

The following file contains two documents:

- A memorandum to the Joint Budget Committee members dated March 15, 2013, concerning a FY 2012-13 supplemental request and a FY 2013-14 budget amendment submitted by the Independent Ethics Commission concerning the restoration of an FTE.
- A packet dated January 16, 2013, including staff recommendations related to Judicial Branch supplemental requests for FY 2012-13 that were submitted in January 2013.

**COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE**



**SUPPLEMENTAL REQUEST FOR FY 2012-13 AND
BUDGET AMENDMENT FOR FY 2013-14**

**JUDICIAL BRANCH,
INDEPENDENT ETHICS COMMISSION**

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

**Prepared By:
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March 15, 2013**

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Prioritized Supplemental and Budget Amendment

SUPPLEMENTAL REQUEST #1, RESTORATION OF FTE

	FY 2012-13		FY 2013-14	
	Request	Recomm.	Request	Recomm.
Total	<u>\$1,230</u>	<u>\$0</u>	<u>\$112,237</u>	<u>\$72,047</u>
FTE	1.0	0.0	1.0	1.0
General Fund	\$1,230	\$0	\$112,237	\$72,047

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of <i>an unforeseen contingency</i> .	

This request was submitted to JBC Staff on Friday, March 7, 2013, at 11:51 am.

IEC Request: The Independent Ethics Commission (IEC) requests funding for both FY 2012-13 and FY 2013-14 to restore staffing levels to 2.0 FTE. Due to an unexpected increase in workload since October 2012, the IEC has two pending complaints which involve a substantial amount of staff time, as well as five pending advisory opinion requests. For the first time since 2009, the IEC has a backlog and is not able to perform its constitutionally mandated responsibilities in a timely manner. The IEC thus requests restoration of the FTE that was eliminated in FY 2011-12 through the budget process.

The IEC seeks to hire an Assistant Director who can investigate complaints, assist with responding to requests for advisory opinions, and assist with training activities. The IEC has determined that it needs a licensed attorney with a minimum of five years of work experience, including at least three years of experience in a government prosecutorial or enforcement position. The IEC is also considering a revision to its Procedural Rules to allow this individual to conduct investigations in response to a complaint and present the evidence to the Commission (rather than requiring an individual complainant to do so in all cases).

Staff Recommendation: Staff recommends approving the request, with several modifications. Staff's recommendation is detailed in the following table (shaded items differ from the request).

JBC Staff Supplemental Recommendations: FY 2012-13
Staff Working Document – Does Not Represent Committee Decision

Summary of Recommendation for IEC BA-1: Restoration of FTE		
	FY 2012-13	FY 2013-14
<u>Independent Ethics Commission</u>		
Personal Services (0.2 FTE for FY 2012-13 and 1.0 FTE for FY 2013-14; \$73,516 annual salary + PERA + Medicare)	\$0	\$82,044
LESS: Base budget not required for existing FTE		(22,691)
Subtotal: Personal Services		59,353
Health, Life, and Dental	0	6,624
Short-term Disability	0	140
AED	0	2,622
SAED	0	2,359
Operating Expenses (per FTE costs of \$450 for telephone and \$500 for supplies for 1.6 FTE)	0	950
Total	\$0	\$72,047

Staff's recommendation is \$41,420 lower than the request for several reasons:

- For FY 2012-13, staff does not recommend making any appropriation changes. IEC staff indicate that it is likely that the new employee would be hired by May 2013, which would represent less than 0.2 FTE. The IEC's existing appropriations for FY 2012-13 should be sufficient to cover salary and benefit costs for the last two months of the fiscal year, as well as any one-time expenses such as a computer and software for the new employee. When the General Assembly eliminated an FTE in FY 2011-12, it did not eliminate all of the funding that was dedicated to that FTE. Instead, the General Assembly maintained a portion of the funding to allow the IEC the flexibility to address salary disparity issues and to pay for part-time administrative and other professional services.
- For FY 2013-14, staff recommends providing a full 12 months of funding for 1.0 FTE. However, consistent with Committee policy, staff has utilized the minimum salary of the range provided by the IEC for similar positions within the Judicial Department and the Department of Law (\$73,516), rather than the requested \$88,219. The salary utilized by staff is 18.5 percent above the minimum of the new salary range that will be implemented by the Department of Law on July 1, 2013, for Assistant Attorneys General.
- Staff recommends offsetting the costs of the new employee with that portion of the existing appropriation that is available for part-time administrative and professional services (\$22,691). Staff does not believe that the IEC will require additional funding for these services once a second employee is hired.

Finally, staff's recommendation does include funding to cover employee benefit expenses, which would require an exception to Committee policy. This is an independent agency within the Judicial Branch that currently employs one person, and thus has limited appropriation flexibility.

Staff's recommendations, absent the \$11,745 recommended for employee benefits, would not provide the IEC with sufficient funding to cover a full year of employee benefit expenses.

