

This Adobe file contains two documents:

1. The Judicial Branch figure-setting document dated March 6, 2007.
2. A memo to the Joint Budget Committee with staff comebacks dated March 15, 2007.

COLORADO GENERAL ASSEMBLY

JOINT BUDGET COMMITTEE



FY 2007-08 FIGURE SETTING: JUDICIAL DEPARTMENT

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

**Prepared By:
Stephanie Walsh, JBC Staff
March 6, 2007**

For Further Information Contact:

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

**JUDICIAL BRANCH
FY 2007-08 FIGURE SETTING**

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

TABLE OF CONTENTS

Numbers Pages	1
Summaries & Overviews	
Organization of the Judicial Branch	26
Summary of Decision Item Requests	27
Organization of the Figure-setting Packet	28
Overview of Major Decision Items for the Judicial Branch	29
Overview of Staff Recommendations	30
Staff Recommended General Fund Changes	31
Major Decision Items	
Court Processing	32
Probation	40
Court-appointed Counsel	48
Figure-setting by Division	
1) Supreme Court/Court of Appeals	60
2) Courts Administration	
(A) Administration	63
(B) Administrative Special Purpose	67
(C) Judicial Performance	71
(D) Integrated Information Services	73
3) Trial Courts	76
4) Probation and Related Services	81
5) Public Defender	91
6) Alternate Defense Counsel	96
7) Office of the Child's Representative	108

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	FY 2007-08 Recommd.	Change Requests
JUDICIAL BRANCH						
Chief Justice Mary Mullarkey						
(1) SUPREME COURT/COURT OF APPEALS						
The primary functions of the Supreme Court are general supervisory control of lower courts; appellate review of lower court judgements; original jurisdiction for certain constitutional and other cases; and rule-making for the state court system. The Court of Appeals is the initial jurisdiction for appeals from district courts and certain state agencies. The cash funds and cash funds exempt are from various fees and cash recoveries.						
Personal Services - GF	8,111,324	8,293,628	9,276,868 a/	9,481,580	9,480,219	
FTE	111.7	113.4	132.5 a/	132.5	132.5	
Operating Expenses	<u>192,894</u>	<u>184,194</u>	<u>221,062</u>	<u>221,062</u>	<u>221,062</u>	
General Fund	141,001	126,932	153,062 a/	153,062	153,062	
Cash Funds	51,893	57,262	68,000	68,000	68,000	
Capital Outlay - GF	0	0	241,937 a/	0	0	
Attorney Regulation Committees	4,100,756	4,312,053	4,700,000	4,700,000	4,700,000	
FTE	<u>35.5</u>	<u>40.5</u>	<u>35.5</u>	<u>40.5</u>	<u>40.5</u>	
Cash Funds	4,100,756	4,312,053	4,600,000	4,600,000	4,600,000	
FTE	35.5	40.5	35.5	40.5	40.5	
Cash Funds Exempt	0	0	100,000	100,000	100,000	

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	FY 2007-08 Recommd.	Change Requests
Continuing Legal Education	266,207	332,264	280,000	325,000	325,000	
FTE	<u>4.0</u>	<u>4.0</u>	<u>4.0</u>	<u>4.0</u>	<u>4.0</u>	
Cash Funds	266,207	332,264	275,000	320,000	320,000	
FTE	4.0	4.0	4.0	4.0	4.0	
Cash Funds Exempt	0	0	5,000	5,000	5,000	
Law Examiner Board	682,082	754,752	850,000	850,000	850,000	
FTE	<u>8.2</u>	<u>8.2</u>	<u>8.2</u>	<u>8.2</u>	<u>8.2</u>	
Cash Funds	682,082	754,752	750,000	750,000	750,000	
FTE	8.2	8.2	8.2	8.2	8.2	
Cash Funds Exempt	0	0	100,000	100,000	100,000	
Law Library	376,797	420,578	500,000	500,000	500,000	
General Fund	0	67,000	0	0	0	
Cash Funds	356,967	353,578	500,000	500,000	500,000	
Cash Funds Exempt	19,830	0	0	0	0	
						Recomd. v. Approp
TOTAL - Supreme Court/						
Court of Appeals	13,730,060	14,297,469	16,069,867	16,077,642	16,076,281	0.0%
FTE	<u>159.4</u>	<u>166.1</u>	<u>180.2</u>	<u>185.2</u>	<u>185.2</u>	2.8%
General Fund	8,252,325	8,487,560	9,671,867	9,634,642	9,633,281	-0.4%
FTE	111.7	113.4	132.5	132.5	132.5	0.0%
Cash Funds	5,457,905	5,809,909	6,193,000	6,238,000	6,238,000	0.7%
FTE	47.7	52.7	47.7	52.7	52.7	10.5%
Cash Funds Exempt	19,830	0	205,000	205,000	205,000	0.0%

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

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	FY 2007-08 Recommd.	Change Requests
(2) COURTS ADMINISTRATION						
(A) Administration						
The Office of the State Court Administrator coordinates and controls budgeting, research, data processing and management services for the Judicial Branch; and provides training, technical assistance and other support services. The sources of cash funds are various fees and cost recoveries. The source of cash funds exempt is indirect cost recoveries.						
Personal Services	3,789,222	4,199,418	4,453,608	4,728,765	4,963,570	
FTE	<u>52.0</u>	<u>52.0</u>	<u>61.0</u>	<u>61.0</u>	<u>62.9</u>	
General Fund	3,254,658	3,301,369	3,406,377	3,634,087	3,916,339	JUD DI #2, 4
FTE	52.0	52.0	61.0	61.0	62.9	JUD DI #2, 4
Cash Funds Exempt	534,564	898,049	1,047,231	1,094,678	1,047,231	
Operating Expenses	<u>385,147</u>	<u>363,775</u>	<u>367,121</u>	<u>367,121</u>	<u>369,896</u>	
General Fund	385,075	362,775	366,121	366,121	368,896	JUD DI #2, 4
Cash Funds	72	1,000	1,000	1,000	1,000	
Capital Outlay - GF	0	29,639	6,010	0	10,563	JUD DI #2, 4
Judicial/Heritage Program	600,950	779,720	591,565	599,061	593,700	
FTE	<u>3.0</u>	<u>3.0</u>	<u>3.0</u>	<u>3.0</u>	<u>3.0</u>	
General Fund	256,481	576,527	315,717	322,957	317,852	
FTE	3.0	3.0	3.0	3.0	3.0	
Cash Funds	1,398	0	0	0	0	
Cash Funds Exempt	343,071	203,193	275,848	276,104	275,848	

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	FY 2007-08 Recommd.	Change Requests
Family Friendly Courts - CF	229,092	267,528	375,000	375,000	375,000	
FTE	<u>0.5</u>	<u>0.5</u>	<u>0.5</u>	<u>0.5</u>	<u>0.5</u>	
Cash Funds	229,092	0	252,200	252,200	252,200	
FTE	0.5	0.0	0.5	0.5	0.5	
Cash Funds Exempt	0	267,528	122,800	122,800	122,800	
FTE	0.0	0.5	0.0	0.0	0.0	
Judicial Performance Program - CF		Prior to FY 2007-08, this appropriation was made to a separate subdivision (see below).			568,294	
FTE					1.0	
Courthouse Capital/Infrastructure						
Maintenance - GF	n/a	910,616	1,000,000	1,000,000	1,000,000	
Family Violence - GF	0	489,732	500,000	500,000	500,000	
Statewide Indirect Costs	<u>58,924</u>	<u>56,733</u>	<u>122,003</u>	<u>110,398</u>	<u>110,400</u>	
Cash Funds	48,949	52,018	105,244	99,438	99,440	
Cash Funds Exempt	9,975	4,715	6,424	5,408	5,408	
Federal Funds	0	0	10,335	5,552	5,552	
Departmental Indirect Costs - CF	475,640	841,316	925,228	1,007,170	0	pending

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	FY 2007-08 Recommd.	Change Requests
						Recomd. v. Approp
SUBTOTAL - Administration	5,538,975	7,938,477	8,340,535	8,687,515	8,491,423	1.8%
FTE	<u>55.5</u>	<u>55.5</u>	<u>64.5</u>	<u>64.5</u>	<u>67.4</u>	4.5%
General Fund	3,896,214	5,670,658	5,594,225	5,823,165	6,113,650	9.3%
FTE	55.0	55.0	64.0	64.0	65.9	3.0%
Cash Funds	755,151	894,334	1,283,672	1,359,808	920,934	-28.3%
FTE	0.5	0.0	0.5	0.5	1.5	200.0%
Cash Funds Exempt	887,610	1,373,485	1,452,303	1,498,990	1,451,287	-0.1%
FTE	0.0	0.5	0.0	0.0	0.0	0.0%
Federal Funds	0	0	10,335	5,552	5,552	-46.3%

(B) Administrative Special Purpose

This subdivision is for centrally appropriated POTS, and ancillary programs. Cash funds are from fees paid by defendants and others who use the courts.

Health, Life and Dental	<u>6,441,305</u>	<u>7,497,558</u>	<u>10,239,651</u>	<u>13,542,957</u>	<u>12,936,704</u>	
General Fund	6,048,890	7,151,688	9,718,227	12,541,603	11,708,733	JUD DI #2, 4
Cash Funds	392,415	345,870	521,424	1,001,354	1,227,971	JUD DI # 1
Short-term Disability	<u>168,955</u>	<u>162,712</u>	<u>141,748</u>	<u>217,115</u>	<u>209,399</u>	
General Fund	165,597	154,907	132,516	204,700	186,059	JUD DI #2, 4
Cash Funds	3,358	7,805	9,232	12,415	23,340	JUD DI # 1
Salary Survey	<u>3,709,621</u>	<u>4,538,489</u>	<u>4,652,652</u>	<u>10,980,533</u>	<u>9,900,227</u>	
General Fund	3,672,997	4,466,340	4,447,399	10,024,744	8,998,492	
Cash Funds	36,624	72,149	205,253	955,789	901,735	

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	FY 2007-08 Recommd.	Change Requests
Anniversary Increases	<u>1,210,209</u>	<u>0</u>	<u>0</u>	<u>1,339,812</u>	<u>1,958,269</u>	
General Fund	1,185,209	0	0	1,265,092	1,847,001	
Cash Funds	25,000	0	0	74,720	111,268	
S.B. 04-257 Amortization Equalization						
Disbursement (AED)	<u>n/a</u>	<u>296,837</u>	<u>1,055,252</u>	<u>1,908,151</u>	<u>1,885,200</u>	
General Fund		277,311	993,977	1,820,820	1,669,756	
Cash Funds		19,526	61,275	87,331	215,444	
S.B. 06-235 Supplemental Amortization						
Equalization Disbursement (SAED)	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>0</u>	<u>343,055</u>	
General Fund				0	298,170	
Cash Funds				0	44,885	
Workers' Compensation - GF	1,041,420	1,110,655	1,348,485	1,777,478	0	pending
Legal Services - GF	212,062	260,357	286,464	286,464	0	pending
Hours	4,227	4,227	4,227	4,227	4,227	
Payment to Risk Management - GF	315,394	164,445	425,823	395,586	0	pending
Vehicle Lease Payments - GF	77,034	65,813	34,468	75,707	0	pending
Leased Space	<u>551,797</u>	<u>613,690</u>	<u>713,304</u>	<u>729,465</u>	<u>729,465</u>	
General Fund	530,677	590,410	673,464	690,225	690,225	
Cash Funds	21,120	23,280	39,840	39,240	39,240	

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	FY 2007-08 Recommd.	Change Requests
Lease Purchase - GF	112,766	112,766	112,766	112,766	112,766	
Administrative Purposes	<u>38,010</u>	<u>157,001</u>	<u>195,554</u>	<u>195,554</u>	<u>195,554</u>	
General Fund	13,275	123,904	130,554	130,554	130,554	
Cash Funds	24,735	33,097	65,000	65,000	65,000	
Retired Judges - GF	1,396,970	1,383,362	1,523,468	1,384,006	1,384,006	
Appellate Reports - GF	52,168	37,528	67,100	67,100	67,100	
Office of Dispute Resolution	1,017,617	The appropriation for this office is now located in the Trial Courts Personal Services and Operating Expenses line items.				
FTE	<u>6.2</u>					
Cash Funds	877,395					
FTE	6.2					
Cash Funds Exempt	3,308					
Federal Funds	136,914					
Child Support Enforcement	67,592	65,373	90,900	90,900	90,900	
FTE	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	
General Fund	24,036	21,588	30,904	30,904	30,904	
Cash Funds Exempt	43,556	43,785	59,996	59,996	59,996	
FTE	1.0	1.0	1.0	1.0	1.0	

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	FY 2007-08 Recommd.	Change Requests
Collections Investigators	3,184,397	3,315,049	3,997,004	4,068,661	4,075,209	
FTE	<u>59.8</u>	<u>57.7</u>	<u>83.2</u>	<u>83.2</u>	<u>83.2</u>	
Cash Funds	2,742,084	2,797,178	3,420,771	3,492,428	3,498,976	
FTE	59.8	57.7	83.2	83.2	83.2	
Cash Funds Exempt	442,313	517,871	576,233	576,233	576,233	
						Recomd. v. Approp
SUBTOTAL - Special Purpose	19,597,317	19,781,635	24,884,639	37,172,255	33,887,854	36.2%
FTE	<u>67.0</u>	<u>58.7</u>	<u>84.2</u>	<u>84.2</u>	<u>84.2</u>	0.0%
General Fund	14,848,495	15,921,074	19,925,615	30,807,749	27,123,766	36.1%
Cash Funds	4,122,731	3,298,905	4,322,795	5,728,277	6,127,859	41.8%
FTE	66.0	57.7	83.2	83.2	83.2	0.0%
Cash Funds Exempt	489,177	561,656	636,229	636,229	636,229	0.0%
FTE	1.0	1.0	1.0	1.0	1.0	0.0%
Federal Funds	136,914	0	0	0	0	0.0%

(C) Judicial Performance

This subdivision is responsible for Judicial Performance evaluations.

Judicial Performance Program - CF				568,294		NP DI: Jud Perf
FTE				1.0		
Personal Services - CF	85,762	87,765	87,552	0	Staff recommends this appropriation be moved to the Administration subdivision	
FTE	1.0	1.0	1.0	0.0		
Operating Expenses - CF	199,779	176,575	478,445	0		

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	FY 2007-08 Recommd.	Change Requests
SUBTOTAL-Judicial Performance - CF	285,541	264,340	565,997	568,294		
FTE	1.0	1.0	1.0	1.0		

(D) Integrated Information Services

This subdivision is responsible for developing and maintaining information technology systems used by the courts, including ICON and CICJIS, for training staff on their use, and for assuring data integrity. The sources of cash funds are various fees and cost recovery.

The cash funds exempt are federal funds transferred through the Division of Criminal Justice.

Personal Services	2,725,257	2,966,478	3,112,544	3,168,822	3,276,464	
FTE	<u>39.2</u>	<u>39.2</u>	<u>43.1</u>	<u>43.1</u>	<u>45.0</u>	
General Fund	2,537,581	2,837,293	2,893,544 a/	2,949,822	3,057,464	JUD DI #2, 4
FTE	39.2	39.2	43.1 a/	43.1	45.0	JUD DI #2, 4
Cash Funds Exempt	0	129,185	219,000	219,000	219,000	
Federal Funds	187,676	0	0	0	0	
Operating Expenses	<u>149,592</u>	<u>193,400</u>	<u>224,569</u>	<u>224,569</u>	<u>227,344</u>	
General Fund	99,592	174,568	174,569	174,569	177,344	JUD DI #2, 4
Cash Funds	50,000	18,832	50,000	50,000	50,000	
Capital Outlay - GF	0	0	15,025	0	10,563	JUD DI #2, 4
JAVA Conversion - GF	n/a	n/a	285,508	311,054	311,054	
FTE			5.0	5.0	5.0	
Purchase of Services from Computer Center - GF	91,491	85,909	144,726	93,933	0	pending

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	FY 2007-08 Recommd.	Change Requests
Multi-use Network - GF	370,753	314,594	270,689	309,135	0	pending
Telecommunications Expenses	<u>309,710</u>	<u>310,000</u>	<u>383,392</u>	<u>383,392</u>	<u>383,392</u>	
General Fund	309,710	310,000	310,000	310,000	310,000	
Cash Funds	0	0	73,392	73,392	73,392	
Communications Services Payments - GF	8,193	10,790	11,708	10,338	0	pending
Hardware Replacement	<u>1,650,000</u>	<u>1,724,181</u>	<u>2,214,920</u>	<u>2,214,920</u>	<u>2,214,920</u>	
Cash Funds	1,650,000	1,649,181	2,214,920	2,214,920	2,214,920	
Cash Funds Exempt	0	75,000	0	0	0	
Hardware/Software Maintenance	<u>1,078,094</u>	<u>1,069,429</u>	<u>1,078,094</u>	<u>1,078,094</u>	<u>1,078,094</u>	
General Fund	1,043,094	1,043,094	1,043,094	1,043,094	1,043,094	
Cash Funds	35,000	26,335	35,000	35,000	35,000	
						Recomd. v. Approp
SUBTOTAL - Integrated Information						
Services	6,383,090	6,674,781	7,741,175	7,794,257	7,501,831	-3.1%
FTE	<u>39.2</u>	<u>39.2</u>	<u>48.1</u>	<u>48.1</u>	<u>50.0</u>	<u>4.0%</u>
General Fund	4,460,414	4,776,248	5,148,863	5,201,945	4,909,519	-4.6%
FTE	39.2	39.2	48.1	48.1	50.0	4.0%
Cash Funds	1,735,000	1,694,348	2,373,312	2,373,312	2,373,312	0.0%
Cash Funds Exempt	0	204,185	219,000	219,000	219,000	0.0%
Federal Funds	187,676	0	0	0	0	0.0%

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

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	FY 2007-08 Recommd.	Change Requests
						Recomd. v. Approp
TOTAL - Courts Administration	31,804,923	34,659,233	41,532,346	54,222,321	49,881,108	20.1%
FTE	<u>162.7</u>	<u>154.4</u>	<u>197.8</u>	<u>197.8</u>	<u>201.6</u>	<u>1.9%</u>
General Fund	23,205,123	26,367,980	30,668,703	41,832,859	38,146,935	24.4%
FTE	94.2	94.2	112.1	112.1	115.9	3.4%
Cash Funds	6,898,423	6,151,927	8,545,776	10,029,691	9,422,105	10.3%
FTE	67.5	58.7	84.7	84.7	84.7	0.0%
Cash Funds Exempt	1,376,787	2,139,326	2,307,532	2,354,219	2,306,516	0.0%
FTE	1.0	1.5	1.0	1.0	1.0	0.0%
Federal Funds	324,590	0	10,335	5,552	5,552	-46.3%

(3) TRIAL COURTS

Trial courts include district, county, and water courts. District courts have general jurisdiction over domestic, civil, and criminal cases, as well as appellate jurisdiction for decisions of county and municipal courts. County courts have jurisdiction over traffic cases and minor criminal and civil cases, as well as appellate jurisdiction for municipal courts. Cash funds are from various fees, including docket fees and cost recovery.

Personal Services	86,523,232	92,597,864	95,718,770	102,649,835	98,324,172	
FTE	<u>1,478.6</u>	<u>1,528.4</u>	<u>1,686.0</u>	<u>1,780.0</u>	<u>1,715.0</u>	
General Fund	80,607,894	84,504,084	88,860,803 a,b/	91,858,522	91,500,495	JUD DI #2, 3
FTE	1,391.5	1,441.5	1,599.1 b/	1,628.1	1,628.1	JUD DI #2, 3
Cash Funds	5,269,836	7,373,009	6,857,967	10,791,313	6,823,677	JUD DI # 1
FTE	87.1	86.9	86.9	151.9	86.9	JUD DI # 1
Federal Funds	645,502	720,771	0	0	0	
Operating Expenses	<u>7,072,837</u>	<u>6,076,552</u>	<u>6,623,006</u>	<u>6,798,208</u>	<u>6,638,719</u>	
General Fund	6,250	168,787	197,387 b/	271,839	213,100	JUD DI #2, 3
Cash Funds	7,066,587	5,907,765	6,425,619	6,526,369	6,425,619	JUD DI # 1

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	FY 2007-08 Recommd.	Change Requests
Capital Outlay	<u>61,547</u>	<u>481,230</u>	<u>1,029,387</u>	<u>1,263,992</u>	<u>141,023</u>	
General Fund	61,547	481,230	1,029,387 b/	212,903	141,023	JUD DI #2, 3
Cash Funds	0	0	0	1,051,089	0	JUD DI # 1
Mandated Costs	13,082,892	13,699,335	13,080,287	13,080,287	13,080,287	
FTE	<u>25.0</u>	<u>25.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	
General Fund	12,621,552	13,377,974	12,595,287 a/	12,595,287	12,595,287	
FTE	25.0	25.0	0.0	0.0	0.0	
Cash Funds	461,340	321,361	485,000	485,000	485,000	
Language Interpreters - GF	n/a	n/a	2,883,666	2,883,666	2,883,666	
FTE			<u>25.0</u>	<u>25.0</u>	<u>25.0</u>	
General Fund			2,833,666	2,833,666	2,833,666	
Cash Funds			50,000	50,000	50,000	
District Attorney Mandated Costs	<u>1,911,970</u>	<u>1,879,174</u>	<u>1,962,733</u>	<u>1,915,667</u>	<u>1,915,667</u>	
General Fund	1,911,970	1,772,849	1,837,733	1,790,667	1,790,667	
Cash Funds	0	106,325	125,000	125,000	125,000	
Sex Offender Surcharge Fund Program						
General Fund	19,665	15,535	21,021	24,988	24,988	
Victim Compensation	<u>9,300,471</u>	<u>9,275,866</u>	<u>9,654,000</u>	<u>9,654,000</u>	<u>9,654,000</u>	
Cash Funds	8,494,136	9,275,866	9,115,000	9,115,000	9,115,000	
Cash Funds Exempt	806,335	0	539,000	539,000	539,000	

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	FY 2007-08 Recommd.	Change Requests
Victim Assistance	<u>10,816,619</u>	<u>11,456,949</u>	<u>12,003,000</u>	<u>12,003,000</u>	<u>12,003,000</u>	
Cash Funds	10,816,619	11,456,949	11,651,000	11,651,000	11,651,000	
Cash Funds Exempt	0	0	352,000	352,000	352,000	
Federal Funds and Other Grants	643,792	1,060,599	2,146,627	2,296,627	2,296,627	
FTE	<u>8.5</u>	<u>8.5</u>	<u>8.5</u>	<u>8.5</u>	<u>8.5</u>	
Cash Funds	124,774	178,442	713,000	863,000	863,000	
Cash Funds Exempt	16,770	61,001	383,469	383,469	383,469	
FTE	6.0	6.0	6.0	6.0	6.0	
Federal Funds	502,248	821,156	1,050,158	1,050,158	1,050,158	
FTE	2.5	2.5	2.5	2.5	2.5	
						Recomd. v. Approp
TOTAL - Trial Courts	129,433,025	136,543,104	145,122,497	152,570,270	146,962,149	1.3%
FTE	<u>1,512.1</u>	<u>1,561.9</u>	<u>1,719.5</u>	<u>1,813.5</u>	<u>1,748.5</u>	1.7%
General Fund	95,228,878	100,320,459	107,375,284	109,587,872	109,099,226	1.6%
FTE	1,416.5	1,466.5	1,624.1	1,653.1	1,653.1	1.8%
Cash Funds	32,233,292	34,619,717	35,422,586	40,657,771	35,538,296	0.3%
FTE	87.1	86.9	86.9	151.9	86.9	0.0%
Cash Funds Exempt	823,105	61,001	1,274,469	1,274,469	1,274,469	0.0%
FTE	6.0	6.0	6.0	6.0	6.0	0.0%
Federal Funds	1,147,750	1,541,927	1,050,158	1,050,158	1,050,158	0.0%
FTE	2.5	2.5	2.5	2.5	2.5	0.0%

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

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

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	FY 2007-08 Recommd.	Change Requests
(4) PROBATION AND RELATED SERVICES						
This Division provides supervision of offenders sentenced to probation, presentence investigations for the courts, victim notification and assistance, and community outreach programs. Cash funds are from fees paid by offenders for supervision and restitution.						
Personal Services	42,624,292	46,330,138	49,504,928 a/	60,166,937	63,296,248	
FTE	<u>725.5</u>	<u>781.9</u>	<u>881.4</u> a/	<u>1,066.0</u>	<u>1,133.1</u>	
General Fund	40,391,993	44,094,277	45,212,558 a,b,c/	51,367,339	54,407,271	JUD DI #4
FTE	701.5	751.9	813.7 a,b/	912.1	979.2	JUD DI #4
Cash Funds	2,232,299	2,235,861	4,292,370 a/	8,799,598	8,888,977	NP DI: ADDS
FTE	24.0	30.0	67.7 a/	153.9	153.9	
Operating Expenses	<u>1,818,419</u>	<u>1,939,680</u>	<u>2,137,391</u>	<u>2,695,092</u>	<u>2,583,262</u>	
General Fund	1,802,852	1,844,115	1,962,891	2,204,522	2,184,413	JUD DI #4
Cash Funds	15,567	95,565	174,500	490,570	398,849	NP DI: ADDS
Capital Outlay - GF	0	304,903	87,291	526,185	567,033	JUD DI #4
Female Offender Program - CFE	209,129	Beginning in FY 05-06, funding for this program was merged into the Probation Personal Services and Operating Expenses line items.				
FTE	5.4					
Sex Offender Intensive Supervision						
Cash Funds	454,548	524,608	0 a/	0	0	

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	FY 2007-08 Recommd.	Change Requests
Offender Services	2,729,947	2,961,155	0 a/	0	0	
FTE	<u>25.1</u>	<u>31.5</u>	<u>0.0</u> a/	<u>0.0</u>	<u>0.0</u>	
Cash Funds	2,729,947	2,961,155	0 a/	0	0	
FTE	22.1	28.5	0.0 a/	0.0	0.0	
Cash Funds Exempt	0	0	0 a/	0	0	
FTE	3.0	3.0	0.0 a/	0.0	0.0	
Offender Treatment and Services	n/a	n/a	<u>5,962,077</u> a/	<u>6,294,290</u>	<u>6,294,290</u>	
General Fund			487,193 a/	487,193	487,193	
Cash Funds			3,824,884 a,d/	3,824,884	3,824,884	
Cash Funds Exempt			1,650,000 a/	1,982,213	1,982,213	JUD DI #5
Colorado Unified Supervision/ Treatment Program (CUSP) - GF	n/a	n/a		257,864	0	pending
FTE				4.0	0.0	
Electronic Monitoring/Drug Testing	<u>521,965</u>	<u>503,022</u>	<u>0</u> a/	<u>0</u>	<u>0</u>	
General Fund	464,685	446,605	0 a/	0	0	
Cash Funds	57,280	56,417	0 a/	0	0	
Alcohol/Drug Driving Safety Program	4,381,603	4,302,904	4,613,219	0	0	Staff recommends the NP DI
FTE	<u>81.0</u>	<u>73.3</u>	<u>86.2</u>	<u>0.0</u>	<u>0.0</u>	requesting to move the funding
Cash Funds	4,224,197	4,302,904	4,613,219	0	0	associated with this program to the
FTE	75.4	73.3	86.2	0.0	0.0	Probation Personal Services and
Cash Funds Exempt	157,406	0	0	0	0	Operating Expenses line items.
FTE	5.6	0.0	0.0	0.0	0.0	

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	FY 2007-08 Recommd.	Change Requests
Drug Offender Assessment	781,897	727,409	0 a/	0	0	
FTE	<u>10.7</u>	<u>11.5</u>	<u>0.0</u> a/	<u>0.0</u>	<u>0.0</u>	
Cash Funds	613,429	727,409	0 a/	0	0	
FTE	10.7	11.5	0.0 a/	0.0	0.0	
Cash Funds Exempt	168,468	0	0 a/	0	0	
Substance Abuse Treatment- CF	888,262	819,411	0 a/	0	0	
Victims Grants - CFE	711,626	334,081	882,821	882,821	882,821	
FTE	17.3	17.3	17.3	17.3	17.3	
S.B. 91-94 - CFE	1,138,660	1,248,378	1,475,276	1,906,837	1,906,837	
FTE	25.0	25.0	25.0	25.0	25.0	
S.B. 03-318 Community Treatment Funding - GF	n/a	n/a		2,500,000	2,200,000	JUD DI #6
Sex Offender Assessment	<u>230,357</u>	<u>192,597</u>	<u>0</u> a/	<u>0</u>	<u>0</u>	
Cash Funds	203,620	192,597	0 a/	0	0	
Cash Funds Exempt	26,737	0	0 a/	0	0	
Genetic Testing - GF	793	1,480	0 a/	0	0	

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	FY 2007-08 Recommd.	Change Requests
Federal Funds and Other Grants	2,298,679	1,993,387	4,663,739	4,663,739	4,663,739	
FTE	<u>32.3</u>	<u>32.3</u>	<u>32.3</u>	<u>32.3</u>	<u>32.3</u>	
Cash Funds	442,795	731,230	1,690,000	1,690,000	1,690,000	
FTE	2.0	2.0	2.0	2.0	2.0	
Cash Funds Exempt	445,073	294,898	1,737,985	1,737,985	1,737,985	
FTE	17.8	17.8	17.8	17.8	17.8	
Federal Funds	1,410,811	967,259	1,235,754	1,235,754	1,235,754	
FTE	12.5	12.5	12.5	12.5	12.5	
						Recomd. v. Approp
TOTAL - Probation	58,790,177	62,183,153	69,326,742	79,893,765	82,394,230	18.8%
FTE	<u>922.3</u>	<u>972.8</u>	<u>1,042.2</u>	<u>1,144.6</u>	<u>1,207.7</u>	<u>15.9%</u>
General Fund	42,660,323	46,691,380	47,749,933	57,343,103	59,845,910	25.3%
FTE	701.5	751.9	813.7	916.1	979.2	20.3%
Cash Funds	11,861,944	12,647,157	14,594,973	14,805,052	14,802,710	1.4%
FTE	134.2	145.3	155.9	155.9	155.9	0.0%
Cash Funds Exempt	2,857,099	1,877,357	5,746,082	6,509,856	6,509,856	13.3%
FTE	74.1	63.1	60.1	60.1	60.1	0.0%
Federal Funds	1,410,811	967,259	1,235,754	1,235,754	1,235,754	0.0%
FTE	12.5	12.5	12.5	12.5	12.5	0.0%

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	FY 2007-08 Recommd.	Change Requests
--	----------------------	----------------------	-----------------------------	-----------------------	------------------------	--------------------

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

b/ Per H.B. 06-1011, this appropriation includes \$19,682 General Fund and 0.4 FTE due to the creation of two new felonies:

(1) internet luring of a child and (2) internet sexual exploitation. The fiscal note for this bill assumed the new felonies would result in seven additional cases sent to probation.

