funds to provide a full year of funding for credit card processing and mailing expenses related to the new in-house e-filing system (called Integrated Colorado Courts E-filing System or ICCES).

**JUD BA-3: Law library staff:** The recommendation reflects a \$417 increase in the amount transferred from the Department of Law to support staff at the Supreme Court Law Library, now located in the Ralph L. Carr Colorado Judicial Center.

**JUD BA-4: Law library operations:** The recommendation reflects the elimination of a one-time appropriation of \$143,288 reappropriated funds to allow the Supreme Court Law Library to receive funds from the Department of Law and the Legislature.

**Staff-initiated increase for OADC contracts:** The recommendation includes an increase of \$334,489 General Fund to cover a projected increase in the Office of the Alternate Defense Counsel's contract counsel expenses.

**Staff-initiated decrease for Senior Judge Program:** The recommendation decreases the cash funds appropriation for the Senior Judge Program by \$100,000.

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## **GENERAL NOTES ABOUT THIS PACKET**

### **Judicial Stabilization Cash Fund**

Several of the decision items submitted by the Judicial Branch for FY 2013-14 request appropriations from the Judicial Stabilization Cash Fund (the Fund). This section provides background information about the establishment of the Fund, recent action by the Chief Justice to reduce the fees that are credited to the Fund, and the projected fund balance should the Committee approve staff's recommendations in this packet.



The Fund was created through a JBC-sponsored bill during the last economic downturn (S.B. 03-186). Pursuant to Section 13-32-101 (6), C.R.S., moneys in the Fund are subject to annual appropriation by the General Assembly "for the expenses of trial courts in the judicial department". Senate Bill 03-186:

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

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

Since its creation in 2003, the Fund has been used to: (1) partially offset the impact of reductions in General Fund support for the trial courts during the last two economic downturns; (2) pay for the costs of new judgeships authorized by H.B. 07-1054; and (3) pay for various trial court-related initiatives (*e.g.*, improving court oversight of protective proceeding cases). Due primarily to the delayed implementation of H.B. 07-1054 and the elimination of funding for employee salary increases from FY 2008-09 through FY 2011-12, the Fund balance increased to a level that significantly exceeded the statutory limitation on cash fund reserves. In response, Chief Justice Bender issued a directive [C.J.D. 12-02] to temporarily reduce filing fees in certain civil actions in January 2012.<sup>1</sup>

The following table details actual Fund revenues and expenditures for the past two fiscal years, as well as estimates and projections through FY 2014-15. The Department provided projections of revenues and expenditures, and staff has modified the expenditure projections based on the recommendations included in this packet. These projections assume: (1) Restoration of filing fees to statutorily authorized levels in January 2014; (2) approval of staff's recommendations in this packet for FY 2013-14; and (3) the enactment of H.B. 13-1035.<sup>2</sup>

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<sup>1</sup> Section 13-32-105.5, C.R.S., authorizes the Chief Justice of the Supreme Court to reduce the amount of one or more docket fees if necessary to comply with the 16.5 percent statutory limitation on uncommitted cash fund reserves. Subsequently, once the uncommitted reserves are sufficiently reduced, the Chief Justice is authorized to increase the docket fees to their statutorily authorized levels.

<sup>2</sup> House Bill 13-1035 would authorize two additional judgeships. This bill includes an appropriation of \$776,974 from the Fund. The bill has been passed by both chambers.



*JBC Staff Figure Setting: FY 2013-14*  
*Staff Working Document – Does Not Represent Committee Decision*

<b>Judicial Stabilization Cash Fund: Projected Cash Flow</b>					
	<b>FY 2010-11 Actual</b>	<b>FY 2011-12 Actual</b>	<b>FY 2012-13 Estimate</b>	<b>FY 2013-14 Projection</b>	<b>FY 2014-15 Projection</b>
Beginning FY Balance	\$3,957,685	\$18,225,421	\$24,691,902	\$13,534,592	\$2,484,454
Revenues (including interest)	<u>42,566,095</u>	<u>34,948,102</u>	<u>27,213,126</u>	<u>33,653,126</u>	<u>40,269,951</u>
Subtotal: Adjusted Revenues	46,523,780	53,173,523	51,905,028	47,187,718	42,754,405
Ongoing Expenditures	(28,298,359)	(28,481,621)	(38,370,436)	(42,322,396)	(41,412,841)
Decision Items/ Two New District Court Judgeships				<u>(2,380,867)</u>	
Subtotal: Expenditures	(28,298,359)	(28,481,621)	(38,370,436)	(44,703,263)	(41,412,841)
Ending FY Balance	\$18,225,421	\$24,691,902	\$13,534,592	\$2,484,454	\$1,341,564
<i>Balance as % of annual expenditures</i>	<i>64.4%</i>	<i>86.7%</i>	<i>35.3%</i>	<i>5.6%</i>	<i>3.2%</i>

## **(1) Supreme Court/ Court of Appeals**

This section provides funding for the Colorado Supreme Court and the Colorado Court of Appeals. The Supreme Court is the court of last resort, and its decisions are binding on the Court of Appeals and all county and district courts. Requests to review decisions of the Court of Appeals constitute the majority of the Supreme Court's filings. The Supreme Court also has direct appellate jurisdiction over cases in which a statute has been held to be unconstitutional, cases involving the Public Utilities Commission, writs of habeas corpus,<sup>3</sup> 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.<sup>4</sup>

Created by statute, the Court of Appeals is generally the first court to hear appeals of judgments and orders in criminal, juvenile, civil, domestic relations, and probate matters. The Court of Appeals also has initial jurisdiction to review actions and decisions of several state agencies, boards, and commissions. Its determination of an appeal is final unless the Colorado Supreme Court agrees to review the matter. The Court of Appeals is currently composed of 22 judges who serve renewable 8-year terms<sup>5</sup>.

<sup>3</sup> A writ of habeas corpus is a judicial mandate to a prison official ordering that an inmate be brought to the court so it can be determined whether or not that person is imprisoned lawfully and whether or not he or she should be released from custody.

<sup>4</sup> See Article VI, Sections 2 through 8, Colorado Constitution; and Section 13-2-101 et seq., C.R.S.

<sup>5</sup> See Section 13-4-101 et seq., C.R.S.

**LINE ITEM DETAIL**

**Appellate Court Programs**

This line item includes funding for both personal services and operating expenses. This line item also includes funding to purchase volumes of the *Colorado Reporter*, 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 and distributes copies to various state offices, including district and county judges’ offices, county court law libraries, district attorneys’ offices, and state libraries. Sources of cash funds include the Judicial Stabilization Cash Fund and various fees and cost recoveries.

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

<b>Staffing Summary</b>	<b>FY 11-12</b>	<b>FY 12-13</b>	<b>FY 13-14</b>	<b>FY 13-14</b>
<b>Appellate Court Programs</b>	<b>Actual</b>	<b>Approp.</b>	<b>Request</b>	<b>Recommend.</b>
Supreme Court Justices	6.9	7.0	7.0	7.0
Court of Appeals Judges	22.0	22.0	22.0	22.0
Clerk of Court	1.0	1.0	1.0	1.0
Law Clerks	54.5	55.0	55.0	55.0
Counsel to the Chief Justice	1.0	1.0	1.0	1.0
Staff Attorneys	24.0	23.6	23.6	23.6
Library Staff	3.2	3.4	3.4	3.4
Other Support Staff	<u>25.8</u>	<u>27.0</u>	<u>27.0</u>	<u>27.0</u>
<b>Total</b>	<b>138.4</b>	<b>140.0</b>	<b>140.0</b>	<b>140.0</b>

**Request:** The Department requests a total of \$11,581,239 and 140.0 FTE for FY 2013-14, including \$10,248,849 General Fund and \$1,332,390 cash funds. Cash funds sources include \$1,264,390 from the Judicial Stabilization Cash Fund and \$68,000 from various fees and cost recoveries.

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

*JBC Staff Figure Setting: FY 2013-14*  
*Staff Working Document – Does Not Represent Committee Decision*

<b>Supreme Court/Court of Appeals, Appellate Court Programs</b>				
	<b>Total Funds</b>	<b>General Fund</b>	<b>Cash Funds</b>	<b>FTE</b>
<b>FY 2012-13 Appropriation:</b>				
HB 12-1335 (Long Bill)	11,559,237	10,226,847	1,332,390	140.0
Other legislation	16,115	16,115	0	0.0
<b>TOTAL</b>	<b>\$11,575,352</b>	<b>\$10,242,962</b>	<b>\$1,332,390</b>	<b>140.0</b>
<b>FY 2013-14 Recommended Appropriation:</b>				
FY 2012-13 Appropriation	\$11,575,352	\$10,242,962	\$1,332,390	140.0
Annualize prior year budget actions	5,887	5,887	0	0.0
<b>TOTAL</b>	<b>\$11,581,239</b>	<b>\$10,248,849</b>	<b>\$1,332,390</b>	<b>140.0</b>
<b>Increase/(Decrease)</b>	\$5,887	\$5,887	\$0	0.0
Percentage Change	0.1%	0.1%	0.0%	0.0%
<b>FY 2013-14 Executive Request:</b>	<b>\$11,581,239</b>	<b>\$10,248,849</b>	<b>\$1,332,390</b>	<b>140.0</b>
Request Above/(Below) Recommendation	\$0	\$0	\$0	0.0

*Annualize Prior Year Budget Actions:* For FY 2012-13, the General Assembly appropriated a total of \$1,352,600 to implement salary range adjustments for two job classifications: Court Judicial Assistants and Support Services. For FY 2013-14, that portion of the increase that affects salaries of staff supported by this line item (\$5,887 General Fund) will be incorporated into this line item.

**Attorney Regulation**

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. These activities are supported by attorney registration fees established by the Colorado Supreme Court. This line item is shown for informational purposes only, as these funds are continuously appropriated under the Judicial Branch's constitutional authority to regulate and control the practice of law [Section 1 of Article VI of the State Constitution].

**Request:** The Department's request for FY 2013-14 reflects the same level of funding that was included in the FY 2012-13 Long Bill (\$7,000,000 and 56.0 FTE).

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

**Continuing Legal Education**

The Board of Continuing Legal and Judicial Education administers mandatory continuing legal education for attorneys and judges, including the certification of courses and educational conferences. The program is supported by annual attorney registration fees established by the Colorado Supreme Court. This line item is shown for informational purposes only, as these funds are continuously appropriated under the Judicial Branch's constitutional authority to regulate and control the practice of law [Section 1 of Article VI of the State Constitution].

**Request:** The Department’s request for FY 2013-14 reflects the same level of funding that was included in the FY 2012-13 Long Bill (\$410,000 and 4.0 FTE).

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

**State Board of Law Examiners**

The State Board of Law Examiners administers the Colorado bar exam. The program is supported by law examination application fees established by the Colorado Supreme Court. This line item is shown for informational purposes only, as these funds are continuously appropriated under the Judicial Branch’s constitutional authority to regulate and control the practice of law [Section 1 of Article VI of the State Constitution].

**Request:** The Department’s request for FY 2013-14 reflects the same level of funding that was included in the FY 2012-13 Long Bill (\$1,050,000 and 7.0 FTE).

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

**Law Library**

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

**Request:** The Judicial Department requests a total of \$563,121 and 3.5 FTE for FY 2013-14, including \$500,000 cash funds from the Supreme Court Library Fund and \$63,121 reappropriated funds transferred from the Department of Law. This request is impacted by two budget amendments.

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

*JBC Staff Figure Setting: FY 2013-14*  
*Staff Working Document – Does Not Represent Committee Decision*

<b>Supreme Court/Court of Appeals, Law Library</b>				
	<b>Total Funds</b>	<b>Cash Funds</b>	<b>Reappropriated</b>	<b>FTE</b>
<b>FY 2012-13 Appropriation:</b>				
HB 12-1335 (Long Bill)	500,000	500,000	0	1.5
Mid-year appropriation changes	205,992	0	205,992	2.0
<b>TOTAL</b>	<b>\$705,992</b>	<b>\$500,000</b>	<b>\$205,992</b>	<b>3.5</b>
<b>FY 2013-14 Recommended Appropriation:</b>				
FY 2012-13 Appropriation	\$705,992	\$500,000	\$205,992	3.5
BA-3: Law Library Staff	417	0	417	0.0
BA-4: Law Library Operations	(143,288)	0	(143,288)	0.0
<b>TOTAL</b>	<b>\$563,121</b>	<b>\$500,000</b>	<b>\$63,121</b>	<b>3.5</b>
<b>Increase/(Decrease)</b>	(\$142,871)	\$0	(\$142,871)	0.0
Percentage Change	(20.2%)	0.0%	(69.4%)	0.0%
<b>FY 2013-14 Executive Request:</b>	<b>\$563,121</b>	<b>\$500,000</b>	<b>\$63,121</b>	<b>3.5</b>
Request Above/(Below) Recommendation	\$0	\$0	\$0	0.0



**Request JUD BA-3: Law Library Staff**

- The Judicial Department requests continuation of a mid-year change to the FY 2012-13 appropriation to allow the Law Library to receive \$62,704 from the Department of Law (reappropriated funds) and a corresponding increase of 1.0 FTE. For FY 2013-14, the Judicial Department requests an increase of \$417 for this purpose.
- Staff recommends approving the request.

*Request:* The Committee recently approved a supplemental request to authorize the Judicial Department to receive and spend a total of \$62,704 from the Department of Law (reappropriated funds) in FY 2012-13, and a corresponding increase of 1.0 FTE. For FY 2013-14, the Judicial Department requests an increase of \$417 to support the salary and benefit expenses for these positions.

*Recommendation:* Staff recommends approving the request.

*Staff Analysis:* The Law Library has worked with the Department of Law to consolidate their print and electronic library resources and share the Law Library once both agencies relocated to the Carr Center. In order to provide high quality services to staff from Judicial Branch and the Department of Law, the agencies added two part-time library staff (1.0 FTE). These two positions are supported by funding transferred from the Department of Law. The Committee recently approved a supplemental request for \$62,704 reappropriated funds and 1.0 FTE to allow the Judicial Department receive and spend funds from the Department of Law to support these positions for FY 2012-13. For FY 2013-14, the Department requests an increase of \$417 to cover increases in employee salary and benefit expenses.

This consolidation is designed to make Law Library services more efficient and effective. No additional state resources are required to facilitate this initiative.

**➔ Request JUD BA-4: Law Library Operations**

- The Judicial Department requests continuation of a mid-year change to the FY 2012-13 appropriation to reflect an additional 1.0 FTE that will be supported by existing cash funds. The Judicial Department also requests the elimination of a one-time appropriation in FY 2012-13 that allowed it to receive and spend a total of \$143,288 from the Department of Law and the Legislature (reappropriated funds).
- Staff recommends approving the request.

*Request:* The Committee recently approved a supplemental request to: (a) reflect an additional 1.0 FTE that will be supported by existing Law Library cash funds; and (b) a one-time appropriation in FY 2012-13 to allow the Judicial Department to receive and spend a total of \$143,288 from the Department of Law and the Legislature (reappropriated funds). The Department's FY 2013-14 request reflects continuation of the added 1.0 FTE, and elimination of the one-time appropriation.

*Recommendation:* Staff recommends approving the request.

*Analysis:* The Judicial Department's supplemental budget request included three distinct components:

- The Supreme Court Law Library, the Department of Law, and the Legislature worked together to negotiate a joint contract for online legal resources to obtain better pricing and better services. For FY 2012-13, the Law Library paid contract-related expenses for all three agencies. The Law Library needed an appropriation of \$93,288 reappropriated funds to receive reimbursement from the Department of Law and the Legislature. In future fiscal years, each agency will directly pay its own share of the contract costs so this appropriation is not required for FY 2013-14.
- The General Assembly previously authorized the Law Library to receive funds transferred from the Department of Law to contract with a temporary staff person to coordinate a joint effort to consolidate their print and electronic library resources. This funding was received for the last three months of FY 2010-11 and for 12 months of FY 2011-12. The two agencies anticipated that the planning and implementation work would be completed by the end of FY 2011-12. However, this project was extended into FY 2012-13, so the Law Library requested an appropriation of \$50,000 reappropriated funds to continue receive reimbursement from the Department of Law for this project for FY 2012-13. This appropriation is not required for FY 2013-14.
- The Law Library is transitioning from purchasing books and other "hard" materials to providing more intensive research services. The Law Library plans to utilize more of its available cash funds for staffing, and less to purchase books and other materials. The

Judicial Branch requests an increase of 1.0 FTE (from 1.5 FTE to 2.5 FTE). This change is ongoing and should continue to be reflected in FY 2013-14.

### **Indirect Cost Assessment**

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

**Request:** For FY 2013-14, the Department requests an appropriation of \$148,025 cash funds for a new line item titled, "Indirect Cost Assessment". This line item would reflect the assessments that are collected from fund sources that are appropriated in this section of the Long Bill.

**Recommendation:** Staff recommends approving the request. Staff requests permission to adjust these amounts as necessary once the Committee has finalized all common policies. Staff will utilize the indirect cost assessment methodology that was described in detail in Appendix D of the FY 2013-14 Staff Budget Briefing, dated December 3, 2012.

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## **(2) Courts Administration**

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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.<sup>6</sup> The Courts Administration section of the budget is currently comprised of four subsections:

- (A) "Administration and Technology" - funding and staff associated with central administration of the State's Judicial system, including information technology systems
  - (B) "Central Appropriations" - funding related to employee benefits, leased space, and services purchased from other agencies
  - (C) "Centrally Administered Programs" - funding supporting specific functions, grant programs, and distributions that are administered by the Office of the State Court Administrator
  - (D) "Ralph L. Carr Colorado Judicial Center" - spending authority to support operations of the new Judicial Center
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<sup>6</sup> See Article VI, Section 5 (3) of the Colorado Constitution; Section 13-3-101, C.R.S.

## **(A) ADMINISTRATION AND TECHNOLOGY**

This subsection funds the activities of the Office of the State Court Administrator, including the following central administrative functions: accounting and budget; human resources; facilities management; procurement; information technology; public information; and legal services. Unless otherwise noted, line items in this section are supported by General Fund, the Judicial Department Information Technology Cash Fund, the Judicial Stabilization Cash Fund, and various other cash funds, and indirect cost recoveries.

### **LINE ITEM DETAIL**

#### **General Courts Administration**

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

Sources of cash funds that support this line item include: the Judicial Department Information Technology Cash Fund; the Judicial Stabilization Cash Fund (for 3.0 FTE added in FY 2012-13 for oversight related to protective proceedings); and various sources of cash funds. Reappropriated funds that support this line item are from indirect cost recoveries.

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



*JBC Staff Figure Setting: FY 2013-14*  
*Staff Working Document – Does Not Represent Committee Decision*

<b>Staffing Summary</b>	<b>FY 11-12</b>	<b>FY 12-13</b>	<b>FY 13-14</b>	<b>FY 13-14</b>
<b>General Courts Administration</b>	<b>Actual</b>	<b>Approp.</b>	<b>Request</b>	<b>Recommend.</b>
<u>General Courts Administration</u>				
Executive (JUD R-3)	12.9	10.9	12.5	12.5
Probation Services (JUD R-7)	19.0	20.0	23.0	23.0
Financial Services	23.2	27.0	27.0	27.0
Planning (JUD R-5)	15.4	16.5	17.5	17.5
Human Resources	<u>17.0</u>	<u>18.0</u>	<u>18.0</u>	<u>18.0</u>
Subtotal	87.5	92.4	98.0	98.0
<u>Information Technology Services</u>				
Administration/Management	6.0	6.0	6.0	6.0
Computer Technical Support	32.0	37.0	37.0	37.0
Court Services	8.0	10.0	10.0	10.0
Support Center	0.0	5.0	9.0	9.0
Public Access (CSCDA)/ Efile (ICCESS)	17.0	17.0	17.0	17.0
Programming Services	<u>24.2</u>	<u>29.0</u>	<u>29.0</u>	<u>29.0</u>
Subtotal	87.2	104.0	108.0	108.0
<b>Total</b>	174.7	196.4	206.0	206.0

**Request:** The Department requests \$20,651,818 (including \$12,166,944 General Fund) and 206.0 FTE for FY 2013-14. This request is impacted by JUD R-3 (Legal FTE), JUD R-5 (Court Appointed Professionals Coordinator), and JUD R-7 (Implementation of Evidence-based Practices).

**Recommendation:** Staff recommends appropriating \$19,919,542 (including \$12,124,415 General Fund) and 206.0 FTE. Overall, staff's recommendation is \$732,276 lower than the Department's request due to lower recommendations for the three decision items and a budget amendment that affect this line item.

*JBC Staff Figure Setting: FY 2013-14*  
*Staff Working Document – Does Not Represent Committee Decision*

<b>Courts Administration, Administration and Technology, General Courts Administration</b>					
	Total Funds	General Fund	Cash Funds	Reappropriated	FTE
<b>FY 2012-13 Appropriation:</b>					
HB 12-1335 (Long Bill)	16,079,848	11,438,402	2,518,836	2,122,610	195.4
Other legislation	91,078		0	91,078	1.0
Mid-year appropriation changes	1,374,339		1,374,339	0	0.0
<b>TOTAL</b>	<b>\$17,545,265</b>	<b>\$11,438,402</b>	<b>\$3,893,175</b>	<b>\$2,213,688</b>	<b>196.4</b>
<b>FY 2013-14 Recommended Appropriation:</b>					
FY 2012-13 Appropriation	\$17,545,265	\$11,438,402	\$3,893,175	\$2,213,688	196.4
JUD R-3: Legal FTE	150,109	150,109	0	0	1.6
JUD R-5: Court appointed professionals coordinator	73,992	73,992	0	0	1.0
JUD R-7: Implementation of evidence-based practices	241,127	241,127	0	0	3.0
Employee benefits/common changes	0	220,785	0	(220,785)	0.0
Annualize prior year budget actions	339,785	0	339,785	0	4.0
BA-1: ICCES E-File Project	1,569,264		1,569,264	0	0.0
<b>TOTAL</b>	<b>\$19,919,542</b>	<b>\$12,124,415</b>	<b>\$5,802,224</b>	<b>\$1,992,903</b>	<b>206.0</b>
<b>Increase/(Decrease)</b>	<b>\$2,374,277</b>	<b>\$686,013</b>	<b>\$1,909,049</b>	<b>(\$220,785)</b>	<b>9.6</b>
Percentage Change	13.5%	6.0%	49.0%	(10.0%)	4.9%
<b>FY 2013-14 Executive Request:</b>	<b>\$20,651,818</b>	<b>\$12,166,944</b>	<b>\$6,491,971</b>	<b>\$1,992,903</b>	<b>206.0</b>
Request Above/(Below) Recommendation	\$732,276	\$42,529	\$689,747	\$0	0.0

*JUD R-3, R-5, and R-7:* Staff's recommendations for these decision items are detailed below.

*Employee Benefits/Common Changes:* This fund source adjustment reflects that indirect cost recoveries available to offset General Fund expenditures in this line item will decline in FY 2013-14. Staff requests permission to adjust these amounts as necessary once the Committee has finalized all common policies. Staff will utilize the indirect cost assessment methodology that was described in detail in Appendix D of the FY 2013-14 Staff Budget Briefing, dated December 3, 2012.

*Annualize Prior Year Budget Actions:* The recommendation includes an increase of \$339,785 cash funds and 4.0 FTE consistent with a decision item that was approved in FY 2010-11 (JUD R-1) to allow the Department to develop and implement public access and e-filing systems. Fiscal year 2013-14 is the first full year of implementation for the new e-filing system.

*JUD BA-1: ICCES E-File Project:* The Committee recently approved a mid-year increase of \$1,374,339 cash funds from the Judicial Department Information Technology Cash Fund to pay for credit card processing and mailing expenses related to the new in-house e-filing system (called the Integrated Colorado Courts E-filing System or ICCES). This request was accompanied by a budget amendment for FY 2013-14 to provide a full year of funding (\$3,633,350 cash funds) for this purpose. Staff recommends appropriating \$2,943,603 for this purpose for FY 2013-14 based on updated information that the Department provided prior to staff presenting the supplemental request. The recommendation for FY 2013-14 represents an increase of \$1,569,264 compared to FY 2012-13. [For more details related to this request, see

pages 1 through 3 of the document titled, "Supplemental Requests for FY 2012-13: Judicial Branch", dated January 16, 2013. This document is accessible online at: [http://www.tornado.state.co.us/gov\\_dir/leg\\_dir/jbc/2012-13/judsup.pdf](http://www.tornado.state.co.us/gov_dir/leg_dir/jbc/2012-13/judsup.pdf).]

**➔ Request JUD R-3: Legal FTE**

- The Department requests \$181,702 General Fund to expand the legal staff within the State Court Administrator's from 4.9 FTE to 6.5 FTE to address increased demands for legal services related to contracts, grants, forms, and policies.
- Staff recommends appropriating \$151,339 General Fund and 1.6 FTE.

*Request:* The Department requests \$181,702 General Fund to expand the State Court Administrator's legal counsel from 4.9 FTE to 6.5 FTE. This will be accomplished by hiring one additional attorney, and increasing the hours of three existing part-time positions by a total of 24 hours per week.

The legal staff review all policies, contracts, grants, and forms used by the State Court Administrator's Office, the courts, and probation. More specifically, these staff:

- Review human resource related matters to avoid most employment lawsuits;
- Train judges, and court and probation employees on the legal implications of policy and law changes;
- Review pending legislation;
- Review and respond to letters from citizens to the State Court Administrator (SCA), the Chief Justice, and as appropriate, the trial courts;
- Provide ethical advice to all levels of the courts and probation concerning outside activities, conflicts of interest, providing references, and accepting or distributing gifts or incentives, to mention a few examples;
- Handle issues related to Chief Justice Directives; and
- Implement and/or monitor special projects.

In addition, legal staff are responsible for the following:

- Advising on constitutionalist filings in the trial courts;
- Assisting in matters of security of people and facilities;
- Reviewing programming for the court case management and e-filing systems;
- Reviewing media announcements and answering open records requests for the SCA and other requests from the field, as necessary;
- Answering legal questions of an administrative nature;
- Answering inquiries from the Victim's Rights Subcommittee of Division of Criminal Justice (within the Department of Public Safety);
- Assisting other agencies in developing policy which interprets or applies court-related statutes;
- Assisting in rule revisions for all court rules;

- Providing legal direction to all levels of the Judicial Branch;
- Working with external agencies when a question arises as to the legal authority for a court's action;
- Assisting in audits, both internal and external;
- Reviewing policies including personnel rules, records retention policies, and computer security, building security, fiscal, purchasing and other administrative policies;
- Reviewing changes to forms;
- Negotiating with vendors and creating, reviewing and modifying all contracts and settlements;
- Reviewing RFP solicitations;
- Assisting in managing contracts, complaints and investigations of court appointed persons paid for by Office of the SCA;
- Reviewing all subpoenas served on judicial employees;
- Arranging for Attorney General representation in suits or actions against employees; and
- Assisting the Attorney General in all matters where they represent judicial employees or judges.

Changes in the environment and the business of the Branch have increased the demand for services of the legal staff. The Branch has undertaken many initiatives in response to changing business needs that have increased the number of contracts, forms, and policies that must be drafted or reviewed, as well as the training and guidance provided by legal staff (*e.g.*, service centers for self-represented parties, on-line case filing, and intensive treatment courts). In addition, the number, sources, and dollar amounts of grants have increased since FY 2002-03, requiring increased levels of legal review and research to ensure that the Department complies with rules and regulations. Finally, overall staffing levels have increased since FY 2002-03 without any increase in legal staffing.

As a result, the legal staff have struggled to keep pace with the demand for services. Work in all areas has been delayed, and work in the areas of Chief Justice Directive review, public access policy review, and other internal policies has become backlogged.

If this request is approved, the Department plans to add a generalist to the staff who can work on issues that impact the courts and probation as a whole, including public access, self-represented litigant forms development, and Chief Justice Directive re-writes. In addition, time available from existing staff will be increased in the areas of grants and contracts to ensure compliance with grant requirements and contract review for all aspects of court and probation business.

**Recommendation:** Staff recommends appropriating \$151,339 General Fund and 1.6 FTE, as detailed in the following table (shading indicates those items that differ from the request). Staff's recommendation is \$30,363 lower than the request for several technical reasons:

- The recommendation provides funding for 11 (rather than 12) months of salary due to the payday shift;
- Staff applies the common policy of \$450 for telephone and \$500 for office supplies (per FTE);

*JBC Staff Figure Setting: FY 2013-14*  
*Staff Working Document – Does Not Represent Committee Decision*

- Consistent with Committee policy, staff does not provide funding for supplemental PERA payments (AED and SAED); and
- Based on discussions with Department staff, the recommendation excludes funding for office furnishings (because they are already available in the Carr Center for these staff), and staff only includes funding for one computer and the associated software (because only one new person will be hired – the remaining 0.6 FTE will be filled by increasing the hours for existing part-time staff).

<b>Summary of Recommendation for JUD R-3: Legal FTE</b>		
	<b>FY 2013-14</b>	<b>FY 2014-15</b>
<b><u>Courts Administration</u></b>		
<b><i>Administration and Technology</i></b>		
Personal Services (1.6 FTE for 11 months; \$90,780 annual salary + PERA + Medicare)	\$148,589	\$162,097
Operating Expenses (per FTE costs of \$450 for telephone and \$500 for supplies for 1.6 FTE)	<u>1,520</u>	<u>1,520</u>
Subtotal	150,109	163,617
<b><i>Central Appropriations</i></b>		
Health, Life, and Dental	0	6,624
Short-term Disability	0	172
AED	0	5,762
SAED	<u>0</u>	<u>5,386</u>
Subtotal	0	11,148
<b><i>Centrally Administered Programs</i></b>		
Courthouse Capital/ Infrastructure Maintenance (\$1,230 for computer and software for 1.0 FTE)	1,230	0
<b>Total</b>	<b>\$151,339</b>	<b>\$169,378</b>

**➔ Request JUD R-5: Court Appointed Professionals Coordinator**

- The Department requests \$91,456 General Fund to add a staff position dedicated to administering the Respondent Parents' Counsel Program to improve the quality of advocacy for respondent parents in dependency and neglect cases.
- Staff recommends appropriating \$78,695 and 1.0 FTE.

*Request:* The Department requests \$91,456 General Fund to add a staff position dedicated to administering the Respondent Parents' Counsel Program to improve the quality of advocacy for respondent parents in dependency and neglect (D&N) cases.

Background Information – Task Force Recommendations

In 2005 the Colorado Supreme Court convened a Respondent Parents' Counsel Task Force, a group of child welfare professionals and academics, to review the issues facing respondent parents' counsel (RPC) and to make recommendations to the Supreme Court and to the General Assembly. To assist in identifying needs of attorneys, areas in need of improvement, and baseline data for potential reform efforts, the Task Force commissioned a needs assessment. This assessment was performed by the National Center for State Courts, the National Council for Juvenile and Family Court Judges, and the National Association of Counsel for Children. The assessment provides both a statewide overview of factors impacting RPC performance, as well as an in-depth analysis in three judicial districts comprised of four counties: Denver, El Paso, Teller, and Weld.

The Task Force identified the several shortcomings in RPC performance, including: (1) limited consultation with clients outside of court proceedings; (2) limited evidence of written motions that are sometimes necessary to advocate for the client (*e.g.*, visitation); and (3) a lack of trial skills. The Task Force identified the following barriers to effective RPC performance:

- High caseloads;
- Inadequate compensation (both the level of reimbursement and the flat fee structure);
- A lack of support services and resources to allow the RPC to conduct an independent investigation to competently challenge the child welfare agency's position, including the ability to procure expert witness services;
- A lack of practical and role-specific training and education;
- A limited number and range of services for clients (particularly mental health services); and
- Challenges in receiving treatment plans, status reports, court orders, and other documents in a timely manner.

The Task Force also noted a number of problems related to the administration of RPC services, including:

- recruitment (a lack of breadth and depth to recruit highly qualified and diverse candidates);
- turnover (particularly in Denver);
- oversight (little to no oversight of RPC practice, training, and compliance with the Agreement for Services, and a complaint process that is rarely utilized by clients); and
- appointment of RPC too late in the case.

The Task Force made a number of recommendations aimed at establishing administration and court systems that promote high quality RPC practice. Several of the recommendations focus on the responsibilities of the Judicial Department, including providing training, creating expert banks for RPC, calendaring dockets to facilitate communication with clients, promulgating and enforcing standards for RPC, and exploring models for improved oversight of RPC.

Background Information – Department Actions to Date

In 2010, the Court Auxiliary Professionals Coordinator position was created to address the need for more oversight and coordination of all court appointed counsel professionals. This position is currently responsible for:

- Appointments in high conflict divorce cases, including: parental responsibility evaluators, parenting coordinators, and early neutral evaluation providers;
- guardians *ad litem* (GALs) for adults;
- truancy counsel;
- mental health counsel; and
- RPC.

However, the workload associated with these duties has limited the Department's direct program support to child and family investigator reforms, RPC training, and on a limited basis, inspection of billing irregularities.

In May 2012, the Division of Planning and Analysis and the Court of Appeals collaborated to deliver RPC appellate training. Evaluation of the training indicated that the participant's knowledge of the rules and laws governing D&N appeals as well as their ability to spot issues and develop reasoned arguments improved. There was consensus among participants that the following items required further study and improvement:

- 1) appellate training;
- 2) changes to Court of Appeals Rule 3.4;
- 3) more timely delivery of transcripts;
- 4) utilization of electronic filing methods; and
- 5) improved oversight model and quality assurance systems for appellate RPC.

#### Purpose of Request

Over the past years, both trial and appellate judges have noted the need for improvements in RPC legal representation. Since the establishment of the Office of Childs' Representative, judges have noted improvements in the quality of work performed by GALs. This seems to be due to the fact that a dedicated office provides quality control, technical consultation, training, and oversight. It is important that parents receive a similar quality of representation.

In each of the last four fiscal years the Department has spent more than \$8.0 million on legal services provided by RPC to indigent parents. The Department believes that a program this size requires dedicated staff to ensure that funds are being spent effectively and services are being provided in a quality fashion. Oversight and administration of the program currently resides primarily with local court administrators and judges.

Judges in several districts have expressed support for such a transfer of responsibilities and discomfort with their current role in monitoring attorney billing, appointment of experts, and attorney performance. The judges are concerned about the amount of time consumed by reviewing requests for experts, motions for excess fees, and complaints, as well as with potential conflicts of interest created by such inquiry into attorney practices and case development.



*JBC Staff Figure Setting: FY 2013-14*  
*Staff Working Document – Does Not Represent Committee Decision*

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This request would add one position to begin the process of developing standard RPC policies, training, and oversight strategies. This staff person would: develop and implement RPC training and resources (e.g., motions bank, standard training curriculum, trial skills); develop and evaluate different models for the provision of RPC services; pilot and evaluate alternative models of oversight and quality assurance; review requests for experts and motions of excess fees; review and respond to complaints; and improve contracting processes.

**Recommendation:** Staff recommends appropriating \$78,695 General Fund and 1.0 FTE, as detailed in the following table (shading indicates those items that differ from the request). Staff's recommendation is \$12,761 lower than the request for technical reasons:

- The recommendation provides funding for 11 (rather than 12) months of salary due to the paydate shift;
- Consistent with Committee policy, staff does not provide funding for supplemental PERA payments (AED and SAED); and
- Staff's recommendation corrects a technical error in the request that duplicated funding for a computer and software.

<b>Summary of Recommendation for JUD R-5: Court Appointed Professionals Coordinator</b>		
	<b>FY 2013-14</b>	<b>FY 2014-15</b>
<b><u>Courts Administration</u></b>		
<b><i>Administration and Technology</i></b>		
Personal Services (1.0 FTE for 11 months; \$71,400 annual salary + PERA + Medicare)	\$73,042	\$79,682
Operating Expenses (\$450 for telephone and \$500 for supplies for 1.0 FTE)	950	950
Subtotal	73,992	80,632
<b><i>Central Appropriations</i></b>		
Health, Life, and Dental	0	6,624
Short-term Disability	0	136
AED	0	2,832
SAED	0	2,648
Subtotal	0	12,240
<b><i>Centrally Administered Programs</i></b>		
Courthouse Capital/ Infrastructure Maintenance (\$3,473 for cubicle/workstation and \$1,230 for computer and software for 1.0 FTE)	4,703	0
<b>Total</b>	<b>\$78,695</b>	<b>\$83,465</b>



RPC play a critical role in achieving good outcomes for children involved in D&N proceedings by protecting parents' due process and statutory rights, presenting balanced information to judges, and promoting the preservation of family relationships when appropriate. Quality legal representation for all parties in child welfare cases leads to better judicial decision-making about children's safety and well-being, more engaged families, and greater access to services.

Staff believes that this is a necessary first step in improving the quality of RPC services, and by extension, improving child welfare outcomes. However, staff notes that the Task Force report states that an "imperative objective identified by the Task Force is the need to pursue additional and equitable funding for respondent parents' counsel compensation". Clearly the Office of the Child's Representative has been successful in improving the quality of GAL representation of children in D&N cases. However, these improvements required a significant increase in the level of state funding to attract and retain skilled attorneys and to allow them to spend more time on each case. It is likely that it will require a similar level of investment to improve the quality of RPC services.



#### **Request JUD R-7: Implementation of Evidence-based Practices**

- The Department requests \$291,447 General Fund to add 3.0 FTE in the Division of Probation Services to support the implementation of several evidence-based/promising programs and practices.
- Staff recommends appropriating \$255,236 and 3.0 FTE.

*Request:* The Department requests \$291,447 General Fund to add 3.0 FTE to the Division of Probation Services in FY 2013-14, including 2.0 FTE Probation Services Analysts III and 1.0 FTE Education Specialist. These staff will provide services and support to the 23 probation departments during the implementation of evidence-based/promising programs and practices. The following seven projects are currently ready for statewide implementation:

- Technical violation and behavioral change (structured use of sanctions and incentives)
- A new global risk and needs assessment for juveniles
- Assessment Summary Report - evidence-based decision making assessment reports for the courts
- New risk and needs assessments for adult sex offenders
- New risk and needs assessment for juvenile sex offenders
- Motivational interviewing (ongoing implementation)
- Evidence-based case planning

A literature review was completed before embarking on each of these projects to make sure that they were either evidence-based or a promising practice (empirically supported but lacking the breadth of research to be classified as evidence-based). The projects have had individual oversight advisory groups working on the projects, and all of the projects have been endorsed by the Chief Probation Officers for implementation.

Developing or adopting effective programs is only the first step toward improving outcomes. Thoughtful implementation is required to ensure that these projects are implemented with fidelity in 23 local probation departments, and that they are sustained after initial implementation. The According to the Division, research has found that programs with better implementation have seen outcomes with “mean effect sizes that are two to three times higher, and, under ideal circumstances, may be up to 12 times higher,” than programs with poor implementation. In other words, for programs and practices to maximize reductions in recidivism, they must be implemented effectively.

“Implementation science” is the study of effective implementation processes and organizational change processes. It “integrates organizational factors such as leadership, management, ownership, organizational readiness, and other areas of organizational science into an understanding of how to advance the utilization of evidence-based practices (EBP) and treatments in real world settings.” According to the implementation science literature, it will require an implementation team from the Division to work with staff in local probation departments to effectively integrate and sustain these practices.

The Division is similar to many organizations, in that previously, probation departments were trained on new innovations and sustainability was assumed. This experience resulted in few interventions sustained as initially trained. The Division indicates that a review of over 500 studies, Durlak and DuPre (2008) concluded that “there is credible and extensive empirical evidence that the level of implementation affects program outcomes,” and training and technical assistance are two parts of implementation with the most empirical support.

The three new positions will allow the Division to establish an effective implementation strategy. First, 2.0 FTE Probation Services Analyst III positions will supervise multiple local implementation teams. They will each be responsible for following a proven method of implementation to increase the quality of practice and ensure that these practices are sustained. Examples of their duties include:

- Developing implementation plans;
- Conducting readiness surveys and analyzing survey data;
- Developing pilot studies;
- Establishing and guiding local implementation teams;
- Providing training to supervisors and probation officers;
- Scheduling rollout activities;
- Developing plans to address district-specific implementation barriers;
- Arranging outcome evaluations;
- Ensuring sustainability through continuous quality improvement.

These processes take an average of two to four years to implement a program as intended (with fidelity) and begin to see expected outcomes.