Analysis: The following table provides data related to the activities conducted by the IEC and its staff. Thus far in 2013, the IEC has received five complaints, nine CORA requests, and six requests for advisory opinions. Of the five complaints, the IEC has dismissed one as frivolous, determined that one is not frivolous, and directed staff to conduct further investigation on a third. The remaining two complaints have not yet been discussed by the IEC. Of the nine CORA requests received thus far, two were lengthy (requiring about three full days of staff time) and seven did not require much staff time for a response. The IEC has issued one advisory opinion, is working on opinions in response to three requests, and plans to respond to the remaining two requests once a related complaint is resolved.

IEC ACTIVITIES							
Year	Number of Meetings	Opinions Issued	Complaints Received	Hearings	CORA Requests	Trainings	Informal Advice Calls
2008	24	3	4	0	4	2	57
2009	25	21	14	1	8	6	Approx. 175
2010	20	19	9	1	12	7	Approx. 150
2011	13	12	12	1	9	34	82
2012	18	13	7	2	13	14	75
2013 YTD	5	1	5	1	9	3	40

The IEC's sole employee has managed periodic fluctuations in workload since July 2011 (when the second FTE was eliminated) by working additional hours. However, the workload has recently reached a point where the employee has been unable to perform all of the required duties within a reasonable time frame.

Given that this is an independent agency within the Judicial Branch, staff believes that it is reasonable for the IEC to employ 2.0 FTE to manage periodic workload fluctuations and provide timely responses to complaints, inquiries, and requests. The second FTE can also provide coverage for the Director when she is out of the office conducting training or investigations, or on leave. The IEC's strategic plan currently includes the following goals:

- Respond to complaints in a timely manner (80% within six months of receipt)
- Respond to requests for opinions in a timely manner (resolve 85% within 60 days of receipt)
- Increase awareness of the Commission's opinions through increased and improved training (conduct 15 trainings per year, including at least three outside Denver metropolitan area)
- Be more proactive in anticipating issues (by issuing position statements)
- Review and revise complaint process to make it less burdensome on complainants (the current model requires the complainant to pursue their own allegations, and thus discourages valid complaints by member of the public – particularly those without a legal background)

This request should assist the IEC in addressing its current backlog of complaints and requests for opinions, and to address many if not all of the above goals.

**COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE**



SUPPLEMENTAL REQUESTS FOR FY 2012-13

JUDICIAL BRANCH

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

**Prepared By:
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January 16, 2013**

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TABLE OF CONTENTS

	Narrative Page	Numbers Page
Prioritized Supplementals in Department-Assigned Order		
Supplemental #1 – Courts/Probation Priority #1: ICCES E-file Project	1	A-1
Supplemental #2 – Courts/Probation Priority #2: Court-appointed Counsel	3	A-2
Supplemental #3 – Courts/Probation Priority #3: State Patrol Services for Carr Center	6	N.A.
Supplemental #4 – Courts/Probation Priority #4: Law Library Staff	6	A-3
Supplemental #5 – Courts/Probation Priority #5: Law Library Operations	7	A-4
Supplemental #6 – Courts/Probation Priority #6: Technical Fund Source Notation Change	8	N.A.
Supplemental #7 – Colorado District Attorneys' Council Priority #1: DA Mandated Costs	10	A-5
Supplemental #8 – Office of the State Public Defender Priority #1: Operating Shortfalls	14	A-6
Non-prioritized Supplementals		
JBC Staff-Initiated Supplemental #1	18	N.A.
Department of Public Safety Supplemental Request #S-5: CSP Request for Additional Security for Carr Center	18	N.A.
Statewide Common Policy Supplemental Requests	19	N.A.
Totals for All Supplementals	N.A.	A-6

Prioritized Supplemental Requests

SUPPLEMENTAL REQUEST #1, COURTS/PROBATION PRIORITY #1 ICCES E-FILE PROJECT

	Request	Recommendation
Total	<u>\$1,440,307</u>	<u>\$1,374,339</u>
FTE	0.0	0.0
Cash Funds	1,440,307	1,374,339

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of <i>data that was not available when the original appropriation was made.</i>	

Department Request: The Department requests a \$1,440,307 increase in its cash funds appropriation from the Judicial Department Information Technology Cash Fund¹ to pay for credit card processing and mailing expenses related to the new in-house e-filing system.

Staff Recommendation: Staff recommends that the Committee appropriate slightly less than the amount initially requested (\$1,374,339 cash funds) based on more recent information provided by the Department.

Staff Analysis: The Department requests an increase of \$1,440,307 cash funds for two types of vendor payments required for the implementation of the new in-house e-filing system, called the Integrated Colorado Courts E-filing System (ICCES).

First, the Department has contracted with the **State Internet Portal Authority (SIPA) to process ICCES user payment transactions.** The Department chose to contract with SIPA because it already has the infrastructure and security protocols to store and process confidential financial information. This agreement calls for the Judicial Department to pay a flat fee of \$1,000,000 per fiscal year, plus \$1.85 per transaction, for SIPA to manage ICCES user accounts and process all user payment transactions. For FY 2012-13, the Department is requesting **\$1,362,361** additional cash funds spending authority for the contract with SIPA.