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

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

Recomd. v. Approp

TOTAL - Judicial Department	233,758,185	247,682,959	272,051,452	302,763,998	295,313,768	8.6%
FTE	<u>2,756.5</u>	<u>2,855.2</u>	<u>3,139.7</u>	<u>3,341.1</u>	<u>3,343.0</u>	<u>6.5%</u>
General Fund	169,346,649	181,867,379	195,465,787	218,398,476	216,725,352	10.9%
FTE	2,323.9	2,426.0	2,682.4	2,813.8	2,880.7	7.4%
Cash Funds	56,451,564	59,228,710	64,756,335	71,730,514	66,001,111	1.9%
FTE	336.5	343.6	375.2	445.2	380.2	1.3%
Cash Funds Exempt	5,076,821	4,077,684	9,533,083	10,343,544	10,295,841	8.0%
FTE	81.1	70.6	67.1	67.1	67.1	0.0%
Federal Funds	2,883,151	2,509,186	2,296,247	2,291,464	2,291,464	-0.2%
FTE	15.0	15.0	15.0	15.0	15.0	0.0%

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	FY 2007-08 Recommd.	Change Requests
(5) PUBLIC DEFENDER						
Douglas Wilson, State Public Defender						
This agency provides legal counsel for indigent defendants who are facing incarceration. Cash funds are received for training provided to private attorneys. The cash funds exempt are for federal grants transferred to the Public Defender's Office from the Department of Public Safety.						
Personal Services	24,493,290	26,024,434	29,049,340	32,706,779	35,329,770	
FTE	<u>348.9</u>	<u>357.9</u>	<u>397.9</u>	<u>464.4</u>	<u>529.4</u>	
General Fund	24,429,900	25,961,044	28,892,200 a/	32,418,389	35,041,380	PDO DI #1
FTE	347.3	356.3	392.3 a/	458.8	523.8	PDO DI #1
Cash Funds	63,390	63,390	157,140	288,390	288,390	
FTE	1.6	1.6	5.6	5.6	5.6	
Health, Life, and Dental - GF	947,926	1,133,947	1,436,316	1,806,462	1,806,462	
Short-term Disability - GF	32,539	32,805	26,253	36,159	31,517	
Salary Survey - GF	597,768	720,235	843,028	1,030,273	934,562	
Anniversary Increases - GF	250,517	0	0	253,563	403,490	
S.B. 04-257 Amortization Equalization Disbursement (AED) - GF	n/a	48,828	164,566	351,808	282,846	PDO DI #1
S.B. 06-235 Supplemental Amortization Equalization Disbursement (SAED) - GF	n/a	n/a		98,388	50,508	PDO DI #1

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	FY 2007-08 Recommd.	Change Requests
Operating Expenses	<u>1,092,593</u>	<u>1,035,314</u>	<u>837,764</u>	<u>871,014</u>	<u>905,266</u>	
General Fund	1,076,843	1,019,564	822,014 a/	853,514	887,766	PDO DI #1
Cash Funds	15,750	15,750	15,750	17,500	17,500	
 Purchase of Services from GGCC - GF	 13,740	 12,449	 12,633	 13,107	 0	 pending
 Multi-use Network - GF	 211,185	 200,063	 198,251	 238,953	 0	 pending
 Vehicle Lease Payments - GF	 53,547	 43,035	 47,309	 47,229	 0	 pending
 Capital Outlay - GF	 19,458	 34,198	 112,681 a/	 218,997	 393,655	 PDO DI #1
 Leased Space/Utilities - GF	 2,074,825	 2,412,730	 2,599,818	 3,455,226	 3,455,226	 PDO DI #2
 Automation Plan - GF	 650,341	 1,006,768	 489,746	 489,746	 489,746	
 Contract Services - GF	 18,000	 18,000	 18,000	 18,000	 18,000	
 Mandated Costs - GF	 2,001,180	 2,178,921	 2,531,618	 2,531,618	 2,531,618	
 Grants - CFE	 88,756	 57,317	 14,938	 8,547	 8,547	

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	FY 2007-08 Recommd.	Change Requests Recomd. v. Approp
TOTAL - Public Defender	32,545,665	34,959,044	38,382,261	44,175,869	46,641,213	21.5%
FTE	<u>348.9</u>	<u>357.9</u>	<u>397.9</u>	<u>464.4</u>	<u>529.4</u>	<u>33.0%</u>
General Fund	32,377,769	34,822,587	38,194,433	43,861,432	46,326,776	21.3%
FTE	347.3	356.3	392.3	458.8	523.8	33.5%
Cash Funds	79,140	79,140	172,890	305,890	305,890	76.9%
FTE	1.6	1.6	5.6	5.6	5.6	0.0%
Cash Funds Exempt	88,756	57,317	14,938	8,547	8,547	-42.8%

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

(6) OFFICE OF THE ALTERNATE DEFENSE COUNSEL

Lindy Frolich, State Alternate Defense Counsel

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

Personal Services - GF	411,206	451,321	456,747	561,212	563,488	ADC DI #3, 5
FTE	3.0	5.0	5.0	6.5	6.5	
Health, Life, and Dental - GF	9,304	11,743	16,953	31,496	31,496	
Short-term Disability - GF	565	568	456	509	505	
Salary Survey - GF	7,410	1,771	10,983	16,244	18,422	
Anniversary Increases - GF	6,744	0	0	3,736	7,300	

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	FY 2007-08 Recommd.	Change Requests
S.B. 04-257 Amortization Equalization Disbursement (AED) - GF	n/a	849	2,857	4,918	4,536	
S.B. 06-235 Supplemental Amortization Equalization Disbursement (SAED) - GF	n/a	n/a		1,025	810	
Operating Expenses	<u>35,211</u>	<u>46,945</u>	<u>34,630</u>	<u>65,330</u>	<u>66,080</u>	
General Fund	35,211	45,415	26,630	65,330	66,080	ADC DI #3, 4
Cash Funds	0	1,530	8,000	0	0	ADC DI #5
Capital Outlay	0	0	0	6,010	6,010	ADC DI #3, 5
Purchase of Services from GGCC - GF	2,191	0	950	1,092	0	pending
Leased Space - GF	23,230	26,285	47,426	32,772	32,772	ADC DI #6
Training and Conferences	n/a	n/a	n/a	<u>28,000</u>	<u>28,000</u>	
General Fund				20,000	20,000	ADC DI #5
Cash Funds				8,000	8,000	ADC DI #5
Conflict of Interest Contracts - GF	11,328,626	13,283,794	16,299,606	21,776,696	18,512,293	ADC DI #1,2,3,7
Mandated Costs - GF	1,048,313	1,104,890	1,420,616	1,504,483	1,504,483	ADC DI #1,2

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	FY 2007-08 Recommd.	Change Requests
						Recomd. v. Approp
TOTAL - Alternate Defense Counsel	12,872,800	14,928,166	18,291,224	24,033,523	20,776,195	13.6%
FTE	<u>3.0</u>	<u>5.0</u>	<u>5.0</u>	<u>6.5</u>	<u>6.5</u>	<u>30.0%</u>
General Fund	12,872,800	14,926,636	18,283,224	24,025,523	20,768,195	13.6%
FTE	3.0	5.0	5.0	6.5	6.5	30.0%
Cash Funds	0	1,530	8,000	8,000	8,000	0.0%

(7) OFFICE OF THE CHILD'S REPRESENTATIVE

Theresa Spahn, Executive Director

This agency provides representation to children involved in the court system due to abuse and neglect, high-conflict divorce, or delinquency, who are legally entitled to appointed counsel. Counsel may take the form of guardians ad-litem or child family investigators.

Cash funds exempt was from reserves in the original cash fund created when the Office was established in 2000.

Personal Services - GF	1,455,582	1,517,847	1,597,393	1,634,659	1,629,747	OCR DI #8
FTE	4.0	4.0	4.0	25.8	25.8	
Health, Life, and Dental - GF	49,018	60,728	63,054	101,789	101,789	
Short-term Disability - GF	1,760	1,969	1,753	1,908	1,836	
Salary Survey - GF	26,866	46,254	40,544	58,004	53,159	
Anniversary Increases - GF	5,708	0	0	12,099	20,344	
S.B. 04-257 Amortization Equalization						
Disbursement (AED) - GF	n/a	2,814	10,987	22,225	16,474	

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	FY 2007-08 Recommd.	Change Requests
S.B. 06-235 Supplemental Amortization						
Equalization Disbursement (SAED) - GF	n/a	n/a		0	2,942	
Operating Expenses - GF	172,400	157,694	135,127	147,212	147,212	OCR DI #4,5
Purchase of Services from GGCC - GF	1,131	1,025	1,040	1,040	0	pending
Capital Outlay - GF	14,000	0	0	0	0	
Leased Space - GF	122,645	127,133	130,949	135,840	135,840	OCR DI #2
CASA Contracts - GF	20,000	20,000	20,000	20,000	20,000	
Training - GF	<u>27,859</u>	<u>28,000</u>	<u>28,000</u>	<u>38,000</u>	<u>38,000</u>	
General Fund	0	28,000	28,000	38,000	38,000	OCR DI #7
Cash Funds Exempt	27,859	0	0	0	0	
Court Appointed Counsel - GF	7,259,237	7,415,368	10,610,038	13,036,416	10,874,553	OCR DI #1, 3
Mandated Costs - GF	24,211	24,014	11,228	11,228	11,228	
						Recomd. v. Approp
TOTAL - Office of the Child's						
Representative -	9,180,417	9,402,846	12,650,113	15,220,420	13,053,124	3.2%
FTE	<u>4.0</u>	<u>4.0</u>	<u>4.0</u>	<u>25.8</u>	<u>25.8</u>	<u>545.0%</u>
General Fund	9,152,558	9,402,846	12,650,113	15,220,420	13,053,124	3.2%
FTE	4.0	4.0	4.0	25.8	25.8	545.0%
Cash Funds Exempt	27,859	0	0	0	0	0.0%

	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Appropriation	FY 2007-08 Request	FY 2007-08 Recommd.	Change Requests
						Recomd. v. Approp
JUDICIAL GRAND TOTAL	288,357,067	306,973,015	341,375,050	386,193,810	375,784,300	10.1%
FTE	<u>3,112.4</u>	<u>3,222.1</u>	<u>3,546.6</u>	<u>3,837.8</u>	<u>3,904.7</u>	<u>10.1%</u>
General Fund	223,749,776	241,019,448	264,593,557	301,505,851	296,873,447	12.2%
FTE	2,678.2	2,791.3	3,083.7	3,304.9	3,436.8	11.5%
Cash Funds	56,530,704	59,309,380	64,937,225	72,044,404	66,315,001	2.1%
FTE	338.1	345.2	380.8	450.8	385.8	1.3%
Cash Funds Exempt	5,193,436	4,135,001	9,548,021	10,352,091	10,304,388	7.9%
FTE	81.1	70.6	67.1	67.1	67.1	0.0%
Federal Funds	2,883,151	2,509,186	2,296,247	2,291,464	2,291,464	-0.2%
FTE	15.0	15.0	15.0	15.0	15.0	0.0%

Organization of the Judicial Branch

The Judicial Branch is comprised of four agencies, each falling under the jurisdiction of the Colorado Supreme Court. However, each agency is independent, has its own Director, and submits its own budget request with its own prioritized decision items. The ***Judicial Department*** is the largest of the four agencies, and is comprised of the Supreme Court, Court of Appeals, the State Court Administrator's Office, attorney regulation, victims programs, collections programs, Trial Courts, and the state Probation Program. The ***Public Defender's Office*** and the ***Office of Alternate Defense Counsel*** provide legal representation for indigent criminal defendants. Such cases are first assigned to the Public Defender's Office, which must refer cases to the Alternate Defense Counsel if there is 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 (such as those involved in dependency and neglect cases), and is responsible for ensuring quality representation.

Decision Item Requests

The table below summarizes all decision items submitted by the Judicial Branch agencies. Staff has provided recommendations ranging from ***Critical*** (for those requests staff recommends because they address urgent needs), to ***Non-Critical*** (for those requests staff recommends based on a sound business case, but that address needs not quite as urgent), to ***Not Recommended*** (for those requests with less of a business case that staff does not recommend).

Summary of Decision Item Requests

Staff Recommendation Key:

Critical = Staff strongly recommends funding in full or in excess of the request to addresses urgent needs

Non-Critical = Staff recommends because of a sound business case, but the needs are not as urgent

Not Recmd. = Staff does not recommend

	Description	GF	CF/CFE	Total	FTE	Staff Recommd. ^a	Page
JUD 1	New District Court Judges	<i>This request is addressed through H.B. 07-1054</i>					
JUD 2	Additional Trial Court Staff	\$1,239,761	\$0	\$1,239,761	28.8	Non-Critical	33
JUD 3	Additional County Court Magistrate	\$117,299	\$0	\$117,299	1.0	Non-Critical	38
JUD 4	Additional Probation Officers	\$5,881,378	\$0	\$5,881,378	96.5	Critical	40
JUD 5	Increase Drug Offender Surcharge Fund Spending Authority	\$0	\$332,213	\$332,213	0.0	Non-Critical	44
JUD 6	Community Treatment Funding Related to S.B. 03-318	\$2,500,000	\$0	\$2,500,000	0.0	Non-Critical	45
PDO 1	Staff to Address Caseload Increases	\$2,982,290	\$0	\$2,982,290	66.5	Critical	49
PDO 2	Leased Space Requirements	\$669,936	\$0	\$669,936	0.0	Non-Critical	93
ADC 1	Case Costs Increase	\$2,383,314	\$0	\$2,383,314	0.0	Non-Critical	53
ADC 2	Mileage Rate Increase Associated with S.B. 06-173	\$118,314	\$0	\$156,572	0.0	Non-Critical	105
ADC 3	Create Appellate Case Manager	(\$40,906)	\$0	(\$40,906)	1.0	Non-Critical	96
ADC 4	Base Operating Expenses Increase	\$38,700	\$0	\$38,700	0.0	Non-Critical	102
ADC 5	Attorney Oversight & Training	\$69,611	\$0	\$69,611	0.5	Non-Critical	98
ADC 6	Leased Space Correction	(\$14,654)	\$0	(\$14,654)	0.0	Non-Critical	104
ADC 7	Raise Court-appointed Counsel Rate	\$3,125,831	\$0	\$3,125,831	0.0	Not Recmd.	58
OCR 1	Caseload Growth Increase	\$264,515	\$0	\$264,515	0.0	Non-Critical	55
OCR 2	Leased Space Escalator	\$4,891	\$0	\$4,891	0.0	Non-Critical	112
OCR 3	Raise Court-appointed Counsel Rate	\$2,291,706	\$0	\$2,291,706	0.0	Not Recmd.	58
OCR 4	Mileage Rate Increase Associated with S.B. 06-173	\$4,244	\$0	\$4,244	0.0	Non-Critical	111
OCR 5	Funding Westlaw Contract	\$7,841	\$0	\$7,841	0.0	Non-Critical	111
OCR 6	Billing Staff Reallocation	<i>Withdrawn</i>					
OCR 7	One-time Training Resources	\$10,000	\$0	\$10,000	0.0	Non-Critical	113

	Description	GF	CF/CFE	Total	FTE	Staff Recommd. ^a	Page
OCR 8	Convert GAL Office Staff to FTE	\$0	\$0	\$0	21.8	Non-Critical	108
	<i>Totals</i>	<i>\$21,654,078</i>	<i>\$332,213</i>	<i>\$21,986,291</i>	<i>216.1</i>		

^a Staff recommendations may be equal to, greater than, or less than the request.

Organization of the Figure-setting Packet

In the figure-setting packets of most departments, the budget is addressed in Long Bill order and decision items are addressed as they arise. However, with the Judicial Branch, staff has taken a somewhat different approach. The four agencies comprising the Branch are seeking a total increase of \$36.9 million General Fund, or 14.0 percent. Of this increase, \$20.8 million is comprised of ten major decision items. Instead of addressing such significant requests in a scattershot fashion as they appear in the Long Bill, staff is providing the Committee with a more comprehensive picture and the opportunity to consider the most financially and programmatically significant pieces first. These decision items have been divided into three groups based on program: Court Processing, Probation, and Court-appointed Counsel (see table below).

What follows is a discussion of each of these broader issues, then more detail about each decision item, and finally staff recommendations for each decision item. Following the discussion of the decision items listed in the table below is the main body of the figure-setting packet. That portion of the document has staff recommendations for all line items in Long Bill order, including the staff recommendations for all decision items. If the Committee approves funding for a decision item that differs from staff recommendation, the appropriations for all of the affected line items will be adjusted accordingly in the Long Bill.

Overview of Major Decision Items for the Judicial Branch

	Description	GF	CF/CFE	Total	FTE	Staff Recommd. ^a	Page
COURT PROCESSING		\$1,357,060	\$0	\$1,357,060	29.8		
JUD 2	Additional Trial Court Staff	\$1,239,761	\$0	\$1,239,761	28.8	Non-Critical	33
JUD 3	Additional County Court Magistrate	\$117,299	\$0	\$117,299	1.0	Non-Critical	38
PROBATION		8381378	\$332,213	\$8,713,591	96.5		
JUD 4	Additional Probation Officers	\$5,881,378	\$0	\$5,881,378	96.5	Critical	40
JUD 5	Increase Drug Offender Surcharge Fund Spending Authority	\$0	\$332,213	\$332,213	0.0	Non-Critical	44
JUD 6	Community Treatment Funding Related to S.B. 03-318	\$2,500,000	\$0	\$2,500,000	0.0	Non-Critical	45
COURT-APPOINTED COUNSEL		\$11,047,655	\$0	\$11,047,655	66.5		
PDO 1	Staff to Address Caseload Increases	\$2,982,290	\$0	\$2,982,290	66.5	Critical	49
ADC 1	Case Costs Increase	\$2,383,314	\$0	\$2,383,314	0.0	Non-Critical	53
OCR 1	Caseload Growth Increase	\$264,515	\$0	\$264,515	0.0	Non-Critical	55
ADC 7	Raise Court-appointed Counsel Rate	\$3,125,831	\$0	\$3,125,831	0.0	Not Recmd.	58
OCR 3	Raise Court-appointed Counsel Rate	\$2,291,705	\$0	\$2,291,705	0.0	Not Recmd.	58
Totals		\$20,786,093	\$332,213	\$21,118,306	192.8		

^a Staff recommendations may be equal to, greater than, or less than the request.

Overview of Staff Recommendations

COURT STAFFING. Staff recommends funding these decision items in full. The primary business of the Branch is providing the public with timely access to the courts. If staffing resources do not keep pace with growing court caseloads, that access is threatened. However, staff believes that other requests - such as those for additional probation officers and staff for the Public Defender's Office - are of a higher priority. Trial courts staffing is hovering at 87 percent, whereas probation staffing is at 75 percent and PDO staffing is at only 66 percent.

PROBATION. The requested increase in probation officers is one of two requests that staff deems as critical to the Branch. With probation staffing at 75 percent, high caseloads raise real public safety concerns. The other probation requests address the need for treatment funding. Staff recommends these requests as well, as adequate treatment can help reduce recidivism, but they are not as urgent as the need for additional probation officers.

COURT-APPOINTED COUNSEL. The most critical request submitted by the Branch is the need for additional public defenders. Extremely high average caseloads have resulted in ethics concerns and high staff turnover for several years. With staffing at less than 70 percent of need, the Public Defender's Office is facing a staffing crisis that warrants a significant infusion of resources. Staff strongly recommends funding in excess of what was requested in order to raise staffing to 80 percent of total need.

The ADC and OCR both submitted requests to increase funding commensurate with increased case costs. Staff recommends these requests since these offices are mandated to pay their contract attorneys. However, staff did not classify the requests as Critical since the amounts requested are based on estimates and additional funding can be sought through a mid-year supplemental, if necessary. These agencies also submitted coordinated requests to raise their hourly court-appointed counsel rates. While staff agrees that the current rate is not competitive, given the multitude of needs facing the Branch, and the fact that the rate was just raised in FY 2006-07, staff does not recommend not funding these requests.

GENERAL FUND. The Branch requested a General Fund increase of 14.0 percent over its current appropriation. Staff is recommending a General Fund increase of \$32.3 million, an 12.2 percent increase over the current appropriation. Staff recommendations do not include any funding for several lines for which common policy decision making is still outstanding, such as Workers' Compensation, Payments to Risk Management, Multi-Use Network Payments, and legal services rates. If these lines are funded at the requested levels, and all staff recommendations are approved, the Branch will receive a General Fund increase of \$37.8 million or a 14.3 percent increase over the current fiscal year. It should be noted that in this scenario, technical changes and common policies would be responsible for 6.5 percent of the General Fund increase. The table on the following page shows staff's recommended General Fund changes and the percentage of the total increase in General Fund each change represents.

Staff Recommended General Fund Changes

Type of Change ^a	Description	Dollar Change from FY 2006-07 Approp	% Change from Approp
	FY 2006-07 GF Appropriation	264,593,557	
DI	Additional Probation Officers (JUD DI #4)	8,896,875	3.36%
DI	PDO Additional Staff (PDO DI #1)	5,765,559	2.18%
DI	Caseload and Case Cost Increases ^b	2,647,829	1.00%
DI	S.B. 03-318 Community Treatment Funding	2,200,000	0.83%
DI	Trial Courts Staff (JUD DI #2)	1,001,844	0.38%
DI	Additional Magistrate (JUD DI #3)	107,973	0.04%
DI	ADC Atty Oversight/Training (ADC DI #5)	68,731	0.03%
DI	ADC Operating Base Increase (ADC DI #4)	38,700	0.01%
DI	S.B. 06-173 Mileage Rate Increase ^c	13,244	0.01%
DI	One-time Training Funding (OCR DI #7)	10,000	0.00%
DI	Westlaw Contract (OCR DI #5)	7,841	0.00%
DI	Appellate Case Manager (ADC DI #3)	(41,973)	(0.02)%
Tech	FY 2006-07 Salary Survey	5,344,090	2.02%
Common	FY 2007-08 SS Common Policy Change	4,662,681	1.76%
Common	FY 2007-08 HLD Common Policy Change	2,413,930	0.91%
Common	FY 2007-08 PBP Common Policy Change	2,278,135	0.86%
Common	FY 2007-08 AED & SAED Policy Change ^d	1,153,655	0.44%
Tech	Leased Space Adjustments	862,406	0.33%
Common	FY 2007-08 STD Common Policy Change	58,939	0.02%
Tech	Miscellaneous Technical Changes ^e	(157,015)	(0.06)%
Common	0.5 Percent Base Reduction	(778,677)	(0.29)%
Tech	Deduct FY 2006-07 Capital Outlay	(1,492,331)	(0.56)%
Common	Items Pending Common Policy Decisions ^f	(2,782,546)	(1.05)%
	FY 2007-08 GF Recommendation	296,873,447	
Recommended GF Change		32,279,890	
Percent Change in GF		12.2%	
Percent of GF Increase Attributable to Decision Items			7.8%
Percent GF Increase Attributable to Technical Changes & Common Policies^g			4.4%

^a Changes are classified as either decision items (DI), technical changes (Tech), or common policy changes (Common).

^b ADC DI #1 for \$2,383,314 and OCR DI #1 for \$264,515.

^c ADC DI #2 for \$9,000 and OCR DI #4 for \$4,244.

^d The recommendations, based on common policy decision making, are \$801,225 for AED and \$352,430 for SAED.

^e These changes include reductions of \$139,462 in the estimated funding needed for Retired Judges, and \$47,066 in District Attorney Mandated Costs. These reductions are partially offset by increases of \$25,546 to annualize FY 2006-07 decision items and special bills, and \$3,967 in increased funding related to the administration of the Sex Offender Surcharge Fund.

^f The outstanding line items are Workers' Compensation, Payments to Risk Management, Vehicle Lease, Purchase of Services from GGCC, Multi-use Network Payments, Communication Services, and the Legal Services blended rate.

^g This percentage will change once outstanding common policies are decided upon. If the Committee approves the requested funding for each of the affected line items, the total General Fund recommendation would be \$302,428,539 (an increase of \$37,834,982). In that scenario, technical changes and common policies would be responsible for 6.5 percent of the General Fund increase.

COURT PROCESSING

There are two decision items related to court processing:

- JUD Decision Item #2: Additional Trial Courts Staff
- JUD Decision Item #3: Additional County Court Magistrate

Colorado's trial courts consist of both district court and county courts. While terminations outpaced filings in FY 2000-01, since that time, the trial courts have only been able to resolve 97 percent of the cases filed (see table below). With the number of terminations not equaling or exceeding the number of cases filed on an annual bases, the number of backlogged cases continues to grow.

Trial Court Case Filings and Terminations, FY 1999-00 to FY 2005-06

	FY 99-00	FY 00-01	FY 01-02	FY 02-03	FY 03-04	FY 04-05	FY 05-06
Cases Filed	606,321	599,849	634,230	667,973	691,452	738,959	745,551
Cases Terminated	593,454	621,323	621,323	635,472	669,869	705,570	722,636
Percent of Cases Filed Resolved	97.9%	103.6%	98.0%	95.1%	96.9%	95.5%	96.9%
Backlog		n/a	12,907	45,408	66,991	100,380	123,295

JUD DI #2: ADDITIONAL TRIAL COURT STAFF

This decision item seeks \$1,239,761 General Fund and 28.8 FTE. The FTE are comprised of 28.0 Court Clerk FTE, 0.5 IT staff FTE, and 0.3 Human Resources FTE.