Second, 1.0 FTE Education Specialist will be added to the Division's five-person Education Unit to develop and deliver the additional training and skill development activities critical to the

effective implementation and sustainability of the evidence-based projects/promising programs and practices listed above. This will include curriculum development, on-site observation and coaching, and ongoing feedback on activity/competency measures.

The Division's Education Unit is primarily tasked with developing and delivering the training and skill development programs and classes for 1,150 probation employees. At present, the 4.0 FTE must routinely rely on other staff at the Division and probation officers in the field to assist in the delivery of training. In addition to the generalized training that is provided to all new court and probation employees, probation officers participate in a four-year course schedule of 291 hours of training. This training starts with Probation Academy and safety courses, followed by courses related to cognitive programming, substance abuse management and strategies, law and liability, victim empathy, working with female offenders, supervisor training, etc.

The Division indicates that the seven listed projects will be implemented at different times between FY 2012-13 and FY 2015-16. With proper implementation, training, fidelity, and quality assurance, the Division anticipates incremental positive effects on outcomes with the ability to measure fuller effects in late FY 2014-15 and FY 2015-16. These outcomes include: increased success rates; decreased technical violation rates; fewer placements in the Department of Corrections, the Division of Youth Corrections, and local jails as a result of technical violations; decreased recidivism; and increased cost savings.

*Recommendation:* Staff recommends appropriating \$255,236 General Fund and 3.0 FTE, as detailed in the following table (shading indicates those items that differ from the request). Staff's recommendation is \$36,212 lower than the request for three technical reasons:

- The recommendation provides funding for 11 (rather than 12) months of salary due to the paydate shift;
- Consistent with Committee policy, staff does not provide funding for supplemental PERA payments (AED and SAED); and
- Staff's recommendation corrects a technical error in the request that understated the funding needed to purchase computers and software for the new staff.

<b>Summary of Recommendation for JUD R-7: Implementation of Evidence-Based Practices</b>		
	<b>FY 2013-14</b>	<b>FY 2014-15</b>
<b><u>Courts Administration</u></b>		
<i>Administration and Technology</i>		
Personal Services (2.0 FTE for 11 months at \$80,760 annual salary and 1.0 FTE for 11 months at \$71,400 annual salary, + PERA + Medicare)	\$238,277	\$259,939
Operating Expenses (per FTE costs of \$450 for telephone and \$500 for supplies for 3.0 FTE)	<u>2,850</u>	<u>2,850</u>
Subtotal	241,127	262,789
<i>Central Appropriations</i>		
Health, Life, and Dental	0	19,872
Short-term Disability	0	443
AED	0	9,239
SAED	0	<u>8,637</u>
Subtotal	0	38,191
<i>Centrally Administered Programs</i>		
Courthouse Capital/ Infrastructure Maintenance (per FTE costs of \$3,473 for cubicle/workstation and \$1,230 for computer and software for 3.0 FTE)	14,109	0
<b>Total</b>	<b>\$255,236</b>	<b>\$272,028</b>

Like many people-intensive agencies, the Division has been working hard to identify and implement evidence-based practices for a number of years. This request is aimed at ensuring that these types of programs, when implemented, actually lead to better results with real clients. Research indicates that effective implementation requires an investment in implementation supports that treat implementation as a process rather than an event. Staff are more likely to integrate and sustain new practices in their daily work if they have on-site coaching and support in the initial stages, and ongoing feedback to evaluate if the practices are achieving the anticipated results. Given the number and proportion of offenders on probation in Colorado, this is a reasonable investment to maximize the effectiveness of probation staff in reducing the number of offenders who recidivate or require placement in a more expensive setting.

**Information Technology Infrastructure**

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

- The majority of the Department's data line charges.
- Hardware replacement (personal computers, servers, routers, switches, etc.).

*JBC Staff Figure Setting: FY 2013-14*  
*Staff Working Document – Does Not Represent Committee Decision*

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

**Request:** The Department requests \$4,637,841 (including \$403,094 General Fund and \$4,234,747 cash funds from the Judicial Department Information Technology Cash Fund).

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

<b>Courts Administration, Administration and Technology, Information Technology Infrastructure</b>				
	Total Funds	General Fund	Cash Funds	FTE
<b>FY 2012-13 Appropriation:</b>				
HB 12-1335 (Long Bill)	5,952,101	403,094	5,549,007	0.0
<b>TOTAL</b>	<b>\$5,952,101</b>	<b>\$403,094</b>	<b>\$5,549,007</b>	<b>0.0</b>
<b>FY 2013-14 Recommended Appropriation:</b>				
FY 2012-13 Appropriation	\$5,952,101	\$403,094	\$5,549,007	0.0
Annualize prior year budget actions	(1,314,260)		(1,314,260)	0.0
<b>TOTAL</b>	<b>\$4,637,841</b>	<b>\$403,094</b>	<b>\$4,234,747</b>	<b>0.0</b>
<b>Increase/(Decrease)</b>	(\$1,314,260)		(\$1,314,260)	0.0
Percentage Change	(22.1%)	0.0%	(23.7%)	0.0%
<b>FY 2013-14 Executive Request:</b>	<b>\$4,637,841</b>	<b>\$403,094</b>	<b>\$4,234,747</b>	<b>0.0</b>
Request Above/(Below) Recommendation	\$0	\$0	\$0	0.0

*Annualize Prior Year Budget Actions:* The recommendation includes a reduction of \$454,260 cash funds consistent with a decision item that was approved in FY 2010-11 (JUD R-1) to allow the Department to develop and implement public access and e-filing systems. The recommendation also includes a reduction of \$860,000 cash funds consistent with a decision item that was approved in FY 2012-13 (JUD R-5) to allow the Department to purchase IT hardware necessary to maintain the reliability and efficiency of its IT infrastructure.

**Indirect Cost Assessment**

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

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

*Format Change.* For FY 2013-14, the Department proposes eliminating the two existing line items for statewide and department indirect costs, and replacing them with a single line item that would reflect both statewide and departmental indirect cost assessments. In addition, the

Department's request for FY 2013-14 limits this line item to the assessments that are collected from fund sources that are appropriated in this section of the Long Bill. Finally, the Department proposes adding new Indirect Cost Assessment line items in other relevant sections of the Long Bill to reflect the assessments that are collected from fund sources that are appropriated in those sections.

**Request:** For FY 2013-14, the Department requests an appropriation of \$587,298 for a new line item titled, "Indirect Cost Assessment".

**Recommendation:** Staff recommends approving the request. Staff requests permission to adjust these amounts as necessary once the Committee has finalized all common policies. Staff will utilize the indirect cost assessment methodology that was described in detail in Appendix D of the FY 2013-14 Staff Budget Briefing, dated December 3, 2012.

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## **(B) CENTRAL APPROPRIATIONS**

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

### **LINE ITEM DETAIL**

#### **Health, Life and Dental**

This is the first of five 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.

**Request:** The Department requests \$24,880,322 for FY 2013-14.

**Recommendation:** Staff recommends appropriating \$24,919,320 for FY 2013-14, consistent with Committee policy with respect to employer contribution rates.<sup>7</sup>

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<sup>7</sup> Employer contribution rates approved by the Committee include the following: \$434.10 (employee), \$762.60 (employee + spouse), \$795.66 (employee + children), and \$1,080.90 (employee + family) for health benefits; \$25.92 (employee), \$42.62 (employee + spouse), \$46.44 (employee + children), and \$62.22 (employee + family) for dental benefits; and \$8.76 for life benefits.

**Short-term Disability**

This is the first of five 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. Please note that the Department does not provide short-term disability for justices and judges, so the premium calculation excludes base salaries for judges and justices. It is staff's understanding that this is due to the constitutional prohibition on decreasing compensation for a judge or justice during their term of office.<sup>8</sup> If a judge or justice becomes disabled, he or she is either paid a full salary while on short-term leave or is paid under long-term disability provisions.

**Request:** The Department requests \$290,147 for FY 2013-14.

**Recommendation:** Staff recommends an appropriation of \$324,428 (including \$247,005 General Fund and \$77,423 cash funds), consistent with the Committee's common policy to apply a rate of 0.19 percent of employee salaries (including the additional funding for salary survey and merit pay, as adjusted for the payday shift). The Department's request was based on applying a rate of 0.177 percent, so staff's recommendation is higher than the request. Further, the FY 2012-13 appropriation was calculated including judges and justices salaries (in error), so the recommendation represents a decrease compared to the FY 2012-13 appropriation.

**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 five such line items, this one provides funds for Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation staff.

**Request:** The Department requests \$6,840,646 for FY 2013-14.

**Recommendation:** Staff recommends an appropriation of \$6,963,558 for FY 2013-14 (including \$5,397,337 General Fund and \$1,566,221 cash funds), consistent with Committee's common policy. The common policy is to apply the relevant rates [3.4 percent of base salaries for CY 2013 and 3.8 percent of base salaries for CY 2014] to base salaries (including salary survey and merit pay increases, and adjusted for the pay date shift).

**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 five such line items, this one provides funds for Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation staff.

**Request:** The Department requests \$6,013,036 for FY 2013-14.

**Recommendation:** Staff recommends an appropriation of \$6,081,988 for FY 2013-14 (including \$4,689,972 General Fund and \$1,392,016 cash funds), consistent with Committee's common policy. The common policy is to apply the relevant rates [3.0 percent of base salaries

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<sup>8</sup> See Section 18 of Article VI of the State Constitution.



for CY 2013 and 3.5 percent of base salaries for CY 2014] to base salaries (including salary survey and merit pay increases, and adjusted for the pay date shift).

### **Salary Survey**

The Department uses this line item to pay for annual salary increases, similar to "salary survey" increases in the Executive Branch. One of five such line items, this one provides funds for Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation staff.

**Request:** The Department requests \$5,278,717 for FY 2013-14. This request includes \$3,585,928 to increase all existing salaries by 1.5 percent, plus \$1,692,789 to implement salary range adjustments for selected job classifications.<sup>9</sup>

*Background Information – Judicial Personnel System.* Judicial Department employees are not part of the State classified system. Pursuant to Section 13-3-105, C.R.S., the Supreme Court prescribes by rule a personnel classification plan for all courts that are funded by the State. This provision indicates that in order to treat all state employees in a similar manner, the Supreme Court is to "take into consideration the compensation and classification plans, vacation and sick leave provisions, and other conditions of employment applicable to employees of the executive and legislative departments". The Judicial Department's personnel system excludes employees of the following agencies or offices:

- Agencies involved in the regulation of the practice of law, including Attorney Regulation and Judicial Discipline, Continuing Legal and Judicial Education, and the State Board of Law Examiners;
- The Office of Judicial Performance Evaluation;
- The Office of the State Public Defender;
- The Office of the Alternate Defense Counsel;
- The Office of the Child's Representative; and
- The Independent Ethics Commission.

*Salary Range Adjustments.* Similar to the Executive Branch proposal, the Judicial Department request for FY 2013-14 includes funding to implement salary range adjustments for employees in several administrative and information technology-related classifications. These proposed adjustments affect \$41.4 million (20.5 percent) of base salaries. Over 80 percent of the requested funds relate to the Court Judicial Assistant and Support Services classifications, which are among the lowest paid positions within the Department.

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<sup>9</sup> For the Judicial Department (Courts and Probation), the proposed salary range adjustments are for non-executive classifications that are more than 3.0 percent under market. The Department's request includes funding to implement the following salary range adjustments: Judicial Assistant I, II, and III (an increase of 2.5% for each classification); Programmer I and II (an increase of 4.8% for each classification); Administrative Assistant (an increase of 4.5%); Clerk of Court I through VIII (an increase of 4.5% for each classification); and Rural Bailiffs (an increase of 3.3%). Salaries for employees within the following two classifications will be increased by the percentage indicated, but the range minimum and maximum will remain unchanged from FY 2012-13: Court Judicial Assistant (3.3%); and Support Services (3.3%).



Please note that for FY 2012-13 the General Assembly appropriated \$1,352,600 to allow the Judicial Department to increase the minimum salaries for these two job classifications by 15.6 percent to make them comparable to similar positions within the classified system, and to provide a 3.3 percent increase for all employees within these two classifications. The request for FY 2013-14 would provide another 3.3 percent increase for employees within these two job classifications (in addition to the 1.5 percent across-the-board increase and the 1.6 percent merit pay increase). The Executive Branch proposal includes salary range adjustments for many of the comparable positions within the classified system, including: Data Entry Operator I (increase of 3.9%); and Administrative Assistants I, II, and III (increases of 6.2%, 0.9%, and 11.4%, respectively).

*Methodology Differences.* The Judicial Department used a different methodology to calculate the overall request for salary increases. The Executive proposal involves the following steps, with each adjustment compounding on the previous adjustments:

- (1) Increase salaries for individuals affected by "system maintenance study" salary range adjustments (information technology-related classifications for FY 2013-14);
- (2) Apply a 1.5 percent increase;
- (3) Apply the applicable percentage merit pay increase for each individual; and
- (4) Add funding to ensure that each individual's salary does not fall below the new range minimum salary.

There are two differences in the methodology used by the Judicial Department. First, the Judicial Department calculated the 1.5 percent across-the-board increase, increases to implement salary range adjustments, and the 1.6 percent merit pay increase (which is reflected in the next line item) independent of one another. Thus, the request does not reflect any compounding of these increases, resulting in a request that is at least 0.024 percent (\$48,410) lower than the Executive proposal.

Second, in order to implement salary range adjustments, the Judicial Department applied a flat percentage increase to the base salary of each individual within an affected classification. The Judicial request thus maintains the existing distribution of salaries within affected classifications, resulting in a higher request relative to the Executive proposal. Given that the Department's request includes \$1,169,673 to increase salaries for employees within the Court Judicial Assistant and Support Services classifications without any additional proposed increase in the range minimum salaries for these classifications, it is likely that the offsetting impacts of these two differences result in an overall request that is higher than the Executive proposal.

*Salaries for Justices and Judges.* The request assumes that all salaries for judges and justices will increase by 3.1 percent, based on the 1.5 percent across-the-board increase and a 1.6 percent merit pay increase (absent any compounding).

*Associated Benefits.* Finally, please note that the request includes the associated PERA, Medicare, AED, and SAED payments.

**Recommendation:** Staff recommends an appropriation of \$5,698,482 for FY 2013-14 for salary survey (including \$4,676,224 General Fund and \$1,022,258 cash funds). The recommendation is based on the request. However, consistent with Committee policy, the recommendation:

- Adds funding to increase all base salaries by an additional 0.5 percent;
- Reduces the General Fund portion to reflect the pay date shift; and
- Includes the associated PERA and Medicare, but excludes the associated AED and SAED (these amounts are instead included in the AED and SAED line items).

*Salaries for Justices and Judges.* Please note that consistent with the Committee's policy of providing an extra 0.5 percent across-the-board increase in all base salaries, staff's recommendation includes a 3.6 percent increase in all salaries for justices and judges. Consistent with the Judicial Department's request, staff has not compounded the merit pay increase on top of the 1.5 percent increase.

The National Center for State Courts prepares an annual survey of judicial salaries. The most recent survey, dated January 1, 2012, indicates that: the salary for Associate Justices of the Colorado Supreme Court is ranked 34<sup>th</sup> among the 50 states and the District of Columbia; the salary for Associate Judges of the Colorado Supreme Court is ranked 28<sup>th</sup> of the 39 states that have an intermediate appellate court; and the salary of District Court Judges is ranked 33<sup>rd</sup> among 50 states and the District of Columbia. All three of these salaries fall below both the mean and the median among states. Even with the above recommended increases, these salaries would still fall below the mean salaries. At the end of this packet, **staff has recommended an amended Long Bill footnote to specify the corresponding increases for each judicial salary.**

#### **Anniversary Increases**

The Department uses this line item to pay for longevity or performance-related pay increases. One of five such line items, this one provides funds for Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation staff.

Please note that for purposes of calculating the dollar amount of its request, the Department assumes that every employee will receive a 1.6 percent merit pay increase. However, in practice, the Department may allocate the amount appropriated for merit pay differentially based on individual employee performance.

**Request:** The Department requests \$3,824,990 for FY 2013-14 for 1.6 percent merit increases on *base* salaries (excluding the 1.5 percent across-the-board increase and adjustments associated with salary range adjustments). The request includes the associated PERA, Medicare, AED, and SAED payments.

**Recommendation:** Staff recommends an appropriation of \$3,370,314 for FY 2013-14 for merit pay (including \$2,788,409 General Fund and \$581,905 cash funds). The recommendation is based on the request for 1.6 percent of base salaries, but the General Fund portion has been reduced to reflect the pay date shift. The recommendation includes the associated

PERA and Medicare, but it **excludes the associated AED and SAED (these amounts are included in the AED and SAED line items)**. Staff also recommends renaming this line item "Merit Pay", consistent with other state agencies.

**Workers' Compensation**

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

**Request:** The Department requests \$1,327,166 General Fund for FY 2013-14.

**Recommendation:** Staff's recommendation for this line item is pending. Staff will ultimately reflect the amount approved by the Committee when the common policy for Workers' Compensation is established.

**Legal Services**

This line item provides funding for the Department to purchase legal services from the Department of Law.

**Request:** The Department requests \$170,259 General Fund to purchase 2,204 hours of legal services in FY 2013-14.

**Recommendation:** Staff recommends approving the request to provide funding sufficient to purchase 2,204 hours of legal services. This appropriation has decreased since FY 2007-08 when the appropriation supported 4,227 hours of services. The associated appropriation will be calculated after the Committee sets the common policy for the legal services rate.

**Purchase of Services from Computer Center**

This line item provides funding for the Branch's share of statewide computer services provided by the Department of Personnel and Administration, Division of Information Technology (including funding associated with the independent agencies).

**Request:** The Department requests \$675,463 General Fund for FY 2013-14.

**Recommendation:** Staff's recommendation for this line item is pending. Staff will ultimately reflect the amount approved by the Committee when the common policy for this service is established.

**Multiuse Network Payments**

This line item is used to pay the Branch's share of the statewide multi-use network (including funding associated with the independent agencies).

**Request:** The Department requests \$1,185,276 General Fund for FY 2013-14.

**Recommendation:** Staff's recommendation for this line item is pending. Staff will ultimately reflect the amount approved by the Committee when the common policy for these payments is established.

**Payment to Risk Management and Property Funds**

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

**Request:** The Department requests \$614,750 General Fund for FY 2013-14.

**Recommendation:** Staff's recommendation for this line item is pending. Staff will ultimately reflect the amount approved by the Committee when the common policy for Risk Management and Property Funds is established.

**Vehicle Lease Payments**

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

**Request:** The Department requests a total of \$95,146 General Fund for FY 2013-14, which represents an increase of \$22,295 relative to the FY 2012-13 appropriation. The Department's request includes funding to replace eight full-size sedans (license numbers: 188DAK, 189DAK, 274CSD, 356IXS, 461BAU, 748HZF, 932HZF, and 940HZF).

**Recommendation:** Staff recommends approving the request for funding to replace eight vehicles. All of these vehicles exceed the applicable mileage thresholds. Staff's overall recommendation for this line item is pending. Staff will ultimately reflect the amount approved by the Committee when the common policy for Vehicle Lease Payments is established.

**Leased Space [to be renamed "Ralph L. Carr Colorado Judicial Center Leased Space"]**

For FY 2012-13, this line item provides funding for leased office space for the Office of the State Court Administrator, the Court of Appeals staff, and storage. The Department previously had three leases at three locations in Denver (including: 101 W. Colfax, Grandview, and the Chancery). In addition, in the Spring of 2010 the Supreme Court and the Court of Appeals were relocated from the Judicial Heritage Complex (bordered by 13<sup>th</sup> and 14<sup>th</sup> Streets, Broadway, and Lincoln) to 101 W. Colfax. The costs associated with the relocation and the costs of paying for

the Courts' leased space during construction of the Ralph L. Carr Colorado Judicial Center were included as part of the Carr Center project.

For FY 2013-14, this line item will provide funding to cover the leased space expenses for the following Judicial Branch agencies that have relocated (or will soon be relocating) to the Carr Center:

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

**Request:** The Department requests an appropriation of \$2,056,124 General Fund for FY 2013-14. The Department also proposes moving this line item to the Ralph L. Carr Colorado Judicial Center subsection of this section of the Long Bill.

**Recommendation:** Staff recommends appropriating \$2,063,194 General Fund for this line item for FY 2013-14. Staff recommends a slightly higher appropriation than requested based on the estimated leased space that each agency will occupy and the applicable leased space rates for FY 2013-14 (\$14.41 per rentable square foot for office space and \$8.00 per square foot for storage space).<sup>10</sup>

Based on this same information, **staff recommends appropriating a total of \$2,926,487 (including \$767,179 General Fund) to the Department of Law for its share of leased space within the Carr Center for FY 2013-14.** [Staff requests permission to adjust the fund sources appropriated to the Department of Law for this purpose as needed to properly implement the Committee's common policies.] **The recommendation is \$140,000 lower than the amount requested by the Department of Law, because it excludes the amount that was intended to be transferred to the Judicial Department to cover the Department of Law's share of State Patrol security services in the Carr Center.**

Staff believes that as all Carr Center tenants benefit from building security services, all tenants should pay a share of the costs of such services. The simplest way to allocate the costs among tenants is on the basis of each tenant's share of leased space and to include these costs in the leased space rate. Based on more recent conversations with the Judicial Department, it appears that for FY 2013-14 the Carr Center leased space rate includes security services expenses. Thus, the requested appropriation to the Department of Law for leased space (\$2,926,487) already includes funding for its share of security service expenses.

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<sup>10</sup> Staff included a table in the December 3, 2012, staff budget briefing document (see page 22) detailing the leased space for each Carr Center tenant, and the applicable leased space rates and payments for FY 2013-14. For those state agencies for which the Long Bill includes a Leased Space line item appropriation, this table also provides a comparison of leased space and costs in FY 2012-13 and FY 2013-14.

*JBC Staff Figure Setting: FY 2013-14*  
*Staff Working Document – Does Not Represent Committee Decision*

The following table details staff's recommendations related to Leased Space appropriations for Carr Center tenants for FY 2013-14.

<b>Recommended Appropriation Changes Related to Carr Center Leased Space</b>				
	FY 2012-13	FY 2013-14	Annual Change	
			\$	%
<b>Department of Law:</b>				
<b>Leased Space</b>	<u>\$1,273,320</u>	<u>\$2,926,487</u>	<u>\$1,653,167</u>	129.8%
General Fund	335,366	767,179	431,813	128.8%
Cash Funds	132,620	353,185	220,565	166.3%
Reappropriated Funds	766,375	1,718,514	952,139	124.2%
Federal Funds	38,959	87,609	48,650	124.9%
<b>Security Services</b>	<u>140,489</u>	<u>0</u>	<u>(140,489)</u>	-100.0%
General Fund	37,180	0	(37,180)	-100.0%
Cash Funds	14,704	0	(14,704)	-100.0%
Reappropriated Funds	84,287	0	(84,287)	-100.0%
Federal Funds	4,318	0	(4,318)	-100.0%
<b>Total: Law a/</b>	<b><u>\$1,413,809</u></b>	<b><u>\$2,926,487</u></b>	<b><u>\$1,512,678</u></b>	<b>107.0%</b>
General Fund	372,546	767,179	394,633	105.9%
Cash Funds	147,324	353,185	205,861	139.7%
Reappropriated Funds	850,662	1,718,514	867,852	102.0%
Federal Funds	43,277	87,609	44,332	102.4%
<b>Judicial Branch:</b>				
<b>Courts Administration</b>	<u>\$1,323,343</u>	<u>\$2,063,194</u>	<u>\$739,851</u>	55.9%
General Fund	1,151,863	2,063,194	911,331	79.1%
Cash Funds	171,480	0	(171,480)	-100.0%
<b>OSPD b/</b>				
General Fund	391,830	0	(391,830)	-100.0%
<b>OADC</b>				
General Fund	35,880	0	(35,880)	-100.0%
<b>OCR b/</b>				
General Fund	44,850	0	(44,850)	-100.0%
<b>Total: Judicial</b>	<b><u>\$1,795,903</u></b>	<b><u>\$2,063,194</u></b>	<b><u>\$267,291</u></b>	<b>14.9%</b>
General Fund	1,624,423	2,063,194	438,771	27.0%
Cash Funds	171,480	0	(171,480)	-100.0%
<b>Grand Total</b>	<b><u>\$3,209,712</u></b>	<b><u>\$4,989,681</u></b>	<b><u>\$1,779,969</u></b>	<b>55.5%</b>
General Fund	1,996,969	2,830,373	833,404	41.7%
Cash Funds	318,804	353,185	34,381	10.8%
Reappropriated Funds	850,662	1,718,514	867,852	102.0%
Federal Funds	43,277	87,609	44,332	102.4%
a/ Please note that the sources of funds reflected for FY 2013-14 include adjustments related to other budget initiatives (R-3 and R-4).				
b/ Both the OSPD and OCR leased space appropriations include funding for offices that will not be relocating to the Judicial Center. For purposes of this table, only those amounts related to the Judicial Center are reflected.				



In addition, **staff recommends renaming this line item** (in both budgets) "**Ralph L. Carr Colorado Judicial Center Leased Space**", to differentiate these appropriations from leased space appropriations to the Department of Law and the Judicial Branch for other private leased space. Finally, **staff recommends that this line item continue to be included in the "Central Appropriations" subsection of this section of the Judicial Department budget in the Long Bill.** This format will limit the appropriations in the Carr Center subsection of the Long Bill to the operational costs associated with the Carr Center.

**Communication Services Payments**

This line item provides funding to pay to the Department of Personnel and Administration the Branch's share of the costs associated with operating the public safety communications infrastructure (including funding associated with the independent agencies).

**Request:** The Department requests \$16,703 General Fund for FY 2013-14.

**Recommendation:** Staff's recommendation for this line item is pending. Staff will ultimately reflect the amount approved by the Committee when the common policy for these payments is established.

**COFRS Modernization**

This line item provides the Branch's share of funding for replacement of the statewide accounting system (COFRS) that is used by the Office of the State Controller to record all state revenues and expenditures. This line item includes funding associated with the independent agencies.

**Request:** The Department requests \$1,056,857 General Fund for FY 2013-14.

**Recommendation:** Staff's recommendation for this line item is pending. Staff will ultimately reflect the amount approved by the Committee when the common policy for this project is established.

**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.

**Request:** The Department requests a continuation level of funding (\$119,878 General Fund) for FY 2013-14.

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

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## **(C) CENTRALLY ADMINISTERED PROGRAMS**

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

### **LINE ITEM DETAIL**

#### **Victim Assistance and Victim Compensation**

These line items represent funds that are collected by the courts from offenders and then transferred to local governments for compensation and assistance of victims, 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 under the Judicial Branch's constitutional authority. However, the Department request tries to reflect anticipated activity with these accounts.

**Request:** The Department requests a continuation level of funding (\$16,375,000 for Victim Assistance and \$12,175,000 for Victim Compensation).

**Recommendation:** Staff recommends approving the request. The sources of cash funds are the Victims and Witnesses Assistance and Law Enforcement Funds (for Victim Assistance) and Crime Victim Compensation Funds (for Victim Compensation).

#### **Collections Investigators**

Collection investigators are located in each judicial district as required by Section 18-1.3-401 (1) (a) (III) (C), C.R.S. These investigators are responsible for maximizing the collection of court-imposed fines, fees, and restitution. Recoveries are credited to the General Fund, victim restitution, victims compensation and support programs, and various law enforcement, trial court, probation and other funds. Investigators are supported from cash funds (the Judicial Collection Enhancement Fund and the Fines Collection Cash Fund), as well as grants from local Victims and Witness Assistance Law Enforcement (VALE) Boards.

**Request:** The Department requests a continuation level of funding (\$5,157,739 and 83.2 FTE).

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

#### **Problem-solving Courts**

This line item primarily provides state funding for adult drug courts that have been implemented by various judicial districts. In 2008 the General Assembly requested that the Department develop a plan for providing drug courts statewide. This plan and the state funding provided through this line item continue to allow local judicial districts to determine whether to create an adult drug court, ensure existing drug courts are operating effectively, and increase the number of eligible offenders who can be offered drug court.



If implemented properly, adult drug 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. As adult drug courts continue to produce positive results, other "problem-solving" treatment courts, such as family dependency and neglect courts, DUI courts, mental health courts, and veterans treatment courts, are using the drug court model to successfully treat drug dependent individuals. In total, there are 71 problem-solving treatment courts in 19 of 22 judicial districts serving approximately 3,700 participants. Another seven courts are in the planning process. This line item currently provides state funding for some (but not all) DUI courts, mental health courts, and veterans treatment courts.

*Background Information – Funding for Adult Drug Courts.* Drug court is an innovative alternative to prison with emphasis on accountability and intensive monitoring for drug abusing criminal offenders. 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 a defendant's success by providing ancillary services such as mental health treatment, trauma and family therapy, and job skills training.

Problem-solving treatment courts continue to be one of the most researched community-based alternatives to working with drug dependent individuals in the criminal justice and the dependency and neglect system. Most recently, the National Institute of Justice funded an unprecedented meta-analysis that not only supports what other research studies have shown -- drug court participants are less likely to commit new crimes and more likely to attend and successfully complete substance abuse treatment -- but also reveals other quantifiable benefits for the individual and communities. Drug court participants were found to be less likely to use illicit substances during and after program completion, more likely to be gainfully employed, more likely to be enrolled in school, and less likely to have family conflict.

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:

- 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 services<sup>11</sup>).
- 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.

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<sup>11</sup> 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

- 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.

Drug courts in Colorado were 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 April 2008, the Joint Budget Committee submitted the following request for information to the Chief Justice:

"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 report and plan in the Fall of 2008 as requested. The report included data concerning the significant number of offenders on probation, incarcerated, and on parole that have a substance abuse problem. Also, 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 has worked to encourage districts to implement best practices and to develop a strategic plan that will lead to sustainable courts with adequate financial support.

In FY 2009-10, in response to the Committee’s request, the Department requested funding and staff to enhance and expand drug courts that were currently operational and those that were scheduled to be implemented by the end of FY 2008-09. The General Assembly appropriated \$1.3 million (primarily from cash funds) to increase the number of high risk and high need offenders served, and to ensure that these drug courts are operating consistently and effectively in order to maximize the resulting cost savings. The General Assembly has continued to provide state funding for this purpose, and has allowed the Department to expand the capacity of existing adult drug courts from 35 to 50 percent of the target population.

**Request:** The Department requests \$2,739,133 cash funds and 37.7 FTE for FY 2013-14. This request is impacted by JUD R-6 (Problem-solving Court Coordinators).

**Recommendation:** Staff recommends appropriating \$3,045,535 cash funds and 41.5 FTE for FY 2013-14. Staff’s recommendation is higher than the request due to staff’s recommendation on JUD R-6 (discussed below).

*JBC Staff Figure Setting: FY 2013-14*  
*Staff Working Document – Does Not Represent Committee Decision*

<b>Courts Administration, Centrally Administered Programs, Problem-solving Courts</b>				
		<b>Total Funds</b>	<b>Cash Funds</b>	<b>FTE</b>
<b>FY 2012-13 Appropriation:</b>				
HB 12-1335 (Long Bill)	✔	2,335,970	2,335,970	32.7
<b>TOTAL</b>	✔	<b>\$2,335,970</b>	<b>\$2,335,970</b>	<b>32.7</b>
<b>FY 2013-14 Recommended Appropriation:</b>				
FY 2012-13 Appropriation	✔	\$2,335,970	\$2,335,970	32.7
JUD R-6: Problem-solving court coordinators	✔	709,565	709,565	8.8
<b>TOTAL</b>	✔	<b>\$3,045,535</b>	<b>\$3,045,535</b>	<b>41.5</b>
<b>Increase/(Decrease)</b>	✔	\$709,565	\$709,565	8.8
Percentage Change	✔	30.4%	30.4%	26.9%
<b>FY 2013-14 Executive Request:</b>				
Request Above/(Below) Recommendation	✔	(\$306,402)	(\$306,402)	(3.8)

**➔ Request JUD R-6: Problem-solving Court Coordinators**

- The Department requests \$451,133 cash funds from the Judicial Stabilization Cash Fund to add a total of 5.0 FTE Problem-solving Court Coordinators, including: (1) 3.5 FTE to work in existing family dependency treatment courts; and (2) 1.5 FTE to work in veterans treatment courts that do not have permanent funding for a coordinator.
- Staff recommends appropriating \$750,952 cash funds and 8.8 FTE to fully fund these courts.

*Request:* The Department requests \$451,133 cash funds from the Judicial Stabilization Cash Fund to add a total of 5.0 FTE Problem-solving Court Coordinators, including: (1) 3.5 FTE to work in existing family dependency treatment courts; and (2) 1.5 FTE to work in veterans treatment courts that do not have permanent funding for a coordinator.

In an effort to support and enhance the problem solving court movement in Colorado, former Chief Justice Mary Mullarkey established the Problem Solving Court Advisory Committee in April, 2008. The Advisory Committee’s priorities were initially focused on areas where national research supported the efficacy of the program. The Advisory Committee spent a majority of the first two years sustaining and developing guidelines for adult drug and DUI courts. The Advisory Committee is now focusing their efforts on other problem solving treatment courts in Colorado that have a growing body of research to support the program practices. The purpose of this request is to add resources and staff for two types of problem-solving courts.

Family Dependency Treatment Court

Family dependency treatment court (FDTC) is a family court docket in which selected dependency and neglect cases are identified where parental substance abuse is a primary factor. Judges, attorneys, child protection services, and treatment personnel unite with the goal of providing safe, nurturing, and permanent homes for children while simultaneously providing

parents the necessary support and services to promote long-term stabilized recovery and enhance the possibility of family reunification within mandatory legal timeframes. FDTCs follow the evidenced-based 10 key components of adult drug courts with additional emphasis on best practices in child well-being and care.

National data indicates that these types of courts have the potential to increase the number of children who are successfully reunited with their parents, and to reduce the number of days children spend in out-of-home placement. While these courts appear to be producing positive results in Colorado, there is a need for dedicated coordinators to facilitate efforts in these multi-agency collaborative programs.

#### Veterans Treatment Court

A veterans treatment court (VTC) uses a hybrid integration of drug court and mental health court principles to serve military veterans and active-duty personnel. They promote sobriety, recovery, and stability through a coordinated response that involves collaboration with the traditional partners found in drug courts and mental health courts, as well as the Department of Veterans' Affairs, volunteer veteran mentors, and organizations that support veterans and veterans' families. VTC is a promising approach to serve military veterans who have become involved in the judicial system as a result, in part, from trauma sustained through military service. These courts are able to build their program around the specialized culture and needs of veterans.

Although VTCs have not existed long enough to have national, research-based outcomes, the practices implemented in these courts align with evidenced based practices in adult drug courts while engaging the resources and services needed to meet the specialized needs of veterans. Colorado data indicates promising results from utilizing this specialized approach. The Fourth Judicial District VTC is approaching four years in existence and consists of 81 percent veterans and 19 percent active duty military.

- Ninety-five percent of the participants served in a combat theater, with an average of two tours of duty and as many as six.
- Ninety two percent of the veterans report medical problems related to military service
- 100 percent of participants report military service contributed to mental health and emotional issues.

Ongoing evaluation results indicate participants are experiencing overall improved health, stability in the form of employment and social connectedness, and mental health symptom reduction, as well as decreases in substance abuse.

#### Anticipated Outcomes

The Problem-solving Court Coordinator serves as a vital member or “hub” of the multidisciplinary team that responds to the behaviors and treatment needs of program participants. The Coordinator acts as an advocate and intermediary for the program, the team, and the community, and exists in most drug courts nationwide. It is the Coordinator's responsibility to work with stakeholders to build, expand and implement best practices in the problem-solving treatment court to ultimately reduce crime and substance abuse. The

Coordinator is critical in data collection to improve individual program practices and determine program efficacy.

The demand to increase the capacity of problem solving courts at the local level often exceeds the State's ability to fully fund programs as they become active. In FY 2011-12 alone there were nine new problem solving treatment courts and seven in FY 2010-11. In general, Colorado problem-solving treatment courts are growing at approximately ten percent per year. With an increasing number of problem-solving treatment courts there is a growing need for more problem-solving court Coordinators and no built in staffing mechanism to support Coordinator positions in new and growing courts.

Based on Colorado court data, adult criminal programs operating with a Coordinator see a 15 percent higher program graduation rate (61 percent) compared to those operating without a coordinator (roughly 46 percent). Those programs operating closest to the goal ratio of one Coordinator for every fifty participants see a five percent higher graduation rate (64 percent) compared to those operating further away from the capacity ratio (59 percent). Having enough Coordinator time dedicated to programs based on participant levels maximizes participant success. Since family dependency treatment courts and veterans treatment courts serve a similar population as adult drug courts under the same model, it is reasonable to anticipate with added coordinator resources in these courts, participant success rates will increase as well as program capacity.

***Recommendation:*** Staff recommends appropriating \$750,952 cash funds and 8.8 FTE, as detailed in the table at the end of this narrative (shading indicates those items that differ from the request). Staff's recommendation is \$299,820 higher than the request because staff recommends "fully funding" these courts. Finally, consistent with Committee policy, staff does not provide funding for supplemental PERA payments (AED and SAED).

In the child welfare system, the court serves as an important check and balance on the child welfare agency's decisions, and it can be a problem-solving resource for families. Family treatment drug courts handle dependency and neglect cases differently, by having regular court hearings, timely referral for substance abuse treatment (which is critical for families with young children due to the expedited time frames required to reach "permanency"), frequent drug testing, rewards and sanctions for compliance, and a strong team decision-making process. Families are encouraged to bring their children with them to court, and the judge develops a relationship with the other involved professionals, as well as the parents and children. This allows the judge to play an effective role in encouraging parents to engage in their treatment and to be honest about what support they need to be successful.

Staff had an opportunity to visit family dependency treatment courts in Jefferson and Fremont Counties. These counties have found that these courts allow them to significantly reduce out-of-home placement expenditures, and to increase treatment resources. This type of court also complements other child welfare reforms that are underway, such as the "differential response" team decision-making that is used to evaluate abuse and neglect referrals.

*JBC Staff Figure Setting: FY 2013-14*  
*Staff Working Document – Does Not Represent Committee Decision*

Staff also had an opportunity to visit the veterans treatment court in El Paso County. The judge, probation officers, prosecutor, public defender, peer mentors, and treatment providers clearly believe in this approach to addressing the specialized needs of the veterans who are involved in the judicial system. The outcome data indicates that the court has been successful in a number of areas, including reduced involvement in the criminal justice system, reduced substance abuse, reduced psychological distress, and improved employment.

In all three counties, judges and staff indicated that their greatest need is for state support for the administration of these courts. Without dedicated Coordinators, they rely on existing staff or treatment provider staff to share these duties and it increases the workload for everyone involved. Staff believes that these courts should be fully staffed in order to maximize the potential for positive outcomes. The Department's request fell short of fully staffing existing family dependency treatment courts and veterans treatment courts. Staff's recommendation would add 6.8 FTE for family dependency treatment courts and 2.0 FTE for veterans treatment courts.

<b>Summary of Recommendation for JUD R-6: Problem-Solving Court Coordinators</b>		
	<b>FY 2013-14</b>	<b>FY 2014-15</b>
<b><u>Courts Administration</u></b>		
<b><i>Central Appropriations</i></b>		
Health, Life, and Dental	\$0	\$58,291
Short-term Disability	0	1,194
AED	0	25,133
SAED	0	23,562
Subtotal	0	48,695
<b><i>Centrally Administered Programs</i></b>		
<b><u>Problem-solving Courts</u></b>		
Personal Services (8.8 FTE for 12 months; \$71,400 annual salary + PERA + Medicare)	701,205	701,205
Operating Expenses (per FTE costs of \$450 for telephone and \$500 for supplies for 8.8 FTE)	8,360	8,360
Subtotal	709,565	709,565
<b><u>Courthouse Capital/ Infrastructure Maintenance</u></b> (per FTE costs of \$3,473 for cubicle/work station and \$1,230 for computer and software for 8.8 FTE)	41,386	0
<b>Total</b>	<b>\$750,952</b>	<b>\$734,698</b>

**Language Interpreters**

This is one of six line item appropriations for "mandated costs". These are costs associated with activities, events, and services that accompany court cases that are required in statute and/or the U.S. and Colorado Constitutions to ensure a fair and speedy trial, and to ensure the right to legal



representation. This is one of two line items administered by the Office of the State Court Administrator that provides funding for mandated costs.