Weighted Caseload Model. Staffing need is calculated using a weighted caseload model. This model was created by conducting time studies that require staff to keep detailed records of how much time they spend on different functions related to each case they process. The data is used to calculate the average time needed to process each type of case. These average case processing times are multiplied with the projected caseload by case type to estimate the total staffing time required. Staffing need is determined by dividing total staffing time by the amount of time an FTE has to work on case processing. This process is conducted at both the county and district court level for each judicial district and the results summed to generate the total court staffing needs of the Department.

Background. This request reflects an on-going need for trial court staff as cases filings continue to increase. Due to the state's budget crisis in FY 2003-04, 129 trial court staff were eliminated and staffing fell from 95 percent to below 85 percent of full need. In response, the Department has tried to maximize its resources, streamline procedures, and increase its reliance on technology. Part of this effort includes courts focusing their resources on cases related to public safety and child welfare.

This prioritization has allowed the courts to hold dispositions in criminal and child welfare cases within acceptable time frames, but has resulted in increased delays for many civil cases. For example, in FY 2003-04, 100 percent of warrants were entered into the judicial case management system within one business day of issuance; by FY 2005-06, that figure had fallen to 89 percent. Likewise, the percentage of protective orders entered within one business day of issuance by the court has fallen from 95 to 92 percent in the past three years. Delays in entering and vacating warrants and restraining orders correspond to increased risk to the public. Additionally, some courts operate with reduced hours, reduced phone service, reduced pro se assistance, and so forth.

Request. In recent years, the Department has used additional funding and vacancy savings to increase staffing levels. For FY 2006-07, the courts are at 89.4 percent of full staffing. Now, some of the service reductions described above are starting to be less common, at least in larger districts. The 28.0 trial court staff FTE requested do not fully cover the anticipated caseload growth; even if this request is fully funded, in FY 2008-09 staffing levels would fall to an estimated 87.4 percent.

Five-Year Plan. The table below shows actual staffing levels for FY 2004-05 through FY 2006-07, as well as projections through FY 2010-11. The projections assume that the Department receives 28.0 additional trial court staff FTE each year beginning in FY 2007-08, as outlined in its Five-Year Plan. As shown in the bottom row, these increases would keep the Department at 84 to 86 percent of full staffing, but do not return it to the staffing level seen prior to the budget cuts (95 percent).

Trial Court Staffing, FY 2004-05 to FY 2010-11 (est.) ^a

		FY 04-05	FY 05-06	FY 06-07	FY 07-08 w/ DI #2 (28.0 TC staff)	FY 08-09	FY 09-10	FY 10-11
		Actual	Actual	(Est.)	(Est.)	(Est.)	(Est.)	(Est.)
1	Case Filings	739,392	745,551	768,652	781,659	798,010	815,768	841,289
2	Case Closings ^b	723,696	743,904	741,749				
3	Trial Court Staff Appropriation ^a	1,289	1,320	1,370	1,398	1,426	1,454	1,482
4	Trial Court Staff for Full Staffing Based on Caseload Model	1,407	1468	1,533	1,600	1,605	1650	1686
5	<i>Staffing Deficit (row 3 - row 4)</i>	<i>-118</i>	<i>-148</i>	<i>-163</i>	<i>-202</i>	<i>-179</i>	<i>-196</i>	<i>-204</i>
6	<i>Percent of full staffing (row 3 / row 4 * 100)</i>	<i>91.6%</i>	<i>89.9%</i>	<i>89.4%</i>	<i>87.4%</i>	<i>88.8%</i>	<i>88.1%</i>	<i>87.9%</i>

^a The Trial Court Staff Appropriations for FY 2007-08 through FY 2010-11 assume 28.0 new staff per year as outlined in the Department's five-year plan and therefore includes the additional staff requested in FY 2007-08.

^b The Department does not forecast the number of terminations. Over the past 5 years, FY 20001-02 to FY 2005-06, the average termination rate has been 96.5% of filings. If additional staff positions are provided to the Department, it would be assumed that the termination rate would rise from the current rate to a level equal to approximately 100% in FY 2010-11. If no additional staff positions are provided, the percentage of filings terminated annually would be estimated to decline.

Source Data:

Row 1 and 2: Actual filing and termination data taken from the Colorado Judicial Branch Annual Statistical Reports.

Row 4: Staff FTE data is calculated by applying filings to the current weighted caseload model for trial court support along with policy decisions that determine the need for court reporters, law clerks, family court facilitators, and administrative staff.

Staff recommendation on trial court staff. The request is not sufficient for the Department to maintain the current level of staffing (89.4 percent). However, with the requested FTE, trial courts staffing would remain above 87.0 percent. While it is undesirable for the trial courts to lose ground on staffing levels, **staff recommends the requested number of court staff.**

Staff's primary reason for not recommending twice the requested number of staff (which would keep projected staffing levels at 89 percent in FY 2007-08), is that the Probation Program and Public Defender's Office are facing an even greater staffing deficits and staff is recommending additional resources be directed there. However, funding for both the request and for double the request is provided on the table on page 37.

Support Staff Requests

As the Department's number of FTE increase, it is seeking to maintain a certain base level of support functions, including human resources (HR) and information technology. Therefore, the Judicial Department is requesting an increase in HR and IT support staff with decision items that significantly increase the number of FTE. This policy affects two decision items: this decision for additional trial courts staff, and Decision Item #4 for 96.5 additional Probation FTE.

Human Resources Staff Request. The Judicial Department's HR functions are largely decentralized; it currently has a central HR staff of 8.0 FTE and because it has a separate personnel system, receives no HR support from the Department of Personnel and Administration. Judicial's HR staff provides training to Chief Justices, District Administrators, and Chief Probation Officers in all areas related to employees, including benefits, Judicial Branch policies and procedures (including Branch personnel rules), laws relating to workplace standards (such as the Americans with Disabilities Act; Fair Labor Standards Act; Family and Medical Leave Act; Civil Rights Act), and issues such as sexual harassment and discrimination. The HR staff also provides advice, guidance, and training in the areas of employee recruitment, hiring, motivation, discipline, and workforce development.

According to the 2005 Human Capital Benchmarking Study conducted by the Society for Human Resources Management, the average ratio of employees to HR staff nationally is 82:1. For comparison, of the 16 state agencies for which data was provided last year,¹ the average HR to staff ratio was 1:125, with a range of 1:17 (Governor's Office) to 1:354 (Department of Corrections). In FY 2005-06, Judicial's HR staff ratio was 1:500. In FY 2006-07, the Legislature approved 2.0 new HR FTE which reduced the HR staffing ratio to approximately 1:420.²

In an effort to continue to address the disproportionate number of HR staff, in its FY 2007-08 budget submission, Judicial is requesting 1.0 HR FTE for every 82 new staff requested (rounded to the nearest

¹ The agencies not included are the Legislature, and the Departments of Higher Education, Personnel and Administration, Revenue, and Transportation.

² Judicial has over 3,100 FTE (since some are part-time, there is probably closer to 3,350 individuals). With 8.0 HR staff, the HR to staff ratio is approximately 1:420.

0.25 FTE); this ratio is a reflection of the 1:82 national average. Therefore, this decision item includes a request for 0.3 HR FTE.

Information Technology Staff Request. IT support staff install hardware and software, solve hardware and software problems, update virus software, repair and install printers and other equipment, and provide general trouble-shooting assistance. Judicial's IT staff must support users - and their IT equipment - in every county in the state.

The Gartner Group, an international technology research and consulting organization, recommends a computer support position to staff ratio of 1:50. The Judicial Department, with over 3,100 FTE (plus other IT users that must be supported such as private probation providers) and 21.0 IT support staff, currently has a ratio of 1:143. Therefore, for every 50 new staff requested, the Department is seeking to address the incremental workload increase by requesting 1.0 regional IT technician FTE (reflecting the 1:50 national average). Therefore, this decision item includes a request for 0.5 IT support staff FTE.

Staff recommendation on support staff. Support staff are not typically included in decision items for additional FTE. However, when FTE increases reach a certain magnitude, it is logical that additional support staff would be needed. Denying the requested HR and IT staff to address the incremental workload increase generated large number of new FTE would require existing staff to absorb a significant amount of work which may or may not be feasible. However, instead of using national private sector HR and IT staffing averages as the basis for the increase, **staff recommends providing additional HR and IT support staff a ratio of 1:100 if total FTE increases by 25.0 or more.**

The recommended funding, by line item, is outlined in the table below.

Recommended Funding for JUD DI #2: Additional Trial Courts Staff

Line Item		Request and Recommendation ^a	Alternative 1: Double Court Staff Requested
		28.0 Court Clerk FTE 0.3 HR FTE 0.3 IT FTE	56.0 Court Clerk FTE 0.5 HR FTE 0.5 IT FTE
Total	Total - GF	1,001,844	1,996,646
	FTE	28.6	57.0
Courts Administration (HR Staff)			
Personal Services	Total - GF	14,096	28,192
	FTE	0.3	0.5
Operating Expenses	Total - GF	375	750
Capital Outlay	Total - GF	3,521	3,521
Integrated Information Services (IT Staff)			
Personal Services	Total - GF	12,184	24,368
	FTE	0.3	0.5
Operating Expenses	Total - GF	375	750
Capital Outlay	Total - GF	3,521	3,521
Trial Courts (Court Staff)			
Personal Services	Total - GF	869,632	1,739,264
	FTE	28.0	56.0
Operating Expenses	Total - GF	14,000	28,000
Capital Outlay	Total - GF	84,140	168,280

^a The difference between the requested and recommended FTE is because staff is recommending fewer IT FTE than requested. Consistent with Legislative Council Services 2007 fiscal note policy, staff did not include funding for Health, Life and Dental, Short-term Disability, or Amortization Equalization Disbursement, although funding for these line items was requested. The total in this column also differs from the request due to differences in the requested and recommended funding for per FTE Operating Expenses and Capital Outlay.

JUD DI #3: ADDITIONAL COUNTY COURT MAGISTRATE

The Department is seeking \$117,299 General Fund for 1.0 FTE, comprised of 0.25 county court magistrate FTE and 0.75 support staff FTE.

Background. County courts are courts of limited jurisdictions, handling misdemeanors and felony advisements, setting bonds, and conducting preliminary hearings. County judges also issue search warrants, grant or hear protection orders in cases of domestic violence, preside over traffic cases and civil actions involving no more than \$15,000, and preside over jury trials.

Fremont County in the 11th Judicial District is designated a "Class C County" under section 13-6-201, C.R.S. In Class C counties, county judge positions are part-time, but judges are allowed to work full-time if a waiver is provided by the State Chief Justice pursuant to section 13-30-103(1)(I)(III), C.R.S.

Since FY 1999-00, Fremont County Court caseload has increased by an average of 6.0 percent per year and is projected to increase by approximately 2.5 percent per year through FY 2010-11. According to the Judicial Department's weighted caseload model,³ Fremont County needs a total of 1.27 judicial officers. The Fremont county judge is working full-time and caseloads have risen to such a level that Judicial is seeking legislation to change it to "Class B" (full-time) status.⁴ However, the 0.27 staffing deficit indicates that the county is 25 percent understaffed for judicial officers.

Due to the increases in caseload, the judge in Fremont County is having difficulty meeting the workload demands. For example, 28 percent of all DUI cases in Fremont County take longer than six months (the statewide time standard) to resolve. The percentage of DUI cases exceeding the time standard in Fremont County is almost twice the statewide rate of 15 percent.

Request. Fremont County's judicial officer deficit could be addressed by the authorization of a part-time magistrate. The Department is seeking funding for 0.25 additional magistrate and associated support staff. Magistrates perform judicial duties assigned by the Chief Judge in criminal, civil, small claims, traffic, and other judicial proceedings. This request is part of the Judicial Department's five-year plan to address its resource needs.

³ A weighted caseload model assigns varying "weights" to each case type to account for the varying complexity and time required to process the cases. By weighting cases, the Department can conduct an objective assessment of judicial resource need among courts that vary in population size and caseload mix.

⁴ House Bill 07-1207 would reclassify Fremont County from a Class C to a Class B county for organizational and administrative purposes concerning county courts. This bill is currently under consideration in the Senate.

Recommendation. This magistrate is needed to process cases in a timely fashion in Fremont County. Therefore, **staff recommends the decision item as requested.**

Recommended Funding for JUD DI #3: Additional County Court Magistrate

Trial Courts Line Item		Request and Recommendation ^a
		0.25 Magistrate FTE 0.25 Division Clerk FTE 0.25 Asst. Division Clerk FTE 0.25 Court Clerk FTE
Total	Total - GF	107,973
	FTE	1.0
Personal Services	Total - GF	49,377
	FTE	1.0
Operating Expenses	Total - GF	1,713
Capital Outlay	Total - GF	56,883

^a The total in this column also does match the request due to differences in the requested and recommended funding for per FTE Operating Expenses and Capital Outlay.

PROBATION PROGRAMS

Probation is a sentencing option for adult criminal offenders who are not in need of incarceration, and adjudicated youth who are not in need of out-of-home placement. It provides supervision and services to offenders based upon their assessed risk and need levels. Case management requires an officer to carefully strategize the best course of action for each offender, including which treatment providers will offer the best services and what course of action will be needed to ensure accountability of actions. Officers must also stay in contact with the other professionals involved in each offender's life.

There are more offenders on probation than in prisons and jails combined. Additionally, probation is no longer just for misdemeanants or first-time low-level offenders: many probationers are convicted of serious offenses, including sex offenses. There are two components to probation programs: supervision and treatment. JUD DI #4 seeks additional probation officers to strengthen the supervision portion of the program, and JUD DI #5 and #6 seek increased funding to provide additional support services. Each decision item is discussed below.

JUD DI #4: ADDITIONAL PROBATION OFFICERS

The request is for 96.5 FTE and \$5,881,378 General Fund to help reduce probation officer to offender ratios. The FTE include 68.0 probation officers, 10.4 probation supervisors, 15.1 secretaries, 1.3 HR staff, and 1.8 IT staff.

Despite the importance of probation, there is relatively little known about its effectiveness or what the most effective-caseload size is. The general belief is that lower caseloads result in increased public safety. One study that supported this belief was conducted by the California Institute for County Government.⁵ This study compared probation caseload data and crime rates in every county in California. Controlling for other factors known to influence crime rates (such as the demographic characteristics of the population, economic conditions, and local law enforcement activities), the study found a statistically significant relationship between probation caseload and property crime rate, indicating that as caseloads shrink, so does the crime rate.

Caseload Standards. Probation programs must ask what the most effective and efficient probation caseload is. Because there is so much variation between probation programs across the county, and

⁵ *Does Probation Work?*, California Institute for County Government Research Brief, September 2001.

because so many factors influence probation success rates (including the risk level of the offenders, availability of support services, and economic conditions), there is no national caseload standard. The American Probation and Parole Association encourages probation programs to differentiate between the supervision needs of different types of offenders (high risk offenders need more supervision, low risk offenders need less), and develop individual caseload models based on workload.⁶

Colorado's Probation Program does differentiate between offenders. In regular adult and juvenile probation, offenders are classified on a spectrum from low- to high-risk and provided a level of supervision that corresponds to their risk level. Probationers can also be placed in a specialized program depending on their risk level and needs, such as: Adult Intensive Supervision Probation (AISP) for high-risk adult offenders who would otherwise be sentenced to the Department of Corrections or community corrections; the Female Offender Program (FOP), for felony female offenders with significant drug and alcohol problems who would otherwise need residential treatment or placement in a community corrections facility; and Sex Offender Intensive Supervision Probation (SOISP), a mandatory program for all felony adult sex offenders that provides the highest level of probation supervision.

Weighted Caseload Model. In the Probation Program, low workload values are assigned to minimum and medium risk offenders, higher workload values to maximum risk offenders, and highest values for sex offenders. The program takes these workload values, and multiplies them by the number of offenders in each category (based on historic data and caseload projections) to determine its staffing needs.

In addition to providing supervision, another primary responsibility of the Probation Program is to conduct pre-sentence investigations (PSIs). PSI reports are used by judges when sentencing an offender. PSI reports include a probation officer's evaluation of the offender, the circumstances of the offense, a personal and criminal history of the offender and a sentencing recommendation. Victims also have an opportunity to provide information on what impact the crime has had on their lives and may express their opinions regarding the appropriate sentence within the report. The Department's weighted caseload model also incorporates the need for PSI writers. The table below summarizes historic and projected supervision caseload, PSIs, and staffing resources (including Probation Officers, PSI writers, probation supervisors, and administrative staff), assuming this decision item is funded.

⁶ *Caseload Standards*. The American Probation and Parole Association. <http://www.appa-net.org/about%20appa/caseload.htm>

Probation Workload and Staffing,^a FY 2004-05 to FY 2011-12 (est.)

	FY 04-05	FY 05-06	FY 06-07 (est.)	FY 07-08 (est.)	FY 08-09 (est.)	FY 09-10 (est.)	FY 10-11 (est.)	FY 11-12 (est.)
Staffed Cases	60,163	56,088	60,464	66,418	70,011	73,200	76,546	80,056
PSIs	23,846	25,861	24,896	21,644	21,950	22,710	22,391	22,615
FTE Need	794.5	904.3	923.0	1,070.2	1,115.2	1,157.3	1,202.3	1,247.3
FTE Approp ^a	616.0	671.6	691.2	784.7	858.8	932.9	1,007.0	1,081.1
Percent Full Staffing	77.5%	74.3%	74.9%	73.3%	77.0%	80.6%	83.8%	86.7%

^a For FY 2007-08, the FTE appropriation assumes funding of the decision item as requested, which would provide 93.5 additional probation staff. For FY 2008-09 and beyond, the FTE appropriation assumes an additional 74.1 FTE per year as outlined in the Department's Five-Year Plan.

Due to the state budget crisis in FY 2003-04, the Judicial Department lost 61.2 probation staff (probation officers and clerical staff) through layoffs, early retirements, and forced vacancies. This staff loss resulted in increased caseloads and reduced success rates for the regular adult and juvenile probation programs, and for the Adult and Juvenile Intensive Supervision Probation programs (AISP and JISP). Since then, the Department has sought incremental increases in probation officers each year in an effort to reduce the gap between current and full staffing.

The bottom row of the table shows the percent change in staffing percentages, assuming the FY 2007-08 decision item is approved and that future requests based on the Department's Five-Year Plan are also approved (the plan assumes requests of 74.1 FTE each year beginning in FY 2008-09). The current level of staffing (74.9 percent) will not be maintained even with the requested 93.5 FTE; it will drop to 73.3 percent.

Staff recommendation. As discussed above, better staffing ratios are correlated with better outcomes and improved public safety. Therefore, **staff recommends an additional 165.5 probation FTE.** An increase in staffing of this magnitude would bring the Probation Program to 80 percent full staffing. In addition to the probation FTE, as discussed above (see JUD DI #2, Trial Courts Staff, page 33), staff also recommends additional human resources and information technology staff in ratios of 1:100 new FTE. **Staff's total recommendation is for 168.7 FTE and \$8.9 million General Fund.**

The recommended funding breakdown by line item is summarized below. The table also provides two other funding alternatives: the requested 93.5 probation FTE (which would reduce staffing to 73.3 percent of need), and 111.5 probation FTE (which would keep staffing at 75 percent of need); each of these options also includes the associated human resources and information technology support staff.

Recommended Funding for JUD DI #4: Additional Probation Officers

Line Item		Request ^a (staff drops to 73.3%)	Alternative 1 (staff stays at 75.0 %)	Recommendation (staff increases to 80.0 %)
Probation Officers		68.0	81.1	120.4
Probation Supervisors		10.4	12.4	18.4
Probation Secretaries		15.1	18.0	26.7
HR Staff		1.0	1.0	1.6
IT Staff		1.0	1.0	1.6
Total	Total - GF	5,036,578	5,982,639	8,896,875
	FTE	95.5	113.5	168.7
Courts Administration (HR Staff)				
Personal Services	Total	56,384	56,384	90,214
	FTE	1.0	1.0	1.6
Operating Expenses	Total	1,500	1,500	2,400
Capital Outlay	Total	3,521	3,521	7,042
Integrated Information Services (IT Staff)				
Personal Services	Total	48,736	48,736	77,977
	FTE	1.0	1.0	1.6
Operating Expenses	Total	1,500	1,500	2,400
Capital Outlay	Total	3,521	3,521	7,042
Probation (Probation Officers & Probation Support Staff)				
Personal Services	Total	4,475,145	5,336,670	7,921,245
	FTE	93.5	111.5	165.5
Operating Expenses	Total	125,150	149,243	221,522
Capital Outlay	Total	321,121	381,564	567,033

^a Consistent with Legislative Council Services 2007 fiscal note policy, staff did not include funding for Health, Life and Dental, Short-term Disability, or Amortization Equalization Disbursement, although funding for these line items was requested. The total in this column also does match the request due to differences in the requested and recommended funding for per FTE Operating Expenses and Capital Outlay.

JUD DI#5: DRUG OFFENDER SURCHARGE FUND SPENDING AUTHORITY INCREASE

This decision item seeks a \$332,213 increase in cash funds exempt spending authority from the Drug Offender Surcharge Fund. The Drug Offender Surcharge Fund was created to cover the costs associated with drug abuse assessment, testing, education, and treatment. Revenue for the fund comes from drug offenders who pay a surcharge based on the offense to offset associated costs. The fund has an Interagency Advisory Committee (IAC) that attempts to coordinate the efforts of the four agencies that receive appropriations from the fund: the Judicial Department, the Department of Corrections, the Division of Criminal Justice in the Department of Public Safety, and the Department of Human Services.

For the past several years, revenue has been greater than annual appropriations. When considering how to address the growing fund balance, the IAC identified two ways to better serve adult drug abusing probationers: (a) Provide training for criminal justice and treatment agency staff; and (b) Provide increased access to inpatient treatment facilities.

(a) **Provide training for criminal justice and treatment agency staff.** Staff from each of the four agencies that receive appropriations from the cash fund would provide Strategies for Self Improvement and Change (SSIC) training to treatment providers involved in assessment, testing, education, and treatment of adult substance abusing offenders under community supervision. The IAC proposes that through this training, service providers would be better equipped to provide SSIC treatment, which would fill in identified gaps in the treatment efforts. The Department is seeking \$75,000 for this portion of the request.

(b) **Provide increased access to inpatient treatment facilities.**

On-going substance abuse is one of the top reasons for revocation of probation. Many of these revocations result in a sentence to prison. The second way the IAC identified to improve services to these offenders is to provide additional access to inpatient treatment facilities. While this type of treatment is the most expensive, it is also the most successful. The Department is seeking \$250,000 for this portion of the request.⁷

Since this decision item seeks to use cash fund reserves to improve services and provide greater access to inpatient facilities with the hope of reducing recidivism, **staff recommends funding this decision item as requested.** This funding should be appropriated to the Probation Division, Offender Treatment and Services line item.

⁷ The request is comprised of \$75,000 for training costs, \$250,000 for inpatient treatment beds, and \$7,213 for indirect cost recoveries.

JUD DI #6: COMMUNITY TREATMENT FUNDING RELATED TO S.B. 03-318

The request is for an increase of \$2.5 million General Fund to provide community treatment related to Senate Bill 03-318.

Senate Bill 03-318 (Gordon/Hefley). The General Assembly enacted S.B. 03-318 to reduce the penalty for use and possession of certain controlled substances. Specifically, S.B. 03-318:

- (a) Reduced the penalties for *use* of a schedule I or II controlled substance from a Class 5 felony to a Class 6 felony;
- (b) Reduced the penalty for *possession* (not including possession with the intent to distribute) of one gram or less of a schedule I through IV controlled substance to a Class 6 felony (or to a Class 4 felony for a second or subsequent conviction).⁸ Previously, possession offenses were categorized as Class 2, 3, 4, 5 or 6 felonies.

The bill was anticipated to save money over time because of a reduction in inmates' length of stay in prison, and also a reduction in the number of offenders sent to prison. Based on the premise of these savings, Senate Bill 03-318 also contained a provision that requires an annual appropriation of at least \$2.2 million General Fund to the Drug Offender Treatment Fund each year beginning in FY 2007-08. In any year the General Assembly fails to make this appropriation, all portions of the act return to the statutory language that existed prior to the enactment of the bill and the felony class changes are reversed.

Funding for Community Treatment. The bill created an interagency task force (IATF)⁹ to distribute any funding appropriated in association with the bill and to provide two reports estimating cost avoidance resulting from the bill. If funds are appropriated by the Legislature, the IATF will allocate at least 80 percent to Judicial District Local Drug Offender Boards¹⁰ based on a formula that accounts for the district's population and the number of drug case filings. Up to 20 percent of the funding may be allocated to drug treatment programs that serve more than one judicial district. Each Local Drug

⁸ Excluding flunitrazepam, the "date rape drug", as the primary use of this drug is not personal, but rather to render another person inoperative for the purpose of committing a crime.

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

¹⁰ The Judicial District Local Drug Offender Boards consist of a district attorney, a public defender, and a probation officer.

Offender Board is required to distribute the funding to drug treatment programs in its judicial district, with priority being given to drug court funding where such programs exist.

Preliminary Evaluations of S.B. 03-318 Impacts. In January 2005, the IATF submitted a report that estimated that the bill would generate a cumulative savings ranging between \$8.5 million and \$28.8 million. JBC staff voiced concerns about the methodology, assumptions, and findings of this report in the Department of Corrections briefing on January 3, 2006 and the Judicial Department briefing on November 28, 2006.

In part because of staff's concerns about the IATF's analysis, the Department of Corrections released a report in March 2006 examining the prison impact of S.B. 03-318.¹¹ That report estimated savings of just under \$223,000 in FY 2004-05, and potentially as high as \$1,076,000 in FY 2005-06. However, the report projected that by FY 2007-08, all savings associated with the bill would be lost.

January 2007 Interagency Advisory Committee Report. The analysis in the final report was based on two years of pre-S.B. 03-318 and post-S.B. 03-318 court records on applicable convictions. The pre-S.B. 03-318 distribution of convictions and sentences was then applied to the number of offenders actually committed post-S.B. 03-318 to estimate the sentencing distribution if the bill had not passed (the no-S.B. 03-318 data set). The post-S.B. 03-318 cost approximations were then compared to the no-S.B. 03-318 cost approximations to estimate total cost avoidance as a result of the bill. For FY 2007-08, total cost avoidance ranged from \$4.1 to \$5.9 million, depending upon the assumptions used.

Conclusion. The criminal justice system is very dynamic: District Attorneys, judges, and the Parole Board have within their discretion the ability to impact convictions, sentencing, placements, and the length of prison stays. Additionally, multiple pieces of legislation enacted in recent years also affects the criminal justice system and drug sentencing.¹²

In this context, the IATF had to develop a model for estimating cost-avoidance associated with the bill within the existing appropriations of the member agencies - but the myriad interacting factors influencing sentencing and incarceration rates make it very difficult to accurately estimate the effects of S.B. 03-318. While the model did address some of JBC's staff's earlier concerns about the analysis, it still has short-comings, specifically: the model assumes that conviction and sentencing patterns would remain the same with and without S.B. 03-318; and the IATF report did not consider inmate

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

¹² Other legislation affecting drug sentencing is described in the Colorado Department of Corrections report, *Trend Analysis of Felony Drug Convictions Resulting in Prison Sentences and Prison Impact of S.B. 03-318*, DOC Office of Planning and Analysis, Kristi Rosen, March 1, 2006.

length of stay.¹³ However, while these factors could have influenced the estimated cost-avoidance, after much discussion with other JBC staff and S.B. 03-318 IATF members, it became clear that it would be difficult, if not impossible, to address these issues without significant staff resources.¹⁴

With these caveats, staff believes the report does an adequate job in estimating cost avoidance associated with the bill. For FY 2007-08, the IATF report estimated a total cost avoidance ranging from \$4.1 to \$5.9 million, depending upon the assumptions used. However, if marginal DOC costs are used and a one-year time lapse is factored in between the implementation of S.B. 03-318 and when cost-avoidance would begin (assumptions supported by the JBC), the estimated FY 2007-08 cost avoidance is \$4.9 million.

Staff recommendation. The legislature passed S.B. 03-318 intending that if at least \$2.2 million in cost-avoidance was generated, that at least that amount of funding would be directed into community treatment for offenders. Staff believes that despite its limitations, the S.B. 03-318 report does demonstrate cost-avoidance of at least that magnitude. Therefore, **staff recommends an appropriation of \$2.2 million General Fund.** It should be noted that the Department requested \$2.5 million General Fund since the report estimated cost-avoidance over \$2.2 million. However, \$2.2 million is the minimum threshold required by the bill to maintain the sentencing changes. This funding should be appropriated to the Probation Division, to a new line item for S.B. 03-318 Community Treatment funding.