This line item provides funding for foreign language interpreter services 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 federal Civil Rights Act of 1964 prohibits recipients of federal financial assistance from discriminating based upon national origin by, among other things, failing to provide meaningful access to individuals who are limited English proficient (LEP). 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 06-03.

This Chief Justice Directive indicates that the court shall pay for interpreter services for in-court proceedings for cases where there is a potential loss of liberty, in cases where children are involved in the court process (*e.g.*, dependency and neglect cases for parents facing termination of their parental rights), in mental health and protection order cases, and in all case types in which indigency has been determined. These services are also provided to facilitate communication outside the judge's presence in order to allow the court proceeding to continue as scheduled (*e.g.*, pretrial conferences between defendants and district attorneys). Accurate language interpreter services are critical for a judge to understand a party’s response, to hear a victim’s concerns, and to be assured that the parties understand the terms and conditions of their sentence. Prosecutors and clients' attorneys pay for or provide language interpretation that is necessary for other purposes, such as case preparation and general communication.

This line item supports Department staff in each judicial district, the individual who administers the program, and payments to certified language interpreters who provide contract services. The Department currently pays certified Spanish interpreters \$35 per hour; this rate was most recently increased from \$30 to \$35 in FY 2011-12. Certified interpreters working in languages other than Spanish are paid at \$45/hour.

**Request:** The Department requests a continuation level of funding (\$3,662,739 and 25.0 FTE). 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 (excluding employee benefits)	Expenditures (including employee benefits)	Annual % Change in Expenditures
1999-00	n/a	\$1,390,769	
2000-01	n/a	1,736,343	24.8%
2001-02	n/a	2,135,898	23.0%
2002-03	n/a	2,261,106	5.9%
2003-04	n/a	2,224,287	-1.6%

Recent History of Funding for Language Interpreter Services			
Fiscal Year	Appropriation (excluding employee benefits)	Expenditures (including employee benefits)	Annual % Change in Expenditures
2004-05	n/a	2,545,831	14.5%
2005-06	n/a	2,879,595	13.1%
2006-07*	2,883,666	3,181,250	10.5%
2007-08	2,892,427	3,520,983	10.7%
2008-09	3,393,469	3,715,881	5.5%
2009-10	3,396,568	3,347,499	-9.9%
2010-11	3,428,312	3,456,745	3.3%
2011-12	3,633,821	3,924,198	13.5%
2012-13	3,622,739		
2013-14 Request	3,622,739		

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

**Recommendation:** Staff recommends approving the request, which is consistent with Committee policy. Given the rapidly increasing demand for language interpreter services from FY 2004-05 to FY 2007-08, the Department worked to reduce costs and maximize services within available resources. The Department has created the Center for Telephone Interpreting (CTI), which allows court personnel to call a central location to receive quality certified interpreter services via telephone. This service is useful for remote areas of the state and for short hearings, as it eliminates the need to pay additional amounts for travel time, travel expenses, and minimum shift requirements. The CTI is not effective for hearings that exceed two hours or evidentiary hearings, where an on-site interpreter is necessary.

The Department has also modified scheduling practices to allow one interpreter to cover more than one courtroom. Dockets have also been adjusted to group same language cases together, when possible. The Department has also shortened the minimum shift for Spanish language interpreter services from eight hours (two four-hour shifts) to two- or three-hour shifts, depending on the court's needs and location.

**Courthouse Security**

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

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



A court security specialist (1.0 FTE) administers the grant program, and the Court Security Cash Fund Commission evaluates grant applications and makes recommendations to the State Court Administrator concerning grant awards.<sup>12</sup>

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.

**Request:** The Department requests an appropriation of \$3,865,833 cash funds and 1.0 FTE for FY 2013-14. The request reflects an increase of \$844 compared to the FY 2012-13 appropriation.

**Recommendation: Staff recommends appropriating \$3,214,989 cash funds and 1.0 FTE for FY 2013-14.** For the last three fiscal years, the appropriation for this program has exceeded projected annual revenues to allow the Department to reduce the fund balance and comply with the statutory limit on cash funds uncommitted reserves (16.5 percent of annual expenditures).<sup>13</sup> The Department has reduced the fund balance from \$2,317,104 in July 2010 to \$1,817,009 in July 2012, and the Department projects that the fund balance will fall below the 16.5 percent limit by July 2014. However, this projection is based on expenditure levels in both FY 2012-13 and FY 2013-14 that fall below the annual appropriation. **Staff recommends adjusting the appropriation for this line item to better reflect anticipated expenditures.** Specifically, staff recommends reducing the FY 2012-13 appropriation by the amount of the anticipated "program restriction" that the Department plans to put in place (\$3,864,989 - \$650,000 = \$3,214,989).

In the past the Department has indicated that it intends to continue to support ongoing personnel grants totaling \$1,450,000, and to use the remainder of the annual appropriation to provide one-time grants for the purchase of equipment, for courthouse emergencies, for training, and to cover program administration expenses. Staff's recommendation will allow the Department to spend available funds in this manner.

Please note that based on projected fund revenues, it is likely that this appropriation will need to be reduced further in FY 2014-15.

### **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.

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<sup>12</sup> See Section 13-1-201, *et seq.*, C.R.S.

<sup>13</sup> See Section 24-75-402, C.R.S.

Prior to FY 2002-03, the Department received an annual General Fund appropriation for 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. For several fiscal years, this appropriation was set at \$1.0 million General Fund. In FY 2009-10, the General Fund appropriation was temporarily replaced with cash funds from the Judicial Stabilization Fund. This financing was made possible by delaying the implementation of the last 15 district and county court judgeships authorized by H.B. 07-1054. The one-time cash funds savings resulting from this delay were allocated to meet the State’s obligation to furnish new and remodeled courthouses. The following table provides a recent history of expenditures.

<b>Recent Expenditures/Appropriations for Courthouse Capital/Infrastructure Maintenance</b>	
FY 2000-01	\$5,808,916
FY 2001-02	2,317,321
FY 2002-03	317,302
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
FY 2008-09	1,000,000
FY 2009-10	3,064,041
FY 2010-11	2,432,067
FY 2011-12	616,932
Average Annual Expenditure	1,665,019
FY 2012-13 Approp.	1,659,089
FY 2013-14 Request	3,945,382

**Request:** The Department requests an appropriation of \$3,945,382 for FY 2013-14. The request includes \$3,848,500 requested through R-8 (Courthouse capital and infrastructure maintenance) which is discussed below, plus another \$96,882 for one-time capital outlay costs associated with the following decision items:

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R-3 (Legal FTE):\$7,525;  
R-4 (Self-represented litigant coordinators): \$47,030;  
R-5 (Court appointed professionals coordinator): \$5,933;  
R-6 (Problem-solving court coordinators): \$23,515; and  
R-7 (Implementation of evidence-based practices): \$12,879.

**Recommendation:** Staff recommends appropriating a total of \$3,933,443 for FY 2013-14, including \$20,042 General Fund and \$3,913,401 cash funds from the Judicial Stabilization Cash Fund. Staff's recommendation is \$11,939 lower than the request due to different recommendations on the above decision items (some higher, some lower). The following table details the calculation of the recommendation, including amounts related to each decision item.

<b>Courts Administration, Centrally Administered Programs, Courthouse Capital/ Infrastructure Maintenance</b>					
	<b>Total Funds</b>	<b>General Fund</b>	<b>Cash Funds</b>	<b>Reappropriated</b>	<b>FTE</b>
<b>FY 2012-13 Appropriation:</b>					
HB 12-1335 (Long Bill)	1,654,386	0	1,654,386	0	0.0
Other legislation	4,703		0	4,703	0.0
<b>TOTAL</b>	<b>\$1,659,089</b>	<b>\$0</b>	<b>\$1,654,386</b>	<b>\$4,703</b>	<b>0.0</b>
<b>FY 2013-14 Recommended Appropriation:</b>					
FY 2012-13 Appropriation	\$1,659,089	\$0	\$1,654,386	\$4,703	0.0
JUD R-3: Legal FTE	1,230	1,230	0	0	0.0
JUD R-4: Self-represented litigant coordinators	23,515	0	23,515	0	0.0
JUD R-5: Court appointed professionals coordinator	4,703	4,703	0	0	0.0
JUD R-6: Problem-solving court coordinators	41,386	0	41,386	0	0.0
JUD R-7: Implementation of evidence-based practices	14,109	14,109	0	0	0.0
JUD R-8: Courthouse capital and infrastructure maintenance	3,848,500	0	3,848,500	0	0.0
Annualize prior year legislation	(4,703)	0	0	(4,703)	0.0
Annualize prior year budget actions	(1,654,386)	0	(1,654,386)	0	0.0
<b>TOTAL</b>	<b>\$3,933,443</b>	<b>\$20,042</b>	<b>\$3,913,401</b>	<b>\$0</b>	<b>0.0</b>
<b>Increase/(Decrease)</b>	<b>\$2,274,354</b>	<b>\$20,042</b>	<b>\$2,259,015</b>	<b>(\$4,703)</b>	<b>0.0</b>
Percentage Change	137.1%	0.0%	136.5%	(100.0%)	0.0%
<b>FY 2013-14 Executive Request:</b>					
Request Above/(Below) Recommendation	\$11,939	\$6,295	\$5,644	\$0	0.0



**Request JUD R-8: Courthouse Capital/Infrastructure Maintenance**

- The Department requests \$3,848,500 cash funds from the Judicial Stabilization Cash Fund to fulfill the State's responsibility to furnish court facilities. The request addresses required infrastructure and courthouse furnishing needs.
- Staff recommends approving the request.

*Request:* The Department indicates that for FY 2013-14, it will require a total of \$3,848,500 for courthouse and probation facility furnishings and infrastructure in multiple judicial districts. Consistent with the last four fiscal years, the Department proposes using the Judicial Stabilization Cash Fund to eliminate the need for General Fund support of this line item for FY 2013-14.

Over 78 percent of the request (\$3,020,000) is required to furnish new courthouse and probation facilities in Pueblo County. Another \$280,000 of the request is to replace a critical phone system in Larimer County. The judicial district currently purchases phone services from the county. The county is replacing its phone system and will no longer provide services to the judicial district. The Judicial Department indicates that the cost of replacing the phone system will be recovered in four years due to the elimination of monthly usage charges. The Department's existing Lease Purchase line item does not provide sufficient funding to cover the cost of this system. The table on the following page details the components of the request.

*Recommendation:* Staff recommends approving the request for \$3,848,500 cash funds to cover the state share of the costs of furnishing courthouse facilities in FY 2013-14.

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<b>Courthouse Capital/Infrastructure Maintenance for FY 2013-14</b>			
<b>Districts</b>	<b>Counties</b>	<b>Description</b>	<b>Funding</b>
10th	Pueblo	The county has committed to building new facilities for the trial courts and probation at a cost of \$60-\$65 million. The project is expected to be completed in FY 2013-14, which is when most of the related state expenses will be incurred.	\$3,020,000
8th	Larimer	A new phone system is required to replace services which will no longer be made available from the county.	280,000
3rd, 4th, 8th, 13th, 15th, 19th, and 21st	Huerfano, El Paso, Larimer, Alamosa, Washington, Yuma, Kit Carson, Prowers, Weld, Mesa	Six counties (Alamosa, Kit Carson, Washington, Yuma, Prowers, and Weld) are remodeling and/ or refurbishing existing courtrooms. El Paso is adding wireless access throughout the building. Larimer County is moving a public self-help center. The new and remodeled spaces must be furnished by Judicial. Project costs range from \$700 to \$47,000, with an average project cost of \$19,700.	197,000
20th	Boulder	Boulder county is remodeling former probation space into Clerk's Office space to include a research area and high-density file shelving. Judicial must furnish the shelving.	120,000
1st	Jefferson	Jefferson County is providing a new magistrate's hearing room, which Judicial must furnish. In addition, a new public self-help center must be furnished.	100,000
18th	Arapahoe	Arapahoe County is building corridor between two existing buildings and is providing an additional courtroom. The corridor will include meeting rooms. This request is for furniture for the courtroom & meeting rooms.	60,000
22nd	La Plata	Cla Plata County is remodeling the courthouse, which is expected to be completed in FY 2014-15. In the interim, the courthouse must be temporarily relocated and Judicial must make the temporary location functional.	40,000
4th, 6th	El Paso, La Plata	El Paso County is installing two modular offices with doors in the sex offender unit in order to make offender interviews as confidential as possible. Judicial must provide the modular units as well as furniture for the new spaces. La Plata is purchasing replacement chairs and a table.	<u>31,500</u>
<b>Total</b>			<b>\$3,848,500</b>

**Senior Judge Program**

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. 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 fill a temporary need anywhere in the state. These retired judges may also participate in special projects conducted by the Office of the State Court Administrator. Recent examples include a judge who helped IT staff determine what case management information a judge needs to see on the screen for certain types of cases, and another judge who participated in a pilot program concerning post-conviction cases involving inmate appeals. The Department is also using retired judges to assist with the conservation easement case backlog (using additional funding that was provided for that purpose).

*JBC Staff Figure Setting: FY 2013-14*  
*Staff Working Document – Does Not Represent Committee Decision*

A retired judge receives reimbursement for travel expenses for out-of-town assignments, and is compensated by receiving a retirement benefit increase equal to 20 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 payment of retired judges' additional benefits during the previous fiscal year (*i.e.*, costs incurred in FY 2012-13 will be reimbursed by the Branch in FY 2013-14). Travel expenditures are reimbursed in the fiscal year in which they are incurred.

**Request:** The Department requests a continuation level of funding (\$1,500,000 cash funds from the Judicial Stabilization Cash Fund) for FY 2013-14.

**Recommendation:** Staff recommends reducing this appropriation by \$100,000, to \$1,400,000 for FY 2013-14. This program is a cost-effective way of managing dockets and covering judges' leave time. As detailed in the table below, the Department has effectively reduced the costs of this program in the last two fiscal years, decreasing expenditures from a high of \$1,943,200 in FY 2009-10 to \$1,348,530 in FY 2011-12. Now that all 43 judgeships that were authorized by H.B. 07-1054 have been funded and filled, and the General Assembly recently authorized the addition of two judgeships, staff believes that it is reasonable to reduce this appropriation. Staff has discussed this recommendation with Department staff, and they have indicated that an appropriation of \$1,400,000 should be adequate for FY 2013-14.

<b>Recent History of Funding for the Senior Judge Program</b>						
Fiscal Year	Appropriation	Actual Expenditures			Annual % Change	Appropriation - Expenditures
		PERA Payment	Travel/Other Expenses	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*	1,894,006	1,775,613	141,873	1,917,486	13.1%	(23,480)
2009-10	1,894,006	1,838,902	104,298	1,943,200	1.3%	(49,194)
2010-11	1,635,326	1,485,564	107,309	1,592,873	-18.0%	42,453
2011-12	1,500,000	1,216,211	132,319	1,348,530	-15.3%	151,470
2012-13	1,500,000					
2013-14 (Request)	1,500,000					

\* Appropriation includes a mid-year increase.

**Judicial Education and Training**

This line item was established in FY 2012-13 in response to a Department request. Specifically, the Department requested an additional \$585,500 cash funds from the Judicial Stabilization Fund (including \$125,000 in one-time funding) to address critical education and training needs for judicial officers through an expanded judicial officer training program. This new funding was consolidated with existing resources that supported judicial officer training.

Prior to FY 2012-13, the Department focused training resources on the needs of the judges who were new to the bench. This training consists of a five-day orientation training which addresses the transition from lawyer to judge, followed by a 2 ½-day advanced orientation session which addresses some specific case type issues and topics such as jury management, court security, evidentiary issues, findings and conclusions of law, etc.

The additional funding provided in FY 2012-13 was intended to allow the Department to develop and expand judicial education available to all judicial officers to address emerging issues. The Department identified the following most significant training needs to improve the outcomes of cases:

- Probate and Protective Proceedings – specifically addressing the deficiencies identified in the recent audit of protective proceedings.
- Family and Juvenile – particularly addressing custody and visitation decisions; ages and stages of child development; use of experts in family matters; and complicated property evaluation and division (including business evaluation).
- Trial Practice/Bench Skills – case and trial management through the life of a case.
- Evidence Based Decision-Making and Sentencing – reducing recidivism by applying evidence based principles to decision-making.
- Changes in the Law – keeping current with changes in legislation, federal and state court decisions, justice system research and trends, and court technology advances.

The Department's intent was to use the additional funding to develop curriculum and assessment tools. The overall goal was to provide timely and structured learning experiences, operational training, and developmental activities that support judicial officers' continuing educational and professional needs in leadership, case management, and legal matter subject expertise.

**Request:** The Department requests \$1,462,036 cash funds and 2.0 FTE for FY 2013-14. This line item is impacted by JUD R-2 (Procedural Fairness and Leadership Education).

**Recommendation:** Staff recommends approving the request, which includes a \$125,000 reduction to eliminate one-time funding that was provided in FY 2012-13 for JUD R-6 (Judicial Education and Training).



*JBC Staff Figure Setting: FY 2013-14*  
*Staff Working Document – Does Not Represent Committee Decision*

<b>Courts Administration, Centrally Administered Programs, Judicial Education and Training</b>				
	Total Funds	General Fund	Cash Funds	FTE
<b>FY 2012-13 Appropriation:</b>				
HB 12-1335 (Long Bill)	1,069,536		1,069,536	2.0
<b>TOTAL</b>	<b>\$1,069,536</b>		<b>\$1,069,536</b>	<b>2.0</b>
<b>FY 2013-14 Recommended Appropriation:</b>				
FY 2012-13 Appropriation	\$1,069,536		\$1,069,536	2.0
JUD R-2: Procedural fairness and leadership education	517,500		517,500	0.0
Annualize prior year budget actions	(125,000)		(125,000)	0.0
<b>TOTAL</b>	<b>\$1,462,036</b>		<b>\$1,462,036</b>	<b>2.0</b>
<b>Increase/(Decrease)</b>	<b>\$392,500</b>		<b>\$392,500</b>	<b>0.0</b>
Percentage Change	36.7%	0.0%	36.7%	0.0%
<b>FY 2013-14 Executive Request:</b>	<b>\$1,462,036</b>		<b>\$1,462,036</b>	<b>2.0</b>
Request Above/(Below) Recommendation	\$0		\$0	0.0



**Request JUD R-2: Procedural Fairness and Leadership Education**

- The Department requests \$517,500 cash funds from the Judicial Stabilization Fund to provide training and technical assistance on procedural fairness to judges, district administrators, chief probation officers, and senior staff in the Office of the State Court Administrator.
- Staff recommends approving the request.

*Request:* The Department requests \$517,500 cash funds from the Judicial Stabilization Cash Fund to implement an initiative to provide training and technical assistance on procedural fairness throughout the Branch. The four basic expectations that encompass procedural fairness include:

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

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

The Department proposes to train judges, judicial district administrators, and chief probation officers, from all 22 judicial districts, as well as the Chief Justice, the State Court Administrator,



the Deputy State Court Administrator, and senior staff in the Office of the State Court Administrator about procedural fairness. Judicial district leaders would also receive leadership training to work both inside and outside the courtroom to promote the effective and efficient administration of justice while maintaining procedurally fair processes and procedures.

The following table details the request.

<b>Summary of Request for JUD R-2: Procedural Fairness and Leadership Education</b>		
	<b>FY 2013-14</b>	<b>FY 2014-15</b>
<b>Course Design and Development</b>	\$20,000	\$0
<b>Executive Education</b>		
3 cohorts of 30 participants at \$90,000 per cohort (10 days at \$9,000 per day); ongoing training for one cohort per year	270,000	90,000
Travel, lodging, and per diem expenses (\$2,300 for one-half of participants)	<u>103,500</u>	<u>34,500</u>
Subtotal	373,500	124,500
<b>Staff Education</b>		
5 classes of 30 to 40 participants (\$16,000 per class)	80,000	80,000
<b>Facilitating Local Efforts</b>		
22 Judicial districts (\$2,000 each)	44,000	44,000
<b>Total Request</b>	<b>\$517,500</b>	<b>\$248,500</b>

*Recommendation:* Staff recommends approving the request. This request focuses on providing training to judges as well as District Administrators, Chief Probation Officers, and senior Department staff. Rather than focusing on procedural and legal topics, this curriculum is broader and focuses on how litigants are treated by judges and court personnel throughout the judicial process. Based on discussions with judges, and district and county court administrators, it is staff's perception that this initiative of the Chief Justice serves as a useful framework for judges and staff to use in evaluating a variety of day-to-day challenges. Several other initiatives that are underway or proposed, such as improving services for self-represented litigants and implementing problem-solving courts for individuals and families, will be more effective if the elements of procedural fairness are taken into account.

**Office of Judicial Performance Evaluation**

This line item provides funding for the State Commission on Judicial Performance. Pursuant to Section 13-5.5-101, *et seq.*, C.R.S., the State Commission is responsible for developing and administering a system of evaluating judicial performance. This office is responsible for:

- Staffing the state and district commissions, and training their members;
- Collecting and distributing data on judicial performance evaluations;

- Conducting public education efforts concerning the performance evaluation process;
- Measuring public awareness of the process through regular polling; and
- Other duties as assigned by the State Commission.

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

**Request:** The Department requests an appropriation of \$920,955 cash funds and 2.0 FTE for FY 2013-14. The request is essentially a continuation level of funding, including the amount appropriated in FY 2012-13 (\$890,955 and 2.0 FTE) plus \$30,000 to contract with a market research firm to conduct a bi-annual public awareness poll pursuant to S.B. 08-054.

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

### **Family Violence Justice Grants**

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

In addition to General Fund appropriations for this grant program, the State Court Administrator is authorized to receive gifts, grants, and donations for this program; such funds are credited to the Family Violence Justice Fund.<sup>14</sup> Further, S.B. 09-068 increased the fees for petitions and responses in divorce proceedings by \$10 each (from \$220 and \$106, respectively); half of the resulting revenue is credited to the Family Violence Justice Fund (providing an estimated \$143,430 in new fund revenues).<sup>15</sup> The act directs the Judicial Department to use this fee revenue to award grants to qualifying organizations that provide services for or on behalf of indigent persons and their families who are married, separated, or divorced.

**Request:** The Department requests a continuation level of funding (\$628,430) for FY 2013-14, including \$458,430 General Fund and \$170,000 cash funds from the Family Violence Justice Fund.

**Recommendation:** Staff recommends approving the request. Staff notes, however, that revenues to the Family Violence Justice Fund have not yet reached \$170,000 (revenues totaled \$161,182 and \$159,249 in the past two fiscal years, respectively). The Department manages this revenue shortfall by restricting the appropriation. The following table provides a recent history of appropriations for this program.

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<sup>14</sup> See Section 14-4-107, C.R.S.

<sup>15</sup> The other half of fee revenue is credited to the Colorado Domestic Abuse Program Fund, administered by the Department of Human Services.

*JBC Staff Figure Setting: FY 2013-14*  
*Staff Working Document – Does Not Represent Committee Decision*

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<b>Recent History of State Appropriations for Family Violence Justice Grants</b>			
<b>Fiscal Year</b>	<b>General Fund</b>	<b>Cash Funds</b>	<b>Total</b>
2002-03	\$500,000	\$0	\$500,000
2003-04	0	0	0
2004-05	0	0	0
2005-06	500,000	0	500,000
2006-07	500,000	0	500,000
2007-08	500,000	0	500,000
2008-09	750,000	0	750,000
2009-10	750,000	143,430	893,430
2010-11	750,000	143,430	893,430
2011-12	458,430	216,570	675,000
2012-13 Appropriation	458,430	170,000	628,430
2013-14 Request	458,430	170,000	628,430

**Family Friendly Court Program**

The Family-friendly Court Program provides funding for courts to create facilities or services designed to meet the needs of families navigating the court system. The program is funded with a \$1.00 surcharge on traffic violations. 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.).

**Request:** The Department requests a continuation level of funding (\$375,000 and 0.5 FTE).

**Recommendation:** Staff recommends approving the request, which is consistent with the Committee's common policies.

**Child Support Enforcement**

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

**Request:** The Department requests a continuation level of funding (\$90,900 and 1.0 FTE).

**Recommendation:** Staff recommends approving the request, which is consistent with the Committee's common policies.

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**(D) RALPH L. CARR COLORADO JUDICIAL CENTER**

This Long Bill subsection includes appropriations related to the operations of the Ralph L. Carr Colorado Judicial Center. For FY 2012-13, all three appropriations in this subsection are supported by the Justice Center Cash Fund, which consists of docket fees, lease payments from Carr Center tenants, and parking fees paid by employees and members of the public who utilize the Carr Center parking garage.

**For FY 2013-14, staff recommends that this subsection of the Long Bill reflect fund sources at the subtotal level, rather than at the line item level. Further, staff recommends that those moneys that are first appropriated through a leased space line item – either to another state agency or through another section of the Judicial Branch budget -- be reflected as reappropriated funds, and the remainder of the moneys (e.g., fee revenue that is used to pay for the Supreme Court and Court of Appeals areas of the Carr Center, leased space payments from continuously appropriated fund sources like Attorney Regulation, and parking fees paid by state employees of the public for use of the Carr Center parking garage) be reflected as cash funds.**

**LINE ITEM DETAIL**

**Personal Services**

This line item supports three types of expenditures, which are described below with the Department's estimated expenditures for FY 2013-14, the first full fiscal year of Carr Center operations.

- *Colorado State Patrol Services (\$850,000).* The Department purchases security services from the Colorado State Patrol. The appropriation covers the costs of a total of 15.0 FTE (11.0 FTE security officers, 3.0 FTE troopers, and 1.0 FTE supervisor) that provide weapons screening at two public entrances during business hours, 24-hour roving coverage, and the staffing of an information/security desk.

- *Facility Staff (\$234,856 and 2.0 FTE).* Two state employees manage and oversee the operational and engineering aspects of the Carr Center. A Building Manager is responsible for handling all tenant inquiries, and coordinating maintenance work among building staff, vendors, and contractors. The Building Manager also oversees the shared services within the Center, such as a copy center, mail room, food services, fitness center, and conference/training facility. The Building Manager also monitors performance of all third party vendor contracts, and reviews price quotes for the procurement of parts, services, and labor for the building.

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

- *Contract Services Related to Facility Management (\$176,130)*

**Request:** The Department requests \$1,260,986 and 2.0 FTE for FY 2013-14.

**Recommendation:** Staff recommends approving the request, with a slightly different mix of cash and reappropriated funds based on the recommended leased space appropriations to the Judicial Branch and the Department of Law. Staff requests permission to adjust the cash funds portion of the appropriation as necessary to reflect the actual cost of State Patrol security services once the Committee's common policies have been finalized.

### **Operating Expenses**

This line item supports three types of expenditures, which are described below with the Department's estimated expenditures for FY 2013-14.

- *Various Contract Services (\$3,364,334).* The Department contracts with Cushman Wakefield to act as the management company, providing contract engineering staff, first floor reception services in the office tower, and related administrative costs. The Department also contracts with Standard Parking to operate and maintain the parking garage, which is located between the ING building and the Colorado History Museum. Finally, the Department also contracts with a variety of other private vendors for various services, including custodial, maintenance contracts and supplies, grounds maintenance, and the copy center.
- *Utilities (\$660,000).* This line item covers electricity, gas, water, and sewer expenditures, which are monitored and managed by the Building Manager.
- *Operating Expenses for the 2.0 FTE Facility Staff (\$1,900).*

**Request:** The Department requests \$4,026,234 for FY 2013-14.

**Recommendation:** Staff recommends approving the request, with a different mix of cash and reappropriated funds based on the recommended leased space appropriations to the Judicial Branch and the Department of Law.

**Controlled Maintenance**

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

**Request:** The Department requests an appropriation of \$2,025,000 for FY 2013-14.

**Recommendation:** Staff recommends approving the request, with a different mix of cash and reappropriated funds based on the recommended leased space appropriations to the Judicial Branch and the Department of Law.

**Leased Space**

As described in in the Central Appropriations subsection of this section, the Department proposed moving this line item to this subsection in FY 2013-14. Staff recommends maintaining this line item in the Central Appropriations subsection. Details about the requested and recommended funding for this line item for FY 2013-14 are included in that subsection.

**(3) Trial Courts**

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

*District courts* preside over felony criminal matters, civil claims, juvenile matters, probate, mental health, and divorce proceedings. In addition, district courts handle appeals from municipal and county courts, and review decisions of administrative boards and agencies. The General Assembly establishes judicial districts and the number of judges for each district in statute; these judges serve renewable 6-year terms.<sup>16</sup>

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.<sup>17</sup>

*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

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<sup>16</sup> See Article VI, Sections 9 through 12 of the Colorado Constitution; and Section 13-5-101 et seq., C.R.S.

<sup>17</sup> See Sections 37-92-203 and 204, C.R.S.

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.<sup>18</sup>

## LINE ITEM DETAIL

### Trial Court Programs

This line item provides funding for personal services and operating expenses for judges, magistrates, court staff, and the Office of Dispute Resolution. Cash fund sources include the Judicial Stabilization Cash Fund, various court fees and cost recoveries, grants, and the sale of jury pattern instructions. Reappropriated funds reflect federal funds transferred from the Departments of Public Safety and Human Services. The following table details the types of employees that are supported by this line item. [Please note that the request and recommendation columns reflect 8.0 FTE that will be added if H.B. 13-1035 is enacted.]

Staffing Summary Trial Court Programs	FY 11-12 Actual	FY 12-13 Approp.	FY 13-14 Request	FY 13-14 Recommend.
District Court Judges (JUD R-1/ H.B. 13-1035)	174.3	176.0	178.0	178.0
County Court Judges	89.9	91.2	91.2	91.2
Magistrates/ Water Referees	59.7	64.3	64.3	64.3
District Administrators	21.3	22.0	22.0	22.0
Clerks of Court	60.6	66.3	66.3	66.3
Law Clerks/ Legal Research Attorneys (JUD R-1/ H.B. 13-1035)	80.1	169.9	171.9	171.9
Jury Commissioners	13.2	12.5	12.5	12.5
Court Reporters (JUD R-1/ H.B. 13-1035)	95.9	177.0	179.0	179.0
Probate Examiners/ Protective Proceedings Monitor	1.0	20.0	20.0	20.0
Self-Represented Litigant Coordinators (JUD R-4)	1.3	12.0	22.0	17.0
Family Court Facilitators	21.6	22.0	22.0	22.0
Other Court and Administrative Staff (JUD R-1/ H.B. 13-1035)	<u>1,044.2</u>	<u>960.9</u>	<u>962.9</u>	<u>962.9</u>
<b>Total</b>	<b>1,663.1</b>	<b>1,794.1</b>	<b>1,812.1</b>	<b>1,807.1</b>

**Request:** The Department requests \$124,921,437 (including \$92,763,540 General Fund) and 1,804.1 FTE for FY 2013-14. This line item is impacted by JUD R-4: Self-represented Litigant Coordinators.

**Recommendation:** Staff recommends appropriating \$124,609,511 (including \$92,763,540 General Fund) and 1,799.1 FTE for FY 2013-14. Staff's recommendation is \$311,926 cash funds and 5.0 FTE lower than the request due to staff's recommendation on JUD R-4.

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<sup>18</sup> See Article VI, Sections 16 and 17 of the Colorado Constitution; Section 13-6-101 et seq., C.R.S.



*JBC Staff Figure Setting: FY 2013-14*  
*Staff Working Document – Does Not Represent Committee Decision*

<b>Trial Courts, Trial Court Programs</b>					
	<b>Total Funds</b>	<b>General Fund</b>	<b>Cash Funds</b>	<b>Reappropriated</b>	<b>FTE</b>
<b>FY 2012-13 Appropriation:</b>					
HB 12-1335 (Long Bill)	123,249,518	92,758,394	29,391,124	1,100,000	1,794.1
<b>TOTAL</b>	<b>\$123,249,518</b>	<b>\$92,758,394</b>	<b>\$29,391,124</b>	<b>\$1,100,000</b>	<b>1,794.1</b>
<b>FY 2013-14 Recommended Appropriation:</b>					
FY 2012-13 Appropriation	\$123,249,518	\$92,758,394	\$29,391,124	\$1,100,000	1,794.1
JUD R-4: Self-represented litigant coordinators	311,927		311,927	0	5.0
Annualize prior year budget actions	1,048,066	5,146	1,042,920	0	0.0
<b>TOTAL</b>	<b>\$124,609,511</b>	<b>\$92,763,540</b>	<b>\$30,745,971</b>	<b>\$1,100,000</b>	<b>1,799.1</b>
<b>Increase/(Decrease)</b>	\$1,359,993	\$5,146	\$1,354,847	\$0	5.0
Percentage Change	1.1%	0.0%	4.6%	0.0%	0.3%
<b>FY 2013-14 Executive Request:</b>	<b>\$124,921,437</b>	<b>\$92,763,540</b>	<b>\$31,057,897</b>	<b>\$1,100,000</b>	<b>1,804.1</b>
Request Above/(Below) Recommendation	\$311,926	\$0	\$311,926	\$0	5.0

*JUD R-4:* Staff's recommendation for this decision item is described below.

*Annualize Prior Year Budget Actions:* For FY 2012-13, the General Assembly appropriated a total of \$1,352,600 to implement salary range adjustments for two job classifications: Court Judicial Assistants and Support Services. For FY 2013-14, that portion of the increase that affects salaries of staff supported by this line item (\$5,146 General Fund and \$1,042,920 cash funds from the Judicial Stabilization Cash Fund) will be incorporated into this line item.

**➔ Request JUD R-4: Self-represented Litigant Coordinators**

- The Department requests \$705,489 cash funds from the Judicial Stabilization Cash Fund to expand its statewide network of services to assist self-represented parties in court cases. The requested funding would expand the staff in judicial districts that coordinate and provide these services from 12.0 FTE to 22.0 FTE.
- Staff recommends appropriating \$335,442 and 5.0 FTE.

*Request:* The Department requests \$705,489 cash funds from the Judicial Stabilization Cash Fund to expand its statewide network of services to assist self-represented parties in court cases. The request includes \$654,939 for 10.0 FTE Self-represented Litigant Coordinators to coordinate and provide services, and \$50,550 in equipment and materials.

Last year, the General Assembly approved a request for \$840,676 cash funds from the Judicial Stabilization Fund to create a statewide network of services to assist self-represented (called "*pro se*") parties in court cases. This funding supports 12.0 FTE and provides equipment and materials for 12 *pro se* centers.



The Department indicated that over the past fifteen years a shift has occurred, in that citizens generally now expect to be able to fully participate in a court case without the services of an attorney. At the same time, the court system has shifted to processes that rely heavily on technology and the Internet. As a result, the need to provide one-on-one procedural assistance to *pro se* parties has increased and the courts have not been able to keep up with the demand. The Department indicates that this expansion of services is necessary so that procedural hurdles and missteps don't get in the way of justice being done in every case.

The Department indicated last year that its request represented an "initial investment" to expand the full range of services that self-represented parties need to be able to effectively represent themselves through all phases of a court case, from initial filing to final order. Staff noted last year that the request did not reflect any additional resources in FY 2013-14, so staff anticipated that the Department would submit another decision item in the future if and when it sees the need for additional resources to expand such services.

In an effort to encourage creative solutions, the Department requested that interested judicial districts submit a proposal for how they would use FTE in their districts to provide services to self-represented litigants. Through this process, districts identified a need of at least 24.0 FTE Coordinators across the state (ranging from 0.5 FTE for some districts and up to 3.0 FTE in others). In September of 2012 the Chief Justice approved an allocation of the 12.0 FTE to eleven judicial districts (including seven urban and four rural), based on the recommendations of a committee that reviewed the proposals. The committee reviewed 19 unique proposals and made an effort to fully fund the most promising, innovative and adaptable proposals in the hopes of being able to replicate the most successful practices statewide. The committee was able to fully fund seven proposals, partially fund five of the proposals, and did not fund seven proposals at all. Some of the most promising proposals that were fully funded contemplated innovative cross-jurisdictional partnerships with the assistance of local stakeholder organizations.

- One proposal (2nd Judicial District; Denver) conceived a comprehensive service framework across three separately administered jurisdictions: Denver District Court, Denver Juvenile Court and Denver Probate Court to help court users more efficiently navigate the system.
- Many proposals also included pledges of formal support (time or money) from many local partners.
- Another proposal that was contemplated by several applicants was the use of technology to enhance access to justice for self-represented parties.
- One district proposed staffing an online self-help center accessible to the public from other court locations, public libraries or home computers to assist with identifying, completing and filing forms for self-represented litigants and to make referrals to other legal resources.
- Several districts proposed delivering information via webinar while others contemplated video conferencing.
- Another innovative proposal sought to provide very basic computer skills assistance to its self-represented litigants who are expected to be more and more technologically literate every day but for whom the digital divide exists as a meaningful barrier to access to justice.
- Other RFPs had a component focusing on issues faced by specific populations like immigrants.

- Other RFPs that were committed to technology proposed educating public librarians throughout their judicial districts on how to assist self-represented litigants with navigating the Department's online presence and access Department resources.
- Almost every proposal committed to producing documents that can be used by parties in common, easily understood language, for example, a handout on "I'm a grandparent seeking custody".

Finally, many of the RFPs that were funded provided well thought out and measurable deliverables to provide value to their local communities. Some proposals committed to providing a certain number clinics per month on common issues for specific case types that self-represented litigants encounter on a regular basis. As part of this proposal process, every district that was allocated new FTE has committed to working with the Department to develop evaluation and measurement mechanisms appropriate to their specific proposals. The results of these evaluations and analysis of performance measures will assist the Department in determining which service delivery models work the best under different circumstances.

The Department requests additional resources for FY 2013-14 to provide districts another opportunity to receive additional funding and FTE to improve services for self-represented litigants.

***Recommendation:* Staff recommends appropriating \$335,442 cash funds and 5.0 FTE, as detailed in the following table (shading indicates those items that differ from the request). Staff's recommendation is \$370,048 and 5.0 FTE lower than the request for two reasons:**

- **The recommendation provides funding half the number of centers requested** (five rather than 10); and
- Consistent with **Committee policy**, staff does not provide funding for supplemental PERA payments (AED and SAED).

Similar to last year, staff is supportive of this request. However, staff is only recommending half the requested funding in order to make more funding available to add resources for family dependency treatment courts and veterans treatment courts (JUD R-6).

*JBC Staff Figure Setting: FY 2013-14  
Staff Working Document – Does Not Represent Committee Decision*

<b>Summary of Recommendation for JUD R-4: Self-Represented Litigant Coordinators</b>		
	<b>FY 2013-14</b>	<b>FY 2014-15</b>
<b><u>Courts Administration</u></b>		
<b><i>Central Appropriations</i></b>		
Health, Life and Dental	\$0	\$33,120
Short-term Disability	0	480
AED	0	10,104
SAED	<u>0</u>	<u>9,473</u>
Subtotal	0	53,176
<b><i>Centrally Administered Programs</i></b>		
Courthouse Capital/ Infrastructure Maintenance (\$3,473 for office furniture, \$900 for computer, and \$330 for Office Suite software for 10.0 FTE)	23,515	0
<b><u>Trial Courts</u></b>		
<b><u>Trial Court Programs</u></b>		
Personal Services (5.0 FTE for 12 months; \$50,520 annual salary + PERA + Medicare)	281,902	281,902
Operating Expenses associated with staff (per FTE costs of \$450 for telephone base and \$500 for supplies for 10.0 FTE)	4,750	4,750
One-time Operating Expenses for Pro Se Centers (for each center: \$2,730 for computer, software, and printer; \$285 for set of Colorado Revised Statutes; \$290 for 2-volume set of Colorado Family Law and Practice series & CD-ROM; \$130 for Family Law and Practice Handbook; \$120 for Colorado Elder Law Colorado Practice Series; and \$1,500 for office supplies)	<u>25,275</u>	<u>0</u>
Subtotal	311,927	286,652
<b>Total</b>	<b>\$335,442</b>	<b>\$339,828</b>

*Analysis:* The numbers of *pro se* cases have increased in four areas: domestic relations cases (child custody, child support, and divorce proceedings); general civil cases (mainly collections cases); probate cases; and domestic violence cases in which a victim needs assistance to file a protection order. *Pro se* parties strain the court system by:

- increasing the amount of time necessary for clerks to handle day-to-day court business;
- often filing the wrong or incorrect documents;
- failing to properly notice another party or to prepare for a hearing or trial and bringing the necessary evidence or witnesses;
- not understanding why the clerk’s office cannot provide free legal advice;
- lacking the computer skills to access requested information when given a website address;
- lacking access to a printer to secure documents necessary for their cases; and
- lacking access to statutes, and the court rules, policies, and procedures necessary to properly handle their cases.