¹³ The greatest difference between the pre- and post-S.B. 03-318 sentencing patterns was a shift between Class 5 and Class 6 felonies. Before S.B. 03-318, Class 5 felonies comprised 23.9 percent of sentences and Class 6 comprised 3.5 percent. After S.B. 03-318, those figures changed to 5.9 percent and 40.7 percent, respectively. However, the presumptive range for a Class 5 felony is 1 year to 3 years in prison compared with a presumptive range of 1 year to 18 months for a Class 6 felony. As a result, inmates sentenced to Class 5 felonies and Class 6 felonies could both serve the same amount of time, depending upon the discretion of the Parole Board. The Parole Board may be more or less likely to parole inmates early for lower level felonies than higher level felonies.

¹⁴ It should be noted that the IATF report also under-estimated the annual cost of community corrections. The report assumed an average annual cost of \$7,866 per offender in community corrections. This figure is based on an assumption of one half of the year spent in residential care at \$37.38 per day, and one half of the year spent in non-residential care at \$5.72 per day. However, JBC staff for the Department of Corrections estimates FY 2007-08 daily community corrections costs to be \$38.85 for residential and \$27.15 for non-residential. When the cost avoidance is calculated using the higher community corrections costs, the result is less savings in FY 2004-05 through FY 2006-07, and greater savings in FY 2007-08 and FY 2008-09. The reasons savings increases in the later years is that with S.B. 03-318, fewer inmates with F4 sentences are placed in community corrections. Inmates with F4s in community corrections have very long length of stays. The large reduction in these sentences results in significant out-year savings that more than offset the increase in F5 and F6 inmates increasingly being placed in community corrections.

COURT-APPOINTED COUNSEL

Under both the United States and Colorado Constitutions, as well as state law, defendants and respondents in various criminal, delinquency, juvenile, and other matters are to be afforded due process in the courts. Due process includes the right to competent legal representation, regardless of ability to pay for such representation. Such representation, via court-appointed counsel, is provided for by all four of the Judicial Branch agencies:

The **Judicial Department** provides representation for indigent parties who are respondent parents in dependency and neglect actions; require mental health, probate, or truancy counsel; are adults requiring guardian ad litem in mental health, probate, or dependency and neglect actions; or who require contempt of court counsel. The Judicial Department also provides counsel in juvenile delinquency matters when the party is not indigent, but a family member is a victim or the parents refuse to hire counsel (in the latter case, reimbursement to the state is ordered against the parents).

The **Public Defender's Office (PDO)** represents indigent persons charged with crimes where there is the possibility of being imprisoned.

The **Alternate Defense Counsel (ADC)** represents individuals the PDO cannot represent due to a conflict of interest.

The **Office of the Child's Representative (OCR)** provides legal representation for children involved in the court system due to abuse and neglect, high-conflict divorce, or delinquency. The attorneys who represent these children are known as guardians ad litem (GALs) and child family investigators (CFIs; formerly known as court-appointed special advocates).

There are five decision items related to court-appointed counsel: the PDO submitted a decision item for additional staffing; the ADC and OCR each submitted a decision item related to increasing costs for contract attorneys, and the ADC and OCR submitted coordinated decision items to raise the court-appointed counsel hourly rate.

PDO DI #1: STAFF TO ADDRESS CASELOAD INCREASES

The request is for an increase of \$2,982,290 General Fund and 66.5 FTE to address caseload growth. The FTE consist of 40.0 attorneys, 13.0 investigators/paralegals, 10.0 trial secretaries, and 3.5 administrative positions.

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

The PDO's recent caseload growth exceeds the state's population growth. Over the past six years, closed trial and pretrial closings (the most labor intensive portion of the PDO's caseload)¹⁵ increased 44 percent, compared to an 11 percent increase in the state's population.

Weighted Caseload Model. In 2002, the PDO hired an independent consultant to perform a study of its caseload and actual resource requirements.¹⁶ The study determined the average number of hours required by each attorney to represent a case, categorized by case classifications and severity levels. The study established the number of cases that an attorney can reasonably be expected to carry in a given year without threatening the constitutionally mandated responsibility to provide effective representation of indigent clients.

The table below summarizes - for the PDO trial offices only - historic and projected caseload and staffing needs. The attorney deficit shown in row 6 does not represent the entire staffing need because: (1) it does not account for the staffing needs of the appellate office; and (2) additional attorneys drive a need for additional investigators, secretaries, and administrative staff; without these support staff, attorneys need to do clerical and investigative work which is not cost efficient. Staff choose to show the data for the trial offices because they handle almost 99 percent the PDO's total caseload.

¹⁵ Trial and pretrial closings reflect cases brought to a final disposition. Some cases are considered "partial service" because they are not brought to final disposition, including conflicts of interest or withdrawals because the client obtained private counsel or went *pro se*, and situations where the client fails to appear for a hearing. The PDO also handles probation revocations, sentence reconsiderations, Rule 35(c) hearings (ineffective representation), extradition matters, and appeals.

¹⁶ The Spangenberg Group is a private consulting firm that specializes in the study of indigent case delivery systems. It has conducted similar studies in California, Minnesota, Tennessee, Wisconsin, King County Washington (Seattle), New York City, and two jurisdictions in Arizona (Phoenix and Tucson).

PDO Trial Caseload and Attorney Staffing Overview, FY 2004-05 to FY 2010-11 (est.)^a

		FY 04-05 Actual	FY 05-06 Actual	FY 06-07 (Est.)	FY 07-08 (Est. with decision item)	FY 08-09 (Est.)	FY 09-10 (Est.)	FY 10-11 (Est.)
1	Trial Office Cases	82,563	88,475	95,436	103,760	114,682	127,867	144,720
2	Trial Attorney Appropriation ^a	236	218.0	236.0	269.6	269.6	269.6	269.6
3	Trial Atty Average Caseload (row 1 / row 2)	391	406	404	385	425	474	537
4	Trial Atty Need	287.3	327.9	355.8	402.7	434.3	491.6	568.8
5	Trial Atty Caseload with Full Staff (row 1 / row 4)	287	270	268	258	264	260	254
6	<i>Trial Atty Staffing Deficit (row 2 - row 4)</i>	<i>(76.3)</i>	<i>(109.9)</i>	<i>(119.8)</i>	<i>(133.1)</i>	<i>(164.7)</i>	<i>(222.0)</i>	<i>(299.2)</i>
7	<i>Percent of full staffing for Trial Atty (row 2 / row 4 * 100)</i>	<i>73.4%</i>	<i>66.5%</i>	<i>66.3%</i>	<i>66.9%</i>	<i>62.1%</i>	<i>54.8%</i>	<i>47.4%</i>

^a The FY 2007-08 appropriation assumes funding for the requested decision item; no additional FTE are assumed in the out-years. Not all attorneys requested are shown here as this table only summaries trial office staffing need; some of the resources requested in the decision item will be used for appellate office staffing need.

Concerns with high caseloads. National caseload standards vary, depending on case type, from 150 to 400 cases per year.¹⁷ In FY 2005-06, Colorado's public defender's averaged 406 cases, though some attorneys had as many as 628 cases. As described in more detail in staff's briefing issue from November 28, 2006, very high caseloads in Colorado's Public Defender's Office have led to high staff turnover (attorney attrition increased from 11.5 percent in 2000 to 16.9 percent in 2005) and concerns about effective representation for the past several years.

This issue of effective representation in the face of high caseloads has raised concerns nationally: Last week, the Missouri Public Defender Commission was scheduled to vote on whether to put a freeze on new cases (in that state, each public defender has an average caseload of 305 cases). Last year, the American Bar Association released a formal opinion on the ethical obligations of lawyers who represent indigent criminal defendants, directing attorneys to refuse new cases if their workload is excessive.

The PDO is obligated in statute (section 21-1-101, C.R.S.) to conduct the office in accordance with the Colorado rules of professional conduct and American Bar Association standards. These rules and standards prohibit lawyers from carrying a workload that, by reason of its excessive size, interfere with the rendering of quality representation. However, outside of an infusion of staffing resources, there does not appear to be another option for relieving excessive caseload: while the PDO can refer cases to the Alternate Defense Counsel (ADC) due to conflicts of interest, Section 21-2-103 (1.5) (c), C.R.S. explicitly states that "case overload, lack of resources, and other similar circumstances shall not constitute a "conflict of interest" for the sake of referring cases to the ADC.

Staff Recommendation. Staffing at the State Public Defender's Office has reached a crisis. The requested 40.0 attorneys would result in trial court attorneys being staffed at 69.2 percent - an improvement over the current 66.3 percent, but still insufficient to adequately manage the PDO's caseload. Therefore, **staff recommends an additional 79.1 attorneys.** An increase in staffing of this magnitude would bring raise attorney staffing levels to 80 percent of full staffing. In addition to the attorney FTE, as discussed above, staff also recommends the associated investigator, paralegal, trial secretary, and administrative FTE. **Staff's total recommendation is for 131.5 FTE and \$5.8 million General Fund.** The recommended funding breakdown by line item is summarized below. The table also provides two other funding alternatives: the requested 40.0 attorneys (which would raise trial attorney staffing to 69.2 percent of need), and 57.6 attorneys (which raise trial attorney staffing to 75 percent of need); each of these options also includes the associated support staff.

¹⁷ American Bar Association; National Legal Aid and Defender Association; National Advisory Commission on Indigent Defense Systems.

Recommended Funding for PDO DI #1: Staff to Address Caseload Growth

Line Item		Request ^a (raise attorney staffing to 69.2%)	Alternative 1 (raise attorney staffing to 75.0%)	Recommendation (raise attorney staffing to 80.0%)
Attorneys		40.0	57.6	79.1
Investigators/Paralegals		13.0	19.2	26.3
Trial Secretaries		10.0	14.4	19.8
Administrative FTE		3.5	4.6	6.3
Total	Total - GF	2,914,843	4,200,258	5,765,559
	FTE	66.5	95.8	131.5
Personal Services	Total	2,683,263	3,863,898	5,306,152
	FTE	66.5	95.8	131.5
Operating Expenses	Total	33,250	47,880	65,752
Capital Outlay	Total	198,330	288,480	393,655

^a The dollar amount of the recommendation differs from the request because staff did not include Amortization Equalization Disbursement (consistent with Legislative Council Staff 2007 Fiscal Note Policy), and due to differences in the Personal Services and Capital Outlay assumptions.

ADC DI #1: CASE COSTS INCREASE

Background. The Alternate Defense Counsel (ADC) provides representation for indigent defendants when the Public Defender is precluded from doing so because of a conflict of interest, such as when there is more than one co-defendant on a case seeking representation, or when someone seeking representation is a witness against a client of the Public Defender's Office in another case. Private attorneys are appointed by the courts and are hired on a contract basis by the ADC. The ADC has no control over its caseload, as attorneys must be provided to meet defendants' Constitutional right to counsel.

Decision Item Calculation. The decision item seeks \$2,383,314 General Fund for case costs increases (split between the Conflict of Interest Contracts and Mandated Costs line items). Three steps were involved in estimating FY 2007-08 need: (a) Revising caseload projections; (b) Updating the average cost per case; and (c) Adjusting for the FY 2006-07 hourly rate increase. Each of these steps is described below.

(a) Revising Caseload Projections

To project caseload, the ADC looks at historic caseload of each case type (analysis by case type is necessary to see trends more accurately and because different case types are billed at different rates). Based on more recent data, the ADC revised downward its caseload growth projections. The estimated number of cases in FY 2007-08 is 14,703.

ADC Caseloads, FY 2001-02 through FY 2007-08 (estimate)

	FY 01-02 (actual)	FY 02-03 (actual)	FY 03-04 (actual)	FY 04-05 (actual)	FY 05-06 (actual)	FY 06-07 (estimate)	FY 07-08 (estimate)
Felony 1 - Death Penalty	8	6	7	5	2	7	7
Felony 1 - Non Death Penalty	109	115	122	132	152	159	174
Other Felony	4,864	5,940	6,711	6,976	7,758	8,551	9,341
Juvenile	1,417	1,636	1,494	1,274	1,433	1,487	1,624
Traffic/DUI	800	962	1,001	1,035	1,111	1,215	1,327
Other	1,497	1,424	1,748	1,681	1,858	2,074	2,230
Total	8,695	10,083	11,083	11,103	12,314	13,493	14,703
Annual % Change		16.0%	9.9%	0.2%	10.9%	9.6%	9.0%

(b) Updating the Average Cost per Case

When the FY 2006-07 request was made, ADC utilized FY 2003-04 average cost per case in its calculations. However, from FY 2003-04 to FY 2005-06 - *before the recent rate increase took effect* - the average cost per case rose from \$1,047 to \$1,147, or \$101. This increase is primarily due to increases in the number of hours billed by attorneys, paralegals, and investigators, and is partially offset by a reduction in average mandated costs per case.

Using the updated FY 2005-06 cost per case of \$1,147, and the estimated FY 2007-08 caseload of 14,703, the estimated FY 2007-08 costs for cases is \$16,879,044.

(c) Adjusting for the FY 2006-07 Hourly Rate Increase

For FY 2006-07, the Judicial Branch requested and received an increase in the hourly rate paid to court-appointed counsel. At the time, the ADC calculated the funding it needed to implement the rate increase based on the actual number of attorney hours per case from FY 2004-05. However, as mentioned, ADC has been experiencing an increase in the number of hours billed per case.

For ADC attorneys, the rate increase was not the same for each case type. When the FY 2007-08 number of estimated attorney hours for each case type is multiplied by the amount of the rate increase for each case type, the additional funding needed to account for the rate increase is \$3,224,492.

Calculation of ADC DI #1, Case Costs Increase

FY 2007-08 Estimated Need		FY 2006-07 Appropriation		FY 2007-08 Decision Item
Updating the Average Cost per Case	16,879,044	Conflict of Interest Contracts	16,299,606	2,308,447
Adjusting for the FY 2006-07 Hourly Rate Increase	3,224,492	Mandated Costs	1,420,616	74,867
Total	20,103,536		17,720,222	2,383,314

Alternatives. The request is for an increase of \$2,383,314 General Fund. Without this increase, if caseload and billing trends continue, the ADC will be forced to either reduce hourly rates for new cases, or seek a supplemental appropriation later in the fiscal year. Since hourly rates are already significantly below the market rate (see Court Appointed Counsel Rate Increase decision items on page 58), a request for a supplemental appropriation would be the most likely result.

Staff recommendation. The state is required to provide defense counsel if requested by an indigent defendant. The ADC is required to pay for contract court-appointed counsel when there is a conflict of interest with the Public Defender's Office; the appointments are beyond the control of ADC and the office has no other means of covering these costs. Therefore, **staff recommends funding this decision item as requested.** The requested \$2,383,314 General Fund should be divided between the Conflict of Interest Contracts line item (\$2,308,447) and the Mandated Costs line item (\$74,867).

OCR DI #1: CASELOAD GROWTH INCREASE

The Office of the Child's Representative is seeking an increase of \$264,515 General Fund to address caseload increases and cost per case increases.

Background. The Office of the Child's Representative (OCR) provides legal representation for children involved in the court system due to abuse and neglect, high-conflict divorce, or delinquency. The attorneys who represent these children are known as guardians ad litem (GALs). The OCR has salaried staff GALs in El Paso County; in the remainder of the state, the GALs are private attorneys hired under contract.

Decision Item Calculation. The decision item seeks \$264,515 General Fund for court-appointed counsel contract costs. Three steps were involved in estimating FY 2007-08 need: (a) Revising caseload projections; (b) Applying the average cost per case; and (c) Accounting for the FY 2006-07 rate increase on year-end payments. Each of these steps is described below.

(a) Revising Caseload Projections

To project caseload, the OCR looks at recent caseload growth of each case type (analysis by case type is necessary to see trends more accurately; although all GALs are paid at the same rate, different case types tend to cost more or less depending on their complexity, with Dependency and Neglect cases being the most expensive).

**OCR Caseload Growth,
FY 2003-04 (actual) through FY 2007-08 (estimate)**

Case Type	FY 03-04 (actual) ^a	FY 03-04 (actual)	FY 04-05 (actual)	FY 05-06 (actual)	FY 06-07 (estimate)	FY 07-08 (estimate)
Dependency & Neglect	5,847	6,493	6,972	7,618	8,380	9,050
<i>annual percent change</i>		<i>11.0%</i>	<i>7.4%</i>	<i>9.3%</i>	<i>10.0%</i>	<i>8.0%</i>
Juvenile Delinquency	3,391	2,673	3,374	3,459	3,493	3,528
<i>annual percent change</i>		<i>-21.2%</i>	<i>26.2%</i>	<i>2.5%</i>	<i>1.0%</i>	<i>1.0%</i>
Domestic Relations	860	969	762	671	637	622
Truancy		369	281	374	374	340
Paternity		125	86	107	103	95
Probate		113	149	137	124	111
All Other Case Types	157	52	36	42	35	29
Total	10,255	10,794	11,660	12,408	13,146	13,775

Note: Data for this table came from the OCR's FY 2006-07 supplemental budget request.

^a For FY 2003-04, the Juvenile Delinquency case category includes Truancy cases, and the Domestic Relations case category includes Paternity cases.

The number of dependency and neglect cases, though jumping in FY 2006-07, has otherwise grown steadily at a rate of approximately 8.0 percent annually over the past five years; therefore, the OCR used an 8.0 percent growth rate for this case category. From FY 2003-04 to FY 2004-05, the percent change in juvenile delinquency cases was 26.2 percent. However, the percent change from FY 2004-05 to FY 2005-06 dropped to 2.5 percent. According to OCR, juvenile delinquency caseload growth, once subject to wide springs, appears to have slowed significantly; a 1.0 percent increase was used in this case category. The other case types are a relatively insignificant part of OCR's billings.

(b) Applying the Average Cost per Case

Historically, the OCR paid its contractors a flat fee of \$1,040 per case for up to two years of work. This system led to a variety of problems, including a lack of accountability and inconsistent and sometimes ineffective representation of children. In response to those concerns, the OCR requested and the JBC approved a multi-year transition to an hourly billing model, beginning in FY 2003-04. The transition was completed in FY 2005-06.

In part as a result of this change in payment systems, the OCR's average cost per case has increased. A flat-fee case had a maximum charge of \$1,040 for two years of work, with hourly billing if the case exceeded three years (a small portion of cases). The fee was paid up front

at the time of the appointment, resulting in all expenditures being up-front and no expenditures in the second year of a case. With the conversion to hourly billing, there is some front-loading of services, as GALs are required by Chief Justice Directive 04-06 to see the child in placement within 30 days of appointment, and they are encouraged to attend staffings and hearings and work to represent their child in a timely manner. However, over time, cases have also grown more complex, as measured by the time required to provide effective representation. The OCR attributes this change to a lack of preventative services; a lack of thorough investigative work by social services because of heavy caseloads; and social services recommendations based on budgetary constraints rather than the best interests of the child. Since the guardians ad litem (GALs) must advocate for the best interests of the child, they are requesting hearings and litigation to meet those needs more frequently than in the past.

As mentioned above, the average cost per case varies by case type. Dependency and Neglect cases are the most labor intensive, and thus the most expensive (see the calculations table below). Juvenile Delinquency cases are the least labor intensive and therefore the least expensive. The remaining case types are a small fraction of OCR's expenses. The cost of all the remaining case types is averaged to come up with a blended average case cost.

(c) Accounting for the FY 2006-07 Rate Increase on Year-end Payments

At the beginning of each fiscal year, OCR receives some bills from work completed the prior fiscal year. For FY 2006-07, the year-end payments were made at the old hourly court-appointed counsel rate. However, because a higher rate went into effect this year, the year-end payments made at the beginning of FY 2007-08 will be made at the higher rate. Therefore, OCR needs an increase in funding to account for the incremental increase in the cost of these year-end bills; this increase totals \$75,929.

Calculation of OCR DI #1, Caseload Growth Increase

Case Type	FY 2007-08 Est. Number of Cases	Average Cost per Case	Estimated FY 2007-08 Need	FY 2006-07 Approp.	FY 2007-08 Decision Item
Dependency and Neglect	9,050	\$897.92	\$8,126,176		
Juvenile Delinquency	3,528	\$524.56	\$1,850,648		
Other	1,197	\$686.55	\$821,800		
Year-end Payments			\$75,929		
Total	13,775		\$10,874,553	\$10,610,038	\$264,515

Alternatives. The request is for an increase of \$264,515 General Fund. Without this increase, if caseload and billing trends continue, the OCR will be forced to either reduce hourly rates for new cases, or seek a supplemental appropriation later in the fiscal year. Since hourly rates are already significantly below the market rate (see the Court Appointed Counsel Rate Increase decision items discussed below), a request for a supplemental appropriation would be the most likely result.

Staff recommendation. Courts appoint guardians ad-litem to represent the best interest of children, pursuant to statute, and the appointments are beyond the control of OCR. The OCR works with the courts to ensure that appointments are appropriate and that incorrect appointments are minimized. OCR has no other source of funding for these costs. Therefore, *staff recommends funding this decision item as requested.* The requested \$264,515 General Fund should be appropriated to the Court Appointed Counsel line item.

**ADC DI #7 AND OCR DI #3:
RAISE COURT-APPOINTED COUNSEL RATE**

The ADC and OCR submitted coordinated requests to raise their court-appointed counsel hourly rate from \$57 per hour to \$67.50 per hour.¹⁸ The requests include \$3,125,831 General Fund for the ADC and \$2,291,706 General Fund for the OCR - a total of \$5,417,537.

Background. Prior to FY 2006-07, the court-appointed counsel rate paid by the three agencies (the Judicial Department, ADC, and OCR) averaged \$45 per hour for out-of-court work and \$55 per hour for in-court work. Last year, the three agencies submitted coordinated decision items seeking to raise the rate to \$71 per hour. The proposal was to phase-in the increase, starting at \$60 per hour in FY 2006-07 and reaching \$75 per hour in FY 2008-09.¹⁹ However, the requests were not fully funded. The state rate was raised to \$57 per hour (for both in- and out-of-court work) beginning in FY 2006-07.

Market Costs. The reason to raise the rate is to make the agencies more competitive to ensure that there are qualified professionals who will accept court appointments. To come up with the proposed rate, the Department analyzed national and regional data and studies; consulted the Colorado Bar Association, various attorneys, judges, and court administrators; and considered the compensation levels for attorneys in the State of Colorado's Public Defender's Office, the Alternate Defense Counsel, the Attorney General's Office, and county and district attorneys. In the private sector, attorneys earn \$150 an hour and more. Attorneys contracted for federal cases earn \$92 an hour; for death penalty

¹⁸ The ADC actually has a tiered rate system. As of July 1, 2006, type A felonies are billed at \$60 per hour, type B felonies at \$56 per hour, and juvenile and misdemeanor cases as \$54, for an average hourly rate of \$57 per hour.

¹⁹ The \$75 level was reached by applying a 3 percent annual adjustment to the \$71 per hour rate, based on the most recent three year average cost of living adjustments used by the Social Security Administration.

cases, they earn \$163 per hour. Attorneys working in the public sector in Colorado earn from \$28 to \$74 per hour with no overhead costs; applying a 43.6 percent overhead rate²⁰ would raise the level of compensation to the equivalent of \$40 to \$106 per hour.

The current state hourly compensation rate of \$57 per hour has only been increased only twice since 1990 (a \$5 increase in January 2001 and last year's increase). In that same 15 year period, the Consumer Price Index for Urban Consumers for the Western Region of the United States has increased 51.3 percent (from 131.5 in 1990 to 198.9 in 2005).²¹ Changes in the last ten years that put greater demands on court-appointed counsel include:

- Increased complexity and duration of cases (significant because more time on court-appointed cases results in less time available for better paying, private sector cases);
- Greater complexity of the law;
- Increased demands for trials in dependency and neglect, and juvenile delinquency proceedings;
- More medical/clinical issues that require increased and expanded expertise; and
- More interaction with other agencies, such as the Department of Human Services, hospitals, and social workers.

Additionally, the cost of malpractice insurance, rent, technology, health insurance, wages for support staff, and other overhead costs have also increased.

Lawsuits have been brought in some states over inadequate court-appointed counsel compensation. Such a lawsuit in New York resulted in its legislature approving a flat rate of \$75 an hour (effective January 2004), when the previous rates had been \$25 for out-of-court work and \$40 for in-court work. Prior to the increase, the New York Supreme Court made the following statement about court-appointed counsel representation: "The state's failure to raise the current compensation rates adversely affects the judiciary's ability to function and presumptively subjects innocent indigent citizens to increased risk of adverse adjudications and conviction merely because of their poverty."

Staff Recommendation. Staff agrees that even with the increase in the state court-appointed counsel rate that went into affect this year, the rate is still not competitive. However, given the multitude of needs facing the Branch, and the fact that the rate was just raised in FY 2006-07, **staff does not recommend funding these requests.**

²⁰ Altman Weil's 2000 Survey of Law Firm Economics indicates that an overhead allowance would reasonably be set at 43.6 percent. This publication provides information gleaned from nearly twenty thousand lawyers across the U.S. concerning economic statistics and financial data related to law firm management and the legal profession. The Survey serves as an industry standard for the financial operations of law practices.

²¹ U.S. Department of Labor, Bureau of Labor Statistics, <http://www.bls.gov/home.htm>.

1) SUPREME COURT/COURT OF APPEALS

The Colorado Court of Appeals has 19 judges. It is not a trial court. The Court of Appeals is usually the first court to hear appeals of decisions made by Colorado district courts and Denver's probate and juvenile courts. In addition, it is responsible for reviewing the decisions of several state administrative agencies. Its determination of an appeal is final unless the Colorado Supreme Court agrees to review the matter.

The Colorado Supreme Court is the court of last resort or the final court in the Colorado court system. An individual who has appealed to the Court of Appeals and is still dissatisfied may ask the Supreme Court to review the case. In some instances, individuals can petition the Supreme Court directly regarding a lower court's decision. In addition to its legal duties, the Supreme Court has supervisory power over all other state courts and over all attorneys practicing law in Colorado.

Staffing Summary for the Supreme Court and Court of Appeals

Staffing Summary	FY 2005-06 Actual	FY 2006-07 Approp.	FY 2007-08 Request	FY 2007-08 Recomm.
Supreme Court Justices	7.0	7.0	7.0	7.0
Court of Appeals Justices	15.8	19.0	19.0	19.0
Admin./Support Systems	39.5	48.1	48.1	48.1
Law Clerks	29.1	33.0	33.0	33.0
Staff Attorneys	17.3	21.7	21.7	21.7
Library Personnel	4.7	3.7	3.7	3.7
Attorney Regulation	40.5	35.5	40.5	40.5
Continuing Legal Education	4.0	4.0	4.0	4.0
Law Examiner Board	8.2	8.2	8.2	8.2
TOTAL	166.1	180.2	185.2	185.2

Personal Services

Staff recommends an appropriation of \$9,480,219 General Fund and a continuation of 132.5 FTE. The recommendation was calculated in accordance with Committee policy and is summarized below.

Summary of the Supreme Court/Court of Appeals Personal Services Recommendation						
	GF	CF	CFE	FF	TOTAL	FTE
FY 2006-07 Long Bill	\$8,358,971	\$0	\$0	\$0	\$8,358,971	119.0
H.B. 06-1028	\$917,897	\$0	\$0	\$0	\$917,897	13.5
FY 2006-07 Salary Survey	\$250,990	\$0	\$0	\$0	\$250,990	0.0
0.5 percent reduction	(\$47,639)	\$0	\$0	\$0	(\$47,639)	0.0
Staff Recommendation	\$9,480,219	\$0	\$0	\$0	\$9,480,219	132.5

Operating Expenses

Staff recommends a continuing appropriation of \$221,062 comprised of \$153,062 General Fund and \$68,000 cash funds. The sources of cash funds are various fees and cost recoveries.

Attorney Regulation Committees

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

Staff recommends the requested continuing appropriation of \$4,700,000 and 40.5 FTE, comprised of \$4,600,000 cash funds and \$100,000 cash funds exempt. The source of cash funds is the Attorney Registration Fund (attorney registration fees and other fees), and the source of cash funds exempt is reserves in the Attorney Registration Fund. These funds are shown for informational purposes only, as they are continuously appropriated. They are part of the Supreme Court's Constitutional responsibility for regulating the practice of law in Colorado.