The Self-represented Litigant Coordinators help in all areas where individual litigants have questions, including:

- clarifying procedural questions and forms;
- explaining courtroom scheduling, procedures, and policies;
- explaining how to use electronic resources to complete forms and obtain needed case information; and
- providing services on an appointment basis when appropriate.

These Coordinators serve as an internal resource for judges and court administrators because they are in a unique position to evaluate the quality and efficiency of services for self-represented litigants. These Coordinators are also expected to act as community liaisons to maximize resources available to *pro se* litigants (e.g., working with local library staff to provide access to court forms and legal materials; working with volunteer attorney organizations to provide litigants with access to free legal clinics and *pro bono* legal services).

The Office of the State Court Administrator has been meeting with *pro se* center staff on a quarterly basis to allow them to share what they are learning and what works best. They have also had staff from the Attorney Regulation unit provide training for these staff to clarify what assistance they can provide to litigants (i.e., clarifying what constitutes "legal advice"). They have also encouraged *pro se* center staff to provide advice and input to the Office of the State Court Administrator on how to clarify/simplify forms and improve online access to information and forms.

These additional resources are helping the court system change business practices to serve the needs of a growing number of *pro se* parties. The Colorado Code of Judicial Conduct [Colorado Rules of Civil Procedure, Appendix to Chapter 24, Rule 2.6] requires a judge to, "accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law". This rule indicates that the right to be heard is "an essential component of a fair and impartial system of justice". Further, with respect to *pro se* parties, the rule indicates the following:

"The steps that are permissible in ensuring a self-represented litigant's right to be heard according to law include but are not limited to liberally construing pleadings; providing brief information about the proceeding and evidentiary and foundational requirements; modifying the traditional order of taking evidence; attempting to make legal concepts understandable; explaining the basis for a ruling; and making referrals to any resources available to assist the litigant in preparation of the case. Self-represented litigants are still required to comply with the same substantive law and procedural requirements as represented litigants."

These additional resources help to ensure *pro se* litigants' right to be heard by providing information about court procedures and forms, making legal reference materials accessible, and working with each local community to make resources available to assist these litigants in preparing their case.

*JBC Staff Figure Setting: FY 2013-14*  
*Staff Working Document – Does Not Represent Committee Decision*

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

An ad hoc committee on mandated costs established by Chief Justice Vollack issued a report recommending that the responsibility for managing these costs of prosecution and defense be transferred to the entities responsible for incurring the costs. Thus, since FY 1999-00<sup>19</sup>, the General Assembly has provided multiple appropriations for mandated costs. Currently, the Long Bill includes six appropriations for mandated costs, including three to the Judicial Department, and individual appropriations to the Office of the State Public Defender, the Office of the Alternate Defense Counsel, and the Office of the Child's Representative. The following table provides a summary of actual expenditures for mandated costs, by line item.

<b>Mandated Costs: Actual Expenditures for Judicial Branch</b>						
	<b>FY 06-07</b>	<b>FY 07-08</b>	<b>FY 08-09</b>	<b>FY 09-10</b>	<b>FY 10-11</b>	<b>FY 11-12</b>
Courts Administration, Centrally Administered Programs - Language Interpreters	\$3,181,249	\$3,520,983	\$3,715,881	\$3,347,499	\$3,456,745	\$3,924,198
Trial Courts - Court Costs, Jury Costs, and Court-appointed Counsel	12,104,759	13,426,559	15,331,794	15,841,967	15,472,347	15,181,494
Trial Courts - District Attorney Mandated Costs	2,027,885	2,112,008	2,127,119	2,068,755	2,026,627	2,050,295
Office of the State Public Defender	2,541,618	3,143,259	2,954,167	3,092,601	3,516,379	3,758,631
Office of the Alternate Defense Counsel	1,240,579	1,549,841	1,589,848	1,513,582	1,429,874	1,469,945
Office of the Child's Representative	<u>26,342</u>	<u>41,080</u>	<u>34,437</u>	<u>39,717</u>	<u>29,290</u>	<u>40,405</u>
<b>Total</b>	<b>21,122,432</b>	<b>23,793,729</b>	<b>25,753,246</b>	<b>25,904,121</b>	<b>25,931,262</b>	<b>26,424,968</b>
<i>Annual Percent Change</i>		<i>12.6%</i>	<i>8.2%</i>	<i>0.6%</i>	<i>0.1%</i>	<i>1.9%</i>

**Court Costs, Jury Costs, and Court-appointed Counsel**

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

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

- (1) The Office of the State Public Defender (OSPD) provides legal representation for indigent defendants who are facing incarceration;
- (2) The Office of the Alternate Defense Counsel (OADC) pays for private attorneys to provide legal representation for indigent defendants in criminal and juvenile delinquency

<sup>19</sup> This budget format change was implemented through mid-year adjustments in H.B. 00-1403.

cases in which the OSPD is precluded from doing so because of an ethical conflict of interest; and

(3) The Office of the Child's Representative (OCR) provides or pays for private attorneys to provide legal representation for children involved in the court system due to abuse or neglect, delinquency, truancy, high conflict divorce, alcohol or drug abuse, mental health issues, and probate matters.

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

- 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).

*Jury Costs.* This line item also covers fees and expenses for jurors. Pursuant to Sections 13-71-125 through 13-71-131, C.R.S., jurors must be compensated \$50 daily,<sup>20</sup> 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 Costs.* Similar to mandated costs incurred by other agencies, this line item provides funding for transcripts, expert and other witness fees and expenses, interpreters, psychological evaluations, sheriffs' fees, subpoenas, and other costs mandated by statute. For the Judicial Department, these expenses are primarily related to expert witness/evaluation fees, and transcripts.

The following table details actual expenditures for this line item for the last six fiscal years.

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<sup>20</sup> This dollar amount has not changed since at least 1989.

*JBC Staff Figure Setting: FY 2013-14*  
*Staff Working Document – Does Not Represent Committee Decision*

<b>Trial Courts - Court Costs, Jury Costs, and Court-appointed Counsel</b>						
	<b>FY 06-07</b>	<b>FY 07-08</b>	<b>FY 08-09</b>	<b>FY 09-10</b>	<b>FY 10-11</b>	<b>FY 11-12</b>
<b>Court-appointed Counsel:</b>						
Respondent Parent Counsel Attorney	\$6,461,658	\$7,224,241	\$8,579,436	\$8,588,777	\$8,344,476	\$8,374,063
Mental Health Attorney	789,490	907,860	1,014,617	1,175,473	1,377,864	1,593,328
Other Counsel/Investigators	1,413,720	1,737,148	1,911,452	2,024,857	2,053,164	1,291,976
Attorney Guardian Ad Litem	240,195	296,195	452,282	577,568	397,510	482,784
Parental Refusal (FMV)	0	0	0	0	0	402,033
Truancy Attorney	46,953	47,428	47,872	54,294	56,502	124,792
Non-Attorney Child and Family Investigator & Guardian Ad Litem	87,070	82,783	154,588	139,350	123,218	116,938
Attorney Fee Collection Costs	14,154	21,737	25,436	29,865	22,312	22,483
Other Counsel per S.B. 06-061	0	175	0	1,772	1,101	1,635
Interpreter	0	455	0	0	0	0
<b>Subtotal: Court-appointed Counsel</b>	<b>9,053,240</b>	<b>10,318,024</b>	<b>12,185,683</b>	<b>12,591,956</b>	<b>12,376,147</b>	<b>12,410,032</b>
<i>Annual Percent Change</i>		14.0%	18.1%	3.3%	-1.7%	0.3%
<b>Court Costs:</b>						
Evaluations/Expert Witness Fees	792,117	823,305	987,813	1,023,207	935,168	830,071
Transcripts	149,696	132,174	190,662	178,817	180,452	137,760
Discovery & Process Fees	38,514	49,728	39,615	36,737	25,549	35,458
Forms	16,621	13,805	16,283	13,520	22,500	12,175
Advertising	12,275	11,856	9,870	8,666	7,189	9,084
Interpreters	6,324	3,109	4,073	195	335	1,933
Experts/Witness Travel	4,050	1,828	2,953	3,628	992	1,550
Postage (moved to TC Operating)	215,061	194,206	3,029	1,547	198	209
Investigators	294	727	10,531	1,000	2,488	0
Death Penalty Costs	143	84	808	96	795	0
Misc.	53,397	56,799	69,571	56,852	43,538	28,686
<b>Subtotal: Court Costs</b>	<b>1,288,490</b>	<b>1,287,620</b>	<b>1,335,208</b>	<b>1,324,266</b>	<b>1,219,203</b>	<b>1,056,925</b>
<i>Annual Percent Change</i>		-0.1%	3.7%	-0.8%	-7.9%	-13.3%
<b>Jury Costs</b>	<b>1,763,029</b>	<b>1,820,915</b>	<b>1,810,902</b>	<b>1,925,745</b>	<b>1,876,998</b>	<b>1,714,537</b>
<i>Annual Percent Change</i>		3.3%	-0.5%	6.3%	-2.5%	-8.7%
<b>Total</b>	<b>12,104,759</b>	<b>13,426,559</b>	<b>15,331,794</b>	<b>15,841,967</b>	<b>15,472,347</b>	<b>15,181,494</b>

**Request:** The Department requests \$15,985,692 (including \$15,500,692 General Fund and \$485,000 cash funds from various fees, cost recoveries, and grants). Please note that the request includes continuation of a mid-year increase of \$391,340 General Fund that was recently approved by the Committee for FY 2012-13. This additional funding covers increased costs for two types of court-appointed counsel: \$328,500 for mental health counsel,<sup>21</sup> and \$62,840 for guardians *ad-litem* (GALs) in probate cases.<sup>22</sup>

<sup>21</sup> Counsel may be appointed for individuals in a variety of mental health-related circumstances including: an imposition of legal disability (removal or restoration of legal right); involuntary admittance to a treatment/evaluation facility; short-term treatment certification proceedings; involuntary commitment of a person under the influence of or incapacitated by alcohol or drugs; or medication refusal.

<sup>22</sup> A GAL may be appointed in a variety of circumstances, including: (1) to represent the interest of an incapacitated person, an unascertained person, or a person whose identity or address is unknown, in proceedings involving trusts or estates of decedents, protected persons, and in judicially supervised settlements; (2) to represent a parent, guardian, legal custodian, custodian, stepparent, or spousal equivalent in dependency or neglect proceedings for an adult (age 18 or older); and (3) to represent an incompetent person who does not have a representative and who is a party to a civil suit.



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

**District Attorney Mandated Costs**

This is one of six line item appropriations for "mandated costs". This line item provides state funding to reimburse Colorado's district attorneys' offices (DAs) for costs incurred for prosecution of state matters, as required by state statute. 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.,<sup>23</sup> when the defendant is acquitted or when the defendant is convicted and the court determines he is unable to pay them." Pursuant to Section 18-1.3-701 (2), C.R.S., when a person is convicted of an offense or a juvenile is adjudicated, the Court shall give judgment in favor of the State, the prosecuting attorney, or the law enforcement agency and against the offender or juvenile for the amount of the costs of prosecution. Section 18-1.3-701 (2), C.R.S., specifies the types of expenditures that may be included under this provision.

Based on FY 2011-12 expenditure data recently provided by the Colorado District Attorneys' Council (CDAC),<sup>24</sup> DAs' mandated costs consist of the following:

- Witness fees and travel expenses (\$560,293 or 29 percent of reimbursed expenditures);
- Mailing subpoenas<sup>25</sup> (\$556,777 or 29 percent);
- Expert witness fees and travel expenses (\$456,498 or 16 percent);
- Service of process<sup>26</sup> (\$293,511 or 15 percent); and
- Court reporter fees for transcripts (\$183,216 or nine percent).

Since FY 1999-00, the General Assembly has provided a separate appropriation for DAs' mandated costs. This line item has been accompanied by a footnote or a request for information (*e.g.*, RFI #1 for FY 2012-13) indicating that DAs in each judicial district are responsible for allocations made by an oversight committee (currently the CDAC). Any increases in the line item are to be requested and justified in writing by the CDAC, rather than the Judicial Department.

Two statutory provisions appear to provide statutory authority for CDAC to play this role. First, Section 20-1-110, C.R.S., authorizes DAs to participate in an intergovernmental cooperative relationship concerning criminal prosecution and to enter into contracts on behalf of his or her judicial district for cooperation with other DAs concerning such prosecution and prosecution-related services. Second, Section 20-1-111, C.R.S., authorizes DAs to cooperate or contract with one another to provide any function or service lawfully authorized to each of the cooperating or

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<sup>23</sup> 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".

<sup>24</sup> The CDAC is a quasi-government agency, supported by assessments charged to each member's office (through an intergovernmental agreement).

<sup>25</sup> A subpoena is a writ by a government agency, most often a court, that has authority to compel testimony by a witness or production of evidence under a penalty for failure.

<sup>26</sup> Service of process is the general term for the legal document (usually a summons) by which a lawsuit is started and the court asserts its jurisdiction over the parties and the controversy.

*JBC Staff Figure Setting: FY 2013-14*  
*Staff Working Document – Does Not Represent Committee Decision*

contracting DAs, "including the sharing of costs and the administration and distribution of moneys received for mandated costs." This provision also authorizes DAs to "allocate up to five percent of the moneys received for mandated costs authorized by the general assembly for administrative expenses." Consistent with this provision, the CDAC annually receives 5.0 percent of the appropriation (\$109,925 in FY 2011-12) to cover the administrative costs associated with allocating and managing this appropriation.

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

<b>District Attorneys' Mandated Costs</b>								
<b>Fiscal Year</b>	<b>Appropriation</b>			<b>Actual Expenditures</b>				<b>Over/ (Under) Budget</b>
	<b>General Fund</b>	<b>Cash Funds</b>	<b>Total</b>	<b>General Fund</b>	<b>Cash Funds</b>	<b>Total</b>	<b>Annual % Change</b>	
2000-01	\$1,938,724	\$0	\$1,938,724	\$1,889,687	\$0	\$1,889,687		(\$49,037)
2001-02	1,938,724	0	1,938,724	1,978,963	0	1,978,963	4.7%	40,239
2002-03	2,025,199	125,000	2,150,199	1,833,410	71,117	1,904,527	-3.8%	(245,672)
2003-04	2,025,199	125,000	2,150,199	1,847,369	59,334	1,906,703	0.1%	(243,496)
2004-05	1,911,899	0	1,911,899	1,911,970	0	1,911,970	0.3%	71
2005-06	1,911,899	0	1,911,899	1,772,849	106,325	1,879,174	-1.7%	(32,725)
2006-07	1,841,899	125,000	1,966,899	1,928,795	99,090	2,027,885	7.9%	60,986
2007-08	1,837,733	125,000	1,962,733	2,092,974	130,674	2,223,648	9.7%	260,915
2008-09	2,101,052	125,000	2,226,052	2,063,785	125,000	2,188,785	-1.6%	(37,267)
2009-10	2,101,052	125,000	2,226,052	2,101,050	125,000	2,226,050	1.7%	(2)
2010-11 a/	2,005,324	125,000	2,130,324	2,005,507	125,000	2,130,507	-4.3%	183
2011-12	2,073,494	125,000	2,198,494	2,061,883	125,000	2,186,883	2.6%	(11,611)
2012-13 b/	2,389,549	140,000	2,529,549					
2013-14 Request c/	2,525,881	160,000	2,685,881					

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

b/ Appropriation includes mid-year increase of \$265,100 General Fund specifically for the *Holmes* and *Sigg* cases.

c/ Request includes \$353,500 General Fund specifically for the *Holmes* and *Sigg* cases.

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

1. The Department of Law's budget includes an appropriation for "District Attorneys' Salaries" (\$2,656,368 for FY 2012-13).
2. The Judicial Branch's budget includes an appropriation for "District Attorney Mandated Costs" (\$2,529,549 for FY 2012-13). This line item is described above.
3. 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 (\$366,880 for FY 2012-13).

4. The Department of Public Safety’s budget includes an appropriation for “Witness Protection Fund Expenditures” to pay DAs for qualifying expenses related to security personnel, travel expenses, lodging, and other immediate needs (\$83,000 for FY 2012-13).

In addition, the General Assembly appropriates funds to the State Court Administrator’s Office, the OSPD, the OADC, and the OCR to cover the costs of obtaining discoverable materials.<sup>27</sup> In FY 2011-12, these offices spent a total of \$2,298,508 for discovery; 98 percent of these costs were incurred by the OSPD and the OADC. These costs have increased by 84 percent in the last five fiscal years. The majority of these expenditures were paid to reimburse DAs.

*Background Information CDAC's Role.* The CDAC allocates the amount appropriated for this line item among the 22 judicial districts (including those districts that are not members of the CDAC), based on historical spending (currently the last three fiscal years). However, the CDAC excludes from this initial allocation: a portion of the appropriation to cover its costs of administering the allocation (5.0 percent of the appropriation); and another \$300,000 to cover any unanticipated district needs. On a quarterly basis, DAs also submit a list of mandated cost expenditures to the CDAC so that the CDAC can monitor the allocation of the appropriation among districts.

The CDAC has a special process for DAs to request additional funds above the initial allocation. Three district attorneys serve on a Mandated Costs Committee to oversee the annual allocation process and to review and take action on any DA requests for funds above the initial allocation. In order to limit state expenditures, the CDAC has required DAs to continue to follow a Chief Justice Directive which limits expert witness fees (this limit was recently increased from \$1,000 to \$1,500). 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 2011-12, the appropriation was sufficient to reimburse all DAs expenditures that exceeded this limit (\$70,729).

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

**Request:** The CDAC requests \$2,685,881 (including \$2,525,881 General Fund and \$160,000 cash funds) for FY 2013-14. The request includes an increase of \$67,932 to provide a 3.0 percent increase in the appropriation to cover increases in the costs of prosecution for all judicial districts; this portion of the request was based on the FY 2012-13 appropriation prior to the mid-year adjustment approved in January.

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<sup>27</sup> Under Colorado Supreme Court Rule 16, the prosecuting attorney is required to make available to the defense certain material and information that is within his or her control and to provide duplicates upon request. The State pays the costs of duplicating discoverable material when legal representation is provided for an indigent defendant.

In January, the Committee approved a \$265,100 increase in the FY 2012-13 appropriation to cover unanticipated expert witness fees and witness travel expenses associated with two specific cases:

- *The People of the State of Colorado v. James Holmes* (12CR1522); and
- *The People v. Austin Reed Sigg* (2012CR2899).

For FY 2013-14, the CDAC requests that this \$265,100 increase be continued, and another \$88,400 be provided for the above two cases. The CDAC estimates that these two cases will require a total of \$618,600 in FY 2012-13 and FY 2013-14, including \$265,100 for expert witness fees and \$353,500 for witness travel expenses.

**Recommendation:** Staff recommends appropriating \$2,651,916 (including \$2,491,916 General Fund and \$160,000 cash funds). Staff's recommendation is \$33,965 lower than the request because staff recommends only providing a 1.5 percent increase in base funding (\$33,967), based on actual expenditure growth over the last five fiscal years. Over the last ten years, actual expenditures for this line item have increased at a compound annual growth rate of 1.0 percent; over the last five years, actual expenditures have increased at a compound annual growth rate of 1.5 percent.

Staff recommends including the increase of \$88,400 requested through the budget amendment. More than half of the request for both fiscal years is for witness travel expenses for 90 victims in the Holmes case. In its request, the CDAC states that grant funding has been requested to cover these expenses. If the grant is approved, this portion of the appropriation would remain unexpended. In addition, the CDAC has indicated verbally to Joint Budget Committee staff that it intends to limit the use of the requested funds to reimbursements to the 1<sup>st</sup> and 18<sup>th</sup> judicial districts for the *Sigg* and *Holmes* cases. The CDAC does not intend to make any of the requested funds available at the close of the state fiscal year to District Attorneys' offices for mandated costs in other cases. Staff recommends continuing the Long Bill footnote to document the stated intent of the CDAC that the funds requested for two specific cases will only be made available to the District Attorneys in the 1<sup>st</sup> and the 18<sup>th</sup> judicial districts for mandated costs incurred for these two cases.

Finally, please note that the recommendation includes the requested \$20,000 increase in the cash funds appropriation from cost recoveries (from \$140,000 to \$160,000). This increase is appropriate and reasonable, given that cost recoveries exceeded \$160,000 in the last two fiscal years (\$163,482 in FY 2010-11 and \$174,640 in FY 2011-12). When cost recoveries exceed the appropriation, the excess is credited to the General Fund.

### **Federal Funds and Other Grants**

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

**Request:** The Department requests a continuation level of spending authority for FY 2013-14 (\$2,900,000 and 14.0 FTE), including \$975,000 cash funds, \$300,000 reappropriated funds, and \$1,625,000 federal funds. The source of reappropriated funds is federal funds transferred from the Departments of Human Services and Public Safety.

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

## **(4) Probation and Related Services**

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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<sup>28</sup>. The offender serves a sentence in the community under the supervision of a probation officer, subject to conditions imposed by the court. The length of probation is at the discretion of the court and it may exceed the maximum period of incarceration authorized for the offense of which the defendant is convicted, but it cannot exceed five years for any misdemeanor or petty offense. The conditions of probation should ensure that the defendant will lead a law-abiding life and assist the defendant in doing so. These conditions always include requirements that the defendant:

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

Managed by the Chief Probation Officer in each judicial district, 1,150 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, rather than 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.

Cash fund sources include: the Offender Services Fund, the Alcohol and Drug Driving Safety Program Fund, the Correctional Treatment Cash Fund, the Sex Offender Surcharge Fund, the Offender Identification Fund, and various fees, cost recoveries, and grants. Sources of

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<sup>28</sup> See Section 18-1.3-202 (1), C.R.S.

reappropriated funds include transfers from the Education, Human Services, and Public Safety Departments.

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## **BACKGROUND INFORMATION CONCERNING H.B. 12-1310, WHICH AFFECTS MULTIPLE LINE ITEMS IN THIS DIVISION**

House Bill 12-1310 consolidated the major sources of state funding for substance abuse treatment into a newly created Correctional Treatment Cash Fund (CTCF), and it consolidated the associated oversight boards into a single Correctional Treatment Board. Specifically, three funding sources have been consolidated into the CTCF:

- *Drug offender surcharge fee revenue* is from a surcharge assessed on offenders based on the class of criminal drug conviction. This surcharge currently supports programs and services in four different departments:
  - Department of Corrections (DOC): Drug and alcohol treatment for inmates;
  - Department of Human Services (DHS): Treatment and detoxification contracts and the Short-term Intensive Residential Remediation and Treatment (STIRRT) program;
  - Judicial Department: Treatment services for offenders on probation and probation personnel; and
  - Department of Public Safety: Community corrections placements and administrative services.
- *Senate Bill 03-318* reduced the penalties for use and possession of certain controlled substances, and expanded the types of drug offenders who could be eligible for probation. This act contained a provision that would have revoked those sentencing changes unless at least \$2.2 million in estimated cost-avoidance was achieved. Since FY 2007-08, the General Assembly has annually appropriated \$2.2 million General Fund for community-based substance abuse services as required by this act.
- *House Bill 10-1352* made a number of changes to offenses related to controlled substances. The act directed the General Assembly to annually appropriate the General Fund savings generated by the act to the Drug Offender Surcharge Fund for allocation to cover the costs associated with the treatment of substance abuse or co-occurring disorders of adult offenders. This funding has been allocated to treat offenders on parole (DOC), on probation and diversion (Judicial), in community corrections (Public Safety), and in local jails (DHS).

House Bill 12-1310 continues to require the General Assembly to annually appropriate at least \$2,200,000 General Fund related to the estimated savings that resulted from the enactment of S.B. 03-318<sup>29</sup>. In addition, H.B. 12-1310 continues to require the General Assembly to annually appropriate a certain amount of General Fund related to the estimated savings that resulted from

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<sup>29</sup> See Section 18-19-103 (3.5) (b) and (4) (a), C.R.S.



the enactment of H.B. 10-1352; beginning in FY 2012-13, the act requires an annual appropriation of at least \$9.5 million General Fund for this purpose. Thus, the General Assembly is required to appropriate at least \$11.7 million General Fund annually to the CTCF, beginning in FY 2013-14. This represents an increase of \$1,843,800 compared to appropriations for FY 2012-13.

Moneys from the CTCF may be used for the following purposes:

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

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

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

The Correctional Treatment Board is required to develop a comprehensive annual funding plan that meets the identified statewide needs and effectively treats substance abuse offenders in Colorado. The following table details the Board's allocation of the three CTCF funding sources among agencies for FY 2012-13, as well as the proposed allocation for FY 2013-14. The Board proposes that existing allocations remain intact, and the additional \$1.8 million be used to expand and enhance jail-based treatment and to increase funding for community corrections.



*JBC Staff Figure Setting: FY 2013-14*  
*Staff Working Document – Does Not Represent Committee Decision*

<b>Correctional Treatment Cash Fund Funding Plan</b>					
<b>Funding Source</b>	<b>Corrections</b>	<b>Human Services</b>	<b>Judicial</b>	<b>Public Safety</b>	<b>Total</b>
Drug offender surcharge revenue	\$1,245,127	\$1,270,616	\$1,794,118	\$1,098,016	\$5,407,877
General Fund appropriation related to S.B. 03-318	0	0	2,200,000	0	2,200,000
General Fund appropriation related to H.B. 10-1352	<u>1,757,100</u>	<u>1,819,900</u>	<u>2,510,450</u>	<u>1,568,750</u>	<u>7,656,200</u>
<b>Subtotal: FY 2012-13 allocation per H.B. 12-1310</b>	<b>3,002,227</b>	<b>3,090,516</b>	<b>6,504,568</b>	<b>2,666,766</b>	<b>15,264,077</b>
Proposed increase for FY 2013-14	0	1,200,000	0	250,000	1,450,000
increase - reserve/cash fund revenue shortage	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>393,800</u>
<b>Proposed FY 2013-14 allocation</b>	<b>\$3,002,227</b>	<b>\$4,290,516</b>	<b>\$6,504,568</b>	<b>\$2,916,766</b>	<b>\$17,107,877</b>

Please note that drug offender surcharge revenues currently fall short of authorized spending authority. Thus, the Board has agreed to a 10 percent restriction on its cash appropriations in FY 2012-13, and the Board is proposing to initially set aside \$393,800 of the planned increase in General Fund revenues to the CTCF in FY 2013-14.

In addition, please note that for FY 2013-14, the \$2.2 million related to S.B. 03-318 will be allocated to support drug court treatment and the annual Best Practices/Drug Court Conference. This conference brings together representatives from all 22 judicial districts and all criminal justice agencies for training, education, and planning purposes.

Consistent with H.B. 12-1310, the Judicial Department's budget request for FY 2013-14 includes a \$11,700,000 General Fund appropriation to the CTCF, as well as the associated spending authority from the CTCF. Staff's recommendations for the Judicial Department are consistent with the request, and staff has recommended providing spending authority to DOC, DHS, and the Department of Public Safety that are consistent with the Correctional Treatment Board's proposed allocation of funds.

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## **LINE ITEM DETAIL**

### **Probation Programs**

This line item provides funding for both personal services and operating expenses for probation programs in all judicial districts. The following table details the types of employees that are supported by this line item.

*JBC Staff Figure Setting: FY 2013-14*  
*Staff Working Document – Does Not Represent Committee Decision*

<b>Staffing Summary Probation Programs</b>	<b>FY 11-12 Actual</b>	<b>FY 12-13 Approp.</b>	<b>FY 13-14 Request</b>	<b>FY 13-14 Recommend.</b>
Chief Probation Officers/ Deputy Chief Probation Officers	28.0	28.0	28.0	28.0
Probation Supervisors	101.7	115.6	115.6	115.6
Probation Officers	797.9	841.6	841.6	841.6
Administrative/ Support Staff	<u>154.6</u>	<u>164.2</u>	<u>164.2</u>	<u>164.2</u>
<b>Total</b>	<b>1,082.2</b>	<b>1,149.4</b>	<b>1,149.4</b>	<b>1,149.4</b>

**Request:** The Department requests a total of \$75,932,735 and 1,149.4 FTE for FY 2013-14, including \$65,381,056 General Fund and \$10,551,679 cash funds. Cash funds sources include: \$4,915,426 from the Offender Services Fund, \$4,795,414 from the Alcohol and Drug Driving Safety Program Fund, \$702,114 from the Correctional Treatment Cash Fund (drug offender surcharge fee revenues), \$80,000 from various fees and cost recoveries, and \$58,725 from the Offender Identification Fund.

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

<b>Probation and Related Services, Probation Programs</b>				
	<b>Total Funds</b>	<b>General Fund</b>	<b>Cash Funds</b>	<b>FTE</b>
<b>FY 2012-13 Appropriation:</b>				
HB 12-1335 (Long Bill)	75,634,088	65,082,409	10,551,679	1,149.4
Other legislation	(702,114)		(702,114)	0.0
<b>TOTAL</b>	<b>\$74,931,974</b>	<b>\$65,082,409</b>	<b>\$9,849,565</b>	<b>1,149.4</b>
<b>FY 2013-14 Recommended Appropriation:</b>				
FY 2012-13 Appropriation	\$74,931,974	\$65,082,409	\$9,849,565	1,149.4
Annualize prior year legislation	702,114	0	702,114	0.0
Annualize prior year budget actions	298,647	298,647	0	0.0
<b>TOTAL</b>	<b>\$75,932,735</b>	<b>\$65,381,056</b>	<b>\$10,551,679</b>	<b>1,149.4</b>
<b>Increase/(Decrease)</b>	<b>\$1,000,761</b>	<b>\$298,647</b>	<b>\$702,114</b>	<b>0.0</b>
Percentage Change	1.3%	0.5%	7.1%	0.0%
<b>FY 2013-14 Executive Request:</b>				
Request Above/(Below) Recommendation	\$0	\$0	\$0	0.0

*Annualize Prior Year Legislation:* House Bill 12-1310 eliminated all FY 2012-13 Long Bill appropriations from the Drug Offender Surcharge Fund, and replaced them with a single appropriation from the new Correctional Treatment Cash Fund. Thus, the \$702,114 cash funds from the Drug Offender Surcharge Fund that has historically been included in this line item was temporarily included in a single line item that is reflected in this packet as, "Services and Activities Authorized by Section 18-19-103 (5) (c) and (d), C.R.S.". This temporary line item was created for simplicity due to the complexity of the appropriation clause required by H.B. 12-1310. This temporary line item, however, allowed the Department to continue to spend \$702,114 from the Correctional Treatment Cash Fund to support probation staff and operating expenses. For FY 2013-14, staff recommends including this amount in this line item.

*Annualize Prior Year Budget Actions:* For FY 2012-13, the General Assembly appropriated a total of \$1,352,600 to implement salary range adjustments for two job classifications: Court Judicial Assistants and Support Services. For FY 2013-14, that portion of the increase that affects salaries of staff supported by this line item (\$298,647 General Fund) will be incorporated into this line item.

### **Offender Treatment and Services**

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

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

- Substance abuse treatment and testing;
- Sex offender assessment, treatment, and polygraphs;
- Domestic violence treatment;
- Mental health services;
- Electronic home monitoring;
- Emergency housing;
- Transportation assistance;
- Day reporting<sup>30</sup>;
- Educational/vocational assistance;
- Global positioning satellite (GPS) tracking;
- Incentives;
- General medical assistance;
- Restorative justice; and
- Interpreter services.

The local allocation of funds depends on the availability of treatment and services and the particular needs of the local offender population. The Department annually reports on allocations and expenditures, by treatment and type of services [see Appendix C-18 in the FY 2013-14 JBC Staff Budget Briefing for the Judicial Branch, dated December 3, 2012]. The Department is also using some existing funding for state-level initiatives, including researching evidence-based practices and building capacity in rural/under served parts of the state.

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<sup>30</sup> Day reporting centers provide intensive, individualized support and treatment services (*e.g.*, employment assistance, substance abuse monitoring, substance abuse treatment) for offenders who are at risk of violating terms of community placement.

In addition, the General Assembly appropriated \$367,197 General Fund through this line item in FY 2012-13 for the express purpose of providing treatment and services for offenders participating in veterans trauma courts (and this intent was expressed through a Long Bill footnote). The Department allocated this funding among the three judicial districts that operate these types of courts based on each court's relative capacity (*i.e.*, the number of participants). These funds are used to provide the types of services and treatments listed above for those veterans who are not eligible for benefits through the U.S. Department of Veterans Affairs or "VA" (*e.g.*, a veteran who was dishonorably discharged), and to provide services to veterans that are not available through the VA (*e.g.*, transportation services).

Cash fund sources that support this line item include the Correctional Treatment Cash Fund (drug offender surcharge fee revenues), the Offender Services Fund, the Sex Offender Surcharge Fund, and various fees and cost recoveries. Reappropriated funds include General Fund moneys that are appropriated to the Correctional Treatment Cash Fund, and \$779,846 that is transferred from the Department of Human Services out of the Persistent Drunk Driver Cash Fund to pay a portion of the costs for intervention and treatment services for persistent drunk drivers who are unable to pay.

**Request:** The Department requests an appropriation of \$27,284,311 for FY 2013-14, including \$667,197 General Fund, \$14,233,049 cash funds, and \$12,384,065 reappropriated funds.

**Recommendation:** Staff recommends appropriating a total of \$27,289,014 for FY 2013-14. Staff's recommendation from reappropriated funds is \$4,703 higher than the Department request because staff includes an amount that was appropriated for one-time capital outlay costs associated with an FTE that was added through H.B. 12-1310. Staff's recommendations in this packet thus provide spending authority for the full \$11,700,000 General Fund that is appropriated to the CTCF for FY 2013-14, including \$11,608,922 in this line item and \$91,078 in the General Courts Administration line item (to continue to support the new FTE that was added through H.B. 12-1310). The following table details the calculation of staff's recommendation for this line item, and specifies the various sources of funds.

*JBC Staff Figure Setting: FY 2013-14*  
*Staff Working Document – Does Not Represent Committee Decision*

<b>Calculation of Offender Treatment and Services Appropriation</b>				
<b>Description</b>	<b>GF</b>	<b>CF</b>	<b>RF</b>	<b>Total</b>
<u>Existing appropriations for FY 2012-13</u>				
FY 2012-13 Long Bill appropriation from the Offender Services Fund		\$9,097,255		\$9,097,255
FY 2012-13 Long Bill appropriation from moneys transferred from the Department of Human Services' Persistent Drunk Driver Programs line item			779,846	779,846
Funding for treatment and services for offenders participating in veterans trauma courts added to Offender Treatment and Services line item through the conference committee on the FY 2012-13 Long Bill	367,197			367,197
FY 2012-13 Long Bill appropriation from the Sex Offender Surcharge Fund		302,029		302,029
Funding for day treatment services transferred to Offender Treatment and Services line item in FY 2012-13	300,000			300,000
FY 2012-13 Long Bill appropriation from various fees and cost recoveries		<u>210,000</u>		<u>210,000</u>
Subtotal	667,197	9,609,284	779,846	11,056,327
<u>Transfers from other FY 2012-13 appropriations</u>				
Transfers from temporary H.B. 12-1310 appropriations from the Correctional Treatment Cash Fund (CTCF)		4,623,765	9,760,419	14,384,184
Transfer from H.B. 12-1310 appropriation for one-time capital outlay costs associated with new FTE (Courthouse Capital/ Infrastructure Maintenance line item)			4,703	
<u>Recommended changes for FY 2013-14</u>				
Spending authority associated with statutorily required increase in General Fund appropriation to the CTCF			1,843,800	1,843,800
<b>Total Recommendation for FY 2013-14</b>	<b>667,197</b>	<b>14,233,049</b>	<b>12,388,768</b>	<b>27,289,014</b>

**Please note that staff's recommendations in this packet provide spending authority for the full amount of drug offender surcharge revenue anticipated to be available for direct expenditures in FY 2013-14 (\$5,407,877), including: \$4,623,765 in this line item, \$702,114 in the Probation Programs line item, and \$81,998 for the various centrally appropriated line items to cover expenditures associated with the probation staff as well as the FTE added through H.B. 12-1310. Staff requests permission to adjust the appropriation from the CTCF for this line item and/or the centrally appropriated line items, as necessary to reflect the full costs associated with these positions in FY 2013-14.**

**In addition, staff recommends appropriating the following amounts (from reappropriated funds transferred from the Judicial Department's Offender Treatment and Services line item**

appropriation) **to allow other state agencies to receive and spend moneys transferred from this line item, consistent with the Correctional Treatment Board's recommendations:**

- DOC: \$3,002,227
- DHS: \$4,290,516
- Public Safety: \$2,916,766

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

**Finally, at the end of this packet, staff has recommended continuation of the Long Bill footnote that expresses the General Assembly's intent that \$367,197 of the appropriation be used to provide treatment and services for offenders in veterans treatment courts.**

**Services and Activities Authorized by Section 18-19-103 (5) (c) and (d), C.R.S.**

House Bill 12-1310 included an appropriation of \$15,168,296 from the newly created Correctional Treatment Cash Fund (CTCF) to the Judicial Department for FY 2012-13. This amount included \$5,407,877 in drug offender surcharge fee revenue (cash funds) and \$9,760,419 General Fund that is credited to the CTCF (reappropriated funds). Of this total amount, \$6,408,787 is to be spent by the Judicial Department to support probation staff and provide substance abuse treatment and services to offenders on probation, and the remaining \$8,759,509 will be transferred to other state agencies purposes authorized by H.B. 12-1310. For FY 2013-14, appropriations from the CTCF for these purposes will be included within other line items as follows:

- *Offender Treatment and Services:* \$4,623,765 cash funds and \$9,760,419 reappropriated funds
- *Probation Programs:* \$702,114 cash funds (this essentially reestablishes an appropriation of the same amount from drug offender surcharge revenues that was included in the FY 2012-13 Long Bill and was eliminated and included in this temporary line item in H.B. 12-1310)
- *Various Centrally Appropriated Line Items:* \$81,998 cash funds

The above delineated transfers of moneys from this temporary line item to other line items will not change the pattern of expenditures from the CTCF. Rather, these transfers shift these moneys back to the same line items that previously included appropriations from the Drug Offender Surcharge Fund.

**Day Reporting Services**

This line item was included in the annual Long Bill from FY 2009-10 through FY 2011-12 to provide funding specifically for the purchase of day reporting services. For FY 2012-13, this line item appropriation was: (a) reduced from \$393,078 to \$300,000 based on three years of actual expenditures; and (b) consolidated with the "Offender Treatment and Services" line item to provide increased flexibility to local probation departments to determine the most appropriate

allocation of resources based on the availability of treatment and services and the particular needs of the local offender population.

*Background Information.* Day reporting centers provide intensive, individualized support and treatment services (e.g., employment assistance, substance abuse monitoring, substance abuse treatment) for offenders who are at risk of violating terms of community placement. While parolees do access these services, the primary users of the services are offenders on probation. This funding was thus transferred from the Division of Criminal Justice within the Department of Public Safety to the Judicial Department in FY 2009-10.

**Appropriation to the Correctional Treatment Cash Fund**

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

**Request:** The Department requests \$11,700,000 General Fund for FY 2013-14.

**Recommendation:** Staff recommends approving the request, which is consistent with the minimum funding requirements in Sections 18-19-103 (3.5) (b) and (4), C.R.S.

**H.B. 10-1352 Appropriation to the Drug Offender Surcharge Fund**

Prior to FY 2012-13, this line item directed the Judicial Department to credit a specific amount of General Fund to the Drug Offender Surcharge Fund (DOSF) as required by H.B. 10-1352. This appropriation was eliminated in FY 2012-13 through H.B. 12-1310, and has been replaced by the above line item, "Appropriation to the Correctional Treatment Cash Fund".

**S.B. 03-318 Community Treatment Funding**

Prior to FY 2012-13, S.B. 03-318 required the General Assembly to annually appropriate \$2,200,000 General Fund for community-based substance abuse treatment. This appropriation was eliminated in FY 2012-13 through H.B. 12-1310, and has been replaced by the above line item, "Appropriation to the Correctional Treatment Cash Fund".