Continuing Legal Education

This program administers mandatory continuing legal education for attorneys and judges, including the certification of courses and educational conferences. **Staff recommends the requested appropriation of \$325,000 and 4.0 FTE**, comprised of \$320,000 cash funds and \$5,000 cash funds exempt. This recommendation includes an increase of \$45,000 cash funds to better reflect actual expenditures. The source of the cash funds is the Continuing Legal Education Cash Fund (attorney registration fees and other fees), and the source of the cash funds exempt is reserves in the Continuing Legal Education Fund.

These funds are shown for informational purposes only, as they are continuously appropriated. They are part of the Supreme Court's Constitutional responsibility for regulating the practice of law in Colorado.

Law Examiner Board

The Law Examiner Board administers the Colorado Bar Exam. **Staff recommends the requested continuing appropriation of \$850,000 and 8.2 FTE**, comprised of \$750,000 cash funds and \$100,000 cash funds exempt. The source of cash funds is the Law Examiner Board Cash Fund (law examination application fees and other fees), and the source of cash funds exempt is reserves in the Law Examiner Board Cash Fund.

These funds are shown for informational purposes only, as they are continuously appropriated. They are part of the Supreme Court's Constitutional responsibility for regulating the practice of law in Colorado.

Law Library

Funding from this line item supports the Supreme Court Library, a public library located in the Judicial Building of the Judicial/Heritage Complex. **Staff recommends an appropriation of \$500,000 cash funds**. The FTE associated with the library are appropriated through the Supreme Court/Court of Appeals Personal Services appropriation. The source of cash funds is the Supreme Court Library Fund, and the source of cash funds exempt is from reserves from the Library Fund.

These funds are shown for informational purposes only, as they are continuously appropriated. They are part of the Supreme Court's Constitutional responsibility for regulating the practice of law in Colorado.

(2) COURTS ADMINISTRATION

(A) Administration

Staffing Summary	FY 2005-06 Actual	FY 2006-07 Approp.	FY 2007-08 Request	FY 2007-08 Recomm.
Administration	20.0	19.5	19.5	19.5
Financial Services	15.0	20.0	20.0	20.0
Planning	10.7	12.5	12.5	12.5
Court / Human Services	6.3	9.0	9.0	10.9
Admin PS Subtotal	52.0	61.0	61.0	62.9
Judicial Heritage Staff	3.0	3.0	3.0	3.0
Family Friendly Courts Program	0.5	0.5	0.5	0.5
ADMIN TOTAL	55.5	64.5	64.5	66.4

Personal Services

Staff recommends an appropriation of 62.9 FTE and \$4,963,570, comprised of \$3,916,339 General Fund and \$1,047,231 cash funds exempt. The recommendation includes funding for JUD decision items #2 (Trial Courts Staff, page 33) and #4 (Probation Staff, page 40). The 0.5 percent reduction was not applied to cash exempt funds as the source is indirect cost recoveries.

Summary of Courts Administration, Administration Personal Services Recommendation						
	GF	CF	CFE	FF	TOTAL	FTE
2006 Long Bill Approp.	\$3,291,219	\$0	\$1,024,341	\$0	\$4,315,560	58.0
FY 2006-07 Salary Survey	\$424,808	\$0	\$0	\$0	\$424,808	0.0
FY 2006-07 Supplemental	\$115,158	\$0	\$22,890	\$0	\$138,048	3.0
0.5 Percent Base Reduction	(\$19,156)	\$0	\$0	\$0	(\$19,156)	0.0
JUD DI #2: Trial Courts Staff	\$14,096	\$0	\$0	\$0	\$14,096	0.3
JUD DI #4: Probation Staff	\$90,214	\$0	\$0	\$0	\$90,214	1.6
Staff Recommendation	\$3,916,339	\$0	\$1,047,231	\$0	\$4,963,570	62.9

Operating Expenses

Staff recommends an appropriation of \$369,896, comprised of \$368,896 General Fund and \$1,000 cash funds. The recommendation includes funding for JUD decision items #2 (Trial Courts Staff, page 33) and #4 (Probation Staff, page 40). The sources of cash funds are fees and cost recoveries.

Summary of Courts Administration, Administration Operating Expenses Recommendation					
	GF	CF	CFE	FF	TOTAL
FY 2006-07 Long Bill Approp.	\$366,121	\$1,000	\$0	\$0	\$367,121
JUD DI #2: Trial Courts Staff	\$375	\$0	\$0	\$0	\$375
JUD DI #4: Probation Officers	\$2,400	\$0	\$0	\$0	\$2,400
Staff Recommendation	\$368,896	\$1,000	\$0	\$0	\$369,896

Capital Outlay

Staff recommends an appropriation of \$10,563 General Fund. The recommendation includes funding for JUD decision items #2 (Trial Courts Staff, page 33) and #4 (Probation Staff, page 40).

Summary of Courts Administration, Administration Capital Outlay Recommendation					
	GF	CF	CFE	FF	TOTAL
JUD DI #2: Trial Courts Staff	\$3,521	\$0	\$0	\$0	\$3,521
JUD DI #4: Probation Officers	\$7,042	\$0	\$0	\$0	\$7,042
Staff Recommendation	\$10,563	\$0	\$0	\$0	\$10,563

Judicial/Heritage Program

The Judicial Department is responsible for maintenance and other related services for the Judicial Building (Two East Fourteenth Avenue), and the Colorado History Museum (1300 Broadway), collectively known as the Judicial Heritage Center. Until mid-FY 2005-06, these services included providing security at both buildings via a private security agency. However, in June 2005, the Department requested and the Committee approved changes to the Department's appropriation to allow the Judicial Department to contract with the Colorado State Patrol, Capitol Complex Unit, to provide security at the Judicial Building.

Staff recommends an appropriation of 3.0 FTE and \$593,700 comprised of \$317,852 General Fund and \$275,848 cash funds exempt. Staff did not apply the base reduction since this program only has 3.0 FTE. If applied, the savings would have been \$708 General Fund and \$618 cash funds exempt. The cash funds exempt is funding received from the Colorado Historical Society.

Summary of Courts Administration, Judicial/Heritage Complex Program Recommendation						
	GF	CF	CFE	FF	TOTAL	FTE
FY 2006-07 Long Bill Approp.	\$315,717	\$0	\$275,848	\$0	\$591,565	3.0
FY 2006-07 Salary Survey	\$2,135	\$0	\$0	\$0	\$2,135	0.0
Staff Recommendation	\$317,852	\$0	\$275,848	\$0	\$593,700	3.0

Family Friendly Courts

The Family Friendly Court program was created in House Bill 02-1101. The intent of the legislation was to provide the courts with a source of money to create facilities or services designed to meet the needs of families navigating the court system. The program is funded with a \$1.00 surcharge on traffic violations. The Judicial Department allocates money from the Family Friendly Court Program Cash Fund to judicial districts apply for funding for the creation, operation, and maintenance of family-friendly court facilities. Some of the programs and services pursued include daycare centers and child waiting rooms located in courthouses, and a voucher program where the court provides funding for families to use private daycare services while in court.

Staff recommends the requested continuing appropriation of \$375,000 and 0.5 FTE. The funding is comprised of \$252,200 cash funds and \$122,800 cash funds exempt. The source of cash funds and cash funds exempt is the Family-friendly Court Program Cash Fund.

Judicial Performance Program

Staff recommends moving the appropriation for Judicial Performance from a separate subdivision to this subdivision. Details are provided on page 71.

Courthouse Capital/Infrastructure Maintenance

While counties are required by statute to provide facilities for the courts, Section 13-3-104, C.R.S., requires that the State pay for all operating expenses, including furnishings. Prior to FY 2002-03, the Department received an annual General Fund appropriation for County Courthouse Furnishings. A footnote limited this appropriation to expenditures on new construction projects and projects involving renovations of existing courthouses only; the appropriation was not to be used for capital outlay for the regular replacement and modernization of equipment or furnishings.

From FY 1993-94 through FY 2003-04, the County Courthouse Furnishings appropriation ranged from a low of \$246,000 to a high of \$5,641,000, depending upon the number of projects. Due to the state's budget crisis, the line item was cut by \$590,000 in FY 2002-03, and eliminated in FYs 2003-04 and 2004-05. 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 is to provide a consistent annual appropriation to assist the Department in its effort to manage the need for capital and infrastructure maintenance. **Staff recommends the requested continuing appropriation of \$1,000,000 General Fund.**

Family Violence Grants

This line item is used to provide grants to qualifying organizations that provide legal services to indigent victims of family violence. Until FY 2003-04, this line item was funded with General Fund. During FY 2003-04 figure setting, due to the State budget shortfall, the General Fund appropriation for this line item was eliminated. However, S.B. 03-282 transferred \$500,000 cash funds exempt in tobacco settlement money to the Fund for this program. In FY 2004-05, no funding was provided for grants. In FY 2005-06, a \$500,000 General Fund appropriation was provided. **Staff recommends the requested continuing appropriation of \$500,000 General Fund.**

Statewide Indirect Cost Assessment

Statewide indirect cost assessments are charged to cash and federal programs for statewide overhead costs (such as those generated by the Department of Personnel), and then the assessments are used in administrative divisions to offset General Fund appropriations. **Staff recommends an appropriation of \$110,400** consisting of \$99,440 cash funds, \$5,408 cash funds exempt, and \$5,552 federal funds, consistent with the FY 2007-08 statewide indirect cost allocation plan.

Departmental Indirect Cost Assessment

Recommendation pending. Departmental indirect cost assessments are charged to cash and federal programs for departmental overhead costs (such as those generated by the Administrative Division), and then the assessments are used in administrative divisions to offset General Fund appropriations. The actual dollar amount will be determined after all other line items are set.

(2) COURTS ADMINISTRATION

(B) Administrative Special Purpose

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

Health, Life and Dental

Staff recommends an appropriation of \$12,936,704 comprised of \$11,708,733 General Fund and \$1,227,971 cash funds, pursuant to JBC common policy.

Short-term Disability

Staff recommends an appropriation of \$209,399 comprised of \$186,059 General Fund and \$23,340 cash funds, pursuant to JBC common policy.

Salary Survey

Staff recommends an appropriation of \$9,900,227 comprised of \$8,998,492 General Fund and \$901,735 cash funds, calculated in accordance with Committee common policy.

Anniversary Increases

Staff recommends an appropriation of \$1,958,269 comprised of \$1,847,001 General Fund and \$111,268 cash funds, calculated in accordance with Committee common policy for Performance-based Pay.

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

Staff recommends an appropriation of \$1,885,200 comprised of \$1,669,756 General Fund and \$215,444 cash funds, calculated in accordance with Committee common policy.

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

Staff recommends an appropriation of \$343,055 comprised of \$298,170 General Fund and \$44,885 cash funds, calculated in accordance with Committee common policy.

Workers' Compensation

Staff recommendation is pending JBC common policy decision making. This line item includes funding for the Public Defender, Alternate Defense Counsel, and Office of the Child's Representative.

Legal Services

Staff recommends the requested continuing appropriation for 4,227 hours of legal services. The funding will be calculated after the JBC sets the common policy for the legal services rate.

Payment to Risk Management and Property Funds

Staff recommendation is pending JBC common policy decision making. This line item includes funding for the Public Defender, Alternate Defense Counsel, and Office of the Child's Representative.

Vehicle Lease Payments

Vehicles are used primarily by judges, probation officers, IT technicians, and other staff located in rural areas. **Staff recommendation is pending JBC common policy decision making.**

Leased Space

This line item provides funding for leased office space for the State Court Administrator's Office, the Judicial disciplinary commission, Court of Appeals staff, the Division of Integrated Information Services, and storage.

	FY 2006-07			FY 2007-08 Estimated ^a		
	Square Feet	Rate	Total	Square Feet	Rate	Total
1301 Pennsylvania	18,490	\$14.25	\$263,483	18,490	\$14.75	\$272,728
Parking (CF)			\$24,240			\$24,240
899 Logan	827	\$16.25	\$13,439	827	\$16.25	\$13,439
Logan Storage			\$2,016			\$2,016
Denver West	11,830	\$21.25	\$251,388	11,830	\$21.25	\$251,388
Denver West Improvements			\$31,588			\$0
Denver West 4 th Fl.	2,139	\$15.00	\$32,085	2,139	\$15.00	\$32,085
Denver West Storage			\$5,328			\$5,328
Chancery Building ^b	6,471	\$17.00	\$73,338	6,471	\$17.50	\$113,243
Chancery Parking (CF)			\$15,000			\$15,000
TOTAL	39,757		\$711,904	39,757		\$729,465

^a The Judicial Department is in the process of renegotiating two of its leases. Therefore, these costs may change somewhat and a supplemental request may be submitted.

^b The Chancery Building space was only leased by the Judicial Department for eight months in FY 2006-07.

Staff recommends the requested appropriation of \$729,465 comprised of \$690,225 General Fund and \$39,240 cash funds.

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 pays a monthly usage charge). This line item provides funding for the lease purchase of its telephone systems. **Staff recommends the requested continuing appropriation of \$112,766 General Fund.**

Administrative Purposes

This line item funds the costs of the Judicial Nominating Commission and the Jury Instruction Revision Committee, the printing of civil and criminal jury instructions, and the Branch's membership in the National Center for State Courts (NCSC).

Staff recommends the requested continuing appropriation of \$195,554 comprised of \$130,554 General Fund and \$65,000 cash funds. The source of cash funds is royalties from the sale of jury instructions.

Retired Judges

Statute allows for retired judges who perform temporary judicial duties to cover vacations, sick leave, and conflicts of interest for up to 90 days a year to receive a temporary increase in their retirement benefits (Section 24-51-1105(4), C.R.S.). The Judicial Department must reimburse the Public Employees Retirement Association (PERA) for these increases during the subsequent fiscal year. Other than reimbursement for travel expenses to out-of-town assignments, no other benefits are provided. Retired judges provide flexibility in coverage as they can go anywhere in the state to fill a temporary need. **Staff recommends the requested appropriation of \$1,384,006 General Fund.** The recommendation is approximately \$139,000 less than the current appropriation. The Department estimates these needs each year, but submits a supplemental each year to true-up the appropriation to actual costs.

Appellate Reports

The purpose of this line item is to purchase volumes of the *Colorado Reporter*, which is the official publication of opinions of the Colorado Supreme Court and Court of Appeals. In accordance with section 13-2-125, C.R.S., the Department purchases 194 copies of each book as it is published. These copies are located at various state offices, including district and county judges' offices, county court law libraries, district attorneys' offices, and state libraries.

Staff inquired as to whether it would be feasible to cash fund part of this line item. However, the majority of the reports are distributed to judges and court libraries which would pay for their reports from General Fund (which would simply result in a redistribution of General Fund). The piece of the request that could be cash funded are those reports sold to District Attorneys, equaling \$2,900 to \$3,900 per year, depending on the number of volumes. However, such a change would require an amendment of Section 13-2-125, C.R.S. Because the dollar amount is so small and because cash-funding would require a statutory change, **staff recommends a continuing appropriation of \$67,100 General Fund.**

Child Support Enforcement

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

Staff recommends a continuing appropriation of \$90,900 comprised of \$30,904 General Fund and \$59,996 cash funds exempt, **and 1.0 FTE**. Staff did not apply the 0.5 percent reduction because the program is so small. The sources of cash funds exempt are General Fund and federal funds appropriated in the Department of Human Services. The General Fund appropriation is used to provide a partial match for the federal funds.

Collections Investigators

Collection investigators (CIs) are located in each judicial district as required by Section 18-1-105 (1) (a) (III) (C), C.R.S. The CIs are a component of efficient case management, and help impose statutory criminal justice policies of imposing monetary penalties for the commission of crimes. Monetary sanctions both punish offenders and serve a restorative role through restitution to victims. Recoveries go to the General Fund, victim restitution, victims compensation and support programs, and various law enforcement, the trial courts, probation and other funds.

Staff recommends an appropriation of \$4,075,209 and 83.2 FTE. The recommended fund mix is \$3,498,976 cash funds and \$576,233 cash funds exempt. Staff did not include a 0.5 percent base reduction since the program has no General Fund support. The sources of the cash funds are the Judicial Collection Enhancement Fund and the Fines Collection Cash Fund. The sources of the cash funds exempt are local Victims and Witness Assistance Law Enforcement (VALE) Boards.

Summary of Courts Administration, Administrative Special Purpose, Collections Investigators Recommendation						
	GF	CF	CFE	FF	TOTAL	FTE
2006 Long Bill Approp.	\$0	\$3,420,771	\$521,233	\$0	\$3,942,004	83.2
FY 2006-07 Supplemental	\$0	\$0	\$55,000	\$0	\$55,000	0.0
FY 2006-07 Salary Survey	\$0	\$78,205	\$0	\$0	\$78,205	0.0
Staff Recommendation	\$0	\$3,498,976	\$576,233	\$0	\$4,075,209	83.2

(2) COURTS ADMINISTRATION

(C) Judicial Performance

This subdivision provides funding for judicial performance commissions which are responsible under section 13-5.5-101, C.R.S., for administering “a system of evaluating judicial performance to provide persons voting on the retention of justices and judges with fair, responsible, and constructive information about judicial performance and to provide justices, judges, and magistrates with useful information concerning their own performances.” The FTE is for the director who: coordinates appointments to commissions; supports all commissions; serves as staff to the State Commission on Judicial Performance which meets monthly and oversees the program; trains Commission members; reviews all narrative profiles and coordinates publication of profiles in the Legislative Council's Blue Book; and develops and monitors policy changes to improve the program.

Historically, in an off-year (when there is no general election and thus no judges standing for retention), there were no costs for evaluation. Interim evaluations of all judges, though required in statute, were not funded. This changed in FY 2003-04 when the program became cash funded and the intent of the program was to increase the amount of evaluations to include both judges up for retention and those who are not. However, due to controversy about who are the members of the State Commission on Judicial Performance, the program has found it difficult to make decisions that drive expenditures in recent years.

JUD NON-PRIORITIZED DI: JUDICIAL PERFORMANCE PROGRAM LINE ITEM

The Department is requesting that the Personal Services and Operating Expenses line items for the Judicial Performance subdivision be merged into a single line item. There is no funding change associated with this request.

In FY 2003-04, with the passage of H.B. 03-1378 (which increased criminal and traffic docket fees), the Judicial Performance program became entirely cash-funded. Additionally, its appropriation - which had been a single program line item within the Courts Administration, Administrative Special Purpose subdivision - became its own subdivision with separate Personal Services and Operating Expenses appropriations.

The Judicial Performance Commission and the Judicial Department are requesting that the Personal Services and Operating Expenses line items be merged into a single program line item again. The primary reason is that each year, the Commission contracts with a research firm to conduct judicial performance reviews. Currently, the funding for that contract is located in the Operating Expenses portion of the program's appropriation, even though the nature of the contract work is really a personal services expense (the Personal Services line item only contains funding for the program's 1.0 FTE). As a result, the contract must be inappropriately billed to Operating Expenses. Further,

the split between Personal Services and Operating Expenses limits the program's flexibility. For example, when large numbers of performance reviews are in progress, the program is unable to hire temporary clerical help because it lacks funding in the Personal Services line item.

Staff Recommendation. Staff agrees that consolidating the two line items makes practical sense and does not reduce accountability for the program (spending details will still be provided in the budget request). Therefore, **staff recommends the request to merge the Personal Services and Operating Expenses line items into a single program line item. Staff also recommends that this appropriation be moved into the Courts Administration, Administration subdivision.** The Department supports this recommendation.

Staff recommends a total appropriation of 1.0 FTE and \$568,294 cash funds from the Judicial Performance Cash Fund. Staff did not include a 0.5 percent base reduction since the program has no General Fund support.

Summary of Courts Administration, Judicial Performance Program Recommendation						
	GF	CF	CFE	FF	TOTAL	FTE
FY 2006-07 Long Bill Appro. for PS	\$0	\$87,552	\$0	\$0	\$87,552	1.0
FY 2006-07 Salary Survey	\$0	\$2,297	\$0	\$0	\$2,297	0.0
FY 2006-07 Long Bill Approp. for OE	\$0	\$478,445	\$0	\$0	\$478,445	0.0
Staff Recommendation	\$0	\$568,294	\$0	\$0	\$568,294	1.0

(2) COURTS ADMINISTRATION

(D) Integrated Information Services

This Division is responsible for developing and maintaining information technology systems used by the courts in all 22 judicial districts, including ICON/Eclipse and CICJIS. It trains court staff on the use of such systems and plays a central role in assuring data integrity. This Division provides all the technology services to the Department, including technical support, and develops new uses for technology to improve efficiency.

Staffing Summary	FY 2005-06 Actual	FY 2006-07 Approp.	FY 2007-08 Request	FY 2007-08 Recomm.
Admin./Support	2.9	2.9	2.9	2.9
Programming Services	11.9	11.9	11.9	11.9
Computer Tech Support	14.4	15.0	15.0	15.0
Programming/Tech Supervisors	6.0	8.0	8.0	8.0
Customer Support	4.0	5.3	5.3	7.2
TOTAL	39.2	43.1	43.1	45.0

Personal Services

Staff recommends an appropriation of 45.0 FTE and \$3,276,464 comprised of \$3,057,464 General Fund and \$219,000 cash funds exempt. The recommendation includes funding g associated with JUD DI #2 (Trial Courts Staff, page 33) and JUD DI #4 (Probation Staff, page 40). The source of cash funds exempt is federal funding transferred from the Department of Public Safety, Division of Criminal Justice, and other state agencies.

Summary of Integrated Information Services Personal Services Recommendation						
	GF	CF	CFE	FF	TOTAL	FTE
FY 2006-07 Long Bill	\$2,876,414	\$0	\$219,000	\$0	\$3,095,414	42.8
S.B. 06-61	\$17,130	\$0	\$0	\$0	\$17,130	0.3
FY 2006-07 Salary Survey	\$88,670	\$0	\$0	\$0	\$88,670	0.0
0.5 Percent Base Reduction	(\$14,911)	\$0	\$0	\$0	(\$14,911)	0.0
JUD DI #2: Trial Courts Staff	\$12,184	\$0	\$0	\$0	\$12,184	0.3
JUD DI #4: Probation Officers	\$77,977	\$0	\$0	\$0	\$77,977	1.6
Staff Recommendation	\$3,057,464	\$0	\$219,000	\$0	\$3,276,464	45.0

Operating Expenses

Staff recommends an appropriation of \$227,344 comprised of \$177,344 General Fund and \$50,000 cash funds. The recommendation includes funding associated with JUD DI #2 (Trial Courts Staff, page 33) and JUD DI #4 (Probation Staff, page 40).

Summary of Courts Administration, Integrated Information Systems Operating Expenses Recommendation					
	GF	CF	CFE	FF	TOTAL
2006 Long Bill Approp.	\$174,569	\$50,000	\$0	\$0	\$224,569
JUD DI #2: Trial Courts Staff	\$375	\$0	\$0	\$0	\$375
JUD DI #4: Probation Officers	\$2,400	\$0	\$0	\$0	\$2,400
Staff Recommendation	\$177,344	\$50,000	\$0	\$0	\$227,344

Capital Outlay

Staff recommends an appropriation of \$10,563 General Fund. The recommendation includes funding associated with JUD DI #2 (Trial Courts Staff, page 33) and JUD DI #4 (Probation Staff, page 40).

Summary of Courts Administration, Integrated Information Systems Capital Outlay Recommendation					
	GF	CF	CFE	FF	TOTAL
JUD DI #2: Trial Courts Staff	\$3,521	\$0	\$0	\$0	\$3,521
JUD DI #4: Probation Officers	\$7,042	\$0	\$0	\$0	\$7,042
Staff Recommendation	\$10,563	\$0	\$0	\$0	\$10,563

JAVA Conversion

This line item was created in FY 2006-07 to provide funding and staff for a three-year conversion of Judicial's case management system database, ICON, from the RPG programming language to the JAVA programming language. At the end of this period, the Department will no longer need the additional FTE and the positions and funding can be eliminated.

For FY 2006-07, the Department received 5.0 FTE and 11 months of funding. **Staff recommends the FY 2007-08 request of \$311,054 General Fund**, which includes an increase of \$25,546 to annualize the cost of these FTE.

Purchase of Services from Computer Center

Staff recommendation is pending JBC common policy decision making.

Multiuse Network Payments

Staff recommendation is pending JBC common policy decision making.

Telecommunications Expenses

The Department has not entirely converted to the Multi-use Network (MNT); it is experimenting with the MNT in a limited capacity and therefore, has a small MNT appropriation relative to other Departments of a comparable size. Instead, this line item pays for the majority of the Department's data line charges. **Staff recommends the requested continuing appropriation of \$383,392** comprised of \$310,000 General Fund and \$73,392 cash funds.

Communication Services Payments

Staff recommendation is pending JBC common policy decision making.

Hardware Replacement

This line item is used to replace personal computers, servers, routers, switches, and so forth, based on useful life. **Staff recommends a continuing appropriation of \$2,214,920 cash funds.** The sources of cash funds are access fees on the Judicial Department's public access and e-filing applications.

Hardware/Software Maintenance

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

Staff recommends the requested continuing appropriation of \$1,078,094 comprised of \$1,043,094 General Fund and \$35,000 cash funds. The sources of cash funds are access fees on the Judicial Department's public access and e-filing applications.

(3) TRIAL COURTS

Staffing Summary	FY 2005-06 Actual	FY 2006-07 Approp.	FY 2007-08 Request	FY 2007-08 Recomm.
District Court Judges	137.2	144.0	157.0	144.0
County Court Judges	80.2	84.0	84.0	84.0
Magistrates & Water Referees	60.8	64.5	64.8	64.8
Division Staff	380.9	445.4	471.8	445.7
Court Reporters	90.3	145.4	158.4	145.6
Clerks' Offices	602.3	596.0	637.3	624.2
Dispute Resolution	28.9	29.0	29.0	29.0
Administrative/Office Support	147.8	177.7	177.7	177.7
Total PS line item	1,528.4	1,686.0	1,780.0	1,715.0

The majority of Judicial Department expenditures are for trial courts, which include district and county courts. Crimes are prosecuted in trial courts, and civil disputes (including domestic relations cases) are heard as well. Crimes are set forth in statute, and the General Assembly has passed numerous laws to try and improve public safety, and provide law enforcement with the tools necessary to protect the public. When new crimes are added to statute, caseload grows. Similarly, when population grows, caseloads grow. The combination of the two has led to a fairly steady increase in filings.

Personal Services

Staff recommends an appropriation of 1,715.0 FTE and \$98,324,172 comprised of \$91,500,495 General Fund and \$6,823,677 cash funds. The recommendation includes funding for JUD DI #2 (Trial Courts Staff, page 33) and #3 (Additional Magistrate, page 38). The sources of the cash funds are the Judicial Stabilization Fund and various fees and cost recoveries.

Summary of Trial Courts Personal Services Recommendation						
	GF	CF	CFE	FF	TOTAL	FTE
FY 2006-07 Long Bill	\$88,022,210	\$6,857,967	\$0	\$0	\$94,880,177	1,672.0
FY 2006-07 Salary Survey	\$2,175,866	\$0	\$0	\$0	\$2,175,866	0.0
H.B. 06-1028	\$903,278	\$0	\$0	\$0	\$903,278	16.0
S.B. 06-61	(\$27,817)	\$0	\$0	\$0	(\$27,817)	0.0
0.5 Percent Base Reduction	(\$455,183)	(\$34,290)	\$0	\$0	(\$489,473)	0.0
FY 2006-07 Supplemental	(\$36,868)	\$0	\$0	\$0	(\$36,868)	(2.0)
JUD DI # 2: Trial Courts Staff	\$869,632	\$0	\$0	\$0	\$869,632	28.0
JUD DI #3: Additional Magistrate	\$49,377	\$0	\$0	\$0	\$49,377	1.0
Staff Recommendation	\$91,500,495	\$6,823,677	\$0	\$0	\$98,324,172	1,715.0

Operating Expenses

Staff recommends an appropriation of \$6,638,719 comprised of \$213,100 General Fund and \$6,425,619 cash funds. The recommendation includes funding for JUD DI #2 (Trial Courts Staff, page 33) and #3 (Additional Magistrate, page 38). The sources of the cash funds are the Judicial Stabilization Fund, the Dispute Resolution Fund, and various fees and cost recoveries.

Summary of Trial Courts Operating Expenses Recommendation					
	GF	CF	CFE	FF	TOTAL
2006 Long Bill Approp.	\$168,787	\$6,425,619	\$0	\$0	\$6,594,406
H.B. 06-1028	\$28,600	\$0	\$0	\$0	\$28,600
JUD DI #2: Trial Court Staff	\$14,000	\$0	\$0	\$0	\$14,000
JUD DI #3: Additional Magistrate	\$1,713	\$0	\$0	\$0	\$1,713
Staff Recommendation	\$213,100	\$6,425,619	\$0	\$0	\$6,638,719

Capital Outlay

Staff recommends an appropriation of \$141,023 General Fund. The recommendation includes funding for JUD DI #2 (Trial Courts Staff, page 33) and #3 (Additional Magistrate, page 38).

Summary of Trial Courts Capital Outlay Recommendation					
	GF	CF	CFE	FF	TOTAL
JUD DI #2: Trial Court Staff	\$84,140	\$0	\$0	\$0	\$84,140
JUD DI #3: Additional Magistrate	\$56,883	\$0	\$0	\$0	\$56,883
Staff Recommendation	\$141,023	\$0	\$0	\$0	\$141,023

Mandated Costs

Mandated costs are costs associated with activities, events, and services that accompany court cases that are required in statute and/or the U.S. and Colorado Constitution to ensure a fair and speedy trial, and to ensure the right to legal representation. The Mandated Costs line item funds the following:

- Court-Appointed Counsel — Fees and expenses for court-appointed parent respondent counsel, and other representatives for children and indigent persons.
- Court Costs — Costs incurred in prosecuting and defending criminal and some civil cases, other than attorneys' and investigators' fees. Court costs includes transcript costs, expert and other witness fees and expenses, interpreters, psychological evaluations, sheriffs' fees, subpoenas, and other costs mandated by statute.
- Jury Costs — Fees and expenses for jurors, included those on Grand Juries.

Staff recommends the requested continuing appropriation of \$13,080,287 comprised of \$12,595,287 General Fund and \$485,000 cash funds. The sources of the cash funds are various fees and cost recoveries.

Language Interpreters

Language barriers and barriers erected by cultural misunderstanding can render participants in the judicial system virtually absent from their own court proceedings. In addition, they can result in misinterpretation of witness statements made to police or testimony during court proceedings, and can deter minority litigants from the civil justice system as a forum for redress of grievances.

As a result, laws that govern the access to judicial proceedings in general are also interpreted to apply to language interpreter access. For example, the protections guaranteed in the U.S. Constitution (specifically the due process clause of the 14th Amendment, and the provisions of the 5th and 6th Amendments regarding the admissibility of criminal confessions and a criminal defendant's right to confront a witness) are deemed to apply as they concern the abilities of non-English speakers to understand and fully participate in court proceedings.

Historically, language interpreters were paid for out of the Mandated Costs appropriation. However, in FY 2006-07 language interpreter costs were moved to a separate line item because

they were growing and becoming an increasingly significant part of the Mandated Costs line item. Additionally, a separate line item provides more information to interested parties and helps the Department to manage these costs better. **Staff recommends the requested continuing appropriation of 25.0 FTE and \$2,883,666** comprised of \$2,833,666 General Fund and \$50,000 cash funds. The source of cash funds is cost recoveries.

District Attorney Mandated Costs

To help ensure a fair and equitable Judicial system, the state pays District Attorney mandated costs, thus providing the DAs access to resources on par with those of the Public Defenders. The bulk of the mandated costs for District Attorneys are payments to witnesses, including travel, and payments for subpoenas. Although the appropriation is made to the Judicial Department, the funding is passed through to the Colorado District Attorneys' Council for management and distribution. Mandated costs can vary from year to year and are impossible to predict.

The request is based on the average actual costs from the five most recent years of actual expenditures (see table below). This total, \$1,915,667, is a \$47,066 reduction from the FY 2006-07 appropriation.

	FY 01-02 Actual	FY 02-03 Actual	FY 03-04 Actual	FY 04-05 Actual	FY 05-06 Actual	FY 06-07 Approp	FY 07-08 Request
Total	1,975,963	1,904,527	1,906,703	1,911,969	1,879,174	1,962,733	1,915,667
GF	1,975,963	1,833,410	1,847,369	1,911,969	1,772,849	1,837,733	1,790,667
CF	0	71,117	59,334	0	106,325	125,000	125,000

Staff recommends the requested appropriation of \$1,915,667 comprised of \$1,790,667 General Fund and \$125,000 cash funds from cash recoveries.

Sex Offender Surcharge Fund Program

Section 18-21-103, C.R.S., establishes a surcharge on sex offenders to cover the direct and indirect costs associated with the evaluation, identification, treatment, and continued monitoring of sex offenders. In addition, the statute authorizes the Department to retain five percent of revenues for the administrative costs incurred by the Department. The five percent administrative portion is credited to the General Fund, and is subject to appropriation by the General Assembly

Due to an increase in anticipated revenues, the Sex Offender Management Board anticipates an increased allocation for the Judicial Branch, and thus the request includes an increase of \$3,967 for greater administrative costs. **Staff recommends the requested appropriation of \$24,988 General Fund.**

Victim Compensation and Victim Assistance

These line items represent funds that are collected by the courts from offenders and then transferred to local governments for compensation and assistance of victims, in accordance with Articles 4.1 and 4.2 of Title 24, C.R.S. These amounts are included for informational purposes only, as they are continuously appropriated by statute. The amounts listed in the Long Bill are estimates of the amounts that will be collected during the fiscal year.

Staff recommends the requested continuing appropriations of \$9,654,000 for Victim Compensation (comprised of \$9,115,000 cash funds and \$539,000 cash funds exempt) **and \$12,003,000 for Victim Assistance** (comprised of \$11,651,000 cash funds and \$352,000 cash funds exempt). The sources of cash funds are the Crime Victim Compensation Funds, and the Victims and Witnesses Assistance and Law Enforcement Funds, respectively.

Federal Funds and Other Grants

This line item reflects miscellaneous grants and federal funds associated with the Trial Courts. The FTE shown in the Long Bill are not permanent employees of the Department, but instead represent the Department's estimates of the full-time equivalent people that are working under the various grants. The grants include Child Support Grants, Court Improvement Grants, a Criminal History Disposition Grant, a CICJIS Sex Offender Grant, and a Kids of Divorce Grant.

Staff recommends the requested appropriation of \$2,296,627 and 8.5 FTE, comprised of \$863,000 cash funds, \$383,469 cash funds exempt, and \$1,050,158 federal funds. The recommendation includes an increase of \$150,000 cash funds to better align the appropriation with anticipated fees, cost recoveries, and grants. The cash funds exempt are federal funds appropriated to DCJ. The federal funds are direct grants to Probation for juvenile programs, and an Access and Visitation Grant which the Office of Dispute Resolution uses primarily to provide free services to indigent parties and subsidized services to low-income parties in cases involving parenting issues.

(4) PROBATION AND RELATED SERVICES

Staffing Summary	FY 2005-06 Actual	FY 2006-07 Approp.	FY 2007-08 Request	FY 2007-08 Recomm.
Chief Probation Officers	24.3	25.0	25.0	25.0
Probation Supervisors	64.9	68.0	78.4	96.0
Probation Officers	553.4	626.1	782.2	809.2
Admin. / Support	139.3	162.3	180.4	202.9
Total PS line item	781.9	881.4	1,066.0	1,133.1
Offender Services	31.5	0.0	0.0	0.0
Alcohol/Drug Driving Safety	73.3	86.2	0.0	0.0
Drug Offender Assessment	11.5	0.0	0.0	0.0
Victims Grants	17.3	17.3	17.3	17.3
S.B. 91-94	25.0	25.0	25.0	25.0
Grants and Federal Funds	32.3	32.3	32.3	32.3
DIVISION TOTAL	972.8	1,042.2	1,140.6	1,207.7

The Judicial Department maintains a probation department in each of its 22 judicial districts. Probation departments are responsible for supervising adult and juvenile offenders and providing presentence investigations to the courts. Supervision of probationers is conducted 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.

JUD NON-PRIORITIZED DI: ADDS LONG BILL CLEAN-UP

Background. Under Section 42-4-1301 (10), C.R.S., the Department must operate an Alcohol and Drug Driving Safety Program (ADDS) in each judicial district in order to provide pre-sentence alcohol and drug evaluations on all persons convicted of alcohol and drug-related traffic offenses. The ADDS program also must provide supervision and monitoring of all persons whose sentences or terms of probation require completion of a program of alcohol and drug driving safety education or treatment. Additionally, the ADDS program participates in evaluations of persons convicted of misdemeanors and petty offenses under the Controlled Substances Act (section 18-18-101 *et seq.*, C.R.S.).

Request. Since its inception in 1983, the ADDS Program has had a separate line item appropriation in the Long Bill. However, the day to day operations, personnel and budget management are the responsibility of the local Chief Probation Officer in each district. This request seeks to transfer the 86.2 FTE and associated funding for the ADDS program from the ADDS line item into the Probation Personal Services and Operating line items.

The reason for this request is primarily due to the program's desire to work the ADDS program staff and workload into the overall Probation Staffing Model. A review of primary work tasks for each probation officer job class was performed by the Branch's Human Resources department. It was determined that the primary duties performed by the ADDS clerical staff, Evaluators and Coordinators so closely matched the work of the Probation Support Staff, Probation Officers performing pre-sentence investigation work and the Probation Supervisors, that the ADDS positions should be integrated into the Probation series broad-bands. This broad-banding will allow for increased flexibility and cross-training of all probation staff to more efficiently address caseload and staff changes.

The Department feels a single annual budget request that addresses all of Probation's staffing and operating needs is preferable to separate budget requests for the various probation programs (which then must be distributed and managed across all 22 judicial districts). In FY 2006-07, the Probation Program's Long Bill appropriation was reorganized to support this desire: seven line items were eliminated and the appropriations transferred to Probation's Personal Services and Operating Expenses line items, or to a new line item entitled Offender Treatment and Services. This requested consolidation of the ADDS appropriation is a continuation of the effort. It will have no financial impact to either the ADDS or Probation budgets, but rather is a technical change to provide increased management flexibility.

Staff Recommendation. Staff agrees that consolidating the ADDS program funding into the Probation Personal Services and Operating Expenses appropriations will provide more flexibility and the opportunity for more holistic management practices for the entire probation program. Therefore, **staff recommends moving the appropriation as requested** and as shown on the table below. Staff did not apply the 0.5 percent base reduction as this program receives no General Fund support.

The source of cash funds is the Alcohol and Drug Driving Safety Program Fund (revenues generated through supervision and evaluation fees assessed to all persons convicted of alcohol and drug-related traffic offenses). The source of cash funds exempt is reserves in the ADDS Program Fund.

Summary of Probation and Related Services Alcohol/Drug Driving Safety Program (ADDS) Recommendation						
	GF	CF	CFE	FF	TOTAL	FTE
2006 Long Bill Approp.	\$0	\$4,613,219	\$0	\$0	\$4,613,219	86.2
FY 05-06 Salary Survey	\$0	\$105,072	\$0	\$0	\$105,072	0.0
Move to Probation, PS	\$0	(\$4,493,942)	\$0	\$0	(\$4,493,942)	(86.2)
Move to Probation, OE	\$0	(\$224,349)	\$0	\$0	(\$224,349)	0.0
Staff Recommendation	\$0	\$0	\$0	\$0	\$0	0.0

Personal Services

Staff recommends an appropriation of \$63,296,248 and 1,133.1 FTE comprised of \$54,407,271 General Fund and \$8,888,977 cash funds from Offender Services Fund and various fees and cost recoveries. The recommendation includes funding for JUD DI #4 (Additional Probation Staff, page 40) and the non-prioritized decision item to move ADDS program funding to the Probation Personal Services and Operating Expenses line items (discussed above).

Summary of Probation and Related Services Personal Services Recommendation						
	GF	CF	CFE	FF	TOTAL	FTE
2006 Long Bill Approp.	\$45,255,148	\$4,292,370	\$0	\$0	\$49,547,518	882.0
FY 2006-07 Salary Survey	\$1,507,066	\$124,751	\$0	\$0	\$1,631,817	0.0
FY 2006-07 Supplemental	(\$46,016)	\$0	\$0	\$0	(\$46,016)	(1.0)
H.B. 06-1011	\$19,682	\$0	\$0	\$0	\$19,682	0.4
S.B. 06-061	(\$16,256)	\$0	\$0	\$0	(\$16,256)	0.0
0.5 Percent Base Reduction	(\$233,598)	(\$22,086)	\$0	\$0	(\$255,684)	0.0
DI #4: Additional Probation Officers	\$7,921,245	\$0	\$0	\$0	\$7,921,245	165.5
NP DI: ADDS Long Bill Clean-up	\$0	\$4,493,942	\$0	\$0	\$4,493,942	86.2
Staff Recommendation	\$54,407,271	\$8,888,977	\$0	\$0	\$63,296,248	1,133.1

Operating Expenses

Staff recommends an appropriation of \$2,583,262 comprised of \$2,184,413 General Fund and \$398,849 cash funds. The recommendation includes funding associated with JUD DI #4 (Additional Probation Staff, page 40) and the non-prioritized decision item to move ADDS program funding to the Probation Personal Services and Operating Expenses line items (page 81).

Summary of Probation and Related Services Operating Expenses Recommendation					
	GF	CF	CFE	FF	TOTAL
FY 2006-07 Long Bill Approp.	\$1,875,660	\$174,500	\$0	\$0	\$2,050,160
FY 2006-07 Supplemental	\$87,231	\$0	\$0	\$0	\$87,231
DI #4: Additional Probation Officers	\$221,522	\$0	\$0	\$0	\$221,522
NP DI: ADDS Long Bill Clean-up	\$0	\$224,349	\$0	\$0	\$224,349
Staff Recommendation	\$2,184,413	\$398,849	\$0	\$0	\$2,583,262

Capital Outlay

Staff recommends an appropriation of \$567,033 General Fund for costs associated with JUD DI #4 (Additional Probation Staff, page 40).

Offender Treatment and Services

In the FY 2006-07 Long Bill, the appropriations for the Probation Division were reorganized. Multiple line items were eliminated and their appropriations moved to either: the Probation Personal Services line item (for all personnel-related expenses); the Probation Operating Expenses line item (for all operating costs); or this new line item for all treatment-related expenses. A new footnote was created that asks the Department to report on how funding from this line item is utilized each year.

The request for this line item includes a continuation of the base funding, plus an increase of \$332,213 cash funds exempt per JUD DI #5, Increase Drug Offender Surcharge Spending Authority (discussed on page 44). **Staff recommends the requested appropriation of \$6,294,290** comprised of \$487,193 General Fund, \$3,824,884 cash funds, and \$1,982,213 cash funds exempt. The cash funds come from the Offender Services Fund, the Drug Offender Surcharge Fund, and the Sex Offender Surcharge Fund. The cash funds exempt comes from reserves from these funds and from federal funds transferred from the Department of Public Safety, Division of Criminal Justice.

Colorado Unified Supervision/Treatment Program (CUSP)

The Governor's 2007 Recidivism Reduction and Offender Diversion Package includes funding to create a new, multi-agency pilot program entitled the Colorado Unified Supervision/Treatment Program (CUSP). This pilot program would create interdisciplinary teams in four judicial districts to work intensively with offenders who are at high risk of recidivism to the Department of Corrections. Each team would be comprised of a probation officer, a parole officer, a mental health staff person, and a drug and alcohol counselor. The Judicial Department portion of the request includes \$257,864 General Fund and 4.0 FTE. **Staff recommendation for this proposal is pending JBC decision making on the Governor's Recidivism Reduction Package.**

Victims Grants

These grants are used to provide program development, training, grant management, and technical assistance to each of the 23 probation departments as they continue to improve their victim services programs and provide direct services and notification to victims of crime. The cash funds exempt is from victim assistance surcharges collected from offenders and administered by the State Victim Assistance and Law Enforcement (VALE) Board, grants from local VALE boards, and a Victims of Crime Act (VOCA) grant that is received by the Division of Criminal Justice as federal funds and transferred to Judicial. **Staff recommends the requested continuing appropriation of \$882,821 cash funds exempt and 17.3 FTE.**

S.B. 91-94

Senate Bill 91-94 funds are used to fund alternative services to placing juveniles in the physical custody of the Department of Human Services (DHS), Division of Youth Corrections. A local juvenile services planning committee develops a plan for the allocation of resources for local juvenile services within that judicial district for each fiscal year, and each plan is approved by DHS. The DHS receives a General Fund appropriation for this program and then contracts with the Judicial Department to provide these services. The funds are then expended in the judicial districts according to the juvenile services plan. Services may include intervention, treatment, supervision, lodging, assessment, electronic monitoring, bonding programs, and family service programs. A supplemental is submitted each year by the Judicial Department for this line item because they do not know before figure setting what the terms of its contract with DHS will be.

Staff recommends the requested appropriation of \$1,906,837 cash funds exempt, and a continuation of 25.0 FTE. Funds are transferred from the Department of Human Services, Division of Youth Corrections, pursuant to Section 19-2-310, C.R.S.

S.B. 03-318 Community Treatment Funding

This is a new line item created in response to JUD DI #6, Community Treatment Funding Related to S.B. 03-318 (discussed on page 45). As discussed above, S.B. 03-318 reduced the penalties for use and possession of certain controlled substances. It also contained a provision that revokes those sentencing changes if at least \$2.2 million in estimated cost-avoidance is not directed to community treatment beginning in FY 2007-08. Staff evaluated the January 2007 Interagency Task Force report on S.B. 03-318 and concludes that the minimum threshold of cost-avoidance has likely been met. Therefore, **staff recommends an appropriation of \$2.2 million General Fund.**

Federal Funds and Other Grants

This line item reflects miscellaneous grants and federal funds associated with the Probation program. The FTE shown in the Long Bill are not permanent employees of the Department, but represent the Department's estimates of the full-time equivalent people that are working under the various grants. Grants have included juvenile assessment and treatment; an adult literacy program; a drug court in the 8th judicial district; juvenile accountability block grants; and an effort to encourage arrest policies in domestic violence cases in the 6th and 10th districts.

Staff recommends the requested continuing appropriation of \$4,663,739 and 32.3 FTE. The recommended fund mix is \$1,690,000 cash funds, \$1,737,985 cash funds exempt, and \$1,235,754 federal funds. The sources of cash funds are various fees and cost recoveries. The sources of cash funds exempt are federal funds appropriated to the Departments of Public Safety, Human Services, and Education; various fees, cost recoveries, gifts, grants, and donations; and the Rose Foundation for juvenile programs.

Footnote Recommendations for the Judicial Department:

- 4 Department of Corrections, Management, Executive Director's Office Subprogram; Department of Human Services, Mental Health and Alcohol and Drug Abuse Services, Alcohol and Drug Abuse Division; and Division of Youth Corrections; Judicial Department, Probation and Related Services; and Department of Public Safety, Division of Criminal Justice** -- State agencies involved in multi-agency programs requiring separate appropriations to each agency are requested to designate one lead agency to be responsible for submitting a comprehensive annual budget request for such programs to the Joint Budget Committee, including prior year, request year, and three year forecasts for revenues into the fund and expenditures from the fund by agency. The requests should be sustainable for the length of the forecast based on anticipated revenues. Each agency is still requested to submit its portion of such request with its own budget document. This applies to requests for appropriation from the Drug Offender Surcharge Fund, the Sex Offender Surcharge Fund, the Persistent Drunk Driver Cash Fund, and the Alcohol and Drug Driving Safety Fund, among other programs.

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

Staff recommends continuing this footnote. Staff hopes that the departments will continue to work together and improve their coordinated requests and planning for these funds. Although the departments submitted coordinated information this year, there were inconsistencies in the requests, schedules, and footnote reports submitted for Sex Offender Surcharge Fund and the Drug Offender Surcharge Fund.

- 89 Judicial Department, Supreme Court/Court of Appeals, Appellate Court Programs; Trial Courts, Trial Court Programs; Public Defender, Personal Services; Alternate Defense Counsel, Personal Services, Office of the Child's Representative, Personal Services --** In accordance with Section 13-30-104 (3), C.R.S., funding is provided for a one-year increase in judicial compensation, as follows:

	<u>Current Salary</u>	<u>Increase</u>	<u>FY 2006-07</u>
			<u>FY 2007-08</u>
Chief Justice, Supreme Court	122,352	4,331	126,683
	126,683	5,156	131,839
Associate Justice, Supreme Court	119,739	4,239	123,978
	123,978	5,046	129,024
Chief Judge, Court of Appeals	117,631	4,164	121,795
	121,795	4,957	126,752
Associate Judge, Court of Appeals	114,996	4,071	119,067
	119,067	4,846	123,913
District Court Judge	110,255	3,903	114,158
	114,158	4,646	118,804
County Court Judge	105,513	3,735	109,248
	109,248	4,446	113,694

~~Judicial increases~~ INCREASES IN JUDICIAL COMPENSATION are based upon the percentage salary survey AND PERFORMANCE-BASED PAY INCREASES ~~increase~~ received by ALJ III's. Funding is provided to maintain the salary of the Public Defender at the level of an associate judge of the Court Appeals, and to maintain the salary of the Alternate Defense Counsel and the Executive Director of the Office of the Child's Representative at the level of a district court judge.

Comment: Staff recommends continuing this footnote as amended. The Legislature has the statutory authority to set judge salaries in the Long Bill. In FY 2000-01, a decision item was approved to bring the county judge salary up to the Administrative Law Judge (ALJ) III level in the Executive Branch over a three year period. After this "catch up" period, judges' salaries were to receive the same increase as ALJ III's or other jobs in the "professional occupational group". In order for judges' salaries to remain on par with that of the ALJs, the increases shown above include a 3.7 percent increase for salary survey, and a 1.37 percent increase for performance-based pay.

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

Comment: Staff recommends continuing this footnote. The District Attorneys are not part of State government, yet receive funding through this line item in the Judicial Department's Long Bill. This footnote ensures that the District Attorneys comply with the State's regular budget process and provides some accountability as to how they are spending the appropriation.

- 86 Judicial Department, Probation and Related Services --** The Judicial Department is requested to provide by November 1 of each year a report on pre-release rates of recidivism and unsuccessful terminations and post-release recidivism rates among offenders in all segments of the probation population, including the following: adult and juvenile intensive supervision; adult and juvenile minimum, medium, and maximum supervision; the female offender program; and the specialized drug offender program. The department is requested to include information about the disposition of pre-release failures and post-release recidivists, including how many offenders are incarcerated (in different kinds of facilities) and how many return to probation as the result of violations.

Comment: Staff recommends continuing this footnote. This report provides information on the success of the various probation programs that is useful in decision making.

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

Comment: Staff recommends continuing this footnote as amended. This footnote was first requested in FY 2006-07 when multiple probation line items were eliminated and their funding moved to Probation, Personal Services and Operating Expenses line items, and this new line item that is dedicated to probation treatment and services expenditures. Since historic expenditures were not available this year, the Department submitted a report on anticipated allocations. Staff will work with the Department over the course of the upcoming year to determine what type of details should be included in the report.

(5) PUBLIC DEFENDER

Staffing Summary	FY 05-06 Actual	FY 06-07 Approp.	FY 07-08 Request	FY 07-08 Recomm.
State Public Defender & Deputies	3.0	3.0	3.0	3.0
Public Defenders	223.1	238.4	278.4	317.5
Investigators	53.5	70.5	81.0	96.8
Paralegals	6.0	6.0	8.0	25.8
Admin./Support	72.3	80.0	94.0	86.3
TOTAL	357.9	397.9	464.4	529.4

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

Personal Services

Staff recommends an appropriation of 529.4 FTE and \$35,329,770 comprised of \$35,041,380 General Fund and \$288,390 cash funds from the Offender Services Fund. The recommendation includes funding for PDO DI #1 (see page 49). The 0.5 percent base reduction was not applied to the request. If applied, it would have resulted in a savings of \$148,676 General Fund. However, this cut would reduce the effectiveness of the recommended decision item in reducing the PDO's staffing shortage.

Summary of Public Defender's Office Personal Services Recommendation						
	GF	CF	CFE	FF	TOTAL	FTE
2006 Long Bill Approp.	\$28,303,454	\$63,390	\$0	\$0	\$28,366,844	380.9
H.B. 06-1028	\$588,746	\$0	\$0	\$0	\$588,746	13.0
FY 2006-07 Supplemental	\$0	\$93,750	\$0	\$0	\$93,750	4.0
Annualize FY 06-07 Suppl	\$0	\$131,250	\$0	\$0	\$131,250	0.0
FY 2006-07 Salary Survey	\$843,028	\$0	\$0	\$0	\$843,028	0.0
PDO DI #1: Staffing Increase	\$5,306,152	\$0	\$0	\$0	\$5,306,152	131.5
Staff Recommendation	\$35,041,380	\$288,390	\$0	\$0	\$35,329,770	529.4

Health, Life, and Dental

Staff recommends an appropriation of \$1,806,462 General Fund, pursuant to JBC common policy.

Short-term Disability

Staff recommends an appropriation of \$31,517 General Fund, pursuant to JBC common policy.

Salary Survey

Staff recommends an appropriation of \$934,562 General Fund, calculated in accordance with JBC common policy.

Anniversary Increases

Staff recommends an appropriation of \$403,490 General Fund, calculated in accordance with JBC common policy for Performance-based Pay.

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

Staff recommends an appropriation of \$282,846 General Fund calculated in accordance with JBC common policy.

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

Staff recommends an appropriation of \$50,508 General Fund calculated in accordance with JBC common policy.

Operating Expenses

Staff recommends an appropriation of \$905,266 comprised of \$887,766 General Fund and \$17,500 cash funds. The recommendation includes funding for PDO DI#1 (Additional Staffing, page 49) and a \$1,750 increase in cash funds to better match anticipated registration fees paid by private attorneys at the Public Defender's annual training conference.

Summary of Public Defender's Office Operating Expenses Recommendation					
	GF	CF	CFE	FF	TOTAL
FY 2006-07 Long Bill Approp.	\$815,514	\$15,750	\$0	\$0	\$831,264
H.B. 06-1028	\$6,500	\$0	\$0	\$0	\$6,500
PDO DI #1: Staffing Increase	\$65,752	\$0	\$0	\$0	\$65,752
Increase in cash spending authority	\$0	\$1,750	\$0	\$0	\$1,750
Staff Recommendation	\$887,766	\$17,500	\$0	\$0	\$905,266

Purchase of Services from Computer Center

Staff recommendation is pending JBC common policy decision making.

Multi-use Network Payments

Staff recommendation is pending JBC common policy decision making.

Vehicle Lease Payments

Staff recommendation is pending JBC common policy decision making.

Capital Outlay

The PDO submitted one decision item that affects this line item: PDO DI #1, Staffing Increase (discussed on page 49). For that decision item, **staff recommends a capital outlay appropriation of \$393,655 General Fund.**

Leased Space

PDO DI #2: LEASED SPACE REQUIREMENTS

The Leased Space line item funds 21 existing leased spaces for 23 offices statewide. The requested increase in the Leased Space appropriation is comprised of two components:

- A. \$185,472 to cover scheduled increases of existing leases that continue through the end of FY 2007-08; and
- B. \$669,936 to meet the current market rate for leases that will expire and require renegotiation of terms during FY 2007-08 (including, in some cases, an expansion of the usable square footage).

In the Executive Branch, the increase included in part A is typically built into the Leased Space requests and not shown as a separate decision item; the PDO followed this practice. Part B represents the decision item.

The PDO usually signs leases for 10 year periods. The leases typically account for some room for growth, but assume that staff will grow to occupy common areas in the later years of the lease instead of committing to larger spaces at the outset. This funding is needed to renegotiate expiring leases and expand offices. Expansion is needed to meet the needs of the new FTE requested and anticipated in future years, and to replace conference rooms, copy rooms, interview rooms, storage rooms, and other common areas which over the years have been converted into offices to accommodate staff growth. The PDO does not request additional funding for Leased Space when it requests new FTE. Offices anticipating increased space include Arapahoe, Denver, Douglas, Salida, Silverthorne, and Steamboat Springs.