**S.B. 91-094 Juvenile Services**

Pursuant to Section 19-2-310, C.R.S., the General Assembly annually appropriates General Fund moneys to the Department of Human Services' Division of Youth Corrections (DYC) for the provision of service alternatives to placing juveniles in the physical custody of the DYC. Generally, the types of services provided include individual and family therapy, substance abuse treatment, mental health treatment, education, vocational and life skills training, mentoring, electronic monitoring, community service programs, gang intervention, mediation services, and anger management classes.



The DYC annually contracts with the Judicial Department to provide some of these services, and this line item authorizes the Judicial Department to receive and spend these moneys. For example, for FY 2012-13, this line item authorizes the Department to receive and spend up to \$2,496,837 (20.8 percent) of the \$12,031,528 that was appropriated to DYC. The total amount of S.B. 91-094 funding that the Judicial Department receives depends on a number of factors including: the number of available treatment providers, the structural organization of the districts' programs, and the level and types of treatment services required per district each year. When the amount of funding need is determined, each district submits its request directly to DHS. Once all district requests have been received, the Judicial Department and DYC execute the annual contract.

Please note that in FY 2012-13, the spending authority for this line item was increased to allow the probation departments in two additional judicial districts (10<sup>th</sup> and 22<sup>nd</sup>) to assume fiscal responsibility for the S.B. 91-094 programs in those districts. The entities that previously acted as fiscal agents for S.B. 91-094 funds in these districts (the Pueblo-60 school district and a non-profit agency, respectively) determined that they no longer want to oversee these programs.

**Request:** The Department requests a continuation level of funding (\$2,496,837 reappropriated funds and 25.0 FTE) for FY 2013-14.

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

**Reimbursements to Law Enforcement Agencies for the Costs of Returning a Probationer**

This line item, which was added in FY 2012-13 through H.B. 12-1310, provides funding for the Judicial Department to reimburse law enforcement agencies for the costs of returning a probationer to Colorado. The source of funding is the Interstate Compact Probation Transfer Cash Fund, a new fund that consists of revenue from a new \$100 filing fee paid by an estimated 2,500 offenders who apply for out-of-state probation supervision (it is assumed that approximately 25 percent of these offenders will be indigent and have their fee waived).

**Request:** The Department requests an appropriation of \$187,500 cash funds, an amount that is consistent with the Legislative Council Staff fiscal note for H.B. 12-1310.

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

**Victims Grants**

These grants are used to provide program development, training, grant management, and technical assistance to probation departments in each judicial district as they continue to improve their victim services programs and provide direct services and notification to victims of crime. The source of funding is victim assistance surcharges collected from offenders and administered by the State Victim Assistance and Law Enforcement (VALE) Board, grants from local VALE

boards, and a federal Victims of Crime Act (VOCA) grant that are received by the Division of Criminal Justice and transferred to the Judicial Department.

**Request:** The Department requests a continuation level of spending authority for FY 2013-14 (\$650,000 reappropriated funds and 6.0 FTE).

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

### **Federal Funds and Other Grants**

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

**Request:** The Department requests a continuation level of spending authority (\$5,600,000 and 33.0 FTE) for FY 2013-14, including \$1,950,000 cash funds, \$850,000 reappropriated funds (funds transferred from other state agencies), and \$2,800,000 federal funds.

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

### **Indirect Cost Assessment**

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

**Request:** For FY 2013-14, the Department requests an appropriation of \$1,024,502 cash funds for a new line item titled, "Indirect Cost Assessment". This line item would reflect the assessments that are collected from fund sources that are appropriated in this section of the Long Bill.

**Recommendation:** Staff recommends approving the request. Staff requests permission to adjust these amounts as necessary once the Committee has finalized all common policies. Staff will utilize the indirect cost assessment methodology that was described in detail in Appendix D of the FY 2013-14 Staff Budget Briefing, dated December 3, 2012.

## **(5) Office of the State Public Defender**

The federal<sup>31</sup> and state<sup>32</sup> constitutions provide that an accused person has the right to be represented by counsel in criminal prosecutions. This constitutional right has been interpreted to mean that counsel will be provided at state expense for indigent persons in all cases in which actual incarceration is a likely penalty. The Office of the State Public Defender (OSPD) is established by Section 21-1-101, *et seq.*, C.R.S., as an independent agency within the Judicial

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<sup>31</sup> See Amendment VI of the U.S. Constitution (Rights of accused).

<sup>32</sup> See Article II, Section 16 of the Colorado Constitution (Criminal prosecutions - rights of defendant).

Branch for the purpose of providing legal representation for indigent defendants who are facing incarceration. This provision requires the OSPD to provide legal representation to indigent defendants "commensurate with those available to nonindigents, and conduct the office in accordance with the Colorado rules of professional conduct and with the American bar association standards relating to the administration of criminal justice, the defense function." The OSPD provides representation through employees located around the state.

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

With the exception of a small amount of cash funds from training registration fees and grants, the OSPD is supported by General Fund appropriations.

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## INITIATIVES AFFECTING MULTIPLE LINE ITEMS IN THIS DIVISION

### Request OSPD R-1: Attorney Pay Parity

- The OSPD requests \$5,777,182 General Fund, in addition to the amount requested for salary increases pursuant to the statewide common policy, to fully fund attorney salaries at the market rate for public sector attorney pay in Colorado.
- With respect to this request, staff recommends appropriating a total of \$4,119,866 General Fund. Staff's recommendation is lower than the request for three reasons:
  - (1) Staff has applied the Committee's common policy of only providing 11 (rather than 12) months of funding for salary increases for positions that are supported by General Fund, consistent with the paydate shift;
  - (2) Staff has "aged" the market data used to calculate the OSPD salary increase needed to achieve pay parity using a smaller factor in order to be consistent with the Department of Personnel's approach for classified staff salaries; and
  - (3) Staff has offset the recommended increase to achieve pay parity with the funding that results from applying the Committee's common policies for across the board base pay increases and merit pay to avoid increasing OSPD salaries to a point where they exceed the market.

*Summary of Request:* The OSPD is requesting \$5,777,182 General Fund for FY 2013-14 to increase OSPD attorney salaries to a competitive level with Colorado public sector attorney compensation practices. This amount is requested in addition to the amount requested for salary

increases pursuant to the statewide common policy. The request includes the amount that would be included in the Salary Survey line item (salary, PERA, and Medicare), as well as the associated increases in supplemental PERA payments (AED and SAED) and Short-term Disability expenses. The following table details the components of this request by line item appropriation; this table also reflects the allocation of the requested amount among the five attorney classifications.

<b>Summary of Request OSPD R-1: Attorney Pay Parity</b>	
<b>Request by Line Item</b>	<b>FY 2013-14</b>
Salary Increases	\$4,869,506
PERA	494,254
Medicare	<u>70,608</u>
Subtotal: Salary Survey	5,434,368
Short-term Disability	9,252
AED	175,303
SAED	<u>158,259</u>
<b>Total Request</b>	<b>\$5,777,182</b>
<b>Allocation of Request by Attorney Classification</b>	
Managing Attorney/ Office Head	\$1,340,588
Supervising Attorney	1,407,106
Senior Attorney	681,615
Intermediate Staff Attorney	1,374,584
Entry-level Staff Attorney	<u>973,290</u>
<b>Total Request</b>	<b>\$5,777,183</b>

The OSPD indicates that this request is directly aimed at reducing the overall attrition rate, and reducing the supervisory burden on more experienced staff. The OSPD is concerned that if this salary disparity is not addressed, it will jeopardize the OSPD's ability to achieve its mission of providing effective indigent defense representation comparable to the private bar.

First, with respect to attrition, the OSPD indicates that over the last eight years, an average of 47 percent of all departing attorneys left the OSPD within the first three years of employment. In FY 2011-12, the OSPD had invested an average of 23 months of training, supervisory, and mentoring resources on those employees departing the system within their first three years of employment.

Second, the OSPD indicates that it has lost a critical level of-experienced and fully capable attorneys who are crucial in efforts to carry the most severe cases, to mentor and train beginning attorneys, and to take on additional workload as new attorneys continue to develop to an independent level of expertise. The proportion of beginning-level attorneys has increased from 38 percent in FY 2004-05 to 56 percent in FY 2011-12, and the proportion of journey-level (Intermediate Staff Attorneys who handle a full caseload of varying complexity under minimal supervision) and career-level attorneys (including Senior, Supervising, and Managing Attorneys)

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has shrunk from 62 percent to 44 percent during that same time period. The OSPD's standards are approximately 30 percent beginning to 70 percent experienced attorneys. The following table details this trend data from FY 2006-07 through FY 2011-12.

Allocation of Attorneys by Experience Level							
Experience Level	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	Target
Beginning	47%	53%	55%	58%	56%	56%	30%
Journey	22%	12%	11%	10%	16%	21%	
Career	32%	35%	35%	32%	28%	23%	
Journey and Career	54%	47%	45%	42%	44%	44%	70%

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

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

The Department of Personnel's "Annual Compensation Survey Report" does not include compensation data related to attorneys. In order to evaluate the compensation for its attorneys, the OSPD periodically contracts with an independent compensation research and consulting firm to assess market compensation practices for attorneys in comparable positions in Colorado public sector attorney organizations. In both 2010 and 2012 the OSPD cooperated with the Department of Law to contract with the same consultant to assess market compensation practices for attorneys.

The latest survey, prepared by Fox Lawson & Associates (FLA), was published in September 2012. This study utilized data reported as of May/June 2012 for a market that includes:

- Front Range City Attorney Offices (participants included the cities of: Arvada, Aurora, Boulder, Denver, Lakewood, Littleton, Westminster, Broomfield, Colorado Springs, Greeley, and Longmont);
- Front Range County Attorney Offices (participants included the counties of: Boulder, Douglas, and El Paso);
- The U.S. Office of the Attorney General in Denver;
- Judicial Districts (participants included the following districts: 1<sup>st</sup> (Jefferson and Gilpin counties); 2<sup>nd</sup> (Denver); 4<sup>th</sup> (El Paso and Teller); 10<sup>th</sup> (Pueblo); 18<sup>th</sup> (Arapahoe and Douglas); 20<sup>th</sup> (Boulder); and 21<sup>st</sup> (Mesa); and
- The Colorado Attorney General's Office.

The FLA Study also included supplemental data from the Mountain States Employer's Council's "2012 Colorado Benchmark Compensation Survey". The reported data for this survey was effective March 1, 2012, so the data was "aged" to July 1, 2012.<sup>33</sup>

The FLA Study compares the OSPD's actual attorney salaries and salary ranges as of July 2012 to the market data, which reflects survey participants' salary data as of May 1, 2012.<sup>34</sup> Thus, to the extent that the FLA Study's market data is used to determine Department salaries as of July 1, 2013, such salaries will lag the market by 14 months.

The 2012 FLA Study concludes that, overall, the OSPD's *average attorney salaries* are 17.9 percent below attorney salaries in the market; these gaps range from 7.8 percent for Intermediate Staff Attorneys (the second of five classifications) to 30.7 percent for Managing Attorneys/Office Heads (the fifth of five classifications). This salary gap has increased over the last two years; the 2010 FLA Study for the OSPD reported an average gap of 9.5 percent.

The FLA Study also includes a comparison of *salary ranges* for each of the five attorney classifications. Overall, the midpoints of the Department's existing pay ranges are 22.5 percent below those of the market; these gaps range from 13.4 percent for Senior Attorneys to 34.9 percent for Managing Attorneys/Office Heads.

The following table details these two types of salary gaps, based on the 2012 FLA Study, for each attorney classification.

<b>2012 Fox Lawson &amp; Associates Salary Survey Report for the OSPD</b>						
<b>Benchmark Title</b>	<b>Average Actual Salaries</b>			<b>Salary Range Midpoints</b>		
	<b>OSPD Average</b>	<b>Primary Market Average</b>	<b>Percent Difference</b>	<b>OSPD Average</b>	<b>Primary Market Average</b>	<b>Percent Difference</b>
Managing Attorney/ Office Head	\$108,561	\$141,911	-30.7%	\$98,328	\$132,648	-34.9%
Supervising Attorney	97,266	120,413	-23.8%	96,864	120,029	-23.9%
Senior Attorney	92,265	100,974	-9.4%	92,292	104,651	-13.4%
Intermediate Staff Attorney	69,082	74,476	-7.8%	70,890	81,066	-14.4%
Entry-level Staff Attorney	54,442	59,473	-9.2%	55,140	68,147	-23.6%
<b>Salary Gap for All Attorneys</b>			<b>-17.9%</b>			<b>-22.5%</b>

*Calculation of Request.* The OSPD's request (R-1) is based on increasing attorney salaries by the percentage gap in average salaries for their respective classification (*i.e.*, each salary would be

<sup>33</sup> To age this data, the FLA Study applied a rate of 0.23 percent, based on the "2012 average public sector annualized pay structure increase projection of 0.7% for the Front Range market" (*i.e.*, 0.7% / 12 months X 4 months = 0.23%).

<sup>34</sup> Please note that due to a typographical error in the FLA Study for the Department of Law, staff erroneously indicated in the February 13, 2013, document titled "FY 2013-14 Staff Figure Setting: Department of Law" that the market data for the Department of Law's FLA Study reflected survey participants' salary data as of May/June 2011. This document should have indicated that this market data was as of May 1, 2012.



adjusted by the percentage in the third column of figures in the above table). Thus, the requested funds would allow the OSPD to: (1) align its attorney pay ranges with the market salary ranges; and (2) ensure that the average salaries paid for each classification also align with the market. Thus, unlike the Department of Law's FY 2013-14 budget request, this OSPD request would not exacerbate pay compression issues (where most salaries are clustered at the low end of the salary range).

In addition, the request increases the dollar amount required to align average salaries with the market by 1.5 percent, and then by another 1.6 percent. The OSPD indicates that this step is intended to "age" the FLA Survey market salary data to reflect market data for FY 2013-14.

Finally, in addition to the above-described amounts included in R-1, the OSPD separately requested funds to increase all employees' base salaries by 1.5 percent, and then by another 1.6 percent. The OSPD indicates that these requests were intended to be consistent with the Executive Branch proposals for salary survey and merit increases.

Staff assumes that the amount requested by OSPD in R-1 is calculated in a way that that limits increases in individual salaries to the maximum salary of the applicable salary range, but staff was not able to verify this. In addition, although the request for merit pay was calculated based on applying a 1.6 percent increase across the board, staff assumes that the OSPD may apply these increases in a differential manner based on individual employee performance.

*Recommendation:* With respect to this request (R-1), staff recommends appropriating a total of \$4,119,866 General Fund (including AED, SAED, and Short-term Disability expenses). Staff's recommendation is \$1,657,316 lower than the request for three reasons:

- Staff has applied the Committee's common policy of only providing 11 (rather than 12) months of funding for salary increases for positions that are supported by General Fund, consistent with the paydate shift;
- Staff has aged the FLA Study data using a smaller factor in order to be consistent with the Department of Personnel's approach for classified staff salaries; and
- Staff has offset the recommended increase to achieve pay parity with the funding that results from applying the Committee's common policies for across the board base pay increases and merit pay to avoid increasing salaries to a point where they exceed the market.

**Overall, staff's recommendations for the Salary Survey (\$4,678,504 General Fund) and Merit Pay (\$651,614) for Merit Pay line items are \$1,471,092 lower than the request.** Staff's overall recommendation is lower than the request due to the above-described reasons; this difference is slightly offset by staff's implementation of the Committee's policy of providing an extra 0.5 percent increase in base salaries, which results in a slightly higher amount available for non-attorney staff increases. Staff has then applied Committee's policies to calculate that associated amounts for the Short-term Disability, AED, SAED line items.

*Analysis:* In order to evaluate the OSPD's overall request for salary increases, including application of the Executive Branch proposals related to base salary increases, staff has prepared



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the following table. Please note that this table excludes the associated increases in supplemental PERA contributions (AED and SAED) and Short-term Disability expenditures. This table also separates the increases requested for OSPD staff who are attorneys from those who are not.

<b>Summary of OSPD Requests for Salary Increases for FY 2013-14</b>				
<b>Description</b>	<b>Salary Increase</b>	<b>PERA</b>	<b>Medicare</b>	<b>Total</b>
<b><u>Attorneys</u></b>				
Align Average Salaries for Each Classification With Market	\$4,711,599	\$478,227	\$68,318	\$5,258,144
1.5% and 1.6% Increases on Above Amount	<u>157,907</u>	<u>16,027</u>	<u>2,290</u>	<u>176,224</u>
<i>Subtotal: OSPD R-1 (Attorney Pay Parity)</i>	<i>4,869,506</i>	<i>494,254</i>	<i>70,608</i>	<i>5,434,368</i>
1.5 percent Increase on Base Salaries - Salary Survey	419,690	42,599	6,086	468,374
1.6 percent Increase on Base Salaries - Merit Pay	<u>454,783</u>	<u>46,160</u>	<u>6,594</u>	<u>507,538</u>
<i>Subtotal: Common Policy</i>	<i>874,473</i>	<i>88,759</i>	<i>12,680</i>	<i>975,912</i>
<b>Total: Attorneys</b>	<b>5,743,979</b>	<b>583,013</b>	<b>83,288</b>	<b>6,410,280</b>
<b><u>Staff Other Than Attorneys</u></b>				
1.5 percent Increase on Base Salaries - Salary Survey	168,115	17,064	2,438	187,616
1.6 percent Increase on Base Salaries - Merit Pay	<u>182,181</u>	<u>18,491</u>	<u>2,642</u>	<u>203,314</u>
<b>Total: Non-Attorneys (Common Policy)</b>	<b>350,296</b>	<b>35,555</b>	<b>5,079</b>	<b>390,930</b>
<b>Total Request for Salary Increases</b>	<b>6,094,275</b>	<b>618,568</b>	<b>88,367</b>	<b>6,801,210</b>

\* The request is based on 12 months of funding, and thus does not reflect the impact of the paydate shift.

**Staff recommends providing funding to allow the OSPD to align salary ranges with the market, as well as funding to ensure that the average salary within each classification also aligns with the market in order to avoid exacerbating pay compression issues.**

Section 21-1-101 (1), C.R.S., requires the State Public Defender to provide legal services to indigent persons accused of crime that are commensurate with those available to nonindigents. Given the magnitude of the gap in pay between the OSPD and other Colorado public sector attorney organizations, the OSPD's ability to recruit and retain the staff necessary to meet this obligation is severely impaired.

However, as indicated above, **staff's recommendation is lower than the request based on three modifications to the calculation.** Staff's recommendation is calculated using the following steps:

1. Calculate the amount of additional funding necessary to allow the OSPD to align its attorney pay ranges and its average attorney salaries for each classification with the market, based on the 2012 FLA Study. For this step staff relied on an amount provided by the OSPD.

2. "Age" the amount calculated in Step #1 to reflect the 14 month difference between the FLA Study salary data (May 1, 2012) and the day with the new salaries would go into effect (July 1, 2013). Staff applied an aging factor of 1.96 percent based on using the same approach utilized by the Department of Personnel to age data in its "Annual Compensation Survey Report"<sup>35</sup>.
3. Reduce the result in Step #2 by 1/12 to reflect the impact of the paydate shift.
4. In a separate calculation, apply the Committee's common policies related to salary increases to the OSPD, including both attorneys and non-attorney staff.
5. Reduce the amount calculated in Step #3 by the attorney portion of the amount calculated in Step #4 to identify the incremental increase necessary to achieve pay parity.

The table on the following page details the calculation of staff's recommendation.

Finally, staff notes that among state agencies, the OSPD and the Department of Law employ the largest number of practicing attorneys (approximately 430 and 250, respectively). **If the Committee approves this staff recommendation (or the OSPD request, which is higher), it may want to consider increasing the appropriation to the Department of Law for salary increases for attorney staff in order to treat the employees of these two agencies in a similar manner.** The amount requested by the Department of Law (and previously approved by the Committee) is sufficient to allow the Department to implement salary ranges that are aligned with the market, but not sufficient to ensure that the average salaries within each classification are aligned with the market. Preliminary estimates indicate that another \$3.7 million (including about \$840,000 General Fund) would be required to allow the Department of Law to pay attorney salaries that are fully aligned with the market.

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<sup>35</sup> The Department of Personnel indicates that it projected (aged) all survey data to one common effective date of July 1, 2013. Specifically, the Department applied the most recent annual Employment Cost Index (ECI) – Wages and Salary for all Civilian Workers (published quarterly by the Bureau of Labor Statistics) to age all market salary and salary range data. Specifically, the Department used the most recent estimate of 1.68 percent annual change for 2012. In order to use the same approach, staff applied a rate of 1.96 percent to age the FLA Study data from May 1, 2012 to July 1, 2013 ( $1.68\% / 12 \times 14 = 1.96\%$ ). Please note that the FLA Study, for purposes of aging supplemental data provided by the Mountain States Employer's Council, utilized the "2012 public sector annualized pay structure increase projection of 0.7% for the Front Range market". Had staff used this approach, the recommended increase for this step would have added \$43,117 rather than \$103,060 (a difference of \$59,943).

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<b>Summary of Recommendations for OSPD Salary Increases for FY 2013-14</b>				
<b>Description</b>	<b>Salary Increase</b>	<b>PERA</b>	<b>Medicare</b>	<b>Total</b>
<b><u>Attorneys</u></b>				
Align Average Salaries for Each Classification With Market	\$4,711,599	\$478,227	\$68,318	\$5,258,144
"Age" Above Amount Using 1.96% (ECI)	92,347	9,373	1,339	103,060
Reduce Sum by 1/12 (Paydate Shift)	(400,329)	(40,633)	(5,805)	(446,767)
Less: Increases Per JBC Common Policy	<u>(929,841)</u>	<u>(94,379)</u>	<u>(13,483)</u>	<u>(1,037,703)</u>
<b>Subtotal: OSPD R-1 (Attorney Pay Parity)</b>	<b>3,473,776</b>	<b>352,588</b>	<b>50,370</b>	<b>3,876,734</b>
1.5% Increase on Base Salaries - Salary Survey (11 months)	384,716	39,049	5,578	429,343
Additional 0.5% Increase on Base Salaries - Salary Survey (11 months)	128,241	13,016	1,859	143,117
1.6% Increase on Base Salaries - Merit Pay (11 months)	<u>416,884</u>	<u>42,314</u>	<u>6,045</u>	<u>465,243</u>
<b>Subtotal: JBC Common Policy</b>	<b>929,841</b>	<b>94,379</b>	<b>13,483</b>	<b>1,037,703</b>
<b>Subtotal: Attorneys</b>	<b>4,403,617</b>	<b>446,967</b>	<b>63,852</b>	<b>4,914,437</b>
<b><u>Staff Other Than Attorneys</u></b>				
1.5% Increase on Base Salaries - Salary Survey (11 months)	154,105	15,642	2,235	171,982
Additional 0.5% Increase on Base Salaries - Salary Survey (11 months)	51,369	5,214	745	57,328
1.6% Increase on Base Salaries - Merit Pay (11 months)	<u>166,999</u>	<u>16,950</u>	<u>2,421</u>	<u>186,371</u>
<b>Total: Non-Attorneys (JBC Common Policy)</b>	<b>372,474</b>	<b>37,806</b>	<b>5,401</b>	<b>415,681</b>
<b>Total Recommendation for Salary Increases</b>	<b>4,776,092</b>	<b>484,773</b>	<b>69,253</b>	<b>5,330,118</b>

**➔ Request OSPD R-2: Operating Shortfalls**

- The OSPD requests \$1,160,693 General Fund to address ongoing funding shortfalls in operational appropriations, including: information technology asset maintenance, mandated costs, operating and travel expenses, and legal services related to client grievance claims. Of this amount, \$560,080 has already been approved as a mid-year increase for FY 2012-13.
- Staff recommends approving the request.

*Request:* The OSPD requests \$1,160,693 General Fund to address ongoing funding shortfalls in several operational appropriations. Please note that the OSPD requested, and the Committee approved, a mid-year increase of \$560,080 for this purpose in FY 2012-13. The following table details the request, by line item and fiscal year.

<b>OSPD Requests Related to Operating Shortfalls</b>			
<b>Request by Line Item</b>	<b>FY 2012-13 Supplemental Request</b>	<b>Incremental Increase Requested for FY 2013-14 Through OSPD R-2</b>	<b>Total Increase Requested for FY 2013- 14 Compared to Base Appropriations</b>
Automation Plan	\$10,939	\$511,213	\$522,152
Mandated Costs	342,305	89,400	431,705
Operating Expenses	175,441	0	175,441
Contract Services	<u>31,395</u>	<u>0</u>	<u>31,395</u>
<b>Total Request</b>	<b>\$560,080</b>	<b>\$600,613</b>	<b>\$1,160,693</b>

As the Committee has already taken action on the FY 2012-13 portion of the request, staff's recommendations for each of the four line items include continuation of the increases that have already been approved. Staff's analysis and recommendations in this packet are limited to the \$600,613 increase that is requested for FY 2013-14. [For more details related to the FY 2012-13 portion of the request, see pages 14 through 17 of the document titled, "Supplemental Requests for FY 2012-13: Judicial Branch", dated January 16, 2013. This document is accessible online at: [http://www.tornado.state.co.us/gov\\_dir/leg\\_dir/jbc/2012-13/jdsup.pdf](http://www.tornado.state.co.us/gov_dir/leg_dir/jbc/2012-13/jdsup.pdf).]

*Background Information – Transfers to Cover Funding Shortfalls.* The annual Long Bill includes a footnote that authorizes the OSPD (as well as the three other independent agencies) to transfer a limited amount of funding among line item appropriations, over and above the annual transfer of up to \$1.0 million that is statutorily authorized for the Judicial Branch as a whole. The following table details transfers made by the OSPD over the last five fiscal years pursuant to this footnote.

<b>Transfers Made by the Office of the State Public Defender Pursuant to Long Bill Footnote</b>					
<b>Long Bill Line Item</b>	<b>FY 2007-08</b>	<b>FY 2008-09</b>	<b>FY 2009-10</b>	<b>FY 2010-11</b>	<b>FY 2011-12</b>
Personal Services	(\$863,293)	\$111,500	(\$33,544)	(\$1,417,587)	(\$457,208)
Operating Expenses	405,000	25,927	(7,500)	10,000	225,000
Leased Space/ Utilities	(142,255)	(116,726)	(125,000)	140,000	(217,792)
Vehicle Lease Payments	2,547	(7,701)	0	0	0
Automation Plan	598,000	403,000	414,029	1,218,000	450,000
Mandated Costs	<u>0</u>	<u>(416,000)</u>	<u>(247,985)</u>	<u>49,587</u>	<u>0</u>
Net Transfers	(1)	0	0	0	0

Over the last five fiscal years, the OSPD has regularly transferred funds to cover over expenditures in the Operating Expenses and Automation Plan line items. These transfers have primarily been covered by transfers from the Personal Services line item. In addition, the OSPD has managed over expenditures related to the Contract Services line item by charging a portion of the expenses associated with contract attorneys to the Personal Services line item (under professional services contract expenses).

*Recommendation.* **Staff recommends approving the requested increases for FY 2013-14.** The OSPD has managed to cover operational funding shortfalls by transferring funds from other line items. This has primarily been possible based on an OSPD practice of delaying new hires to fill vacant positions. This temporary solution will be less viable beginning in FY 2012-13 due to the \$214,221 (0.5 percent) base personal services funding reduction, as well as the new JBC staff practice of calculating appropriations for employee benefits based on actual filled positions (rather than a "full fill" assumption). As a result, the previous practice of delaying new hires will not produce the same level of savings in FY 2012-13 and future fiscal years. The OSPD would need to further delay new hires to achieve similar savings, thereby exacerbating the OSPD staffing deficit.<sup>36</sup>

*Analysis.*

**Automation Plan:** This line item funds the maintenance and lifecycle replacement of the following types of equipment for all 22 OSPD offices:

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

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

In each of the last five fiscal years, the OSPD has transferred money from other line items to cover over expenditures in this line item; these annual transfers have ranged from \$403,000 to \$1,218,000. The following table details actual expenditures for this line item (including transferred amounts) for the last five fiscal years. The table provides a comparison of annual expenditures to the number of OSPD FTE, as well as to the number of active cases.

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<sup>36</sup> For FY 2011-12, based on closed cases, the overall OSPD staffing deficit was 14.7 percent. For trial attorneys (excluding appellate attorneys, investigators, and support staff), the staffing deficit was 4.5 percent.

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<b>OSPD: Automation Plan Expenditures</b>						<b>FY 12-13</b>	<b>FY 13-14</b>
	<b>FY 07-08</b>	<b>FY 08-09</b>	<b>FY 09-10</b>	<b>FY 10-11</b>	<b>FY 11-12</b>	<b>Approp.</b>	<b>Request</b>
OSPD FTE	424.9	510.3	520.4	562.7	616.2	656.4	658.6
OSPD Total Active Cases	114,103	117,472	120,816	122,949	120,498	n/a	n/a
Expenditures/ Appropriation	\$1,087,746	\$1,084,390	\$1,097,199	\$1,891,335	\$1,336,920	\$905,707	\$ 1,416,920
<i>per FTE</i>	\$2,560	\$2,125	\$2,108	\$3,361	\$2,170	\$1,380	\$2,151
<i>per Active Case</i>	\$9.53	\$9.23	\$9.08	\$15.38	\$11.09		

As indicated above, the amount requested for FY 2013-14 exceeds actual expenditures in four of the last five fiscal years. However, on a per FTE basis, the requested amount (\$2,151) is less than actual expenditures in three of the last five fiscal years.

Based on discussions with staff at the Governor's Office of Information Technology (OIT), staff understands that the replacement cycle standards utilized by the OSPD for basic office equipment (computers, printers, etc.) are in line with general guidance used by the OIT (e.g., general guidance indicates that desktop computers should be replaced every three years; OSPD uses a standard of every four years). However, the average age of the OSPD's equipment is much lower than that of the Executive Branch. Specifically, based on data provided by the OSPD for the current fiscal year, the average age of OSPD equipment is within the replacement cycle standards in every category. The OIT staff indicates that this is not true in the Executive Branch.

The OSPD has made many technological changes to increase staff efficiency, including:

- increasing staff mobility by providing access to e-mail, data, calendars, and documents via laptops and smart phones;
- implementing a motions, brief, and jury instructions bank that integrates case law review and analysis features provided by WestLaw;
- enabling access to training resources from remote locations;
- implementing Adobe Professional and specialized courtroom and case analysis software;
- integrating the use of larger sized LCD screens to allow attorneys and investigators to review multiple documents (in lieu of printing them); and
- implementing hardware and software for the creation, review, analysis, and presentation of electronic media in offices and courtrooms.

The OSPD has also made investments to improve network access in certain courthouses, to reduce the number of servers while expanding the processor speed and capacity, and to increase the speed and reliability of data transmissions. The OSPD is also implementing a pilot program to create dedicated discovery documentation virtual servers. In the future, the OSPD is looking to: transition from laptops to tablets; use eBooks and applications for legal practice (as these tools are perfected); and move toward cloud technology for document and data storage.

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**Mandated Costs:** For the OSPD, mandated costs primarily include obtaining transcripts and reimbursing district attorney offices for duplicating discoverable materials. The OSPD also incurs costs for expert witnesses, interpreter services (for activities outside the courtroom), and travel (both for witnesses and for public defender staff to conduct out-of-state investigations).

As detailed in the following table, the types of mandated costs that the OSPD has the most control over – expert witness and travel expense -- have actually declined since FY 2006-07. In contrast, payments to District Attorneys and other agencies for discoverable materials have more than doubled in the last five fiscal years, and transcript expenses have increased by about one-third.

OSPD Mandated Costs								
Category	Actual Expenditures						Cumulative Change	
	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	\$	%
Transcripts	\$1,054,167	\$1,186,376	\$1,238,740	\$1,267,820	\$1,343,846	\$1,408,864	\$354,697	33.6%
Discovery	761,495	886,112	969,306	1,125,966	1,514,957	1,623,452	861,957	113.2%
Experts	569,094	817,186	504,530	516,403	474,661	485,145	(83,949)	-14.8%
Travel	75,818	150,005	109,567	58,254	74,700	65,471	(10,347)	-13.6%
Interpreters	71,545	85,301	109,563	106,661	93,239	117,828	46,283	64.7%
Misc.	9,499	18,279	22,461	17,497	14,976	57,871	48,372	509.2%
<b>Total</b>	<b>2,541,618</b>	<b>3,143,259</b>	<b>2,954,167</b>	<b>3,092,601</b>	<b>3,516,379</b>	<b>3,758,631</b>	<b>1,217,013</b>	<b>47.9%</b>

The OSPD has received six very serious homicide cases in recent months, including five that are considered death penalty eligible. The expert witness, travel, and discovery expenses associated with these types of cases are significantly higher than for most cases. In addition, those state and local agencies that are allowed to charge the OSPD for discoverable material (District Attorneys' offices, the Department of Law, the Department of Corrections, and the State Mental Health Institutes) continue to increase the rates charged to the OSPD and other defense counsel.

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## LINE ITEM DETAIL

### Personal Services

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



*JBC Staff Figure Setting: FY 2013-14*  
*Staff Working Document – Does Not Represent Committee Decision*

<b>Staffing Summary Office of the State Public Defender</b>	<b>FY 11-12 Actual</b>	<b>FY 12-13 Approp.</b>	<b>FY 13-14 Request</b>	<b>FY 13-14 Recommend.</b>
State Public Defender, Chief Deputies, and Chief Administrative Officer	3.4	3.4	3.4	3.4
Statewide Complex Case Management	8.6	9.6	9.6	9.6
Accounting, Payroll, Budget, Planning/Analysis, Procurement, Facilities, Human Resources & Training	6.0	10.0	10.2	10.2
Information Technology Staff	8.0	9.0	9.0	9.0
Administrative Staff and Senior Management Assistants	<u>5.0</u>	<u>3.0</u>	<u>3.0</u>	<u>3.0</u>
<b>Total - Central Office</b>	<b>31.0</b>	<b>35.0</b>	<b>35.2</b>	<b>35.2</b>
Appellate Attorneys	33.1	34.8	34.8	34.8
Office Head	1.0	1.0	1.0	1.0
Investigators/ Legal Assistants	3.8	4.0	4.0	4.0
Administrative Support Staff	5.0	5.0	5.0	5.0
Office Manager	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>
Subtotal - Support Staff	9.8	10.0	10.0	10.0
<i>Ratio of Support Staff to Appellate Attorneys</i>	<i>28.7%</i>	<i>27.9%</i>	<i>27.9%</i>	<i>27.9%</i>
<b>Total - Appellate Office</b>	<b>43.9</b>	<b>45.8</b>	<b>45.8</b>	<b>45.8</b>
Trial Attorneys	330.3	357.1	359.3	359.3
Office Head	21.0	21.0	21.0	21.0
Investigators/ Legal Assistants	104.8	108.0	108.8	108.8
Administrative Support Staff	60.6	65.0	65.6	65.6
Office Manager	<u>21.0</u>	<u>21.0</u>	<u>21.0</u>	<u>21.0</u>
Subtotal - Support Staff	186.4	194.0	195.4	195.4
<i>Ratio of Support Staff to Trial Attorneys</i>	<i>53.1%</i>	<i>51.3%</i>	<i>51.4%</i>	<i>51.4%</i>
<b>Total - Regional Trial Offices</b>	<b>537.7</b>	<b>572.1</b>	<b>575.7</b>	<b>575.7</b>
<b>Total</b>	<b>612.6</b>	<b>652.9</b>	<b>656.7</b>	<b>656.7</b>

**Request:** The OSPD requests \$43,760,551 General Fund and 656.6 FTE for FY 2013-14.

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

*JBC Staff Figure Setting: FY 2013-14*  
*Staff Working Document – Does Not Represent Committee Decision*

<b>Office of the State Public Defender, Personal Services</b>			
	<b>Total Funds</b>	<b>General Fund</b>	<b>FTE</b>
<b>FY 2012-13 Appropriation:</b>			
HB 12-1335 (Long Bill)	43,519,793	43,519,793	652.8
<b>TOTAL</b>	<b>\$43,519,793</b>	<b>\$43,519,793</b>	<b>652.8</b>
<b>FY 2013-14 Recommended Appropriation:</b>			
FY 2012-13 Appropriation	\$43,519,793	\$43,519,793	652.8
Annualize prior year legislation	54,556	54,556	0.0
Annualize prior year budget actions	186,202	186,202	3.8
<b>TOTAL</b>	<b>\$43,760,551</b>	<b>\$43,760,551</b>	<b>656.6</b>
<b>Increase/(Decrease)</b>	\$240,758	\$240,758	3.8
Percentage Change	0.6%	0.6%	0.6%
<b>FY 2013-14 Executive Request:</b>	<b>\$43,760,551</b>	<b>\$43,760,551</b>	<b>656.6</b>
Request Above/(Below) Recommendation	\$0	\$0	0.0

*Annualize Prior Year Legislation:* In FY 2012-13, the General Assembly provided General Fund support for 5.1 FTE required by the OSPD to cover the workload resulting from final two judgeships that were authorized by H.B. 07-1054. These two judgeships were filled as of July 1, 2012. The FY 2013-14 request includes an additional \$54,559 General Fund, consistent with the request that was submitted last year.

*Annualize Prior Year Budget Actions:* In FY 2012-13, the General Assembly provided General Fund support for OSPD staff to provide indigent defense services for the Denver Sobriety Court. The FY 2013-14 request includes an additional \$186,202 General Fund and 3.8 FTE, consistent with the request that was submitted last year.

**Health, Life, and Dental**

This is the second of five 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 OSPD staff.

**Request:** The OSPD requests \$4,687,048 for FY 2013-14.

**Recommendation:** Staff recommends appropriating \$4,683,828 for FY 2013-14, consistent with Committee policy with respect to employer contribution rates.

**Short-term Disability**

This is the second of five line items that provide funding for the employer's share of state employees' short-term disability insurance premiums. This line item provides funds for OSPD staff.

**Request:** The OSPD requests \$86,037 for FY 2013-14.

**Recommendation:** Staff recommends an appropriation of \$83,385, consistent with the Committee's common policy to apply a rate of 0.19 percent of employee salaries. The calculation of the recommendation is detailed in the following table.

*JBC Staff Figure Setting: FY 2013-14*  
*Staff Working Document – Does Not Represent Committee Decision*

<b>Office of the State Public Defender, Short-term Disability</b>			
	Total Funds	General Fund	FTE
<b>FY 2012-13 Appropriation:</b>			
HB 12-1335 (Long Bill)	68,710	68,710	0.0
<b>TOTAL</b>	<b>\$68,710</b>	<b>\$68,710</b>	<b>0.0</b>
<b>FY 2013-14 Recommended Appropriation:</b>			
FY 2012-13 Appropriation	\$68,710	\$68,710	0.0
OSPD R-1: Attorney pay parity	6,600	6,600	0.0
Employee benefits/common changes	8,075	8,075	0.0
<b>TOTAL</b>	<b>\$83,385</b>	<b>\$83,385</b>	<b>0.0</b>
<b>Increase/(Decrease)</b>	\$14,675	\$14,675	0.0
Percentage Change	21.4%	21.4%	0.0%
<b>FY 2013-14 Executive Request:</b>	<b>\$86,037</b>	<b>\$86,037</b>	<b>0.0</b>
Request Above/(Below) Recommendation	\$2,652	\$2,652	0.0

**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 five such line items, this one provides funds for OSPD staff.

**Request:** The OSPD requests \$1,630,152 for FY 2013-14.

**Recommendation:** Staff recommends an appropriation of \$1,568,765 for FY 2013-14, consistent with Committee's common policy. The common policy is to apply the relevant rates [3.4 percent of base salaries for CY 2013 and 3.8 percent of base salaries for CY 2014] to base salaries (including salary survey and merit pay increases, and adjusted for the pay date shift). The calculation of the recommendation is detailed in the following table.

<b>Office of the State Public Defender, S.B. 04-257 AED</b>			
	Total Funds	General Fund	FTE
<b>FY 2012-13 Appropriation:</b>			
HB 12-1335 (Long Bill)	1,239,073	1,239,073	0.0
<b>TOTAL</b>	<b>\$1,239,073</b>	<b>\$1,239,073</b>	<b>0.0</b>
<b>FY 2013-14 Recommended Appropriation:</b>			
FY 2012-13 Appropriation	\$1,239,073	\$1,239,073	0.0
OSPD R-1: Attorney pay parity	124,424	124,424	0.0
Employee benefits/common changes	205,268	205,268	0.0
<b>TOTAL</b>	<b>\$1,568,765</b>	<b>\$1,568,765</b>	<b>0.0</b>
<b>Increase/(Decrease)</b>	\$329,692	\$329,692	0.0
Percentage Change	26.6%	26.6%	0.0%
<b>FY 2013-14 Executive Request:</b>	<b>\$1,630,152</b>	<b>\$1,630,152</b>	<b>0.0</b>
Request Above/(Below) Recommendation	\$61,387	\$61,387	0.0

**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 five such line items, this one provides funds for OSPD staff.

**Request:** The OSPD requests \$1,471,664 for FY 2013-14.

**Recommendation:** Staff recommends an appropriation of \$1,411,409 for FY 2013-14, consistent with Committee's common policy. The common policy is to apply the relevant rates [3.0 percent of base salaries for CY 2013 and 3.5 percent of base salaries for CY 2014] to base salaries (including salary survey and merit pay increases, and adjusted for the pay date shift). The calculation of the recommendation is detailed in the following table.

<b>Office of the State Public Defender, S.B. 06-235 SAED</b>			
	<b>Total Funds</b>	<b>General Fund</b>	<b>FTE</b>
<b>FY 2012-13 Appropriation:</b>			
HB 12-1335 (Long Bill)	1,059,806	1,059,806	0.0
<b>TOTAL</b>	<b>\$1,059,806</b>	<b>\$1,059,806</b>	<b>0.0</b>
<b>FY 2013-14 Recommended Appropriation:</b>			
FY 2012-13 Appropriation	\$1,059,806	\$1,059,806	0.0
OSPD R-1: Attorney pay parity	112,108	112,108	0.0
Employee benefits/common changes	239,495	239,495	0.0
<b>TOTAL</b>	<b>\$1,411,409</b>	<b>\$1,411,409</b>	<b>0.0</b>
<b>Increase/(Decrease)</b>	\$351,603	\$351,603	0.0
Percentage Change	33.2%	33.2%	0.0%
<b>FY 2013-14 Executive Request:</b>	<b>\$1,471,664</b>	<b>\$1,471,664</b>	<b>0.0</b>
Request Above/(Below) Recommendation	\$60,255	\$60,255	0.0

**Salary Survey**

The OSPD uses this line item to pay for annual salary increases, similar to "salary survey" increases in the Executive Branch. The second of five such line items, this one provides funds for OSPD staff.

**Request:** The OSPD requests \$6,090,358 for FY 2013-14. This line item is impacted by OSPD R-1 (Attorney Pay Parity).

**Recommendation:** Staff recommends an appropriation of \$4,678,504 for FY 2013-14. The recommendation is consistent with Committee policy, and is detailed in the following table.

*JBC Staff Figure Setting: FY 2013-14*  
*Staff Working Document – Does Not Represent Committee Decision*

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<b>Office of the State Public Defender, Salary Survey</b>			
	<b>Total Funds</b>	<b>General Fund</b>	<b>FTE</b>
OSPD R-1: Attorney pay parity	3,876,734	3,876,734	0.0
Employee benefits/common changes	801,770	801,770	0.0
<b>TOTAL</b>	<b>\$4,678,504</b>	<b>\$4,678,504</b>	<b>0.0</b>
<b>Increase/(Decrease)</b>	\$4,678,504	\$4,678,504	0.0
Percentage Change	0.0%	0.0%	0.0%
<b>FY 2013-14 Executive Request:</b>	<b>\$6,090,358</b>	<b>\$6,090,358</b>	<b>0.0</b>
Request Above/(Below) Recommendation	\$1,411,854	\$1,411,854	0.0

**Anniversary Increases**

The OSPD uses this line item to pay for longevity or performance-related pay increases. The second of five such line items, this one provides funds for OSPD staff.

**Request:** The OSPD requests \$710,852 for FY 2013-14.

**Recommendation:** Staff recommends an appropriation of \$651,614 for FY 2013-14. The recommendation is consistent with Committee policy. Staff also recommends renaming this line item "Merit Pay", consistent with other state agencies.

**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 26 vehicles; the OSPD reimburses employees for mileage when using their own vehicles to conduct official business. These vehicles are used: by regional office staff for daily business (driving to a courthouse, visiting clients in jail, interviewing witnesses, etc.); by an investigator who does not have a physical office and whose responsibilities require him to drive statewide throughout the year; and by staff in the central administrative office for statewide support functions (e.g., information technology, audit, facility review, inventory).

**Request:** The OSPD requests a total of \$121,296 for FY 2013-14, which represents a decrease of \$44,410 relative to the FY 2012-13 appropriation. The OSPD's request includes funding to replace five vehicles:

- Three full-size sedans (license numbers: 272CSD, 538REM, and 800HZF) and
- Two small passenger utility vehicles (license numbers: 791BFB and 857REL).

**Recommendation:** Staff recommends approving the request for funding to replace five vehicles. All of these vehicles exceed the applicable mileage thresholds. Staff's overall recommendation for this line item is pending. Staff will ultimately reflect the amount approved by the Committee when the common policy for Vehicle Lease Payments is established.

**Capital Outlay**

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

**Request:** The OSPD requests \$0 for FY 2013-14. The request reflects a reduction of \$28,218 General Fund to eliminate funding that was provided for OSPD R-3 from FY 2012-13 (Refinance Denver Sobriety Court), and a reduction of \$23,515 to eliminate funding that was provided in FY 2012-13 for implementation of H.B. 07-1054.

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

**Operating Expenses**

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

- Travel and motor pool expenses (\$567,489 actually expended in FY 2011-12);
- Equipment lifecycle replacement, rental, and maintenance (\$359,308);
- Office and printing supplies, postage, cleaning supplies, and other general operating expenses (\$332,946);
- Telephone (\$103,656); and
- Employee training expenses (\$59,467).

**Request:** The OSPD requests \$1,513,339 General Fund for FY 2013-14. This line item is impacted by OSPD R-2 (Operating shortfalls).

**Recommendation:** Staff recommends appropriating \$1,512,139. The recommendation includes continuation of the \$175,441 increase approved mid-year (which was submitted in November 2012 as part of OSPD R-2), plus an increase of \$5,331 to annualize OSPD R-3 from FY 2012-13 (Refinance Denver Sobriety Court). Staff's recommendation is \$1,200 lower than the request because the request reflects an annualization cost of \$6,531, a number that is \$1,200 higher than the amount reflected on page 97 of staff's February 15, 2012 figure setting document.

**Leased Space/ Utilities**

This line item currently funds a full 12 months of lease payments for a total of 263,920 square feet of leased space in 22 locations statewide. The OSPD is scheduled to move its central administrative and appellate offices from 1290 Broadway to the Ralph L. Carr Colorado Judicial Center on March 18, 2013. For FY 2013-14, this line item would continue to cover all OSPD leases except those associated with the Carr Center.

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

**Request:** The OSPD requests an appropriation of \$5,730,514 General Fund for FY 2013-14. The request reflects a reduction of \$391,830 to transfer existing funding for the OSPD's central administrative and appellate offices to the Courts Administration section of the Long Bill to consolidate all Judicial Branch appropriations for leased space at the Carr Center.

**Recommendation:** Staff recommends approving the request. Although current lease rates vary significantly around the state, the average rate per square foot is \$18.97. For FY 2013-14, the square footage is anticipated to increase for locations in Fort Collins, Greeley, and Trinidad, for a statewide total of 255,415 square feet. The average rate per square foot is anticipated to increase slightly to \$19.47 (2.6 percent), based on a mix of increases and decreases in costs per square foot in various locations. The request also includes \$757,407 for build out/ improvement costs, off-site storage, utilities escalators, and moving expenses.

#### **Automation Plan**

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

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

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

**Request:** The OSPD requests \$1,416,920 General Fund for FY 2013-14. This line item is impacted by OSPD R-2 (Operating shortfalls).

**Recommendation:** Staff recommends approving the request. The recommendation includes continuation of the \$10,939 increase approved mid-year (which was submitted in November 2012 as part of OSPD R-2), plus an additional increase of \$511,213 for FY 2013-14.

#### **Attorney Registration**

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

**Request:** The OSPD requests \$99,045 General Fund for FY 2013-14. The request includes a decrease of \$1,890 based on the attorneys employed by OSPD.

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



**Contract Services**

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

**Request:** The OSPD requests \$49,395 General Fund for FY 2013-14. This line item is impacted by OSPD R-2 (Operating shortfalls).

**Recommendation:** Staff recommends approving the request. The recommendation includes continuation of the \$31,395 increase approved mid-year (which was submitted in November 2012 as part of OSPD R-2).

**Mandated Costs**

This is one of six line item appropriations for "mandated costs". These costs are associated with activities, events, and services that accompany court cases that are required in statute and/or the U.S. and Colorado Constitutions to ensure a fair and speedy trial, and to ensure the right to legal representation. For the OSPD, these costs primarily include obtaining transcripts and reimbursing district attorney offices for duplicating discoverable materials. The OSPD also incurs costs for expert witnesses, interpreter services (for activities outside the courtroom), and travel (both for witnesses and for public defender staff to conduct out-of-state investigations). The following table provides a history of OSPD mandated cost expenditures since FY 2006-07.

OSPD Mandated Costs							Cumulative Change	
Description	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	\$	%
Transcripts	\$1,054,167	\$1,186,376	\$1,238,740	\$1,267,820	\$1,343,846	\$1,408,864	\$354,697	33.6%
Discovery	761,495	886,112	969,306	1,125,966	1,514,957	1,623,452	861,957	113.2%
Experts	569,094	817,186	504,530	516,403	474,661	485,145	(83,949)	-14.8%
Travel	75,818	150,005	109,567	58,254	74,700	65,471	(10,347)	-13.6%
Interpreters	71,545	85,301	109,563	106,661	93,239	117,828	46,283	64.7%
Misc.	9,499	18,279	22,461	17,497	14,976	57,871	48,372	509.2%
<b>Total</b>	<b>2,541,618</b>	<b>3,143,259</b>	<b>2,954,167</b>	<b>3,092,601</b>	<b>3,516,379</b>	<b>3,758,631</b>	<b>1,217,013</b>	<b>47.9%</b>
<i>Annual % change</i>		23.7%	-6.0%	4.7%	13.7%	6.9%		
Active cases	112,339	114,103	117,472	120,816	122,949	120,498	8,159	7.3%
Average cost per case	\$23	\$28	\$25	\$26	\$29	\$31	\$9	37.9%
<i>Annual % change</i>		21.8%	-8.7%	1.8%	11.7%	9.1%		

**Request:** The OSPD requests \$4,315,888 General Fund for FY 2013-14. This line item is impacted by OSPD R-2 (Operating shortfalls).

**Recommendation:** Staff recommends approving the request. The recommendation includes continuation of the \$342,305 increase approved mid-year (which was submitted in November 2012 as part of OSPD R-2), plus an additional increase of \$89,400 for FY 2013-14.

**Grants**

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

**Request:** The OSPD's FY 2013-14 request for \$120,000 and 2.0 FTE reflects three grants:

- An ongoing annual grant of \$60,000 (supporting 1.0 FTE) from the Boulder Integrated Managed Partnership for Adolescent and Child Community Treatment ("IMPACT") Program to allow the OSPD to continue to provide family advocate services for juveniles and their families. Specifically, these funds are used to support a family advocate in the Boulder field office to assist Spanish-speaking families in navigating the juvenile justice system. The Family Advocate meets with juveniles and their families to explain case information, and attends detention hearings and court proceedings. While court-certified interpreters are available to offer translation services to these youth, they are prohibited from explaining, advocating, and helping in any way beyond translation
- An ongoing annual grant of \$60,000 (supporting 1.0 FTE) from IMPACT to support Boulder County's Juvenile Integrated Treatment Court (JITC). The JITC was created 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 OSPD uses these funds to support an attorney to represent defendants in the JITC. Absent public defender participation, the JITC could not take indigent cases. The contract with IMPACT calls for one half-time attorney, plus a designated lead/supervising attorney to provide supervision, serve as a liaison, and ensure quality legal representation.

The request reflects a reduction of \$98,260 cash funds and 1.6 FTE to annualize OSPD R-3 from FY 2012-13 (Refinance Denver Sobriety Court).

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

## **(6) Office of the Alternate Defense Counsel**

The Office of the Alternate Defense Counsel (OADC) provides legal representation for indigent defendants in criminal and juvenile delinquency cases in which the Office of the State Public Defender (OSPD) is precluded from doing so because of an ethical conflict of interest<sup>37</sup>. Common types of conflicts include cases in which the OSPD represents co-defendants or represents both a witness and a defendant in the same case. Section 21-2-103, C.R.S., specifically states that case overload, lack of resources, and other similar circumstances shall not constitute a conflict of interest.

The OADC provides legal representation by contracting with licensed attorneys and investigators. Such contracts must provide for reasonable compensation (based on either a fixed fee or hourly rates) and reimbursement for expenses necessarily incurred (*e.g.*, expert witnesses,

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<sup>37</sup> See Section 21-2-101 *et seq.*, C.R.S.

investigators, legal assistants, and interpreters). The OADC is to establish a list of qualified attorneys for use by the court in making appointments in conflict cases<sup>38</sup>.

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

With the exception of a small amount of cash funds from training registration fees and DVD sales, the OADC is supported by General Fund appropriations.

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## INITIATIVES AFFECTING MULTIPLE LINE ITEMS IN THIS DIVISION



### **Request OADC R-1: Legal Resource and Technology Coordinator**

- The OADC requests \$111,933 General Fund for FY 2013-14 to add a full-time Legal Resources and Technology Coordinator to maintain and administer its centralized system of legal resources and technology. The funding for this position would be fully offset by additional savings achieved in the "Conflict of Interest Contracts" line item.
- Staff recommends approving the request, with adjustments made to comply with Committee policy (appropriations totaling \$101,321 to add 0.9 FTE, offset by a reduction of the same amount for the Conflict of Interest Contracts line item).

*Request:* The OADC requests \$111,933 General Fund to add a new staff position, a Legal Resource and Technology Coordinator. The funding for this position would be fully offset by additional savings achieved in the "Conflict of Interest Contracts" line item. Thus, the overall request simply reflects an increase of 0.9 FTE for FY 2013-14; the increase is only 0.9 FTE for FY 2013-14 due to the paydate shift (*i.e.*, only 11 months of salary will be paid in FY 2013-14).

The OADC contracts with about 400 attorneys across the state to represent indigent defendants in criminal and juvenile cases. Until recently, the OADC paid each attorney to research the law and draft pleadings, even if the OADC had already paid another attorney to do the same legal

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<sup>38</sup> Please note that the court also has judicial discretion to appoint a private attorney who is not on the approved OADC list. However, the OADC is not required to pay for such representation.

research in a different case. In addition, changes in technology over the last five years have significantly impacted every area of criminal litigation. These technological advancements affect the way evidence is introduced in court, how case files are managed, and how research is performed. Overall OADC attorney contractor hours increase as each individual OADC contracting attorney struggles to keep up with these changes. The OADC has taken several actions in recent years to address these increased costs.

In 2008, the OADC started developing an electronic, online repository for its contract attorneys to access various legal materials. The OADC began accumulating briefs, motions, and other material related to criminal law; each document is vetted for accuracy of content and clarity of thought before it is stored in the repository. By 2010, the "Brief and Motions Bank" was fully functional and available to OADC contract attorneys. In February 2011, the OADC further centralized its legal resources by offering research and writing assistance to contractors. This assistance may include: answering a request for a case cite for a legal proposition; preparing a full memorandum on a complex area of law; or drafting, reviewing, or editing briefs or motions before they are submitted to the court. These finalized materials are incorporated into the Brief and Motions Bank.

In January 2012, the OADC began contracting with an attorney (part-time) to summarize state appellate court opinions as they are issued by the Colorado Supreme Court and the Court of Appeals. These summaries are disseminated to contract attorneys and stored in the Brief and Motions Bank. Most recently, the OADC began linking its internal database to Westlaw, through a process called "Westlaw KM" (knowledge management).

The Brief and Motions Bank now contains over 3,000 documents including briefs, motions, jury instructions, and other research materials. These materials are linked to a table of contents so that materials can be located by topic. Contractor utilization of the Brief and Motions Bank and research and writing assistance has increased rapidly and the response has been overwhelmingly positive.

The OADC proposes expanding its staff of 7.5 FTE to include a full-time Legal Resources and Technology Coordinator to make this program fully functional and technologically current. The duties of this position would include:

- acquiring current criminal law information;
- maintaining the accuracy and robustness of that information;
- developing technologies to improve access to the information;
- disseminating the information to OADC contractors; and
- creating and maintaining up-to-date practice manuals that provide guidance to OADC attorneys in various areas of criminal law and procedure, with cross-references to the Brief and Motions Bank (with clear examples of what the OADC considers quality written and oral advocacy).

The proliferation of materials has required a corresponding increase in the amount of time necessary to manage the Brief and Motions Bank. In order to keep the materials up-to-date and

robust, outdated materials must be removed while new materials are being added. The OADC also plans to expand the resources available to its contractors by utilizing interns. An internship program would provide practical experience to law students, while expanding the scope of the Brief and Motions Bank and research and writing assistance. The OADC believes it would be most effective at this point to hire one full-time employee to coordinate the Brief and Motions Bank administration, the research and writing assistance, the case law review, intern supervision, and technological support. The OADC believes that this is the best approach to continue to control the average billable attorney hours per case, while maintaining high quality representation for indigent defendants and juveniles in criminal cases.

The OADC has offered to share access to the Brief and Motions Bank, the criminal law case summaries, and any manuals that are created with the Office of the State Public Defender.

The following table details the components of the request.

<b>Summary of Recommendation for OADC R-1: Legal Resource and Technology Coordinator</b>		
	<b>FY 2013-14</b>	<b>FY 2014-15</b>
Personal Services (1.0 FTE for 11 months; \$96,912 salary + PERA + Medicare)	\$99,141	\$108,154
Operating Expenses (\$1,230 for computer and software; \$450 for telephone base, \$500 for supplies for 1.0 FTE)	2,180	950
Health, Life, and Dental	0	6,624
Short-term Disability	0	184
AED	0	3,844
SAED	0	3,594
Conflict of Interest Contracts	(101,321)	(123,350)
<b>Total Recommendation</b>	<b>\$0</b>	<b>\$0</b>

**Recommendation:** Staff recommends appropriating \$101,321 General Fund for personal services and operating expenses, as requested. However, consistent with the Committee policy for the initial year of funding for a new FTE, staff's recommendation does not include the \$10,609 requested funding for centrally appropriated line items. Staff assumes that the OADC will delay filling the position, if necessary, to cover all associated employee benefit expenses in FY 2013-14. In addition, staff's calculation of the PERA and Medicare associated with 11 months of salary is \$3 lower than the request for FY 2013-14. Consistent with the request, staff recommends reducing the appropriation for the Conflict of Interest Contracts line to fully offset the FY 2013-14 costs of adding the position (a reduction of \$101,321 based on staff's recommendation).

Similar to other OADC initiatives, this proposal leverages central resources to reduce the time required of OADC contract attorneys, while improving the quality of services provided. Staff's recommendation includes the requested salary. The experience and skill set required for this

new position appear to be similar to those required for the existing Attorney Oversight/Training position, and the salary should be set at a similar level.

## LINE ITEM DETAIL

### Personal Services

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

Staffing Summary Office of the Alternate Defense Counsel	FY 11-12 Actual	FY 12-13 Approp.	FY 13-14 Request	FY 13-14 Recommend.
Alternate Defense Counsel (Director of Office)	1.0	1.0	1.0	1.0
Deputy Director	1.0	1.0	1.0	1.0
Attorney Oversight/ Training	1.0	1.0	1.0	1.0
Legal Resource and Technology Coordinator (OADC R-1)			0.9	0.9
Budget Analyst/ Controller	1.0	1.0	1.0	1.0
Appellate Case Manager and Legal/Administrative Assistant	1.5	1.5	1.5	1.5
Administrative Support	<u>2.0</u>	<u>2.0</u>	<u>2.0</u>	<u>2.0</u>
<b>Total</b>	<b>7.5</b>	<b>7.5</b>	<b>8.4</b>	<b>8.4</b>

**Request:** The OADC requests \$805,233 General Fund and 8.4 FTE. This request is impacted by OADC R-1 (Legal Resources and Technology Coordinator).

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

Office of the Alternate Defense Counsel, Personal Services			
	Total Funds	General Fund	FTE
<b>FY 2012-13 Appropriation:</b>			
HB 12-1335 (Long Bill)	706,089	706,089	7.5
<b>TOTAL</b>	<b>\$706,089</b>	<b>\$706,089</b>	<b>7.5</b>
<b>FY 2013-14 Recommended Appropriation:</b>			
FY 2012-13 Appropriation	\$706,089	\$706,089	7.5
OADC R-1: Legal resource and technology coordinator	99,141	99,141	0.9
<b>TOTAL</b>	<b>\$805,230</b>	<b>\$805,230</b>	<b>8.4</b>
<b>Increase/(Decrease)</b>	<b>\$99,141</b>	<b>\$99,141</b>	<b>0.9</b>
Percentage Change	14.0%	14.0%	12.0%
<b>FY 2013-14 Executive Request:</b>	<b>\$805,233</b>	<b>\$805,233</b>	<b>8.4</b>
Request Above/(Below) Recommendation	\$3	\$3	0.0

**Health, Life, and Dental**

This is the third of five 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.

**Request:** The OADC requests \$99,617 General Fund for FY 2013-14. The request is impacted by OADC R-1 (Legal Resource and Technology Coordinator).

**Recommendation:** Staff recommends appropriating \$99,113 for FY 2013-14, consistent with Committee policy with respect to employer contribution rates. Consistent with the Committee's common policy, staff's recommendation does not include any funding related to OADC R-1.

**Short-term Disability**

This is the third of five 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.

**Request:** The OADC requests \$1,393 General Fund for FY 2013-14. The request is impacted by OADC R-1 (Legal Resource and Technology Coordinator).

**Recommendation:** Staff recommends an appropriation of \$1,230, consistent with the Committee's common policy to apply a rate of 0.19 percent of employee salaries (including the additional 11 months of funding for salary survey and merit pay). Consistent with the Committee's common policy, staff's recommendation does not include any funding related to OADC R-1.

**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 five such line items, this one provides funds for OADC staff.

**Request:** The OADC requests \$26,155 General Fund for FY 2013-14. The request is impacted by OADC R-1 (Legal Resource and Technology Coordinator).

**Recommendation:** Staff recommends an appropriation of \$23,089 for FY 2013-14, consistent with Committee's common policy. The common policy is to apply the relevant rates [3.4 percent of base salaries for CY 2013 and 3.8 percent of base salaries for CY 2014] to base salaries (including salary survey and merit pay increases, and adjusted for the pay date shift). Consistent with the Committee's common policy, staff's recommendation does not include any funding related to OADC R-1.

**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 five such line items, this one provides funds for OADC staff.



**Request:** The OADC requests \$23,525 General Fund for FY 2013-14. The request is impacted by OADC R-1 (Legal Resource and Technology Coordinator).

**Recommendation:** Staff recommends an appropriation of \$20,771 for FY 2013-14, consistent with Committee's common policy. The common policy is to apply the relevant rates [3.0 percent of base salaries for CY 2013 and 3.5 percent of base salaries for CY 2014] to base salaries (including salary survey and merit pay increases, and adjusted for the pay date shift). Consistent with the Committee's common policy, staff's recommendation does not include any funding related to OADC R-1.

**Salary Survey**

The OADC uses this line item to pay for annual salary increases, similar to "salary survey" increases in the Executive Branch. The third of five such line items, this one provides funds for OADC staff.

**Request:** The OADC requests \$9,613 General Fund for FY 2013-14 for a 1.5 percent across-the-board increase. The request only reflects 11 months of funding due to the paydate shift.

**Recommendation:** Staff recommends an appropriation of \$12,817 for FY 2013-14, including \$9,613 for a 1.5 percent across-the-board increase, plus \$3,204 for an additional 0.5 percent across-the-board increase, pursuant to the Committee's common policy.

**Anniversary Increases**

The OADC uses this line item to pay for longevity or performance-related pay increases. The third of five such line items, this one provides funds for OADC staff.

**Request:** The OADC requests a total of \$10,417 General Fund for merit pay for FY 2013-14.

**Recommendation:** Staff recommends an appropriation of \$10,408 for FY 2013-14 for merit pay. This amount is calculated consistent with Committee policy, by multiplying the sum of the base salary plus the 1.5 percent increase by 1.6 percent, and adjusting the result to reflect the pay date shift. Staff also recommends renaming this line item "Merit Pay", consistent with other state agencies.

**Operating Expenses**

This line item provides funding for the operating expenses and information technology asset maintenance for the OADC, and for reimbursement of actual and necessary expenses incurred by Alternate Defense Counsel Commission members.

**Request:** The OADC requests \$69,210 General Fund for FY 2013-14. The request is impacted by OADC R-1 (Legal Resource and Technology Coordinator).

**Recommendation:** Staff recommends approving the request, including \$2,180 related to OADC R-1 (this amount includes \$1,230 in one-time expenses and \$950 in ongoing operating expenses). Staff's recommendation is detailed in the following table.

*JBC Staff Figure Setting: FY 2013-14*  
*Staff Working Document – Does Not Represent Committee Decision*

<b>Office of the Alternate Defense Counsel, Operating Expenses</b>			
	<b>Total Funds</b>	<b>General Fund</b>	<b>FTE</b>
<b>FY 2012-13 Appropriation:</b>			
HB 12-1335 (Long Bill)	67,030	67,030	0.0
<b>TOTAL</b>	<b>\$67,030</b>	<b>\$67,030</b>	<b>0.0</b>
<b>FY 2013-14 Recommended Appropriation:</b>			
FY 2012-13 Appropriation	\$67,030	\$67,030	0.0
OADC R-1: Legal resource and technology coordinator	2,180	2,180	0.0
<b>TOTAL</b>	<b>\$69,210</b>	<b>\$69,210</b>	<b>0.0</b>
<b>Increase/(Decrease)</b>	\$2,180	\$2,180	0.0
Percentage Change	3.3%	3.3%	0.0%
<b>FY 2013-14 Executive Request:</b>	<b>\$69,210</b>	<b>\$69,210</b>	<b>0.0</b>
Request Above/(Below) Recommendation	\$0	\$0	0.0

**Leased Space**

This line item currently funds a full 12 months of lease payments for 1,993 square feet at 1580 Logan Street in Denver. The OADC is scheduled to move its office to the Ralph L. Carr Colorado Judicial Center on March 18, 2013.

**Request:** The OADC requests elimination of this line item for FY 2013-14, and the transfer of the existing funding (\$35,880 General Fund) to the Courts Administration section of the Long Bill to consolidate all Judicial Branch appropriations for leased space at the Carr Center.

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

**Training and Conferences**

This line item is used to provide training opportunities for contract lawyers, investigators, and legal assistants. Training sessions are also open to attorneys from the Office of the Public Defender, as well as the private bar. The OADC conducts live training sessions, which are recorded and made available statewide via webcast and DVD reproductions for those who are unable to attend in person.

**Request:** The OADC requests a continuation level of funding (\$40,000) for FY 2013-14, including \$20,000 General Fund and \$20,000 cash funds. The source of cash funds is registration fees and DVD sales.

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

**Conflict of Interest Contracts**

This line item provides funding 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.

**Request:** The OADC requests \$19,889,515 General Fund for FY 2013-14. The request is impacted by OADC R-1 (Legal Resource and Technology Coordinator).

**Recommendation:** Based on the more recent estimates provided by the OADC, staff recommends appropriating \$20,234,616 for FY 2013-14. The recommendation includes an increase of \$334,489 above the existing FY 2012-13 appropriation to cover a projected increase in the average cost per case. The OADC indicates that this projected increase is based on a number of factors, including two related to felony cases:

- In June 2012 the U.S. Supreme Court held that it is unconstitutional to sentence juveniles charged as adults to a mandatory sentence of life without the possibility of parole (*Miller v. Alabama, 132 S.Ct. 2455*). OADC contract attorneys are representing 25 of the 50 Department of Corrections inmates who are affected by this ruling.
- The number of grand jury indictments has increased significantly, including six in January and February of 2013. These cases are brought by the Attorney General's Office and generally involve complex, multi-jurisdictional cases that involve multiple defendants (*e.g.*, organized crime and racketeering, securities fraud, human trafficking, etc.).

The projected average cost per case of \$1,602 appears reasonable; while it is higher than what the OADC has experienced in the last two fiscal years, it is lower than what occurred in FY 2008-09 and 2009-10. The impact of the projected increase in the average cost per case is partially mitigated by a projected decline in the total number of OADC cases.

The following two tables provide: (a) a history of the number of cases handled by OADC contract attorneys, by case type, along with estimates for FY 2012-13 and FY 2013-14; and (b) a history of annual expenditures along with estimates for FY 2012-13 and FY 2013-14. These updates were recently provided by the OADC, at staff's request, based on payments through January 31, 2013.

*JBC Staff Figure Setting: FY 2013-14*  
*Staff Working Document – Does Not Represent Committee Decision*

OADC Conflict of Interest Contracts: Caseload (Annual number of cases paid)							FY 12-13 (updated projection)	FY 13-14 (updated projection)
Case Type	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12			
<b>Trial Case Types:</b>								
<i>Felony:</i>								
Felony 1 - Death Penalty	4	4	4	3	2	2	2	
Felony 1 - Other	150	145	145	126	111	109	108	
Felony 2 and 3	2,642	2,532	2,604	2,409	2,323	2,432	2,326	
Felony 4, 5, and 6	4,372	4,028	3,894	3,754	4,064	4,492	4,182	
Subtotal: Felony	7,168	6,709	6,647	6,292	6,500	7,035	6,618	
<i>annual percent change</i>	-12.2%	-6.4%	-0.9%	-5.3%	3.3%	8.2%	-5.9%	
Juvenile	1,528	1,803	1,808	1,542	1,496	1,227	1,248	
Misdemeanor/ DUI/ Traffic	1,257	1,654	1,884	1,934	2,406	2,768	2,618	
Other	2	2	2	1	1	0	0	
<b>Subtotal: Trial Cases</b>	<b>9,955</b>	<b>10,168</b>	<b>10,341</b>	<b>9,769</b>	<b>10,403</b>	<b>11,030</b>	<b>10,484</b>	
<i>annual percent change</i>	-10.0%	2.1%	1.7%	-5.5%	6.5%	6.0%	-5.0%	
Appeals	708	765	725	717	691	698	706	
Post-Conviction	523	492	489	429	471	443	452	
Special Proceedings/ Other	896	1,049	1,040	963	1,020	1,140	1,052	
<b>Total Cases</b>	<b>12,082</b>	<b>12,474</b>	<b>12,595</b>	<b>11,878</b>	<b>12,585</b>	<b>13,311</b>	<b>12,694</b>	
<i>annual percent change</i>	-7.7%	3.2%	1.0%	-5.7%	6.0%	5.8%	-4.6%	

OADC Conflict of Interest Contracts: Expenditures							FY 12-13 (updated projection)	FY 13-14 (updated projection)
Description	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12			
Total Cases Paid	12,082	12,474	12,595	11,878	12,585	13,311	12,694	
<i>annual percent change</i>	-7.7%	3.2%	1.0%	-5.7%	6.0%	5.8%	-4.6%	
Average Cost/Case*	\$1,484	\$1,659	\$1,648	\$1,527	\$1,571	\$1,512	\$1,602	
<i>annual percent change</i>	19.9%	11.8%	-0.6%	-7.4%	2.9%	-3.8%	6.0%	
<b>Total</b>	<b>\$17,925,541</b>	<b>\$20,692,161</b>	<b>\$20,760,634</b>	<b>\$18,132,047</b>	<b>\$19,767,979</b>	<b>\$20,122,218</b>	<b>\$20,335,937</b>	
<i>annual percent change</i>	10.6%	15.4%	0.3%	-12.7%	9.0%	1.8%	1.1%	

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

Finally, please note that staff's recommendation also reflects a reduction of \$101,321 General Fund pursuant to OADC R-1.

**Mandated Costs**

This is one of six line item appropriations for "mandated costs". These costs are associated with activities, events, and services that accompany court cases that are required in statute and/or the U.S. and Colorado Constitutions to ensure a fair and speedy trial, and to ensure the right to legal representation. For the OADC, these costs primarily include the following:

- reimbursement of district attorney offices for discovery costs/ electronic replication grand jury proceedings (\$626,180 or 42.6 percent of mandated costs in FY 2011-12);
- expert witnesses \$476,272 or 32.4 percent);
- transcripts (\$290,268 or 19.7 percent);
- expert witness travel reimbursement \$37,927 or 2.6 percent);
- interpreters - out of court (\$29,364 or 2.0 percent);and

- PERA contributions for contractors with PERA benefits (\$9,934 or 0.7 percent).

**Request:** The OADC requests \$1,580,114 General Fund for this line item for FY 2013-14.

**Recommendation:** Staff recommends approving the request. Staff notes that the updated projections from the OADC indicate that mandated costs are projected to increase to \$1,604,285 in FY 2013-14. However, based on the OADC caseload projection, this would equate to an average cost per case of \$126, an amount that is significantly higher than the average cost in the last three fiscal years as well as the estimate for the current fiscal year. In addition, staff notes that the largest projected increase when compared to FY 2011-12 expenditures is in the category of expert witnesses. To some extent, the OADC has an ability to control the instances in which an expert is retained and the amount that is spent for such services. Approval of the request would provide funding for an average of \$124 per case, which would still allow for increases in the cost categories over which the OADC has less control (discovery, transcripts).

The following table provides a history of mandated costs in comparison to the number of cases paid, along with estimates for FY 2012-13 and FY 2013-14. The updated estimates were recently provided by the OADC, at staff's request, based on payments through January 31, 2013.

OADC Mandated Costs							FY 12-13 (updated projection)	FY 13-14 (updated projection)
Description	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12			
Transcripts	\$336,756	\$431,067	\$377,435	\$307,472	\$290,268	\$311,332	\$333,852	
Discovery	470,098	567,917	635,061	599,872	626,180	609,840	627,227	
Experts	654,018	482,103	415,134	443,237	476,272	572,604	561,019	
Travel	55,290	56,198	28,488	39,618	37,927	40,514	35,332	
Interpreters	24,987	42,765	42,219	24,842	29,364	27,970	29,744	
Misc.	<u>8,692</u>	<u>9,798</u>	<u>15,245</u>	<u>14,833</u>	<u>9,934</u>	<u>27,396</u>	<u>17,111</u>	
<b>Total</b>	<b>1,549,841</b>	<b>1,589,848</b>	<b>1,513,582</b>	<b>1,429,874</b>	<b>1,469,945</b>	<b>1,589,656</b>	<b>1,604,285</b>	
<i>annual percent change</i>	24.9%	2.6%	-4.8%	-5.5%	2.8%	8.1%	0.9%	
Total cases paid	12,082	12,474	12,595	11,878	12,585	13,311	12,694	
Average cost per case	\$128	\$127	\$120	\$120	\$117	\$119	\$126	
<i>annual percent change</i>	35.3%	-0.6%	-5.7%	0.2%	-3.0%	2.2%	5.8%	

## (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 attorneys<sup>39</sup> 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 matters<sup>40</sup>. The OCR was established as an agency of the Judicial Department by the General Assembly, effective July 1, 2000. Previously, these services were provided by the Judicial Department and supported by appropriations for trial courts and mandated costs.

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

In addition, since January 2011 the OCR has contracted with three multi-disciplinary law offices in Denver and Arapahoe counties. These offices were awarded contracts following a request for proposal process. Two of these offices provide GAL services in new dependency and neglect (D&N) cases in all three divisions of Denver's Juvenile Court, and the remaining office provides GAL services in new D&N cases and juvenile delinquency cases in Arapahoe County. The OCR keeps a limited number of independent contractors in Denver and Arapahoe counties (as they do in El Paso) to handle any conflict cases and cases as necessary when the primary attorneys reach their caseload maximums.

The OCR is governed by the Child's Representative Board, which is comprised of nine members appointed by the Colorado Supreme Court. Board members serve on a voluntary basis and receive no compensation for their time. The Board appoints the OCR Director, provides fiscal oversight, participates in funding decisions related to the provision of OCR services, and assists with OCR training for GALs and court-appointed special advocates (CASAs). The Board currently meets every other month. The Director's compensation is fixed by the General Assembly (through a Long Bill footnote) and may not be reduced during his or her five-year term of appointment.

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<sup>39</sup> If the court appoints a *mental health professional* (rather than an attorney) to be a child and family investigator, and the clients are indigent, the State Court Administrator's Office compensates the investigator for their services.

<sup>40</sup> 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 supported entirely by General Fund appropriations.

## **LINE ITEM DETAIL**

### **Personal Services**

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

<b>Staffing Summary</b>	<b>FY 11-12</b>	<b>FY 12-13</b>	<b>FY 13-14</b>	<b>FY 13-14</b>
<b>Office of the Child's Representative</b>	<b>Actual</b>	<b>Approp.</b>	<b>Request</b>	<b>Recommend.</b>
Executive Director	1.0	1.0	1.0	1.0
Deputy Director	0.9	0.6	0.6	0.6
Staff Attorneys	1.5	1.8	1.8	1.8
Budget/ Billing/ Office Administration	2.9	3.0	3.0	3.0
Training Coordinator/ Indigency Screener	<u>0.8</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>
Subtotal - Administrative Office	7.1	7.4	7.4	7.4
Attorneys	12.6	12.8	12.8	12.8
Social Workers/ Case Coordinators	4.0	4.1	4.1	4.1
Administrative Support Staff	<u>2.4</u>	<u>2.6</u>	<u>2.6</u>	<u>2.6</u>
Subtotal - El Paso County Office	19.0	19.5	19.5	19.5
Total	26.1	26.9	26.9	26.9

**Request:** The OCR requests \$1,902,541 and 26.9 FTE for FY 2013-14.

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

### **Health Life and Dental**

This is the fourth of five 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 OCR staff.

**Request:** The OCR requests \$263,651 for FY 2013-14.

**Recommendation:** Staff recommends appropriating \$248,490 for FY 2013-14, consistent with Committee policy with respect to employer contribution rates.

### **Short-term Disability**

This is the fourth of five line items that provide funding for the employer's share of state employees' short-term disability insurance premiums. This line item provides funds for OCR staff.



**Request:** The OCR requests \$3,340 for FY 2013-14.

**Recommendation:** Staff recommends an appropriation of \$3,347, consistent with the Committee's common policy to apply a rate of 0.19 percent of employee salaries (including the additional 11 months of funding for salary survey and merit pay).

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

Pursuant to S.B. 04-257, this line item provides additional funding to increase the state contribution for Public Employees' Retirement Association (PERA). The fourth of five such line items, this one provides funds for OCR staff.

**Request:** The OCR requests \$62,689 for FY 2013-14.

**Recommendation:** Staff recommends an appropriation of \$62,833 for FY 2013-14, consistent with Committee's common policy. The common policy is to apply the relevant rates [3.4 percent of base salaries for CY 2013 and 3.8 percent of base salaries for CY 2014] to base salaries (including salary survey and merit pay increases, and adjusted for the pay date shift).

**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 five such line items, this one provides funds for OCR staff.

**Request:** The OCR requests \$56,391 for FY 2013-14.

**Recommendation:** Staff recommends an appropriation of \$56,523 for FY 2013-14, consistent with Committee's common policy. The common policy is to apply the relevant rates [3.0 percent of base salaries for CY 2013 and 3.5 percent of base salaries for CY 2014] to base salaries (including salary survey and merit pay increases, and adjusted for the pay date shift).

**Salary Survey**

The OCR uses this line item to pay for annual salary increases, similar to "salary survey" increases in the Executive Branch. The fourth of five such line items, this one provides funds for OCR staff.

**Request:** The OCR requests \$28,538 for FY 2013-14 for a 1.5 percent across-the-board increase.

**Recommendation:** Staff recommends an appropriation of \$34,879 for FY 2013-14, including \$26,160 for a 1.5 percent across-the-board increase, plus \$8,719 for an additional 0.5 percent across-the-board increase. This amount is different than the Department's request because, pursuant to the Committee's common policy: (1) General Fund amounts have been adjusted to reflect the pay date shift; and (2) it includes an additional 0.5 percent across-the-board increase on base salaries.