Staff recommends the requested appropriation of \$3,455,226 General Fund.

Summary of Public Defender's Office Leased Space Recommendation					
	GF	CF	CFE	FF	TOTAL
FY 2006-07 Long Bill Approp.	\$2,599,818	\$0	\$0	\$0	\$2,599,818
Leased Space Escalator	\$185,472	\$0	\$0	\$0	\$185,472
PDO DI #2: Leased Space Requirements	\$669,936	\$0	\$0	\$0	\$669,936
Staff Recommendation	\$3,455,226	\$0	\$0	\$0	\$3,455,226

Automation Plan

This line funds communication costs, maintenance, hardware replacement, training, and less expensive legal database subscriptions (not Westlaw or Lexis). **Staff recommends the requested continuing appropriation of \$489,746 General Fund.**

Contract Services

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

Mandated Costs

Mandated costs are costs associated with activities, events, and services that accompany court cases that are required in statute and/or the U.S. and Colorado Constitution to ensure a fair and speedy trial, and to ensure the right to legal representation. Such costs include expert witnesses and associated travel costs, interpreters, transcripts, and other related expenses. **Staffs recommends the requested continuing appropriation of \$2,531,618 General Fund.**

Grants

The Public Defender's Office receives grant monies that originate with the U.S. Department of Justice, are appropriated to the Department of Public Safety as federal funds, and then are transferred to the Office as cash funds exempt. The grants are used to support the addition of a social work component to compliment the State Public Defender's indigent legal services. **Staff recommends the requested appropriation of \$8,547 cash funds exempt.** This total is \$6,391 less than the current appropriation to reflect anticipated grant receipts.

Footnote Recommendations for Public Defender's Office:

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

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

(6) ALTERNATE DEFENSE COUNSEL

Staffing Summary	FY 2005-06 Actual	FY 2006-07 Approp.	FY 2007-08 Request	FY 2007-08 Recomm.
Alternate Defense Counsel	1.0	1.0	1.0	1.0
Deputy ADC	1.0	1.0	1.0	1.0
Admin./Support	3.0	3.0	3.0	3.0
Appellate Case Manager	0.0	0.0	1.0	1.0
Attorney Oversight & Training	0.0	0.0	0.5	0.5
TOTAL	5.0	5.0	6.5	6.5

The Office of the Alternate Defense Counsel (ADC) was established by S.B. 96-205 effective January 1, 1997. The purpose of the ADC is to provide representation for indigent defendants when the Public Defender is precluded from doing so because of a conflict of interest, such as when there is more than one co-defendant on a case seeking representation, or when someone seeking representation is a witness against a client of Public Defender's Office in another case. Private attorneys are appointed by the courts and are hired on a contract basis by the ADC. The Office is governed by a nine-member advisory commission appointed by the Supreme Court.

Personal Services

The ADC submitted two decision items that affect this line item, each of which is described below.

ADC DI#3: CREATE APPELLATE CASE MANAGER

The ADC is seeking to add 1.0 FTE as an appellate case manager. The ADC proposes that the cost of the additional FTE would be more than offset by a reduction in billed attorney hours, and is seeking a reduction in its Conflict of Interest Contracts line item to recover those savings. Thus, the total request is for 1.0 FTE and a reduction of \$40,906 General Fund.

Background. The ADC's contractors handle approximately 560 appellate cases each year. Each appellate case must have the record certified by the district court staff and sent to the appellate court staff. Because most cases do not proceed through the appellate process, trial attorneys rarely have to prepare these documents and go through this process. As a result, most trial lawyers do not readily know the correct procedures and contacts, resulting in a time consuming process as the lawyer tries to perfect the appeal. This entire process can take from a few months to over a year to complete.

This system has many inefficiencies. Pleadings are frequently incomplete or inaccurate, and thus not in compliance with appellate rules and requiring additional time to correct. The ADC had a case where the courts misplaced trial exhibits, resulting in the attorney spending countless hours trying to get court staff to find them. In another complex murder trial, the attorney spend many hours tracking down different parts of the record.

ADC's Appellate Pilot. In July 2006, the ADC began a limited pilot to change how appeals are handled so that they more closely mirror the system used by the State Public Defender's Office. Once the ADC contract lawyer completes an Appellate Data Sheet on ADC's website, the rest of the appellate submission is handled by a contract paralegal. Since the implementation of the pilot project, the contract paralegal has been able to form relationships with the clerks, court reporters, and appellate staff, resulting in a more streamlined process and increased cooperation between court staff and the ADC. The ADC Director has received calls from ADC lawyers, public defenders, and court personnel indicating that they are pleased with the change in ADC's appellate process.

Potential Cost-avoidance. Since paralegal time is less costly than attorney time, there is an opportunity for cost savings to the state. Although the actual amount of time the paralegal would need for any given case would vary, the ADC estimates that once the program is fully established, the paralegal would spend an average of seven hours per case, as illustrated below.

Estimate of Average Time per Case for ADC Appellate Manager

Hours	Work
3.0	Preparation and filing of Notice of Appeal and Designation of Record
1.0	Correspondence with client and court reporters
1.5	Coordinating with court personnel and court reporters to facilitate completion and transmission of the record on appeal
1.5	Motions for extensions of time and completion of the record
7.0	

Most of ADC's contract attorneys bill at \$57 per hour. For each case where a paralegal can assume seven hours worth of their work, there would be a cost-avoidance of \$399. With an average of 560 appellate cases per year, the ADC estimates that total cost-avoidance could be as high as \$223,440 per year. The cost of hiring a a paralegal would be \$55,000 to \$60,000 per year.

To date, the pilot project has been very successful. The contract paralegal has spent over 300 hours on these cases replacing at least an estimated 700 hours of attorney time. The judicial districts and Court of Appeals offices have reported that having a centralized paralegal is more efficient for them as well, resulting in less clerk and court reporter time.

Staff recommendation. Because of the demonstrated potential for cost savings to the state and increased efficiencies in the court system, **staff recommends creating an appellate manager for the ADC.**

Estimated cost avoidance. The ADC believes that the maximum estimated annual cost avoidance - \$223,440 - would not be reached in the first year as the process would need to continue to be refined. As such, the requested reduction in the Conflict of Interest Contracts line item assumes that the new appellate manager would save only three hours of attorney time per case instead of seven. This estimate seems consistent with the results generated thus far by the pilot project. Therefore, **staff recommends that the Conflict of Interest Contract line item be reduced by \$95,760 as requested.**

Recommended Funding for ADC DI #3: Appellate Case Manager

Line Item		Request and Recommendation
Total	Total - GF	(41,973)
	FTE	1.0
Personal Services	GF	50,282
	FTE	1.0
Operating Expenses	GF	500
Capital Outlay	GF	3,005
Conflict of Interest Contracts	GF	(95,760)

ADC DI#5: ATTORNEY OVERSIGHT AND TRAINING

This request has two components: (a) Provide staff resources to evaluate and monitor contract attorneys (\$49,611 General Fund and 0.5 FTE); and (b) Provide additional resources for training (\$20,000 General Fund).

(a) Provide Staff Resources to Evaluate and Monitor Contract Attorneys

The ADC was created in 1996 with the sole purpose of finding lawyers to represent indigent defendants when the Public Defender's Office had a conflict of interest. It was not until 2003, upon recommendation of the State Auditor, that ADC began to require attorneys to complete an application and be interviewed, and the ADC began checking references and executing contracts with its attorneys. This request is in part the result of a recommendation

from the February 2006 State Auditor's report to monitor and evaluate contract attorney performance and to use this information when reviewing contracts:

In our 2003 performance audit of the OADC we found that the Office needed to improve its operations to ensure greater accountability for the quality of attorney representation and for the expenditure of state resources. At that time we recommended that the Office develop processes and controls to strengthen accountability, and to ensure efficient operations and compliance with statutes and regulations. In our current audit we found that the Office has implemented or has made progress in implementing all of the prior audit recommendations. However, we identified areas in which additional improvements are needed to strengthen oversight of attorney selection, performance assessment, and billing.¹

Specifically, in the area of attorney oversight and monitoring, the audit report recommended that the ADC:

- Strengthen attorney selection by (a) requiring completed application forms, (b) conducting interviews with potential hires and reviewing references, license status, and disciplinary history prior to hire, and (c) documenting the results of interviews and background checks.
- Improve contracting and performance monitoring by (a) executing complete contracts, including effective or renewal dates, prior to case assignment or payment, (b) consistently assessing and documenting contracted attorneys' performance during the contract period, and (c) notifying attorneys, through a contract provision, of the requirement to comply with performance assessments.

The ADC is appropriated a relatively small staff, with 5.0 FTE including the Director and Deputy Director, a budget officer, and two administrative/billing staff. These staff are currently fully utilized. Therefore, the ADC is seeking 0.5 FTE to comply with the audit recommendation. Since this person must evaluate attorney performance, it requires an attorney experienced in criminal law. Complying with the Audit recommendation to evaluate and monitor contract attorneys is part of the ADC's requirement to provide qualified representation to its clients. Therefore, **staff recommends providing the 0.5 FTE requested.**

(b) Provide Additional Resources for Training

The ADC has never had a budget to provide training. It has an \$8,000 cash funds appropriation to allow it to receive cost recoveries if it charges attorneys to attend any training session it provides. However, this limited appropriation does not allow the ADC to plan for conferences or significant training sessions in specialized areas such as forensic

¹ Colorado State Auditor's Office, *Office of Alternate Defense Counsel, Performance Audit*, February 2006.

medicine, DNA, fingerprinting, ballistics, death penalty mitigation, and so forth. Although lawyers will pay for the Continuing Legal Education (CLE) credits made available, the cost of the program could easily exceed the amount that could be collected for CLEs and the lack of a General Fund appropriation does not allow the ADC to plan ahead.

The ADC requested \$20,000 General Fund to expand its ability to provide training. The ADC feels that training lawyers increases their efficiencies and therefore reduces overall costs to the state. It notes that the Public Defender's Office has a training budget of \$80,766 and full time training director and the OCR has a \$20,000 General Fund training budget. By providing training for these attorneys, the ADC believes attorneys' will use their time more effectively and efficiently, thereby reducing hours worked and costs to the state. Therefore, **staff recommends providing training resources requested in this decision item.**

The recommended funding breakdown is provided below. The recommendation includes moving \$8,000 in existing cash funds spending authority from the Operating Expenses line item to a new Training and Conferences line item.

Recommended Funding for ADC DI #5: Attorney Oversight and Training

Line Item		Request and Recommendation ^a
Total	Total	68,731
	FTE	0.5
	GF	68,731
	CF	0
Personal Services	GF	45,476
	FTE	0.5
Operating Expenses	Total	(7,750)
	GF	250
	CF	(8,000)
Capital Outlay	GF	3,005
Training and Conferences	Total	28,000
	GF	20,000
	CF	8,000

^a The funding for the recommendation does not exactly match the requested funding because of differences in cost calculations.

Personal Services

Staff recommends an appropriation of \$563,488 General Fund and 6.5 FTE. This recommendation includes funding for ADC DI #3 (Appellate Case Manager, page 96) and #5 (Attorney Oversight and Training, page 98). Staff did not include the 0.5 percent base reduction because this office is so small. If applied, the reduction would have equaled \$2,339 General Fund.

Summary of the Alternate Defense Counsel Personal Services Recommendation						
	GF	CF	CFE	FF	TOTAL	FTE
2006 Long Bill Approp.	\$456,747	\$0	\$0	\$0	\$456,747	5.0
FY 2006-07 Salary Survey	\$10,983	\$0	\$0	\$0	\$10,983	0.0
ADC DI #3: Appellate Case Mgr	\$50,282	\$0	\$0	\$0	\$50,282	1.0
ADC DI #5: Atty Oversight & Training	\$45,476	\$0	\$0	\$0	\$45,476	0.5
Staff Recommendation	\$563,488	\$0	\$0	\$0	\$563,488	6.5

Health, Life, and Dental

Staff recommends an appropriation of \$31,496 General Fund pursuant to JBC common policy.

Short-term Disability

Staff recommends an appropriation of \$505 General Fund pursuant to JBC common policy.

Salary Survey

Staff recommends the requested appropriation of \$18,422 calculated in accordance with JBC common policy.

Anniversary Increases

Staff recommends the requested appropriation of \$7,300 calculated in accordance with JBC common policy for Performance-based Pay.

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

Staff recommends an appropriation of \$4,536 General Fund calculated in accordance with JBC common policy.

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

Staff recommends an appropriation of \$810 General Fund calculated in accordance with JBC common policy.

Operating Expenses

ADC DI#4: BASE INCREASE IN OPERATING EXPENSES

The request is for an increase of \$38,700 General Fund to raise the Operating Expenses base; the Office's needs are primarily related to information technology costs.

Background. The ADC has close to 100 percent on-line billing. While this system saves the state from the costs associated with hand-entering every bill, no funding has ever been built into the base budget for developing or maintaining the information technology infrastructure. As a result, upgrades have been inconsistent at best, depending on the availability of funding to transfer from other line items at year end.² The table below shows the transfers to Operating Expenses from the past three fiscal years and provides a brief explanation as to what the funding was used for.

ADC Transfers to Operating Expenses

Fiscal Year	Amount	Reason
FY 03-04	\$11,972	Servers; computers; Westlaw subscription; cell phones
FY 04-05	\$8,581	Computer and equipment repairs; copier lease; increased communications costs
FY 05-06	\$4,486	Anti-virus software; server backups; telephone server and computer installation; advertising for Director vacancy

Additional examples of that illustrate how the ADC has coped with its limited Operating Expenses budget include:

- Some of ADC's computers still operate with Microsoft Millennium as the operating system and Microsoft Office 2000 as the software.
- The ADC still has the only printer that was ever purchased by the agency 10 years ago. This printer carries limited fonts and no color and does not produce quality print jobs (the FY 2007-08 budget request had to be sent out for printing).
- The system is not capable of electronic document transfer; therefore daily, documents must be faxed, filled out, and faxed back to the recipient.
- The servers are near capacity and there is no space available to back up work stations.

² Historically, the ADC's Long Bill appropriation has included a footnote allowing it to transfer up to 1.5 percent of its total appropriation between line items. See footnote 89 in the FY 2006-07 Long Bill.

- The ADC has never had an IT specialist. Upon relocating in Denver in July 2006, the ADC contracted with an IT specialist to monitor and maintain its servers to prevent a crisis; prior to the move, the system was maintained by the previous budget analyst.

Request. The decision item seeks a \$38,700 General Fund base increase to the operating budget. Of this funding, approximately \$23,000 would be used to update and maintain the IT infrastructure. The remaining funds would be used to bring the Operating Expenses appropriation in line with actual costs.

Staff Recommendation. The ADC uses less than 1.0 percent of its appropriation for administration. Since its inception, the Operating Budget has had only one base increase, a total of \$3,200 in FY 2003-04. The Office has become heavily reliant on technology for billing, yet has never had an appropriation to support this technology. Therefore, **staff recommends funding this decision item as requested.**

Operating Expenses

Total staff recommendation for this line item is \$66,080 General Fund. The recommendation includes funding for ADC DI #3 (Appellate Case Manager, page 96), DI #4 (Operating Base Increase, discussed above), and DI #5 (Attorney Oversight and Training, page 98).

Summary of the Alternate Defense Counsel Operating Expenses Recommendation					
	GF	CF	CFE	FF	TOTAL
2006 Long Bill Approp.	\$26,630	\$8,000	\$0	\$0	\$34,630
ADC DI #3: Appellate Case Mgr	\$500	\$0	\$0	\$0	\$500
ADC DI #4: Operating Base Increase	\$38,700	\$0	\$0	\$0	\$38,700
ADC DI #5: Atty Oversight & Training	\$250	(\$8,000)	\$0	\$0	(\$7,750)
Staff Recommendation	\$66,080	\$0	\$0	\$0	\$66,080

Capital Outlay

Staff recommends the requested appropriation of \$6,010 General Fund. The recommendation includes funding for two decisions, ADC DI #3, Appellate Case Manager (see page 96), and ADC DI #5, Attorney Evaluation and Monitoring (see page 98).

Summary of the Alternate Defense Counsel Capital Outlay Recommendation					
	GF	CF	CFE	FF	TOTAL
ADC DI #3: Appellate Case Mgr	\$3,005	\$0	\$0	\$0	\$3,005
ADC DI #5: Atty Oversight & Training	\$3,005	\$0	\$0	\$0	\$3,005
Staff Recommendation	\$6,010	\$0	\$0	\$0	\$6,010

Purchase of Services From Computer Center

Staff's recommendation is pending JBC common policy decision making.

Leased Space

ADC DI#6: LEASED SPACE CORRECTION

The ADC is seeking a \$14,654 reduction in its Leased Space line item. Historically, the ADC had two leases: its central office and an adjunct office in Grand Junction. Last summer, with the retirement of the original Alternate Defense Counsel and the hiring of his successor, the central office was moved from Greeley to Denver. The Legislature approved the estimated funding needed to relocate the office, including payment of the Greeley lease until its expiration in April 2007. This decision item would lower the Leased Space appropriation to match the actual FY 2007-08 need now that the Greeley lease has expired. **Staff recommends approving this decision item as requested.**

Staff recommends the requested appropriation of \$32,772 General Fund.

Training and Conferences

This is a new line item being recommended in response to ADC DI #5, Attorney Monitoring and Training (see page 98). **Staff recommends the requested appropriation of \$28,000** comprised of \$20,000 General Fund and \$8,000 cash funds.

Conflict of Interest Contracts

This line item pays for contract attorneys and investigators who are appointed to represent indigent and partially indigent defendants. The ADC submitted four decision items affecting this line item. ADC decision items #1 (Case Cost Growth, page 53), #3 (Appellate Case Manager, page 96), and #7 (Court-appointed Counsel Rate Increase, page 58), are discussed above. ADC DI #2 is discussed below.

ADC DI#2: MILEAGE RATE INCREASE ASSOCIATED WITH S.B. 06-173

Background. Senate Bill 06-173 increased the mileage reimbursement rate for standard vehicles from 28 cents per mile to 75 percent of the prevailing Internal Revenue Service rate, rounded to the nearest cent. The bill specified that the costs associated with the bill would be paid from each department's existing resources, and that a department should not submit a request for a supplemental appropriation for costs associated with the bill unless the request was based on an emergency.

Request. The ADC is requesting \$156,572 General Fund related to the mileage rate increase. The request has two components: (a) Reprogramming billing software (\$9,000); and (b) Increase in attorney payments (\$147,572).

(a) Reprogramming Billing Software

The ADC's web-based billing database sets all rates by appointment date. Therefore, if there is a rate change during the course of a case, the contractor is unable to bill at the new rate. For example, the state mileage reimbursement rate increased January 1, 2007. Any contractor that took a case prior to that date will be reimbursed at the old mileage reimbursement rate for the life of the case.

The ADC reports that it has received complaints about this problem. If a contractor pursues the issue, it is possible that the ADC will have to go back and process adjustments for the correct amounts by hand (a potentially burdensome process for such a small staff). Therefore, for FY 2007-08, the ADC is seeking \$9,000 to have the billing system reprogrammed so that rates can be adjusted after the assignment date and the correct mileage reimbursement rate paid. As discussed above in ADC DI #4, there is no funding available for these costs in the Office's base operating budget. **Therefore, staff recommends providing the requested \$9,000 to reprogram the billing system.** This funding should be appropriated to the Mandated Costs line item.

(b) Increase in Attorney Payments

For FY 2006-07, because of this shortcoming in the billing system, ADC estimates it will be spending approximately \$57,389 in increased mileage costs instead of \$87,450. Because the Conflict of Interest Contracts line item is so large (\$16,299,606 appropriated in FY 2006-07) and the costs billed to it subject to fluctuation depending on billings, the ADC anticipates being able to absorb these costs.

For FY 2007-08, the ADC is assuming its software will be reprogrammed it will be able to pay contractors the correct amount for all mileage reimbursements. The mileage

reimbursement rate increase will then cost the office an additional \$147,572. This is the amount being sought in this portion of the decision item.

However, as staff mentioned above, funding for mileage reimbursement costs comes from the Conflict of Interest Contracts line item. This line item is very large; the increase requested for this portion of the decision item represents less than 1.0 percent of the current appropriation. Additionally, the costs billed to this line item are subject to fluctuation depending on billings. Staff believes the ADC will also be able to absorb the increased mileage costs this year as it did in FY 2006-07. Therefore, **staff recommends no additional funding for this portion of the request.**

Conflict of Interest Contracts

Staff recommends an appropriation of \$18,512,293 General Fund. This recommendation includes funding for ADC decision items #1 (Case Cost Growth, page 53) and #3 (Appellate Case Manager, page 96), but not ADC decision items #2 (Mileage Rate Increase, above) or #7 (Court-appointed Counsel Rate Increase, page 58).

Summary of the Alternate Defense Counsel Conflict of Interest Contracts Recommendation					
	GF	CF	CFE	FF	TOTAL
2006 Long Bill Approp.	\$16,299,606	\$0	\$0	\$0	\$16,299,606
ADC DI #1: Case Costs Increase	\$2,308,447	\$0	\$0	\$0	\$2,308,447
ADC DI #3: Appellate Case Mgr	(\$95,760)	\$0	\$0	\$0	(\$95,760)
Staff Recommendation	\$18,512,293	\$0	\$0	\$0	\$18,512,293

Mandated Costs

Mandated costs are costs associated with activities, events, and services that accompany court cases that are required in statute and/or the U.S. and Colorado Constitution to ensure a fair and speedy trial, and to ensure the right to legal representation. **Staff recommends an appropriation of \$1,504,483 General Fund.** The recommendation includes funding for ADC DI #1 (Case Cost Growth, page 53) and #2 (Mileage Rate Increase, page 105).

Summary of the Alternate Defense Counsel Mandated Costs Recommendation					
	GF	CF	CFE	FF	TOTAL
2006 Long Bill Approp.	\$1,420,616	\$0	\$0	\$0	\$1,420,616
ADC DI #1: Case Costs Increase	\$74,867	\$0	\$0	\$0	\$74,867
ADC DI #2: Mileage Rate Increase	\$9,000	\$0	\$0	\$0	\$9,000
Staff Recommendation	\$1,504,483	\$0	\$0	\$0	\$1,504,483

Footnote Recommendations for Office of the Alternate Defense Counsel:

- 89 Judicial Department, Alternate Defense Counsel --** In addition to the transfer authority provided in Section 24-75-110, C.R.S., up to ~~1.5 percent~~ 2.5 percent of the total Alternate Defense Counsel appropriation may be transferred between line items in the Alternate Defense Counsel's Office.

Comment: Staff recommends continuing this footnote as amended. The ADC is a small agency and utilizes this flexibility to stay within its appropriation and avoid excess supplemental requests. The ADC requested the increase in transfer authority to allow it greater flexibility, consistent with the transfer authority given to the Public Defender's Office and the Office of the Child's Representative. Staff recommends this change.

(7) OFFICE OF THE CHILD'S REPRESENTATIVE

Staffing Summary	FY 2005-06 Actual	FY 2006- 07 Approp.	FY 2007-08 Request	FY 2007-08 Recomm.
Executive Director	1.0	1.0	1.0	1.0
Assistant Director	1.0	1.0	1.0	1.0
Admin./Support	1.8	2.0	2.0	2.0
Subtotal Admin Office	3.8	4.0	4.0	4.0

Attorneys			15.5	15.5
Social Workers/Case Coordinators			3.0	3.0
Admin./Support			3.3	3.3
Subtotal GAL Office			21.8	21.8

OCR TOTAL	3.8	4.0	25.8	25.8
------------------	------------	------------	-------------	-------------

The Office of the Child's Representative (OCR) is responsible for providing legal representation for children involved in the court system due to abuse, neglect, high conflict divorce, or delinquency. The responsibilities of this office belonged to the Judicial Department until the OCR became an independent agency pursuant to H.B. 00-1371. In most of the state, legal representation is provided through contract attorneys known as guardians ad-litem (GALs) and child family investigators (CFIs). The OCR also has staff in El Paso County that provide guardian ad-litem services through a centralized office rather than through contracted services.

Personal Services

The OCR submitted one decision item relating to this line item.

**OCR DI#8: CONVERT EL PASO COUNTY STAFF TO FTE
21.8 FTE (NO FUNDING IMPACT)**

Background. When OCR was formed in 2000, it assumed responsibility for all contract GALs and a pilot project in El Paso County (known as the GAL Office) that provides guardian ad-litem services through a centralized office rather than through contracted services. The goal of the pilot

project was to determine if higher quality services could be provided through a "staff model" at the same or less cost as the existing process of contracting with independent GALs.

The El Paso County GAL Office opened in FY 2000-01. The Office not only employs attorneys, but also managing social workers and case coordinators. These professionals are able to provide analysis of treatment needs, communication with treatment providers, psycho-social assessments, and observations of parent/child visitation. By having additional professionals on staff, the office both takes advantage of their expertise and can utilize its attorney resources more efficiently.

The OCR has found that the staff model provides consistent and quality attorney services through direct accountability, consistency in case-handling and management, professional support and collaboration, consistent training, and increased credibility of GALs. Additionally, the OCR found that the hourly cost of providing services through the El Paso County GAL Office is less than that of providing services using contract GAL. For example, for FY 2005-06, the GAL Office had a total of \$1,350,700 in expenditures and spent approximately 40,000 hours on casework, for an approximate cost of \$34 per hour; in FY 2005-06, the hourly rates paid contract GALs were \$45 per hour for out-of-court work and \$55 per hour for in-court work.

The Request. Currently OCR has an appropriation of 4.0 FTE for its administrative office, and personal services funding for 24 contract staff filling 21.8 positions in its GAL Office. Since the GAL Office originated as a pilot project, the Office's FTE have never been appropriated. However, the Office has proven to be a cost-effective method of providing services in that area and is now considered part of OCR's regular operations. Therefore, OCR is requesting an appropriation for the Office's 21.8 FTE.

The OCR has its own personnel policy and procedures, outside of the Executive Branch Personnel System. All OCR positions are non-classified, regardless of whether or not they are considered FTE. All employees, whether FTE or not, are employed at will. All staff currently receive the same financial benefits of FTE (Health, Life, and Dental; Short-term Disability; PERA; Salary Survey; Performance-based Pay; etc.).

Staff recommendation. This is a technical request. The OCR receives funding for 25.8 FTE, but since only 4.0 are currently appropriated in the Long Bill, questions have arisen in prior budget sessions about why 4.0 FTE need so much funding. In the Judicial Department's budget, an effort has been made to appropriate long-term contracted FTE (something allowed for under Judicial's personnel rules), in an effort to make the budget better reflect actual practices. **Staff recommends OCR's appropriation be increased by 21.8 FTE, as requested.** This change would result in the Long Bill better reflecting the reality of OCR's operations, increasing transparency and reducing confusion.

The total recommendation for the Personal Services line item is \$1,629,747 General Fund and 25.8 FTE as outlined in the table below.

Summary of the Office of the Child's Representative, Personal Services Recommendation						
	GF	CF	CFE	FF	TOTAL	FTE
2006 Long Bill Approp.	\$1,597,393	\$0	\$0	\$0	\$1,597,393	4.0
FY 2006-07 Salary Survey	\$40,544	\$0	\$0	\$0	\$40,544	0.0
0.5 Percent Base Reduction	(\$8,190)	\$0	\$0	\$0	(\$8,190)	0.0
OCR DI #8: GAL Office FTE	\$0	\$0	\$0	\$0	\$0	21.8
Staff Recommendation	\$1,629,747	\$0	\$0	\$0	\$1,629,747	25.8

Health Life and Dental

Staff recommends an appropriation of \$101,789 General Fund, pursuant to JBC common policy.

Short Term Disability

Staff recommends \$1,836 General Fund, pursuant to JBC common policy.

Salary Survey

Staff recommends the requested \$53,159 General Fund, calculated in accordance with JBC common policy.

Anniversary Increases

Staff recommends the requested \$20,344 General Fund, calculated in accordance with JBC common policy for Performance-based Pay.

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

Staff recommends an appropriation of \$16,474 General Fund calculated in accordance with JBC common policy.

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

Staff recommends an appropriation of \$2,942 General Fund calculated in accordance with JBC common policy.

Operating Expenses

There are two decision items that affect this line item: OCR Decision Item #4, Mileage Rate Increase, and OCR Decision Item #5, Westlaw Contract. Each decision item is discussed below.