**Anniversary Increases**

The Department uses this line item to pay for longevity or performance-related pay increases. The fourth of five such line items, this one provides funds for OCR staff.

**Request:** The OCR requests a total of \$30,441 for merit pay for FY 2013-14.

**Recommendation:** Staff recommends an appropriation of \$28,323 for FY 2013-14 for merit pay. This amount is calculated consistent with Committee policy, by multiplying the sum of the base salary plus the 1.5 percent increase by 1.6 percent, and adjusting the result to reflect the pay date shift. Staff also recommends renaming this line item "Merit Pay", consistent with other state agencies.

**Operating Expenses**

This line item provides funding for operating expenses and information technology asset maintenance in both the Denver and El Paso offices, and for reimbursement of actual and necessary expenses incurred by Child's Representative Board members.

**Request:** The OCR requests a continuation level of funding (\$159,929) for FY 2013-14.

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

**Leased Space**

This line item currently funds a full 12 months of lease payments for 2,300 square feet at 1580 Logan Street in Denver and 8,375 square feet in Colorado Springs. The OCR is scheduled to move its Denver office to the Ralph L. Carr Colorado Judicial Center on March 18, 2013. For FY 2013-14, this line item will only cover lease payments related to the Colorado Springs office.

**Request:** The OCR requests \$102,120 for FY 2013-14. The request reflects: (1) a reduction of \$44,850 to transfer existing funding for the OCR's Denver location to the Courts Administration section of the Long Bill to consolidate all Judicial Branch appropriations for leased space at the Carr Center; and (2) a reduction of \$15,120 to reflect decreases in the lease rates for the Colorado Springs location.

**Recommendation:** Staff recommends approving the request. The requested amount will cover scheduled lease payments for the Colorado Springs location (8,375 square feet at \$12.19 per square foot).

**CASA Contracts**

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; this funding was distributed to Colorado CASA. In 2008, the Joint Budget Committee initiated a \$500,000 increase in the appropriation for this line item. Since FY 2008-09, as detailed in the following table, Colorado CASA has continued to retain a portion of the funding for general operating costs, but the remainder has been allocated to local CASA Programs.

*JBC Staff Figure Setting: FY 2013-14*  
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<b>OCR: Distribution of General Fund Appropriation for CASA Programs</b>						
	<b>FY 07-08</b>	<b>FY 08-09</b>	<b>FY 09-10</b>	<b>FY 10-11</b>	<b>FY 11-12</b>	<b>FY 12-13</b>
Colorado CASA - General Operating	\$20,000	\$120,000	\$100,000	\$100,000	\$91,200	\$70,000
Public Relations Activities	0	25,000	0	0	0	0
Allocations to Local CASA Programs (currently 15)	0	375,000	420,000	420,000	383,800	450,000
<i>Allocation per Local Program</i>	<i>n/a</i>	<i>\$22,059</i>	<i>\$8,018 to</i> <i>\$69,127</i>	<i>\$11,246 to</i> <i>\$56,291</i>	<i>\$9,981 to</i> <i>\$50,909</i>	<i>\$15,913 to</i> <i>\$60,224</i>
<b>Total Appropriation</b>	<b>\$20,000</b>	<b>\$520,000</b>	<b>\$520,000</b>	<b>\$520,000</b>	<b>\$475,000</b>	<b>\$520,000</b>

*Background Information.* Court-appointed special advocates (CASA) are trained volunteers who may be appointed to enhance the quality of representation for children<sup>41</sup>. Pursuant to Section 19-1-202, C.R.S., CASA programs may be established in each judicial district pursuant to a memorandum of understanding between the district's chief judge and a community-based CASA program. A CASA volunteer may: conduct an independent investigation regarding the best interests of the child; and determine if an appropriate treatment plan has been created for the child, whether appropriate services are being provided to the child and family, and whether the treatment plan is progressing in a timely manner. A CASA volunteer may also make recommendations consistent with the best interests of the child regarding placement, visitation, and appropriate services. The Judicial Department may contract with a nonprofit entity for the coordination and support of CASA activities in Colorado.

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 statewide;
- seeking to enhance existing funding sources and developing private-public partnership funding for the provision of high-quality, volunteer local CASA programs;
- studying the availability of or developing new funding sources for CASA programs;
- allocating moneys appropriated for CASA programs to local CASA programs based upon recommendations made by the contract entity;
- working cooperatively with the contract entity to ensure the provision and availability of high-quality, accessible training for CASA volunteers and for judges and magistrates; and
- accepting grants, gifts, donations, and other governmental contributions to be used to fund the work of the OCR relating to CASA programs<sup>42</sup>.

**Request:** The OCR requests a continuation level of funding (\$520,000) for FY 2013-14.

<sup>41</sup> 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.

<sup>42</sup> Such funds are to be credited to the Court-appointed Special Advocate (CASA) Fund. This fund is subject to annual appropriation to the OCR for purposes of funding local CASA programs and the work of the OCR relating to the enhancement of CASA programs.

**Recommendation:** Staff recommends approving the request. The following table provides additional data concerning the number of D&N cases and the number of children served by CASA, as well as the number of CASA volunteers and volunteer hours. As indicated in the table, this appropriation helps to support more than 1,600 volunteers who provide services to children in about one quarter of dependency and neglect cases.

<b>OCR: Statewide Data Related to Local CASA Programs</b>						
	<b>FY 05-06</b>	<b>FY 06-07</b>	<b>FY 07-08</b>	<b>FY 08-09</b>	<b>FY 09-10</b>	<b>FY 10-11</b>
Dependency & Neglect Cases Filed	4,136	3,852	3,883	3,851	3,568	3,276
	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>
New Cases Served by CASA	636	670	627	896	883	834
<i>New Cases Served/ Cases Filed</i>	<i>15.4%</i>	<i>17.4%</i>	<i>16.1%</i>	<i>23.3%</i>	<i>24.7%</i>	<i>25.5%</i>
Total Number of Children Served	2,666	2,838	2,935	3,273	3,608	3,791
Total Volunteers	1,045	1,177	1,174	1,411	1,637	1,608
Volunteer Hours	81,266	100,034	77,481	158,820	140,618	120,640

Source: Case filing data provided by State Court Administrator's Office. Remaining data provided by Colorado CASA.

### **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.

**Request:** The OCR requests a continuation level of funding (\$38,000) for FY 2013-14.

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

### **Court Appointed Counsel**

This line item pays for contract attorneys appointed by the court to serve as GALs, child legal representatives, and child and 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".

**Request:** The OCR requests a continuation level of funding (\$16,021,900) for FY 2013-14. This dollar amount matches actual expenditures in FY 2010-11. The following table details the

*JBC Staff Figure Setting: FY 2013-14*  
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caseload history, by type of case, as well estimates for FY 2012-13 and FY 2013-14 based on actual payments through January 30, 2013.

OCR Court Appointed Counsel: Annual Number of Appointments Paid						FY 12-13 (updated projection)	FY 13-14 (updated request)
Case Type	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12		
Dependency & Neglect	8,269	8,906	9,038	8,594	7,817	7,959	8,012
<i>annual percent change</i>	<i>3.2%</i>	<i>7.7%</i>	<i>1.5%</i>	<i>-4.9%</i>	<i>-9.0%</i>	<i>1.8%</i>	<i>0.7%</i>
Juvenile Delinquency	3,874	4,423	4,299	3,903	3,846	3,945	3,906
<i>annual percent change</i>	<i>7.8%</i>	<i>14.2%</i>	<i>-2.8%</i>	<i>-9.2%</i>	<i>-1.5%</i>	<i>2.6%</i>	<i>-1.0%</i>
Domestic Relations	606	760	690	450	494	629	626
<i>annual percent change</i>	<i>-2.9%</i>	<i>25.4%</i>	<i>-9.2%</i>	<i>-34.8%</i>	<i>9.8%</i>	<i>27.3%</i>	<i>-0.5%</i>
Truancy	514	475	406	416	426	565	418
<i>annual percent change</i>	<i>12.2%</i>	<i>-7.6%</i>	<i>-14.5%</i>	<i>2.5%</i>	<i>2.4%</i>	<i>32.6%</i>	<i>-26.0%</i>
Paternity	108	138	198	146	159	197	195
<i>annual percent change</i>	<i>-14.3%</i>	<i>27.8%</i>	<i>43.5%</i>	<i>-26.3%</i>	<i>8.9%</i>	<i>23.9%</i>	<i>-1.0%</i>
Probate	73	71	64	79	61	80	78
<i>annual percent change</i>	<i>-30.5%</i>	<i>-2.7%</i>	<i>-9.9%</i>	<i>23.4%</i>	<i>-22.8%</i>	<i>31.1%</i>	<i>-2.5%</i>
All Other Case Types	56	70	99	68	184	200	205
<b>Total</b>	<b>13,500</b>	<b>14,843</b>	<b>14,794</b>	<b>13,656</b>	<b>12,987</b>	<b>13,575</b>	<b>13,440</b>
<i>annual percent change</i>	<i>4.1%</i>	<i>9.9%</i>	<i>-0.3%</i>	<i>-7.7%</i>	<i>-4.9%</i>	<i>4.5%</i>	<i>-1.0%</i>

**Recommendation:** Staff recommends approving the request, with one modification. While the request assumes a number of paid appointments that is higher than in FY 2011-12, it is lower than the previous four fiscal years. In FY 2011-12, the OCR implemented a new online case management and billing system (called AnyCase). With the implementation of this system, the OCR now requires attorneys to enter all activities (for purposes of billing) within 30 days. The OCR indicates that the \$1,238,832 reduction in expenditures for this line item in FY 2011-12 (from \$16,021,900 to \$14,783,068) was primarily due to the transition to this new system and billing practice.

In addition, the request assumes a slightly higher average cost per case (\$1,192 compared to \$1,180 in FY 2012-13). This small increase appears to be reasonable in light of a recent Colorado Supreme Court decision (Case No. 2011SC529, *L.A.N. a/k/a L.A.C. v. L.M.B.*) that determined that a GAL is the holder of the patient/therapist privilege in D&N cases where the child is too young and the parents' interests are adverse to that of the child. The OCR indicates that this decision increases the responsibility of a GAL and is likely to increase the time required for certain cases.

The one adjustment that staff recommends is a decrease of \$10,772, which staff recommends shifting to the Mandated Costs line item (below) to better reflect actual expenditure patterns. This recommendation is more fully described below.

**Mandated Costs**

This is one of six line item appropriations for "mandated costs". These costs are associated with activities, events, and services that accompany court cases that are required in statute and/or the U.S. and Colorado Constitutions to ensure a fair and speedy trial, and to ensure the right to legal representation. For the OCR, these costs include the following:

- expert witnesses (\$17,679 or 43.8 percent of mandated costs in FY 2011-12)
- discovery/ reproduction services (\$13,418 or 33.2 percent)
- transcripts (\$5,277 or 13.1 percent)
- interpreters - out of court (\$3,069 or 7.6 percent)
- process servers (\$962 or 2.4 percent)

**Request:** The OCR requests a continuation level of funding (\$26,288) for FY 2013-14.

**Recommendation:** Staff recommends increasing this appropriation by \$10,772 (to \$37,000) to better reflect OCR's likely expenditures for mandated costs, and reducing the appropriation for Court Appointed Counsel by the same amount. In the last five fiscal years, expenditures for mandated costs have ranged from \$29,290 to \$41,080, with an average annual expenditure of \$36,986. The OCR has transferred moneys from other line items to cover mandated costs in each of the last five fiscal years. In FY 2011-12, this transfer was made from the Court Appointed Counsel line item. This recommendation will provide the OCR with the requested amount of funding overall, but will realign the appropriations to better reflect actual expenditure patterns.

## **(8) Independent Ethics Commission**

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The Independent Ethics Commission (IEC) is a five-member body established through a constitutional amendment that was approved by voters in 2006<sup>43</sup>. The purpose of the IEC is to give advice and guidance on ethics-related matters arising under the Colorado Constitution and any other standards of conduct or reporting requirements provided by law concerning public officers, members of the General Assembly, local government officials, or government employees. The IEC hears complaints, issues findings, assesses penalties and sanctions where appropriate, and issues advisory opinions. The members of the IEC are appointed by the Governor, the Chief Justice of the Supreme Court, the Senate, the House of Representatives, and the IEC itself. IEC members serve without compensation but are reimbursed for actual and necessary expenses incurred.

The IEC is an independent agency within the Judicial Branch, and it is currently supported by one employee. The Office of the State Court Administrator provides free administrative support to the IEC, including payroll, leave keeping, budget preparation, accounting services, and computer support. The IEC is supported entirely by General Fund appropriations.

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<sup>43</sup> See Article XXIX of the Colorado Constitution and Section 24-18.5-101, C.R.S.



## **LINE ITEM DETAIL**

### **Personal Services**

This line item provides funding for the 1.0 FTE that supports the IEC (the Executive Director), as well as about \$46,000 for professional services. The FY 2011-12 appropriation reduced funding for IEC personal services by \$50,000 and 1.0 FTE.

**Request:** The IEC requests \$129,827 and 1.0 FTE for FY 2013-14.

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

### **Health Life and Dental**

This is the fifth of five 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 IEC staff.

**Request:** The IEC requests \$6,064 for FY 2013-14.

**Recommendation:** Staff recommends appropriating \$5,625 for FY 2013-14, consistent with Committee policy with respect to employer contribution rates.

### **Short-term Disability**

This is the fifth of five line items that provide funding for the employer's share of state employees' short-term disability insurance premiums. This line item provides funds for IEC staff.

**Request:** The IEC requests \$166 for FY 2013-14.

**Recommendation:** Staff recommends an appropriation of \$188, consistent with the Committee's common policy to apply a rate of 0.19 percent of employee salaries (including the additional 11 months of funding for salary survey and merit pay).

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

Pursuant to S.B. 04-257, this line item provides additional funding to increase the state contribution for Public Employees' Retirement Association (PERA). The fifth of five such line items, this one provides funds for IEC staff.

**Request:** The IEC requests \$3,456 for FY 2013-14.

**Recommendation:** Staff recommends an appropriation of \$3,538 for FY 2013-14, consistent with Committee's common policy. The common policy is to apply the relevant rates [3.4 percent of base salaries for CY 2013 and 3.8 percent of base salaries for CY 2014] to base salaries (including salary survey and merit pay increases, and adjusted for the pay date shift).



**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 fifth of five such line items, this one provides funds for IEC staff.

**Request:** The IEC requests \$3,456 for FY 2013-14.

**Recommendation:** Staff recommends an appropriation of \$3,183 for FY 2013-14, consistent with Committee's common policy. The common policy is to apply the relevant rates [3.0 percent of base salaries for CY 2013 and 3.5 percent of base salaries for CY 2014] to base salaries (including salary survey and merit pay increases, and adjusted for the pay date shift).

**Salary Survey**

The IEC uses this line item to pay for annual salary increases, similar to "salary survey" increases in the Executive Branch. The fifth of five such line items, this one provides funds for IEC staff.

**Request:** The IEC requests a total of \$3,411 for salary increases for FY 2013-14. For purposes of this packet, staff has assumed that one-half of the requested amount is for salary survey (\$1,706), and one-half is for merit increases (\$1,705).

**Recommendation:** Staff recommends an appropriation of \$1,964 for FY 2013-14 for salary survey, including \$1,473 for a 1.5 percent across-the-board increase, plus \$491 for an additional 0.5 percent across-the-board increase. Consistent with Committee policy, the recommendation includes an adjustment to reflect the pay date shift.

**Anniversary Increases**

The IEC uses this line item to pay for longevity or performance-related pay increases. The fifth of five such line items, this one provides funds for IEC staff.

**Request:** The IEC requests a total of \$3,411 for salary increases for FY 2013-14. For purposes of this packet, staff has assumed that one-half of the requested amount is for salary survey (\$1,706), and one-half is for merit increases (\$1,705).

**Recommendation:** Staff recommends an appropriation of \$1,595 for FY 2013-14 for merit pay. This amount is calculated consistent with Committee policy, by multiplying the sum of the base salary plus the 1.5 percent increase by 1.6 percent, and adjusting the result to reflect the pay date shift. Staff also recommends renaming this line item "Merit Pay", consistent with other state agencies.

**Operating Expenses**

This line item provides funding for the operating expenses of the IEC staff and reimbursement of actual and necessary expenses incurred by IEC members.

**Request:** The IEC requests a continuation level of funding (\$15,807) for FY 2013-14.

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

**Legal Services**

This line item provides funding for the IEC to purchase legal services from the Department of Law.

**Request:** The IEC requests \$69,525 to purchase 900 hours of legal services in FY 2013-14.

**Recommendation:** Staff recommends approving the request to provide funding sufficient to purchase 900 hours of legal services. The associated appropriation will be calculated after the Committee sets the common policy for the legal services rate.

## **Long Bill Footnotes and Requests for Information**

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### **LONG BILL FOOTNOTES**

Staff recommends that the following footnotes be **continued**:

- 34 Judicial Department, Office of the State Public Defender – In addition to the transfer authority provided in Section 24-75-108 (5), C.R.S., up to 2.5 percent of the total Office of the State Public Defender appropriation may be transferred between line items in the Office of the State Public Defender.

Comment: This is the first of four footnotes that authorize the independent agencies to transfer a limited amount of funding among line item appropriations, over and above transfers that are statutorily authorized. Section 24-75-108 (5), C.R.S., allows the Chief Justice of the Colorado Supreme Court to authorize transfers between items of appropriation made to the Judicial Branch, subject to certain limitations. One of these limitations is expressed in Section 24-75-110, C.R.S., which limits the total amount of over expenditures and moneys transferred within the Judicial Branch to \$1.0 million per fiscal year. This footnote provides the Office of the State Public Defender (OSPD) with the authority to transfer up to 2.5 percent of its total appropriation between line items. In FY 2011-12, the OSPD transferred \$675,000 (1.1 percent) between line items.

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

Comment: This footnote provides the Office of the Alternate Defense Counsel (OADC) with the authority to transfer up to 2.5 percent of its total appropriation between line items. In FY 2011-12, the OADC transferred a total of \$7,875 (less than 0.1 percent) between line items.

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

Comment: This footnote provides the Office of Child's Representative (OCR) with the authority to transfer up to 2.5 percent of its total appropriation between line items. In FY 2011-12, the OCR transferred a total of \$56,645 (0.3percent) between line items.

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

Comment:

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

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

When the parties to the case are determined to be indigent, the Office of the Child's Representative (OCR) pays for attorney appointments. Expenditures by the OCR on appointments in domestic relations cases increased steadily from FY 2004-05 to FY 2008-09, from \$426,186 to \$801,945.

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

The OCR is continuing to support a pilot program in the 17th judicial district (Adams/Broomfield) to offer Early Neutral Assessment (ENA) to parties in domestic relations cases (the OCR pilot began in FY 2009-10). ENA offers trained two-person teams to help parties understand the strengths and weaknesses of their positions, assisting them to come to an early resolution.

This pilot program was initiated in 2007 by Chief Judge Bockman to determine whether this approach would provide a cost effective and quality alternative for families and the courts. The 17th judicial district received a Colorado Judicial Institute grant to bring in experts from Minnesota to train judges, magistrates, family court facilitators, domestic attorneys, mental health experts, and others.

The district's ENA pilot program commenced in September 2008. The district engaged an agreement with two sets of well qualified evaluators and ensured they were thoroughly trained in ENA. Each team consists of one attorney and one mental health expert, one of whom is male and the other female. When parties attend their initial status conference they often request a CFI or request a hearing to determine parenting time. When this occurs, the Family Court Facilitator identifies cases that may be appropriate for a referral to the ENA pilot. ENA is a voluntary, free, confidential process. If the parties agree that they want to attend ENA, the session is scheduled within a month of the initial status conference.

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

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

- 38 Judicial Department, Independent Ethics Commission – In addition to the transfer authority provided in Section 24-75-108 (5), C.R.S., up to 10.0 percent of the total Independent Ethics Commission appropriation may be transferred between line items in the Independent Ethics Commission.

Comment: This footnote provides the Independent Ethics Commission with the authority to transfer up to 10.0 percent of its total appropriation between line items. In FY 2011-12, the Commission did not transfer any funds between line items.

Staff recommends the following footnotes be continued as **modified**:

- 33 Judicial Department, Supreme Court/Court of Appeals, Appellate Court Programs; Trial Courts, Trial Court Programs; Office of the State Public Defender, Personal Services; Office of the Alternate Defense Counsel, Personal Services; Office of the Child's Representative, Personal Services – In accordance with Section 13-30-104 (3), C.R.S., funding is provided for judicial compensation, as follows:

*JBC Staff Figure Setting: FY 2013-14*  
*Staff Working Document – Does Not Represent Committee Decision*

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	<u>FY 2012-13</u>		<u>FY 2013-14</u>
	<u>SALARY</u>	<u>INCREASE</u>	<u>SALARY</u>
Chief Justice, Supreme Court	\$142,708	\$5,137	\$147,845
Associate Justice, Supreme Court	139,660	5,028	144,688
Chief Judge, Court of Appeals	137,201	4,939	142,140
Associate Judge, Court of Appeals	134,128	4,829	138,957
District Court Judge, Denver Juvenile Court Judge, and Denver Probate Court Judge	128,598	4,630	133,228
County Court Judge	123,067	4,430	127,497

Funding is also provided in the Long Bill to maintain the salary of the State Public Defender at the level of an associate judge of the Court of Appeals, and to maintain the salaries of the Alternate Defense Counsel and the Executive Director of the Office of the Child's Representative at the level of a district court judge.

Comment: 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 this footnote in the Long Bill.

The FY 2012-13 salary levels listed above were established in FY 2008-09. Please note that the above amounts do not reflect any associated PERA or Medicare contributions.

The recommended increases for FY 2013-14 are based on providing a 3.6 percent increase for all judges and justices, including the 1.5 percent across-the-board increase, the extra 0.5 percent increase pursuant to the Committee's policy, and the 1.6 percent merit pay increase. Please note that consistent with the Judicial Department's request, staff has not compounded the merit pay increase on top of the 1.5 percent increase.

The National Center for State Courts prepares an annual survey of judicial salaries. The most recent survey, dated January 1, 2012, indicates that: the salary for Associate Justices of the Colorado Supreme Court is ranked 34<sup>th</sup> among the 50 states and the District of Columbia; the salary for Associate Judges of the Colorado Supreme Court is ranked 28<sup>th</sup> of the 39 states that have an intermediate appellate court; and the salary of District Court Judges is ranked 33<sup>rd</sup> among 50 states and the District of Columbia. All of these salaries fall below both the mean and the median among states. Even with the above recommended increases, these salaries would still fall below the mean as of January 1, 2012.

33a Judicial Department, Probation and Related Services, Offender Treatment and Services – It is the intent of the General Assembly that \$367,197 of the amount appropriated for Offender Treatment and Services be used to provide treatment and services for offenders participating in veterans ~~trauma~~ TREATMENT courts.

Comment:

*Background Information.* Through the course of the General Assembly's consideration of the FY 2012-13 Long Bill last session, both the House and the Senate adopted amendments to the Long Bill to provide funding for veterans. Specifically, the House reduced appropriations to the Department of Corrections (DOC) by nearly \$1.4 million, and appropriated these moneys to the Judicial Branch for veterans' courts. The Senate reversed the House amendment, and instead reduced funding for the DOC by \$2.0 million and appropriated the money to the Department of Military and Veterans Affairs (DMVA) for various veterans' services.

Subsequently the Joint Budget Committee proposed, and the General Assembly approved: (1) a reduction of about \$1,367,197 in General Fund appropriations to the DOC (compared to the Long Bill as introduced); (2) an appropriation of \$1,000,000 General Fund to the DMVA for mental health, employment, housing, and other veterans services; and (3) an appropriation of \$367,197 General Fund to the Judicial Branch for purposes of funding treatment and services for offenders participating in veterans trauma courts. This footnote accompanied the appropriation to the Judicial Branch to state the intended use of such moneys.

*Veterans Treatment Court Funding.* There are currently three veterans' treatment courts in operation, and one that is scheduled to become operational in FY 2012-13. The Department has allocated the available funding among these four courts based on the capacity of each court (*i.e.*, the number of individual participants) and the number of months that the court would be operational in FY 2012-13. The newest veterans treatment court in Centennial is anticipated to be operational for six months, so it received 50 percent of a full year's allocation. The remaining \$17,197 will be used to provide training for these specialty courts and to add a module to the Department's information technology system that is used to track expenditures and other data related to service delivery and outcomes.

<b>Veterans Trauma Courts</b>					
<b>Judicial District</b>	<b>Location</b>	<b>County</b>	<b>Start Date</b>	<b>Capacity</b>	<b>FY 2012-13 Allocation</b>
2	Denver	Denver	Fall 2011	30	\$56,000
4 (District Court)	Colorado Springs	El Paso	Fall 2009	70	
4 (County Court)	Colorado Springs	El Paso	1-Sep-11	<u>30</u>	
4 - Totals				100	269,500
18	Centennial	Arapahoe	Planning	20	24,500
<b>Total</b>				<b>150</b>	<b>\$350,000</b>

It is anticipated that the available funding will be used to fill service gaps that cannot be met through existing veterans programs and services. Funded services may include: mental health and substance abuse services; drug testing services and supplies;



psychotropic and antabuse medication; housing; training and educational materials; and program evaluation expenses.

- 33b Judicial Department, Trial Courts, District Attorney Mandated Costs -- It is the intent of the General Assembly that ~~\$265,100~~ \$353,500 of the amount appropriated for District Attorney Mandated Costs be used only to reimburse mandated costs associated with two cases: The People of the State of Colorado v. James Holmes (12CR1522); and The People v. Austin Reed Sigg (2012CR2899). Should reimbursable mandated costs incurred in FY 2012-13 for these two cases total less than ~~\$265,100~~ \$353,500, it is the intent of the General Assembly that the unexpended funds revert to the General Fund.

This footnote is intended to document the stated intent of the CDAC that the funds requested for two specific cases will only be made available to the District Attorneys in the 1<sup>st</sup> and the 18<sup>th</sup> judicial districts for mandated costs incurred for these two cases.

Staff recommends the following footnotes be **eliminated**:

- 1 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.

Comment: This footnote has been included in the Long Bill for many years. It is intended to ensure that state agencies coordinate budget requests that draw on the same cash fund. Because this footnote requests agencies to take a certain administrative action (*i.e.*, designate a lead agency to submit a comprehensive annual budget request for each listed fund), staff recommends eliminating the footnote and instead including this as a Request for Information.

## **REQUESTS FOR INFORMATION**

Staff recommends that the following requests for information be **added** (to other requests that affect multiple departments):



- 1 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 Offender Identification Fund, the Sex Offender Surcharge Fund, the Persistent Drunk Driver Cash Fund, and the Alcohol and Drug Driving Safety Program Fund, among other programs.

Comment: This new request for information would replace a footnote that has been included in the Long Bill for many years. It is intended to ensure that state agencies coordinate requests that draw on the same cash fund. Because this footnote requests agencies to take a certain administrative action (*i.e.*, designate a lead agency to submit a comprehensive annual budget request for each listed fund), staff recommends eliminating the footnote and instead including this as a Request for Information.

The recommended language (above) mirrors the FY 2012-13 Long Bill footnote, except that staff recommends eliminating the Drug Offender Surcharge Fund from the list of applicable funds. House Bill 12-1310 changed the name of the Drug Offender Surcharge Fund to the Correctional Treatment Cash Fund (CTCF). Staff does not recommend listing the CTCF in this request for information for two reasons. First, moneys in the CTCF are only appropriated to the Judicial Department; moneys expended by other state agencies are reflected as reappropriated funds transferred from the Judicial Department. Further, H.B. 12-1310 requires the Correctional Treatment Board to prepare an annual treatment funding plan that the Judicial Department will include in its annual presentation to the Joint Budget Committee.

Please note that the 2012 budget instructions issued by the Office of State Planning and Budgeting (OSPB) state that, "In cases where departments share a common cash fund/source, OSPB will be responsible for ensuring that the total request does not exceed the capacity of the fund." Further, each Department is required to include, as part of its budget request, a Cash Fund Report (schedule 9) for each cash fund it administers. This schedule is intended to: (1) comply with the statutory limit on cash fund reserves; and (2) allow both OSPB and the Joint Budget Committee to make informed decisions regarding the utilization of cash funds for budgeting purposes. For funds that are shared by multiple departments, the department that administers the fund is responsible for coordinating submission of expenditure and revenue information from all departments to construct a schedule 9 that incorporates all activity in the fund.

Staff recommends that the following requests for information be **added** (to other requests that affect the Judicial Branch):

2. **Judicial Department, Office of the State Public Defender** – The State Public Defender is requested to provide by November 1, 2013, a report concerning the Office's appellate case backlog for the last five fiscal years including the fiscal year ending June 30, 2013, and the potential resources that would be required to reduce the backlog to a reasonable level within the next five fiscal years.

Staff recommends that the following request for information be **continued**:

1. **Judicial Department, Trial Courts, District Attorney Mandated Costs** – District Attorneys in each judicial district shall be responsible for allocations made by the Colorado District Attorneys' Council's Mandated Cost Committee. Any increases in this line item shall be requested and justified in writing by the Colorado District Attorneys' Council, rather than the Judicial Department, through the regular appropriation and supplemental appropriation processes. The Colorado District Attorneys' Council is requested to submit an annual report by November 1 detailing how the District Attorney Mandated Costs appropriation is spent, how it is distributed, and the steps taken to control these costs.

Comment: This footnote ensures that the Colorado District Attorneys' Council (CDAC) complies with the State's regular budget process and provides some accountability as to how the appropriation is spent.

Section 20-1-110, C.R.S., authorizes District Attorneys (DAs) to participate in an intergovernmental cooperative relationship concerning criminal prosecution (*e.g.*, the CDAC), and to enter into contracts on behalf of his or her judicial district for cooperation with other DAs concerning such prosecution and prosecution-related services. Further, Section 20-1-111, C.R.S., authorizes DAs to cooperate or contract with one another to provide any function or service lawfully authorized to each of the cooperating or contracting DAs, "including the sharing of costs and the administration and distribution of moneys received for mandated costs." This provision also authorizes DAs to "allocate up to five percent of the moneys received for mandated costs authorized by the general assembly for administrative expenses."

3. **Judicial Department, Probation and Related Services** – The State Court Administrator's Office is requested to provide by November 1 of each year a report on pre-release rates of recidivism and unsuccessful terminations and post-release recidivism rates among offenders in all segments of the probation population, including the following: adult and juvenile intensive supervision; adult and juvenile minimum, medium, and maximum supervision; and the female offender program. The Office is requested to include information about the disposition of pre-release failures and post-release recidivists, including how many offenders are incarcerated (in different kinds of facilities) and how many offenders return to probation as the result of violations.

Comment: This report provides useful information on the success of the various probation programs.

- 4. Judicial Department, Probation and Related Services, Offender Treatment and Services** -- The State Court Administrator's Office is requested to provide by November 1 of each year a detailed report on how this appropriation is used, including the amount spent on testing, treatment, and assessments for offenders.

Comment: This consolidated line item was created in FY 2006-07. The purpose of this format change was to: (a) provide increased flexibility to local probation departments to allocate funds for treatment and services for indigent offenders or those otherwise unable to pay; and (b) reduce year-end reversions of unspent cash funds. This request ensures that the General Assembly is informed of the actual allocation and expenditure of these funds.

**JBC Staff Staff Figure Setting - FY 2013-14**  
**Staff Working Document - Does Not Represent Committee Decision**

**Appendix A: Number Pages**

	FY 2010-11 Actual	FY 2011-12 Actual	FY 2012-13 Appropriation	FY 2013-14 Request	FY 2013-14 Recommendation
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**JUDICIAL DEPARTMENT**  
**Michael Bender, Chief Justice**

**(1) SUPREME COURT/COURT OF APPEALS**

This section provides funding for the Colorado Supreme Court and the Colorado Court of Appeals. The primary functions of the Supreme Court include: general supervisory control of lower courts; appellate review of lower court judgments; original jurisdiction for certain constitutional and other cases; rule-making for the state court system; and overseeing the regulation of attorneys and the practice of law. The Court of Appeals is generally the first court to hear appeals of judgments and orders in criminal, juvenile, civil, domestic relations, and probate matters. The Court of Appeals also has initial jurisdiction to review actions and decisions of several state agencies, boards, and commissions. Cash fund sources primarily include annual attorney registration fees, law examination application fees, appellate court filing fees, and various docket fees that are credited to the Judicial Stabilization Cash Fund. Reappropriated funds are funds transferred from the Department of Law.

Appellate Court Programs	<u>11,093,005</u>	<u>11,242,794</u>	<u>11,575,352</u>	<u>11,581,239</u>	<u>11,581,239</u>
FTE	134.5	138.4	140.0	140.0	140.0
General Fund	10,045,031	9,930,498	10,242,962	10,248,849	10,248,849
Cash Funds	1,047,974	1,312,296	1,332,390	1,332,390	1,332,390
Attorney Regulation	<u>6,950,882</u>	<u>8,391,213</u>	<u>7,000,000</u>	<u>7,000,000</u>	<u>7,000,000</u>
FTE	55.8	56.0	56.0	56.0	56.0
Cash Funds	6,950,882	8,391,213	7,000,000	7,000,000	7,000,000
Continuing Legal Education	<u>409,651</u>	<u>295,988</u>	<u>410,000</u>	<u>410,000</u>	<u>410,000</u>
FTE	3.1	4.0	4.0	4.0	4.0
Cash Funds	409,651	295,988	410,000	410,000	410,000
State Board of Law Examiners	<u>1,048,817</u>	<u>1,046,155</u>	<u>1,050,000</u>	<u>1,050,000</u>	<u>1,050,000</u>
FTE	6.3	7.0	7.0	7.0	7.0
Cash Funds	1,048,817	1,046,155	1,050,000	1,050,000	1,050,000

***JBC Staff Staff Figure Setting - FY 2013-14***  
***Staff Working Document - Does Not Represent Committee Decision***

	<b>FY 2010-11 Actual</b>	<b>FY 2011-12 Actual</b>	<b>FY 2012-13 Appropriation</b>	<b>FY 2013-14 Request</b>	<b>FY 2013-14 Recommendation</b>
Law Library	<u>390,729</u>	<u>439,526</u>	<u>705,992</u>	<u>563,121</u>	<u>563,121</u> *
FTE	1.5	1.5	3.5	3.5	3.5
Cash Funds	380,628	392,562	500,000	500,000	500,000
Reappropriated Funds	10,101	46,964	205,992	63,121	63,121
Indirect Cost Assessment	<u>0</u>	<u>0</u>	<u>0</u>	<u>148,025</u>	<u>148,025</u>
Cash Funds	0	0	0	148,025	148,025
<b>TOTAL - (1) Supreme Court/Court of Appeals</b>	<b>19,893,084</b>	<b>21,415,676</b>	<b>20,741,344</b>	<b>20,752,385</b>	<b>20,752,385</b>
<b>FTE</b>	<b><u>201.2</u></b>	<b><u>206.9</u></b>	<b><u>210.5</u></b>	<b><u>210.5</u></b>	<b><u>210.5</u></b>
General Fund	10,045,031	9,930,498	10,242,962	10,248,849	10,248,849
Cash Funds	9,837,952	11,438,214	10,292,390	10,440,415	10,440,415
Reappropriated Funds	10,101	46,964	205,992	63,121	63,121

**JBC Staff Staff Figure Setting - FY 2013-14**  
**Staff Working Document - Does Not Represent Committee Decision**

	FY 2010-11 Actual	FY 2011-12 Actual	FY 2012-13 Appropriation	FY 2013-14 Request	FY 2013-14 Recommendation
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**(2) COURTS ADMINISTRATION**

The Justices of the Supreme Court appoint a State Court Administrator to oversee administrative functions of the Branch. The State Court Administrator and his staff provide leadership and technical and administrative support for judicial district staff. This section includes funding for: the State Court Administrator and his staff; information technology staff and infrastructure for courts and probation programs; employee benefits for all court and probation staff; multiple programs that are administrated centrally rather than at the judicial district level; and operations of the Ralph L. Carr Colorado Judicial Center.

**(A) Administration and Technology**

This subsection includes funding and staff associated with central administration of the State's judicial system, including budgeting, research, information technology systems and support, training, and technical assistance. Cash fund sources include the Judicial Department Information Technology Cash Fund, the Judicial Stabilization Cash Fund, and various fees and cost recoveries. Reappropriated funds include statewide and departmental indirect recoveries and funds transferred from other state agencies.

General Courts Administration	<u>14,909,634</u>	<u>15,463,633</u>	<u>17,545,265</u>	<u>20,651,818</u>	<u>19,919,542</u> *
FTE	178.3	174.7	196.4	206.0	206.0
General Fund	12,292,978	11,751,693	11,438,402	12,166,944	12,124,415
Cash Funds	1,249,708	1,364,502	3,893,175	6,491,971	5,802,224
Reappropriated Funds	1,366,948	2,347,438	2,213,688	1,992,903	1,992,903
Information Technology Infrastructure	<u>4,395,921</u>	<u>4,870,341</u>	<u>5,952,101</u>	<u>4,637,841</u>	<u>4,637,841</u>
General Fund	529,869	853,094	403,094	403,094	403,094
Cash Funds	3,866,052	4,017,247	5,549,007	4,234,747	4,234,747
Indirect Cost Assessment	<u>0</u>	<u>0</u>	<u>0</u>	<u>587,298</u>	<u>587,298</u>
Cash Funds	0	0	0	576,018	576,018
Reappropriated Funds	0	0	0	3,426	3,426
Federal Funds	0	0	0	7,854	7,854

**JBC Staff Staff Figure Setting - FY 2013-14**  
**Staff Working Document - Does Not Represent Committee Decision**

	FY 2010-11 Actual	FY 2011-12 Actual	FY 2012-13 Appropriation	FY 2013-14 Request	FY 2013-14 Recommendation
Statewide Indirect Cost Assessment	<u>113,511</u>	<u>140,112</u>	<u>110,175</u>	<u>0</u>	<u>0</u>
Cash Funds	113,511	140,112	110,175	0	0
Federal Funds	0	0	0	0	0
Departmental Indirect Cost Assessment	<u>1,253,437</u>	<u>1,907,327</u>	<u>1,870,435</u>	<u>0</u>	<u>0</u>
Cash Funds	1,253,437	1,907,327	1,870,435	0	0
<b>SUBTOTAL - (A) Administration and Technology</b>	20,672,503	22,381,413	25,477,976	25,876,957	25,144,681
FTE	<u>178.3</u>	<u>174.7</u>	<u>196.4</u>	<u>206.0</u>	<u>206.0</u>
General Fund	12,822,847	12,604,787	11,841,496	12,570,038	12,527,509
Cash Funds	6,482,708	7,429,188	11,422,792	11,302,736	10,612,989
Reappropriated Funds	1,366,948	2,347,438	2,213,688	1,996,329	1,996,329
Federal Funds	0	0	0	7,854	7,854

**(B) Central Appropriations**

This subsection includes centrally appropriated line items. While most of these line items cover expenses for the entire Judicial Branch, several exclude funding associated with the four independent agencies, including: salary-related line items; appropriations for health, life, and dental, and short-term disability insurance; and the vehicle lease payments line item. Cash fund sources include: the Judicial Stabilization Cash Fund, the State Commission on Judicial Performance Cash Fund, the Offender Services Fund, the Judicial Department Information Technology Cash Fund, the Fines Collection Cash Fund, the Correctional Treatment Cash Fund, and the Alcohol and Drug Driving Safety Program Fund.