OCR DI#4: MILEAGE RATE INCREASE ASSOCIATED WITH S.B. 06-173

Senate Bill 06-173 increased the mileage reimbursement rate for standard vehicles from 28 cents per mile to 75 percent of the prevailing Internal Revenue Service rate, rounded to the nearest cent. The bill specified that the costs associated with the bill would be paid from each department's existing resources, and that a department should not submit a request for a supplemental appropriation for costs associated with the bill unless the request was based on an emergency.

The OCR submitted, and the Committee approved, a FY 2006-07 supplemental request for a \$4,653 General Fund increase for costs associated with S.B. 06-173. The OCR incurs two types of mileage expenses: administrative travel to the judicial districts, and attorneys in the GAL office in Colorado Springs visiting children in placement. The supplemental provided additional funding for the estimated cost increase from S.B. 06-173 associated with GAL travel only. This decision item seeks to "annualize" this supplemental appropriation by providing \$4,244 to cover the estimated costs for the next mileage rate increase which is scheduled to go into effect January 1, 2008.

Staff Recommendation. The GALs cannot reasonably reduce the amount of mileage they travel and still provide adequate representation for the children they represent. And, with the exemption of the FY 2006-07 supplemental for the mileage rate increase, OCR's Operating Expenses budget had not been increased since the Office was created in FY 2002-03. For the past two years, OCR has used its year-end transfer authority to transfer \$45,000 and \$30,000 into this line item to cover costs (the funding has come from vacancy savings); therefore, it is unable to absorb these costs within its existing appropriation. **Staff recommends providing \$4,244 General Fund as requested.**

OCR DI#5: FUNDING WESTLAW CONTRACT

The OCR is seeking \$7,841 General Fund to pay for its Westlaw subscription. Prior to FY 2006-07, the El Paso County GAL office maintained a Loislaw contract to allow its attorneys to do legal research. Loislaw has the advantage of allowing multiple users on one license and it is relatively inexpensive - OCR's annual subscription was only \$957. However, Loislaw is limited in the material that can be accessed.

Westlaw is used for legal research by most major law schools and firms, as well as by the state Judicial Department. Westlaw offers more content, yet it requires a license for each attorney in the practice, and thus is more expensive than Loislaw. In FY 2006-07, OCR negotiated the government rate for a Westlaw contract. It is now paying a total of \$8,798 for the subscription; currently, the cost of the difference is coming out of vacancy savings. However, that funding is unpredictable. This decision item seeks an appropriation for the additional cost of the Westlaw contract.

Staff Recommendation. With the exemption of the FY 2006-07 supplemental for the mileage rate increase, OCR's Operating Expenses budget had not been increased since the Office was created in FY 2002-03. For the past two years, OCR has used its year-end transfer authority to transfer \$45,000 and \$30,000 into this line item to cover costs (the funding has come from vacancy savings); therefore, it is unable to absorb these costs within its existing appropriation. **Staff recommends funding providing \$7,841 General Fund for this decision item as requested.**

Operating Expenses

Staff recommends the requested appropriation of \$147,212 General Fund. The recommendation includes funding for OCR DI #4 (Mileage Rate Increase, page 111) and #5 (Westlaw Contract, discussed above).

Summary of the Office of the Child's Representative, Operating Expenses Recommendation					
	GF	CF	CFE	FF	TOTAL
FY 2006-07 Long Bill Approp.	\$130,836	\$0	\$0	\$0	\$130,836
FY 2006-07 Supplemental	\$4,291	\$0	\$0	\$0	\$4,291
OCR DI #4: Mileage Rate Increase	\$4,244	\$0	\$0	\$0	\$4,244
OCR DI #5: Westlaw Contract	\$7,841	\$0	\$0	\$0	\$7,841
Staff Recommendation	\$147,212	\$0	\$0	\$0	\$147,212

Purchase of Services from Computer Center

Staff recommendation is pending JBC common policy decision making.

Leased Space

OCR DI#2: LEASED SPACE

The request for \$135,840 General Fund includes a \$4,891 increase (OCR DI #2) due to a scheduled increase in leased space costs. **Staff recommends the requested appropriation.**

CASA Contracts

Court Appointed Special Advocates, or CASAs, are non-attorneys who monitor case progression and speak for the best interest of children in court in a manner that attorneys often cannot. This funding is used to provide grants to the state CASA organizations for training of CASA volunteers. **Staff recommends the requested continuing appropriation of \$20,000 General Fund.**

Training

Ensuring the provision and availability of training throughout the state for attorneys, judges, and magistrates, is a statutory responsibility of the OCR per section 13-91-105 (1)(a)(I), C.R.S. In the past, other participants have included CASA volunteers, county attorneys, respondent parents' counsel, and social services caseworkers. OCR sponsors a variety of training sessions each year, depending on funding. Its goal is to provide at least one major front-range conference and two rural conferences, as well as a variety of brown-bag luncheons. The types of issues OCR has provided training on in the past includes: Special Advocate standards; courtroom skills; parenting coordination; delinquency; interviewing children; immigration issues; methamphetamine and children; mental health education; child development; parental alienation; attachment and attachment disorders; mediation; domestic violence; alcohol abuse; sibling separation; and federal law (such as the Indian Child Welfare Act).

OCR DI#7: ONE-TIME TRAINING RESOURCES

This request is a one-time increase of \$10,000 General Fund to provide training related to a new policy being driven by national Pew Commission recommendations.

Background. The Pew Commission on Children in Foster Care is a non-partisan entity comprised of legislators, child welfare administrators, family service providers, judges, parents, and former foster youth. The mission of this Commission is to lessen the time children spend in foster care and help provide meaningful services and better outcomes for children in foster care.

In 2004, the Commission developed several national policy recommendations.³ Upon release of the recommendations, Pew sponsored a summit for the 50 State Supreme Court Justices - all of whom attended and agreed to adopt the Commission's recommendations, including Colorado's Chief Justice Mullarkey. The OCR was asked to lead the state in the recommendation that children have a strong, effective voice in the courtroom.

The prevalent presumption in dependency court is that youth should not be allowed in court except in limited circumstances. However, a national study of foster youth found a majority indicated that when they did attend court, it was helpful. Being allowed to attend court hearings helps youths feel more informed and involved in decisions that greatly effect their lives, and also provides the court with additional information. Unfortunately, little guidance exists to help professionals involve children in court proceedings in a meaningful way.

The National Association of Counsel for Children (NACC) is having its 30th annual children's law conference in Colorado, August 15 through 18 this year. This event is a premier national conference

³ It should be noted that the Pew recommendations are illustrative of a national trend to further involve children in dependency court. Other national judicial and bar associations have addressed this issue, including the National Council of Juvenile and Family Court Judges, the American Bar Association (ABA), and the National Association of Counsel for Children (NACC).

for dependency and neglect attorneys and policy makers. The NACC conference focuses on child-related issues concerning abuse and neglect, juvenile justice, and family law. The conference will contain a policy track to address the Pew recommendations, best practices, and policy changes to improve outcomes for children and families.

A conference of this magnitude has never come to Colorado before and OCR would like to take advantage of this opportunity to train GALs in the Pew recommendations, among other things. The request is for a one-time appropriation to allow the OCR to help GALs from each judicial district to attend the conference by subsidizing some or all of the \$450 registration fee, and possibly offering assistance for lodging and travel.

Staff Recommendation. The OCR has an existing training budget of \$28,000, or approximately \$112 per registered GAL. Regardless of the conference, OCR would need to seek a funding increase to provide training to these professionals in the Pew recommendations. The accessibility of this national conference is a unique opportunity for the state's GALs to receive a level of training that otherwise would be unavailable. Therefore, **staff recommends a one-time appropriation of \$10,000 General Fund** as requested. **Total staff recommendation for training is \$38,000 General Fund.**

Court Appointed Counsel

This line item pays for contract attorneys (GALs) and child family investigators (CFIs) who are appointed to represent children involved in the court system due to abuse, neglect, high conflict divorce, or delinquency. The OCR submitted two decision items related to this line item: OCR DI #1, Caseload Growth Increase (page 55), and OCR Decision Item #3, Court-appointed Counsel Rate Increase (page 58). **Staff recommends an appropriation of \$10,874,553 General Fund.** The recommendation includes the requested \$264,515 General Fund increase for OCR DI #1, but no funding for OCR DI #3.

Mandated Costs

Mandated costs are costs associated with activities, events, and services that accompany court cases that are required in statute and/or the U.S. and Colorado Constitution to ensure a fair and speedy trial, and to ensure the right to legal representation. **Staff recommends the requested continuing appropriation of \$11,228 General Fund.**

Footnote recommendations for the Office of the Child's Representative:

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

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

MEMORANDUM

TO: Joint Budget Committee

FROM: Stephanie Walsh, JBC Staff (303-866-2062)

SUBJECT: Judicial Department, Staff Comebacks

DATE: March 15, 2007

This memo is to make corrections to and seek clarification regarding certain items in the Judicial Department figure-setting packet dated March 6, 2007.

I. ANNUALIZATION OF FY 2006-07 DECISION ITEM FUNDING

In last year's Long Bill, new General Fund FTE were only funded for 11 months due to the pay date shift. The Department requires funding for the 12th month for those FTE beginning in FY 2007-08. However, staff neglected to provide the annualization for those FTE in the FY 2007-08 figure-setting packet. The three line items affected are provided in the table below. The additional funding needed would result in a 0.15 percent increase over the Department's FY 2006-07 appropriation.

Line Item	JBC Approved FY 07-08 Appropriation (GF portion only)	Additional Funding Needed (GF)	Revised FY 07-08 Recommendation (GF portion only)
Courts Admin, Admin, PS	\$3,882,509	\$11,082	\$3,893,591
Trial Courts, PS	\$91,500,495	\$289,714	\$91,790,209
Probation, PS	\$51,822,696	\$91,287	\$51,913,983
Total		\$392,083	

The Administration appropriation is for 2.0 additional Human Resources staff funded in FY 2006-07. The Trial Courts appropriation is for 6.0 additional judges and 24.0 staff associated with H.B. 01-1075, 31.0 additional trial courts staff, and 3.5 additional magistrates and 10.5 staff funded in FY 2006-07. The Probation appropriation is for 20.0 additional probation staff funded in FY 2006-07.

Additionally, in FY 2006-07, the Committee approved a decision item for funding for the Department to increase its network bandwidth. The appropriations were increased by \$114,920 cash funds for one-time hardware and installation expenses, and \$73,392 General

Fund for on-going costs. For FY 2007-08, staff forgot to deduct the one-time cash funds spending authority increase from the Department's Hardware Replacement line item. **Staff recommends a FY 2007-08 appropriation of \$2,100,000 cash funds, not the \$2,214,920 cash funds recommended in the figure setting packet.** The sources of cash funds are access fees on the Judicial Department's public access and e-filing applications.

2. SPECIAL BILLS

In the March 6, 2007 figure-setting packet, staff did not correctly account for two special bills.

- **S.B. 06-61** (Keller/Larson) transferred the authority for overseeing the provision of interpreters for persons who are deaf and hard of hearing from the Division of Rehabilitation to the Commission for the Deaf and Hard of Hearing, both within the Department of Human Services. For FY 2006-07, the Judicial Department received the following changes to its General Fund appropriations: an increase of \$14,758 for court-appointed counsel costs; an reduction of \$80,162 in costs for interpreter services; and of a one-time appropriation of 0.3 FTE and \$17,130 to reprogram its Court-appointed counsel billing and payment system. For FY 2007-08, staff forgot to deduct this one-time appropriation from the Department's Integrated Information Services, Personal Services line item.
- **S.B. 06-150** (Grossman/Hefley): Beginning July 1, 2007, this bill expanded DNA testing requirements to include all persons sentences for a felony conviction, as well as all juveniles if the offense committed would constitute a felony if it was committed by an adult. The bill applies to people sentenced to DOC, DYC, DHS, and Probation. Per the Legislative Council Staff Fiscal Note, beginning FY 2007-08, this bill was assessed to create annual expenditures for the Judicial Department of \$163,840 per year (\$155,590 General Fund and \$8,250 cash funds from cost recoveries), and require 1.9 FTE. The cost is driven by the need to administer and conduct the newly required DNA tests.

Staff's revised recommendations due to special bill corrections are shown in the table below. The total change in General Fund needed would result in a 0.03 percent increase over the Department's FY 2006-07 appropriation.

Line Item	JBC Approved FY 07-08 Appropriation	Change Needed	Revised FY 07-08 Recommendation
S.B. 06-61			
Courts Admin, IIS, PS	\$3,247,223	(\$17,130)	\$3,264,353
FTE	<u>44.4</u>	<u>(0.3)</u>	<u>44.1</u>
General Fund	\$3,028,223	(\$17,130)	3,045,353
Cash Funds Exempt	219,000	0	219,000
S.B. 06-150			
Probation, PS	\$60,711,673	\$86,070	\$60,797,743
FTE	<u>1,079.1</u>	<u>1.9</u>	<u>1,081.0</u>
General Fund	51,822,696	\$86,070	51,908,766
Cash Funds	8,888,977	0	8,888,977
Probation, OE	<u>\$2,510,983</u>	<u>\$77,995</u>	<u>\$2,588,978</u>
General Fund	2,112,134	69,745	2,181,879
Cash Funds	398,849	8,250	407,099

3. **COURT-APPOINTED COUNSEL RATE INCREASE CLARIFICATION**

For FY 2007-08, the ADC and OCR submitted coordinated requests to raise their court-appointed counsel hourly rate from \$57 per hour to \$67.50 per hour.¹ The requests included \$3,125,831 General Fund for the ADC and \$2,291,706 General Fund for the OCR - a total increase of \$5,417,537.

While staff agreed that state court-appointed counsel rates are not competitive - even with the increase that went into affect this year - staff did not recommend funding these requests given the multitude of needs facing the Branch. However, the Committee voted to raise the hourly court-appointed counsel rate for ADC and OCR to \$60 per hour. The cost of this increase is \$1,502,934 General Fund (\$862,533 for ADC and \$640,934 for OCR).

Clarification needed. At the time the Committee voted to increase the state's hourly court-appointed counsel rate, staff forgot to point out that the Judicial Department also hires court-appointed counsel. The Judicial Department provides representation for indigent parties who

¹ The ADC actually has a tiered rate system. As of July 1, 2006, type A felonies are billed at \$60 per hour, type B felonies at \$56 per hour, and juvenile and misdemeanor cases as \$54, for an average hourly rate of \$57 per hour.

are respondent parents in dependency and neglect actions; require mental health, probate, or truancy counsel; are adults requiring guardian ad litem in mental health, probate, or dependency and neglect actions; or who require contempt of court counsel. The Judicial Department also provides counsel in juvenile delinquency matters when the party is not indigent, but a family member is a victim or the parents refuse to hire counsel (in the latter case, reimbursement to the state is ordered against the parents).

The Judicial Department, OCR, and ADC often use the same attorneys, and if the Judicial Department pays a lower rate, it will be at a disadvantage in its ability to attract and retain counsel. Additionally, the respondent parent counsel contracted by the Judicial Department often face guardian ad litem contracted by OCR in cases involving child welfare; inconsistent pay between these attorneys could send a message that one party in the proceedings is somehow more valuable. Finally, not increasing compensation for respondent parent counsel while increasing compensation for other state contract attorneys will hinder current efforts to improve representation for parents.

In order to pay consistent rates across the agencies, the Judicial Department would have to also pay its court-appointed counsel \$60 per hour, requiring an increase of \$520,000. Therefore, **staff recommends a funding increase of \$520,000 to the Judicial Department, Trial Courts, Mandated Costs line item.** This increase would result in a 0.20 percent increase over the Department's FY 2006-07 appropriation.

4. LONG BILL CLEAN-UPS

During figure-setting on March 6, 2007, after voting on the decision items listed in the front of the packet, staff told the Committee that the remaining lines were calculated in accordance with common policy. Without going into further detail, the Committee approved the remaining staff recommendations. However, staff forgot to point out two technical changes being recommended.

a. Judicial Performance

Background. This subdivision within Courts Administration provides funding for judicial performance commissions. The commissions are responsible under section 13-5.5-101, C.R.S. for administering “a system of evaluating judicial performance to provide persons voting on the retention of justices and judges with fair, responsible, and constructive information about judicial performance and to provide justices, judges, and magistrates with useful information concerning their own performances.” The program has one FTE, the director.

Historically, in an off-year (when there is no general election and thus no judges standing for retention), there were no costs for evaluation. Interim evaluations of all judges, though required in statute, were not funded. This changed in FY 2003-04 when the program became

cash funded and the Department intended to increase the number of evaluations to include both judges up for retention and those who are not. However, due to controversy regarding the membership of the State Commission on Judicial Performance, the program has found it difficult to make decisions that drive expenditures in recent years.

Request. Historically, the Judicial Performance appropriation was a single program line item within the Courts Administration, Administrative Special Purpose subdivision. When the program became cash funded in FY 2003-04, it was broken out into its own subdivision with separate Personal Services and Operating Expenses appropriations. The Judicial Performance Commission and the Judicial Department are requesting that the Personal Services and Operating Expenses line items be merged into a single program line item again. There is no funding change associated with this request.

The primary reason they are seeking the change is that each year, the Commission contracts with a research firm to conduct judicial performance reviews. Currently, the funding for that contract is located in the Operating Expenses portion of the program's appropriation, even through the nature of the contract work is really a personal services expense (the Personal Services line item only contains funding for the program's 1.0 FTE). As a result, the contract must be inappropriately billed to Operating Expenses. Further, the split between Personal Services and Operating Expenses limits the program's flexibility. For example, when large numbers of performance reviews are in progress, the program is unable to hire temporary clerical help because it lacks funding in the Personal Services line item.

Recommendation. Staff agrees that consolidating the two line items makes practical sense and does not reduce accountability for the program (spending details will still be provided in the budget request). Therefore, **staff recommends the request to merge the Personal Services and Operating Expenses line items into a single program line item. Staff also recommends that this appropriation be moved into the Courts Administration, Administration subdivision.** The Department supports this recommendation.

Summary of Courts Administration, Judicial Performance Program Recommendation						
	GF	CF	CFE	FF	TOTAL	FTE
FY 2006-07 Long Bill Appro. for PS	\$0	\$87,552	\$0	\$0	\$87,552	1.0
FY 2006-07 Salary Survey	\$0	\$2,297	\$0	\$0	\$2,297	0.0
FY 2006-07 Long Bill Approp. for OE	\$0	\$478,445	\$0	\$0	\$478,445	0.0
Staff Recommendation	\$0	\$568,294	\$0	\$0	\$568,294	1.0

b. Alcohol / Drug Driving Safety (ADDS) Program

Background. Under Section 42-4-1301 (10), C.R.S., the Department must operate an Alcohol and Drug Driving Safety Program (ADDS) in each judicial district in order to provide pre-sentence alcohol and drug evaluations on all persons convicted of alcohol and drug-related traffic offenses. The ADDS program also must provide supervision and monitoring of all persons whose sentences or terms of probation require completion of a program of alcohol and drug driving safety education or treatment. Additionally, the ADDS program participates in evaluations of persons convicted of misdemeanors and petty offenses under the Controlled Substances Act (section 18-18-101 *et seq.*, C.R.S.).

Request. Since its inception in 1983, the ADDS Program has had a separate line item appropriation in the Long Bill within the Probation Division. However, the day-to-day operations, personnel and budget management are the responsibility of the local Chief Probation Officer in each district. The Department would like to transfer the 86.2 FTE and associated funding for the ADDS program from the ADDS line item into the Probation Personal Services and Operating line items.

The reason for this request is primarily due to the Department's desire to work the ADDS program staff and workload into the overall Probation Staffing Model. A review of primary work tasks for each probation officer job class was performed by the Branch's Human Resources department. It was determined that the primary duties performed by the ADDS clerical staff, Evaluators and Coordinators so closely matched the work of the Probation Support Staff, Probation Officers performing pre-sentence investigation work and the Probation Supervisors, that the ADDS positions could be integrated into the Probation series broad-bands. This broad-banding would allow for increased flexibility and cross-training of all probation staff to more efficiently address caseload and staff changes.

The Department feels a single annual budget request that addresses all of Probation's staffing and operating needs is preferable to separate budget requests for the various probation programs (which then must be distributed and managed across all 22 judicial districts). In FY 2006-07, the Probation Program's Long Bill appropriation was reorganized to support this intent: seven line items were eliminated and the appropriations transferred to Probation's Personal Services and Operating Expenses line items, or to a new line item entitled Offender Treatment and Services. This requested consolidation of the ADDS appropriation is a continuation of the effort. It will have no financial impact to either the ADDS or Probation budgets, but rather is a technical change to provide increased management flexibility.

Recommendation. Staff agrees that consolidating the ADDS program funding into the Probation Personal Services and Operating Expenses appropriations will provide more flexibility and the opportunity for more holistic management practices for the entire probation program. Therefore, **staff recommends moving the appropriation as requested**

and as shown on the table below. Staff did not apply the 0.5 percent base reduction as this program receives no General Fund support.

Summary of Probation and Related Services Alcohol/Drug Driving Safety Program (ADDS) Recommendation							
	GF	CF	CFE	FF	TOTAL	FTE	
2006 Long Bill Approp.	\$0	\$4,613,219		\$0	\$0	\$4,613,219	86.2
FY 05-06 Salary Survey	\$0	\$105,072		\$0	\$0	\$105,072	0.0
Move to Probation, PS	\$0	(\$4,493,942)		\$0	\$0	(\$4,493,942)	(86.2)
Move to Probation, OE	\$0	(\$224,349)		\$0	\$0	(\$224,349)	0.0
Staff Recommendation	\$0	\$0		\$0	\$0	\$0	0.0

The source of cash funds is the Alcohol and Drug Driving Safety Program Fund (revenues generated through supervision and evaluation fees assessed to all persons convicted of alcohol and drug-related traffic offenses). The source of cash funds exempt is reserves in the ADDS Program Fund.

5. **Justice and Judge Compensation Footnote**

In accordance with Section 13-30-104 (3), C.R.S., the annual increase in compensation of justices and judges is set in the Long Bill. Several years ago, a decision was made to tie judicial compensation to the compensation level received Administrative Law Judge (ALJ) IIIs. Additionally, the salary of the state Public Defender is maintained at the level of an associate judge of the Court Appeals, and the salaries of the Alternate Defense Counsel and the Executive Director of the Office of the Child's Representative are maintained at the level of a district court judge.

In the figure-setting packet dated March 6, 2007, staff had incorrectly calculated the new salary amounts in the judicial compensation footnote. Below is the footnote showing the correct changes:

N **Judicial Department, Supreme Court/Court of Appeals, Appellate Court Programs; Trial Courts, Trial Court Programs; Public Defender, Personal Services; Alternate Defense Counsel, Personal Services, Office of the Child's Representative, Personal Services** -- In accordance with Section 13-30-104 (3), C.R.S., funding is provided for a one-year increase in judicial compensation, as follows:

Current Salary

Increase

FY 2006-07

			<u>FY 2007-08</u>
Chief Justice, Supreme Court	122,352	3,304	125,656
	125,656	6,371	132,027
Associate Justice, Supreme Court	119,739	3,233	122,972
	122,972	6,235	129,207
Chief Judge, Court of Appeals	117,631	3,176	120,807
	120,807	6,125	126,932
Associate Judge, Court of Appeals	114,996	3,105	118,101
	118,101	5,988	124,089
District Court Judge	110,255	2,977	113,232
	113,232	5,741	118,973
County Court Judge	105,513	2,849	108,362
	108,362	5,494	113,856

~~Judicial increases~~ INCREASES IN JUDICIAL COMPENSATION are based upon the percentage salary survey AND PERFORMANCE-BASED PAY INCREASES ~~increase~~ received by ALJ III's. Funding is provided to maintain the salary of the Public Defender at the level of an associate judge of the Court Appeals, and to maintain the salary of the Alternate Defense Counsel and the Executive Director of the Office of the Child's Representative at the level of a district court judge.

JBC Approved General Fund Changes (March 15, 2007) ^h

Italicized descriptions indicate where JBC decisions differed from staff recommendations

Type of Change ^a	Description	Dollar Change from FY 2006-07 Approp	% Change from Approp
	FY 2006-07 GF Appropriation	264,593,557	
<i>DI</i>	<i>Additional Probation Officers (JUD DI #4)^j</i>	<i>5,982,639</i>	<i>2.26%</i>
<i>DI</i>	<i>PDO Additional Staff (PDO DI #1)^{h, j}</i>	<i>3,263,941</i>	<i>1.23%</i>
DI	Caseload and Case Cost Increases ^b	2,647,829	1.00%
DI	S.B. 03-318 Community Treatment Funding	2,200,000	0.83%
<i>DI</i>	<i>Court Appointed Counsel Rate Increase^{i, j}</i>	<i>1,502,934</i>	<i>0.57%</i>
DI	Trial Courts Staff (JUD DI #2)	1,001,844	0.38%
DI	Additional Magistrate (JUD DI #3)	107,973	0.04%
DI	ADC Atty Oversight/Training (ADC DI #5)	68,731	0.03%
DI	ADC Operating Base Increase (ADC DI #4)	38,700	0.01%
DI	S.B. 06-173 Mileage Rate Increase ^c	13,244	0.01%
DI	One-time Training Funding (OCR DI #7)	10,000	0.00%
DI	Westlaw Contract (OCR DI #5)	7,841	0.00%
DI	Appellate Case Manager (ADC DI #3)	(41,973)	(0.02)%
Tech	FY 2006-07 Salary Survey	5,344,090	2.02%
Common	FY 2007-08 SS Common Policy Change	4,662,681	1.76%
Common	FY 2007-08 HLD Common Policy Change	2,413,930	0.91%
Common	FY 2007-08 PBP Common Policy Change	2,278,135	0.86%
Common	FY 2007-08 AED & SAED Policy Change ^d	1,153,655	0.44%
Tech	Leased Space Adjustments	862,406	0.33%
Common	FY 2007-08 STD Common Policy Change	58,939	0.02%
Tech	Miscellaneous Technical Changes ^e	(157,015)	(0.06)%
Common	0.5 Percent Base Reduction	(778,677)	(0.29)%
Tech	Deduct FY 2006-07 Capital Outlay	(1,492,331)	(0.56)%
Common	Items Pending Common Policy Decisions ^f	(2,782,546)	(1.05)%
	FY 2007-08 GF Total Approved	292,960,527	
Approved GF Change		28,366,970	
Percent Change in GF		10.7%	
Percent of GF Increase Attributable to Decision Items			6.4%
Percent GF Increase Attributable to Technical Changes & Common Policies^g			4.4%

^a Changes are classified as either decision items (DI), technical changes (Tech), or common policy changes (Common).

^b ADC DI #1 for \$2,383,314 and OCR DI #1 for \$264,515.

^c ADC DI #2 for \$9,000 and OCR DI #4 for \$4,244.

^d The recommendations, based on common policy decision making, are \$801,225 for AED and \$352,430 for SAED.

^e These changes include reductions of \$139,462 in the estimated funding needed for Retired Judges, and \$47,066 in District Attorney Mandated Costs. These reductions are partially offset by increases of \$25,546 to annualize FY 2006-07 decision items and special bills, and \$3,967 in increased funding related to the administration of the Sex Offender Surcharge Fund.

^f The outstanding line items are Workers' Compensation, Payments to Risk Management, Vehicle Lease, Purchase of Services from GGCC, Multi-use Network Payments, Communication Services, and the Legal Services blended rate.

^g This percentage will change once outstanding common policies are decided upon. If the Committee approves the requested funding for each of the affected line items, common policies would be responsible for a 6.5 percent General Fund increase.

^h This table does not include the \$936,317 General Fund Exempt approved by the JBC for 21.2 additional FTE for the Public Defender's Office.

ⁱ The Committee approved raising the court-appointed counsel rate for ADC and OCR to \$60 per hour. The cost of this decision is \$862,533 for ADC and \$640,401 for OCR.

^j Staff recommended the following increases: \$8,896,875 for Additional Probation Staff; \$5,765,559 for Additional PDO Staff; and \$0 for Court-appointed Counsel Rate Increase. With staff recommendations, the total General Fund increase was \$32,279,890 or 12.2 percent; of that increase 7.8 percent was attributable to decision items.