Health, Life, and Dental	<u>18,067,765</u>	<u>17,280,323</u>	<u>23,150,190</u>	<u>24,880,322</u>	<u>24,919,320</u>
General Fund	16,365,672	17,002,669	21,290,385	22,827,582	22,860,367
Cash Funds	1,702,093	277,654	1,859,805	2,052,740	2,058,953
Short-term Disability	<u>297,235</u>	<u>291,983</u>	<u>349,969</u>	<u>290,147</u>	<u>324,428</u>
General Fund	264,809	287,955	288,404	210,188	247,005
Cash Funds	32,426	4,028	61,565	79,959	77,423



**JBC Staff Staff Figure Setting - FY 2013-14**  
**Staff Working Document - Does Not Represent Committee Decision**

	<b>FY 2010-11 Actual</b>	<b>FY 2011-12 Actual</b>	<b>FY 2012-13 Appropriation</b>	<b>FY 2013-14 Request</b>	<b>FY 2013-14 Recommendation</b>
S.B. 04-257 Amortization Equalization					
Disbursement	<u>4,526,674</u>	<u>4,465,219</u>	<u>5,588,172</u>	<u>6,840,646</u>	<u>6,963,558</u> *
General Fund	4,043,325	4,410,863	4,454,618	5,231,786	5,397,337
Cash Funds	483,349	54,356	1,133,554	1,608,860	1,566,221
S.B. 06-235 Supplemental Amortization					
Equalization Disbursement	<u>3,252,810</u>	<u>3,541,237</u>	<u>4,628,957</u>	<u>6,013,036</u>	<u>6,081,988</u> *
General Fund	2,918,597	3,497,156	3,680,446	4,560,592	4,689,972
Cash Funds	334,213	44,081	948,511	1,452,444	1,392,016
Salary Survey	<u>0</u>	<u>0</u>	<u>1,352,600</u>	<u>5,278,717</u>	<u>5,698,482</u>
General Fund	0	0	309,680	4,456,246	4,676,224
Cash Funds	0	0	1,042,920	822,471	1,022,258
Merit Pay	<u>0</u>	<u>0</u>	<u>0</u>	<u>3,824,990</u>	<u>3,370,314</u>
General Fund	0	0	0	3,210,560	2,788,409
Cash Funds	0	0	0	614,430	581,905
Workers' Compensation	<u>1,647,138</u>	<u>1,672,725</u>	<u>1,712,924</u>	<u>1,327,166</u>	<u>1,327,166</u>
General Fund	1,647,138	1,672,725	1,712,924	1,327,166	1,327,166
Legal Services	<u>85,966</u>	<u>122,183</u>	<u>170,259</u>	<u>170,259</u>	<u>170,259</u>
General Fund	85,966	122,183	170,259	170,259	170,259
Purchase of Services from Computer Center	<u>295,960</u>	<u>510,540</u>	<u>753,476</u>	<u>675,463</u>	<u>675,463</u>
General Fund	295,960	510,540	753,476	675,463	675,463
Multiuse Network Payments	<u>270,664</u>	<u>412,501</u>	<u>575,849</u>	<u>1,185,276</u>	<u>1,185,276</u>
General Fund	270,664	412,501	575,849	1,185,276	1,185,276

**JBC Staff Staff Figure Setting - FY 2013-14**  
**Staff Working Document - Does Not Represent Committee Decision**

	FY 2010-11 Actual	FY 2011-12 Actual	FY 2012-13 Appropriation	FY 2013-14 Request	FY 2013-14 Recommendation
Payment to Risk Management and Property Funds	<u>65,718</u>	<u>232,018</u>	<u>347,144</u>	<u>614,750</u>	<u>614,750</u>
General Fund	65,718	232,018	347,144	614,750	614,750
Vehicle Lease Payments	<u>59,044</u>	<u>56,364</u>	<u>72,221</u>	<u>95,146</u>	<u>95,146</u> *
General Fund	59,044	56,364	72,221	95,146	95,146
Ralph L. Carr Colorado Judicial Center Leased Space	<u>1,262,204</u>	<u>1,241,841</u>	<u>1,323,343</u>	<u>0</u>	<u>2,063,194</u>
General Fund	1,129,939	1,110,576	1,151,863	0	2,063,194
Cash Funds	132,265	131,265	171,480	0	0
Communication Services Payments	<u>11,377</u>	<u>12,161</u>	<u>24,725</u>	<u>16,703</u>	<u>16,703</u>
General Fund	11,377	12,161	24,725	16,703	16,703
COFRS Modernization	<u>0</u>	<u>0</u>	<u>1,056,857</u>	<u>1,056,857</u>	<u>1,056,857</u>
General Fund	0	0	1,056,857	1,056,857	1,056,857
Lease Purchase	<u>119,878</u>	<u>119,878</u>	<u>119,878</u>	<u>119,878</u>	<u>119,878</u>
General Fund	119,878	119,878	119,878	119,878	119,878
<b>SUBTOTAL - (B) Central Appropriations</b>	29,962,433	29,958,973	41,226,564	52,389,356	54,682,782
FTE	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
General Fund	27,278,087	29,447,589	36,008,729	45,758,452	47,984,006
Cash Funds	2,684,346	511,384	5,217,835	6,630,904	6,698,776

**JBC Staff Staff Figure Setting - FY 2013-14**  
**Staff Working Document - Does Not Represent Committee Decision**

	FY 2010-11 Actual	FY 2011-12 Actual	FY 2012-13 Appropriation	FY 2013-14 Request	FY 2013-14 Recommendation
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**(C) Centrally Administered Programs**

This subsection includes funding and staff associated with specific functions, grant programs, and distributions that are administered by the Office of the State Court Administrator. Cash fund sources include the Victims and Witnesses and Law Enforcement Fund, the Crime Victim Compensation Fund, the Judicial Collections Enhancement Fund, the Fines Collection Cash Fund, the Judicial Stabilization Cash Fund, the Court Security Cash Fund, the State Commission on Judicial Performance Cash Fund, the Family Violence Justice Fund, the Family-friendly Court Program Cash Fund, and various fees, cost recoveries, and grants. Reappropriated funds include Victims and Witnesses Assistance and Law Enforcement funds transferred from the Trial Courts section, and federal funds transferred from the Department of Human Services.

Victim Assistance	<u>16,159,199</u>	<u>16,718,575</u>	<u>16,375,000</u>	<u>16,375,000</u>	<u>16,375,000</u>
Cash Funds	16,159,199	16,718,575	16,375,000	16,375,000	16,375,000
 Victim Compensation	 <u>13,123,438</u>	 <u>12,346,894</u>	 <u>12,175,000</u>	 <u>12,175,000</u>	 <u>12,175,000</u>
Cash Funds	13,123,438	12,346,894	12,175,000	12,175,000	12,175,000
 Collections Investigators	 <u>4,960,725</u>	 <u>4,923,061</u>	 <u>5,157,739</u>	 <u>5,157,739</u>	 <u>5,157,739</u>
FTE	70.5	72.4	83.2	83.2	83.2
Cash Funds	4,187,416	4,174,147	4,260,198	4,260,198	4,260,198
Reappropriated Funds	773,309	748,914	897,541	897,541	897,541
 Problem-solving Courts	 <u>2,145,296</u>	 <u>2,296,638</u>	 <u>2,335,970</u>	 <u>2,739,133</u>	 <u>3,045,535</u>
FTE	32.2	29.3	32.7	37.7	41.5
General Fund	0	0	0	0	0
Cash Funds	1,115,633	1,527,389	2,335,970	2,739,133	3,045,535
Federal Funds	1,029,663	769,249	0	0	0
 Language Interpreters	 <u>3,245,920</u>	 <u>3,611,448</u>	 <u>3,662,739</u>	 <u>3,662,739</u>	 <u>3,662,739</u>
FTE	22.7	24.1	25.0	25.0	25.0
General Fund	3,218,320	3,347,318	3,376,239	3,376,239	3,376,239
Cash Funds	27,600	264,130	286,500	286,500	286,500

**JBC Staff Staff Figure Setting - FY 2013-14**  
**Staff Working Document - Does Not Represent Committee Decision**

	<b>FY 2010-11 Actual</b>	<b>FY 2011-12 Actual</b>	<b>FY 2012-13 Appropriation</b>	<b>FY 2013-14 Request</b>	<b>FY 2013-14 Recommendation</b>
Courthouse Security	<u>2,966,235</u>	<u>3,016,168</u>	<u>3,864,989</u>	<u>3,865,833</u>	<u>3,214,989</u>
FTE	1.0	1.0	1.0	1.0	1.0
Cash Funds	2,966,235	3,016,168	3,864,989	3,865,833	3,214,989
Courthouse Capital/ Infrastructure Maintenance	<u>2,432,067</u>	<u>616,932</u>	<u>1,659,089</u>	<u>3,945,382</u>	<u>3,933,443</u> *
General Fund	80,791	143,406	0	26,337	20,042
Cash Funds	2,351,276	473,526	1,654,386	3,919,045	3,913,401
Reappropriated Funds	0	0	4,703	0	0
Senior Judge Program	<u>1,592,873</u>	<u>1,348,530</u>	<u>1,500,000</u>	<u>1,500,000</u>	<u>1,400,000</u>
General Fund	1,592,873	1,348,530	0	0	0
Cash Funds	0	0	1,500,000	1,500,000	1,400,000
Judicial Education and Training	<u>0</u>	<u>0</u>	<u>1,069,536</u>	<u>1,462,036</u>	<u>1,462,036</u> *
FTE	0.0	0.0	2.0	2.0	2.0
Cash Funds	0	0	1,069,536	1,462,036	1,462,036
Office of Judicial Performance Evaluation	<u>705,806</u>	<u>646,674</u>	<u>890,955</u>	<u>920,955</u>	<u>920,955</u>
FTE	2.0	2.0	2.0	2.0	2.0
Cash Funds	705,806	646,674	890,955	920,955	920,955
Family Violence Justice Grants	<u>870,934</u>	<u>675,000</u>	<u>628,430</u>	<u>628,430</u>	<u>628,430</u>
General Fund	750,000	458,430	458,430	458,430	458,430
Cash Funds	120,934	216,570	170,000	170,000	170,000
Family-friendly Court Program	<u>249,549</u>	<u>244,139</u>	<u>375,000</u>	<u>375,000</u>	<u>375,000</u>
FTE	0.5	0.5	0.5	0.5	0.5
Cash Funds	249,549	244,139	375,000	375,000	375,000

**JBC Staff Staff Figure Setting - FY 2013-14**  
**Staff Working Document - Does Not Represent Committee Decision**

	FY 2010-11 Actual	FY 2011-12 Actual	FY 2012-13 Appropriation	FY 2013-14 Request	FY 2013-14 Recommendation
Child Support Enforcement	<u>81,126</u>	<u>80,282</u>	<u>90,900</u>	<u>90,900</u>	<u>90,900</u>
FTE	1.0	1.0	1.0	1.0	1.0
General Fund	27,633	27,287	30,904	30,904	30,904
Reappropriated Funds	53,493	52,995	59,996	59,996	59,996
<b>SUBTOTAL - (C) Centrally Administered</b>					
<b>Programs</b>	48,533,168	46,524,341	49,785,347	52,898,147	52,441,766
FTE	<u>129.9</u>	<u>130.3</u>	<u>147.4</u>	<u>152.4</u>	<u>156.2</u>
General Fund	5,669,617	5,324,971	3,865,573	3,891,910	3,885,615
Cash Funds	41,007,086	39,628,212	44,957,534	48,048,700	47,598,614
Reappropriated Funds	826,802	801,909	962,240	957,537	957,537
Federal Funds	1,029,663	769,249	0	0	0

**(D) Ralph L. Carr Colorado Judicial Center**

This subsection includes appropriations related to the operations of the Ralph L. Carr Colorado Judicial Center. For FY 2013-14, the Department is also proposing moving various Leased Space appropriations for Judicial agencies that are Carr Center tenants to this subsection. Funding supports: various contractual services (including engineering, custodial, and maintenance services; parking garage operations and maintenance; and copy center operations); the purchase of security services from the Colorado State Patrol; utilities; operational and engineering facility staff; and an annual appropriation for future facility controlled maintenance needs. Cash funds are from the Justice Center Cash Fund. Reappropriated funds are transferred from Leased Space appropriations to the Judicial Branch and the Department of Law.

Personal Services	<u>0</u>	<u>0</u>	<u>1,013,532</u>	<u>1,260,986</u>	<u>1,260,986</u> *
FTE	0.0	0.0	2.0	2.0	2.0
Cash Funds	0	0	1,013,532	377,596	400,519
Reappropriated Funds	0	0	0	883,390	860,467
Operating Expenses	<u>0</u>	<u>0</u>	<u>2,147,060</u>	<u>4,026,234</u>	<u>4,026,234</u> *
Cash Funds	0	0	2,147,060	1,205,636	1,278,829
Reappropriated Funds	0	0	0	2,820,598	2,747,405

**JBC Staff Staff Figure Setting - FY 2013-14**  
**Staff Working Document - Does Not Represent Committee Decision**

	<b>FY 2010-11 Actual</b>	<b>FY 2011-12 Actual</b>	<b>FY 2012-13 Appropriation</b>	<b>FY 2013-14 Request</b>	<b>FY 2013-14 Recommendation</b>
Controlled Maintenance	<u>0</u>	<u>0</u>	<u>1,000,000</u>	<u>2,025,000</u>	<u>2,025,000</u> *
Cash Funds	0	0	1,000,000	606,377	643,191
Reappropriated Funds	0	0	0	1,418,623	1,381,809
Leased Space	<u>0</u>	<u>0</u>	<u>0</u>	<u>2,056,124</u>	<u>0</u> *
General Fund	0	0	0	2,056,124	0
<b>SUBTOTAL - (D) Ralph L. Carr Colorado</b>					
<b>Judicial Center</b>	0	0	4,160,592	9,368,344	7,312,220
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>2.0</u>	<u>2.0</u>	<u>2.0</u>
General Fund	0	0	0	2,056,124	0
Cash Funds	0	0	4,160,592	2,189,609	2,322,539
Reappropriated Funds	0	0	0	5,122,611	4,989,681
<b>TOTAL - (2) Courts Administration</b>					
<i>FTE</i>	<u>308.2</u>	<u>305.0</u>	<u>345.8</u>	<u>360.4</u>	<u>364.2</u>
General Fund	45,770,551	47,377,347	51,715,798	64,276,524	64,397,130
Cash Funds	50,174,140	47,568,784	65,758,753	68,171,949	67,232,918
Reappropriated Funds	2,193,750	3,149,347	3,175,928	8,076,477	7,943,547
Federal Funds	1,029,663	769,249	0	7,854	7,854

**JBC Staff Staff Figure Setting - FY 2013-14**  
**Staff Working Document - Does Not Represent Committee Decision**

	FY 2010-11 Actual	FY 2011-12 Actual	FY 2012-13 Appropriation	FY 2013-14 Request	FY 2013-14 Recommendation
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**(3) TRIAL COURTS**

This section provides funding for the state trial courts, which consist of district courts in 22 judicial districts, water courts, and county courts. District courts: preside over felony criminal matters, civil claims, juvenile matters, and probate, mental health, and divorce proceedings; handle appeals from municipal and county courts; and review decisions of administrative boards and agencies. Water courts have exclusive jurisdiction over cases involving the determination of water rights and the use and administration of water. County courts: handle civil actions involving no more than \$15,000, misdemeanor cases, civil and criminal traffic infractions, and felony complaints; issue search warrants and protection orders in cases involving domestic violence; and hear municipal court appeals. Cash fund sources include the Judicial Stabilization Cash Fund, various court fees and cost recoveries, and the sale of jury pattern instructions. Reappropriated funds reflect federal funds transferred from the Departments of Public Safety and Human Services.

Trial Court Programs	<u>114,677,763</u>	<u>117,944,999</u>	<u>123,249,518</u>	<u>124,921,437</u>	<u>124,609,511</u>
FTE	1,615.2	1,663.1	1,794.1	1,804.1	1,799.1
General Fund	90,070,969	89,919,517	92,758,394	92,763,540	92,763,540
Cash Funds	23,572,951	26,988,570	29,391,124	31,057,897	30,745,971
Reappropriated Funds	1,033,843	1,036,912	1,100,000	1,100,000	1,100,000
Court Costs, Jury Costs, and Court-appointed					
Counsel	<u>15,472,347</u>	<u>15,181,493</u>	<u>15,985,692</u>	<u>15,985,692</u>	<u>15,985,692</u> *
General Fund	15,319,142	14,696,493	15,500,692	15,500,692	15,500,692
Cash Funds	153,205	485,000	485,000	485,000	485,000
District Attorney Mandated Costs	<u>2,130,507</u>	<u>2,186,883</u>	<u>2,529,549</u>	<u>2,685,881</u>	<u>2,651,916</u> *
General Fund	2,005,507	2,061,883	2,389,549	2,525,881	2,491,916
Cash Funds	125,000	125,000	140,000	160,000	160,000
Federal Funds and Other Grants	<u>1,506,856</u>	<u>1,628,307</u>	<u>2,900,000</u>	<u>2,900,000</u>	<u>2,900,000</u>
FTE	14.0	14.0	14.0	14.0	14.0
Cash Funds	366,130	230,321	975,000	975,000	975,000
Reappropriated Funds	116,080	110,819	300,000	300,000	300,000
Federal Funds	1,024,646	1,287,167	1,625,000	1,625,000	1,625,000



**JBC Staff Staff Figure Setting - FY 2013-14**  
**Staff Working Document - Does Not Represent Committee Decision**

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	<b>FY 2010-11 Actual</b>	<b>FY 2011-12 Actual</b>	<b>FY 2012-13 Appropriation</b>	<b>FY 2013-14 Request</b>	<b>FY 2013-14 Recommendation</b>
<b>TOTAL - (3) Trial Courts</b>	133,787,473	136,941,682	144,664,759	146,493,010	146,147,119
<i>FTE</i>	<u>1,629.2</u>	<u>1,677.1</u>	<u>1,808.1</u>	<u>1,818.1</u>	<u>1,813.1</u>
General Fund	107,395,618	106,677,893	110,648,635	110,790,113	110,756,148
Cash Funds	24,217,286	27,828,891	30,991,124	32,677,897	32,365,971
Reappropriated Funds	1,149,923	1,147,731	1,400,000	1,400,000	1,400,000
Federal Funds	1,024,646	1,287,167	1,625,000	1,625,000	1,625,000

**JBC Staff Staff Figure Setting - FY 2013-14**  
**Staff Working Document - Does Not Represent Committee Decision**

	FY 2010-11 Actual	FY 2011-12 Actual	FY 2012-13 Appropriation	FY 2013-14 Request	FY 2013-14 Recommendation
<b>(4) PROBATION AND RELATED SERVICES</b>					
This section provides funding for: the supervision of offenders sentenced to probation; the preparation of presentence investigation reports for the courts; victim notification and assistance; and community outreach programs. Cash funds are from fees paid by offenders for supervision, treatment, and restitution, as well as various cost recoveries. Reappropriated funds include: spending authority for General Fund moneys that are appropriated to the Correctional Treatment Cash Fund; Victims and Witnesses Assistance and Law Enforcement funds transferred from the Trial Courts section; and funds transferred from other Departments.					
Probation Programs	<u>68,406,169</u>	<u>72,859,600</u>	<u>74,931,974</u>	<u>75,932,735</u>	<u>75,932,735</u>
FTE	1,044.8	1,082.2	1,149.4	1,149.4	1,149.4
General Fund	61,838,774	62,580,677	65,082,409	65,381,056	65,381,056
Cash Funds	6,567,395	10,278,923	9,849,565	10,551,679	10,551,679
Offender Treatment and Services	<u>9,989,786</u>	<u>13,372,184</u>	<u>11,056,327</u>	<u>27,284,311</u>	<u>27,289,014</u>
General Fund	0	0	667,197	667,197	667,197
Cash Funds	9,603,829	6,637,774	9,609,284	14,233,049	14,233,049
Reappropriated Funds	385,957	6,734,410	779,846	12,384,065	12,388,768
Services and Activities Authorized by Section 18-19-103 (5) (c) and (d), C.R.S.	<u>0</u>	<u>0</u>	<u>15,168,296</u>	<u>0</u>	<u>0</u>
Cash Funds	0	0	5,407,877	0	0
Reappropriated Funds	0	0	9,760,419	0	0
Day Reporting Services	<u>206,041</u>	<u>289,291</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	206,041	289,291	0	0	0
Appropriation to the Correctional Treatment Cash Fund	<u>0</u>	<u>0</u>	<u>9,856,200</u>	<u>11,700,000</u>	<u>11,700,000</u>
General Fund	0	0	9,856,200	11,700,000	11,700,000

**JBC Staff Staff Figure Setting - FY 2013-14**  
**Staff Working Document - Does Not Represent Committee Decision**

	FY 2010-11 Actual	FY 2011-12 Actual	FY 2012-13 Appropriation	FY 2013-14 Request	FY 2013-14 Recommendation
H.B. 10-1352 Appropriation to Drug Offender					
Surcharge Fund	<u>1,068,196</u>	<u>6,656,118</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	1,068,196	6,656,118	0	0	0
S.B. 03-318 Community Treatment Funding					
General Fund	<u>2,200,000</u>	<u>2,200,000</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	2,200,000	2,200,000	0	0	0
S.B. 91-94 Juvenile Services					
FTE	<u>1,603,089</u>	<u>1,502,621</u>	<u>2,496,837</u>	<u>2,496,837</u>	<u>2,496,837</u>
FTE	15.1	13.0	25.0	25.0	25.0
Reappropriated Funds	1,603,089	1,502,621	2,496,837	2,496,837	2,496,837
Reimbursements to Law Enforcement Agencies for the Costs of Returning a Probationer					
Cash Funds	<u>0</u>	<u>0</u>	<u>93,750</u>	<u>187,500</u>	<u>187,500</u>
Cash Funds	0	0	93,750	187,500	187,500
Victims Grants					
FTE	<u>434,635</u>	<u>407,381</u>	<u>650,000</u>	<u>650,000</u>	<u>650,000</u>
FTE	6.0	6.0	6.0	6.0	6.0
Reappropriated Funds	434,635	407,381	650,000	650,000	650,000
Federal Funds and Other Grants					
FTE	<u>4,973,611</u>	<u>5,551,863</u>	<u>5,600,000</u>	<u>5,600,000</u>	<u>5,600,000</u>
FTE	33.0	33.0	33.0	33.0	33.0
Cash Funds	946,292	1,098,754	1,950,000	1,950,000	1,950,000
Reappropriated Funds	1,152,461	3,167,111	850,000	850,000	850,000
Federal Funds	2,874,858	1,285,998	2,800,000	2,800,000	2,800,000
Indirect Cost Assessment					
Cash Funds	<u>0</u>	<u>0</u>	<u>0</u>	<u>1,024,502</u>	<u>1,024,502</u>
Cash Funds	0	0	0	1,024,502	1,024,502

**JBC Staff Staff Figure Setting - FY 2013-14**  
**Staff Working Document - Does Not Represent Committee Decision**

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	<b>FY 2010-11 Actual</b>	<b>FY 2011-12 Actual</b>	<b>FY 2012-13 Appropriation</b>	<b>FY 2013-14 Request</b>	<b>FY 2013-14 Recommendation</b>
<b>TOTAL - (4) Probation and Related Services</b>	88,881,527	102,839,058	119,853,384	124,875,885	124,880,588
<i>FTE</i>	<u>1,098.9</u>	<u>1,134.2</u>	<u>1,213.4</u>	<u>1,213.4</u>	<u>1,213.4</u>
General Fund	65,313,011	71,726,086	75,605,806	77,748,253	77,748,253
Cash Funds	17,117,516	18,015,451	26,910,476	27,946,730	27,946,730
Reappropriated Funds	3,576,142	11,811,523	14,537,102	16,380,902	16,385,605
Federal Funds	2,874,858	1,285,998	2,800,000	2,800,000	2,800,000

**JBC Staff Staff Figure Setting - FY 2013-14**  
**Staff Working Document - Does Not Represent Committee Decision**

	FY 2010-11 Actual	FY 2011-12 Actual	FY 2012-13 Appropriation	FY 2013-14 Request	FY 2013-14 Recommendation
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**(5) OFFICE OF THE STATE PUBLIC DEFENDER**

This independent agency provides legal counsel for indigent defendants in criminal and juvenile delinquency cases where there is a possibility of being jailed or imprisoned. Cash funds consist of training fees paid by private attorneys and grants. Reappropriated funds are federal funds transferred from the Department of Public Safety.

Personal Services	<u>38,108,913</u>	<u>41,604,756</u>	<u>43,519,793</u>	<u>43,760,551</u>	<u>43,760,551</u>
FTE	560.7	612.7	652.8	656.6	656.6
General Fund	38,108,913	41,604,756	43,519,793	43,760,551	43,760,551
Health, Life, and Dental	<u>4,046,851</u>	<u>4,555,942</u>	<u>4,323,337</u>	<u>4,687,048</u>	<u>4,683,828</u>
General Fund	4,046,851	4,555,942	4,323,337	4,687,048	4,683,828
Short-term Disability	<u>57,220</u>	<u>68,330</u>	<u>68,710</u>	<u>86,037</u>	<u>83,385</u> *
General Fund	57,220	68,330	68,710	86,037	83,385
S.B. 04-257 Amortization Equalization					
Disbursement	<u>873,686</u>	<u>1,067,990</u>	<u>1,239,073</u>	<u>1,630,152</u>	<u>1,568,765</u> *
General Fund	873,686	1,067,990	1,239,073	1,630,152	1,568,765
S.B. 06-235 Supplemental Amortization					
Equalization Disbursement	<u>630,654</u>	<u>852,431</u>	<u>1,059,806</u>	<u>1,471,664</u>	<u>1,411,409</u> *
General Fund	630,654	852,431	1,059,806	1,471,664	1,411,409
Salary Survey	<u>0</u>	<u>0</u>	<u>0</u>	<u>6,090,358</u>	<u>4,678,504</u>
General Fund	0	0	0	6,090,358	4,678,504
Merit Pay	<u>0</u>	<u>0</u>	<u>0</u>	<u>710,852</u>	<u>651,614</u>
General Fund	0	0	0	710,852	651,614

**JBC Staff Staff Figure Setting - FY 2013-14**  
**Staff Working Document - Does Not Represent Committee Decision**

	<b>FY 2010-11 Actual</b>	<b>FY 2011-12 Actual</b>	<b>FY 2012-13 Appropriation</b>	<b>FY 2013-14 Request</b>	<b>FY 2013-14 Recommendation</b>
Vehicle Lease Payments	<u>52,632</u>	<u>55,789</u>	<u>165,706</u>	<u>121,296</u>	<u>121,296</u> *
General Fund	52,632	55,789	165,706	121,296	121,296
Capital Outlay	<u>233,910</u>	<u>141,090</u>	<u>51,733</u>	<u>0</u>	<u>0</u>
General Fund	233,910	141,090	51,733	0	0
Operating Expenses	<u>1,147,956</u>	<u>1,422,866</u>	<u>1,506,808</u>	<u>1,513,339</u>	<u>1,512,139</u>
General Fund	1,126,981	1,404,206	1,476,808	1,483,339	1,482,139
Cash Funds	20,975	18,660	30,000	30,000	30,000
Leased Space/Utilities	<u>5,895,388</u>	<u>5,431,080</u>	<u>6,122,344</u>	<u>5,730,514</u>	<u>5,730,514</u>
General Fund	5,895,388	5,431,080	6,122,344	5,730,514	5,730,514
Automation Plan	<u>1,891,335</u>	<u>1,336,920</u>	<u>905,707</u>	<u>1,416,920</u>	<u>1,416,920</u> *
General Fund	1,891,335	1,336,920	905,707	1,416,920	1,416,920
Attorney Registration	<u>0</u>	<u>0</u>	<u>100,935</u>	<u>99,045</u>	<u>99,045</u>
General Fund	0	0	100,935	99,045	99,045
Contract Services	<u>18,000</u>	<u>18,000</u>	<u>49,395</u>	<u>49,395</u>	<u>49,395</u> *
General Fund	18,000	18,000	49,395	49,395	49,395
Mandated Costs	<u>3,516,379</u>	<u>3,758,632</u>	<u>4,226,488</u>	<u>4,315,888</u>	<u>4,315,888</u> *
General Fund	3,516,379	3,758,632	4,226,488	4,315,888	4,315,888
Grants	<u>99,132</u>	<u>230,011</u>	<u>218,260</u>	<u>120,000</u>	<u>120,000</u>
FTE	2.0	3.5	3.6	2.0	2.0
Cash Funds	99,132	230,011	218,260	120,000	120,000

***JBC Staff Staff Figure Setting - FY 2013-14***  
***Staff Working Document - Does Not Represent Committee Decision***

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	<b>FY 2010-11 Actual</b>	<b>FY 2011-12 Actual</b>	<b>FY 2012-13 Appropriation</b>	<b>FY 2013-14 Request</b>	<b>FY 2013-14 Recommendation</b>
<b>TOTAL - (5) Office of the State Public Defender</b>	56,572,056	60,543,837	63,558,095	71,803,059	70,203,253
<i>FTE</i>	<u>562.7</u>	<u>616.2</u>	<u>656.4</u>	<u>658.6</u>	<u>658.6</u>
General Fund	56,451,949	60,295,166	63,309,835	71,653,059	70,053,253
Cash Funds	120,107	248,671	248,260	150,000	150,000



**JBC Staff Staff Figure Setting - FY 2013-14**  
**Staff Working Document - Does Not Represent Committee Decision**

	FY 2010-11 Actual	FY 2011-12 Actual	FY 2012-13 Appropriation	FY 2013-14 Request	FY 2013-14 Recommendation
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**(6) OFFICE OF THE ALTERNATE DEFENSE COUNSEL**

This independent agency provides legal representation for indigent defendants in cases where the State Public Defender is precluded from doing so because of an ethical conflict of interest. Cash funds are received from private attorneys and investigators for training.

Personal Services	<u>690,609</u>	<u>694,474</u>	<u>706,089</u>	<u>805,233</u>	<u>805,230</u>
FTE	7.5	7.5	7.5	8.4	8.4
General Fund	690,609	694,474	706,089	805,233	805,230
Health, Life, and Dental	<u>72,791</u>	<u>80,525</u>	<u>92,641</u>	<u>99,617</u>	<u>99,113</u> *
General Fund	72,791	80,525	92,641	99,617	99,113
Short-term Disability	<u>1,029</u>	<u>1,103</u>	<u>1,089</u>	<u>1,393</u>	<u>1,230</u> *
General Fund	1,029	1,103	1,089	1,393	1,230
S.B. 04-257 Amortization Equalization					
Disbursement	<u>13,727</u>	<u>16,364</u>	<u>19,488</u>	<u>26,155</u>	<u>23,089</u> *
General Fund	13,727	16,364	19,488	26,155	23,089
S.B. 06-235 Supplemental Amortization					
Equalization Disbursement	<u>9,909</u>	<u>13,062</u>	<u>16,667</u>	<u>23,525</u>	<u>20,771</u> *
General Fund	9,909	13,062	16,667	23,525	20,771
Salary Survey	<u>0</u>	<u>0</u>	<u>0</u>	<u>9,613</u>	<u>12,817</u>
General Fund	0	0	0	9,613	12,817
Merit Pay	<u>0</u>	<u>0</u>	<u>0</u>	<u>10,417</u>	<u>10,408</u>
General Fund	0	0	0	10,417	10,408

**JBC Staff Staff Figure Setting - FY 2013-14**  
**Staff Working Document - Does Not Represent Committee Decision**

	<b>FY 2010-11 Actual</b>	<b>FY 2011-12 Actual</b>	<b>FY 2012-13 Appropriation</b>	<b>FY 2013-14 Request</b>	<b>FY 2013-14 Recommendation</b>
Operating Expenses	<u>68,844</u>	<u>71,316</u>	<u>67,030</u>	<u>69,210</u>	<u>69,210</u> *
General Fund	68,844	71,316	67,030	69,210	69,210
Leased Space	<u>36,577</u>	<u>32,345</u>	<u>35,880</u>	<u>0</u>	<u>0</u>
General Fund	36,577	32,345	35,880	0	0
Training and Conferences	<u>41,000</u>	<u>40,367</u>	<u>40,000</u>	<u>40,000</u>	<u>40,000</u>
General Fund	21,000	20,367	20,000	20,000	20,000
Cash Funds	20,000	20,000	20,000	20,000	20,000
Conflict of Interest Contracts	<u>18,132,047</u>	<u>19,767,979</u>	<u>20,001,448</u>	<u>19,889,515</u>	<u>20,234,616</u> *
General Fund	18,132,047	19,767,979	20,001,448	19,889,515	20,234,616
Mandated Costs	<u>1,429,874</u>	<u>1,469,944</u>	<u>1,580,114</u>	<u>1,580,114</u>	<u>1,580,114</u>
General Fund	1,429,874	1,469,944	1,580,114	1,580,114	1,580,114
<b>TOTAL - (6) Office of the Alternate Defense</b>					
<b>Counsel</b>	20,496,407	22,187,479	22,560,446	22,554,792	22,896,598
<i>FTE</i>	<i>7.5</i>	<i>7.5</i>	<i>7.5</i>	<i>8.4</i>	<i>8.4</i>
General Fund	20,476,407	22,167,479	22,540,446	22,534,792	22,876,598
Cash Funds	20,000	20,000	20,000	20,000	20,000

**JBC Staff Staff Figure Setting - FY 2013-14**  
**Staff Working Document - Does Not Represent Committee Decision**

	FY 2010-11 Actual	FY 2011-12 Actual	FY 2012-13 Appropriation	FY 2013-14 Request	FY 2013-14 Recommendation
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**(7) OFFICE OF THE CHILD'S REPRESENTATIVE**

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

Personal Services	<u>1,806,800</u>	<u>1,910,877</u>	<u>1,902,541</u>	<u>1,902,541</u>	<u>1,902,541</u>
FTE	26.4	26.1	26.9	26.9	26.9
General Fund	1,806,800	1,910,877	1,902,541	1,902,541	1,902,541
Health, Life, and Dental	<u>130,716</u>	<u>140,661</u>	<u>192,401</u>	<u>263,651</u>	<u>248,490</u>
General Fund	130,716	140,661	192,401	263,651	248,490
Short-term Disability	<u>2,685</u>	<u>2,804</u>	<u>2,986</u>	<u>3,340</u>	<u>3,347</u>
General Fund	2,685	2,804	2,986	3,340	3,347
S.B. 04-257 Amortization Equalization					
Disbursement	<u>37,502</u>	<u>45,221</u>	<u>52,428</u>	<u>62,689</u>	<u>62,833</u>
General Fund	37,502	45,221	52,428	62,689	62,833
S.B. 06-235 Supplemental Amortization					
Equalization Disbursement	<u>27,072</u>	<u>36,095</u>	<u>44,840</u>	<u>56,391</u>	<u>56,523</u>
General Fund	27,072	36,095	44,840	56,391	56,523
Salary Survey	<u>0</u>	<u>0</u>	<u>0</u>	<u>28,538</u>	<u>34,879</u>
General Fund	0	0	0	28,538	34,879
Merit Pay	<u>0</u>	<u>0</u>	<u>0</u>	<u>30,441</u>	<u>28,323</u>
General Fund	0	0	0	30,441	28,323

**JBC Staff Staff Figure Setting - FY 2013-14**  
**Staff Working Document - Does Not Represent Committee Decision**

	<b>FY 2010-11 Actual</b>	<b>FY 2011-12 Actual</b>	<b>FY 2012-13 Appropriation</b>	<b>FY 2013-14 Request</b>	<b>FY 2013-14 Recommendation</b>
Operating Expenses	<u>204,872</u>	<u>180,235</u>	<u>159,929</u>	<u>159,929</u>	<u>159,929</u>
General Fund	204,872	180,235	159,929	159,929	159,929
Leased Space	<u>147,687</u>	<u>150,380</u>	<u>162,090</u>	<u>102,120</u>	<u>102,120</u>
General Fund	147,687	150,380	162,090	102,120	102,120
CASA Contracts	<u>520,000</u>	<u>475,000</u>	<u>520,000</u>	<u>520,000</u>	<u>520,000</u>
General Fund	520,000	475,000	520,000	520,000	520,000
Training	<u>52,607</u>	<u>47,760</u>	<u>38,000</u>	<u>38,000</u>	<u>38,000</u>
General Fund	52,607	47,760	38,000	38,000	38,000
Court Appointed Counsel	<u>16,021,900</u>	<u>14,783,068</u>	<u>16,021,900</u>	<u>16,021,900</u>	<u>16,011,128</u>
General Fund	16,021,900	14,783,068	16,021,900	16,021,900	16,011,128
Mandated Costs	<u>29,290</u>	<u>40,405</u>	<u>26,228</u>	<u>26,228</u>	<u>37,000</u>
General Fund	29,290	40,405	26,228	26,228	37,000
Capital Outlay	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	0	0	0	0	0
<b>TOTAL - (7) Office of the Child's Representative</b>	18,981,131	17,812,506	19,123,343	19,215,768	19,205,113
<i>FTE</i>	<u>26.4</u>	<u>26.1</u>	<u>26.9</u>	<u>26.9</u>	<u>26.9</u>
General Fund	18,981,131	17,812,506	19,123,343	19,215,768	19,205,113

**JBC Staff Staff Figure Setting - FY 2013-14**  
**Staff Working Document - Does Not Represent Committee Decision**

	FY 2010-11 Actual	FY 2011-12 Actual	FY 2012-13 Appropriation	FY 2013-14 Request	FY 2013-14 Recommendation
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**(8) INDEPENDENT ETHICS COMMISSION**

This independent agency is charged with hearing complaints, issuing findings, assessing penalties, and issuing advisory opinions on ethics issues that arise concerning public officers, members of the General Assembly, local government officials, or government employees.

Personal Services	<u>175,963</u>	<u>127,427</u>	<u>129,827</u>	<u>129,827</u>	<u>129,827</u>
FTE	2.0	1.0	1.0	1.0	1.0
General Fund	175,963	127,427	129,827	129,827	129,827
Health, Life, and Dental	<u>9,256</u>	<u>6,090</u>	<u>5,254</u>	<u>6,064</u>	<u>5,625</u>
General Fund	9,256	6,090	5,254	6,064	5,625
Short-term Disability	<u>272</u>	<u>167</u>	<u>142</u>	<u>166</u>	<u>188</u>
General Fund	272	167	142	166	188
S.B. 04-257 Amortization Equalization					
Disbursement	<u>3,770</u>	<u>3,070</u>	<u>2,376</u>	<u>3,456</u>	<u>3,538</u>
General Fund	3,770	3,070	2,376	3,456	3,538
S.B. 06-235 Supplemental Amortization					
Equalization Disbursement	<u>2,721</u>	<u>2,431</u>	<u>2,032</u>	<u>3,456</u>	<u>3,183</u>
General Fund	2,721	2,431	2,032	3,456	3,183
Salary Survey	<u>0</u>	<u>0</u>	<u>0</u>	<u>1,706</u>	<u>1,964</u>
General Fund	0	0	0	1,706	1,964
Merit Pay	<u>0</u>	<u>0</u>	<u>0</u>	<u>1,705</u>	<u>1,595</u>
General Fund	0	0	0	1,705	1,595

**JBC Staff Staff Figure Setting - FY 2013-14**  
**Staff Working Document - Does Not Represent Committee Decision**

	<b>FY 2010-11 Actual</b>	<b>FY 2011-12 Actual</b>	<b>FY 2012-13 Appropriation</b>	<b>FY 2013-14 Request</b>	<b>FY 2013-14 Recommendation</b>
Operating Expenses	<u>36,906</u>	<u>9,932</u>	<u>15,807</u>	<u>15,807</u>	<u>15,807</u>
General Fund	36,906	9,932	15,807	15,807	15,807
Legal Services	<u>34,217</u>	<u>54,315</u>	<u>69,525</u>	<u>69,525</u>	<u>69,525</u>
General Fund	34,217	54,315	69,525	69,525	69,525
<b>TOTAL - (8) Independent Ethics Commission</b>	263,105	203,432	224,963	231,712	231,252
<i>FTE</i>	<u>2.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>
General Fund	263,105	203,432	224,963	231,712	231,252
<b>TOTAL - Judicial Department</b>	438,042,887	460,808,397	511,376,813	546,459,415	543,897,757
<i>FTE</i>	<u>3,836.1</u>	<u>3,974.0</u>	<u>4,269.6</u>	<u>4,297.3</u>	<u>4,296.1</u>
General Fund	324,696,803	336,190,407	353,411,788	376,699,070	375,516,596
Cash Funds	101,487,001	105,120,011	134,221,003	139,406,991	138,156,034
Reappropriated Funds	6,929,916	16,155,565	19,319,022	25,920,500	25,792,273
Federal Funds	4,929,167	3,342,414	4,425,000	4,432,854	4,432,854