Second, the Department has contracted with a private **vendor (OSI) to provide mail services for court filings.** The Department wanted to ensure that attorneys and agencies using ICCES

¹ The Judicial Department Information Technology Cash Fund, established through a Joint Budget Committee-sponsored bill in 2008, allows the Department to retain fees and cost recoveries related to information technology services, including providing public access to court records and e-filing services. Pursuant to Section 13-32-114 (2), C.R.S., moneys in this fund may be appropriated to the Department, "for any expenses related to the department's information technology needs".

continue to have the option of requesting that hard copies of certain court filings be mailed to certain parties. In most cases, this service is covered by a \$6.00 fee paid by the ICCES user² to cover the printing and postage costs. For FY 2012-13, the Department is requesting **\$77,946** additional cash funds spending authority for anticipated OSI contract expenditures.

Staff recommends that the Committee appropriate slightly less than the amount initially requested (\$1,374,339 cash funds) based on more recent information provided by the Department. Specifically, staff recommends increasing the cash funds appropriation by a total of \$1,374,339, including \$1,319,339 for the SIPA contract and \$55,000 for the OSI contract. The Department has continued to refine its estimates as it gains experience with users and their needs, and staff's recommendation is based on the Department's most recent estimates.

Please note that revenues generated in FY 2012-13 by the in-house public access system and ICCES are not anticipated to be sufficient to cover FY 2012-13 expenditures associated with the two systems and based budget information technology expenses. This shortfall is due to: (1) the phased implementation of ICCES and the structure of the related contract with the new vendor that operates the vendor-based e-filing system; and (2) higher than anticipated costs associated with processing payment transactions. The Department thus plans to utilize some of the fund balance in the Judicial Department Information Technology (IT) Cash Fund to support the requested appropriations. This will require the Department to delay some planned information technology hardware replacements.

Beginning in FY 2013-14, total revenues for the public access and ICCES systems are anticipated to exceed system-related expenditures and base budget expenditures by about \$2.9 million annually. The following table provides a cash flow summary for the Judicial Department IT Cash Fund based on staff's recommendation. Staff has also included Appendix B, which provides a more detailed cash flow analysis for both systems.

Judicial Department Information Technology Cash Fund			
Beginning Balance	\$1,879,479	\$691,141	\$3,624,747
Total Revenues	7,988,612	13,065,000	13,065,000
Less Total Spending Authority	<u>(9,176,950)</u>	<u>(10,131,393)</u>	<u>(10,112,877)</u>
Ending Balance	691,141	3,624,747	6,576,870

Background Information – Implementation of In-house Public Access and E-filing Systems. In July 2010, the Department successfully implemented an in-house public access system, called Colorado State Courts Data Access (CSCDA). Like the predecessor vendor-based public access system, user fees support the ongoing operating costs of CSCDA and a portion of the Department's underlying information technology infrastructure. This project allowed the

² Apparently, under the previous vendor-based e-filing system, some state agencies (e.g., the State Water Engineer) had agreements in place that allowed them to pay a fee for mailing services that does not cover the full costs of such services. For now, the Judicial Department will honor those agreements. Once the ICCES system is fully implemented, the Department plans to analyze the use of mailing services and evaluate the fee structure for all users. The Department also plans to analyze existing Trial Court resources that have been utilized in the past to mail court orders and motions to certain parties.

General Assembly to reduce annual General Fund support for the Department's infrastructure by \$1.0 million. In addition, a portion of CSCDA fee revenue has supported the development of an in-house e-filing system, called Integrated Colorado Courts E-filing System (ICCES).

The Department's contract for the existing vendor-operated e-filing system expired on December 31, 2012. However, the Department was recently able to negotiate a contract to extend the vendor-operated system in certain judicial districts through June 2013. This has allowed the Department to implement the new in-house system in a phased manner for all judicial districts. Seven judicial districts are currently utilizing the new system; the system will be implemented in remaining 15 judicial districts and the appellate courts over the next five months. This phased approach allows the Department to have staff on-site in each district during the initial implementation.

**SUPPLEMENTAL REQUEST #2, COURTS/PROBATION PRIORITY #2
COURT-APPOINTED COUNSEL**

	Request	Recommendation
Total	<u>\$391,340</u>	<u>\$391,340</u>
FTE	0.0	0.0
General Fund	391,340	391,340

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of <i>data that was not available when the original appropriation was made.</i>	

Department Request: The Department requests an increase of \$391,340 General Fund for mandated costs associated with court-appointed counsel.

Staff Recommendation: Staff recommends that the Committee approve the request.

Staff Analysis: The Department requests an increase of \$391,340 General Fund for two types of court-appointed counsel.

First, the Department requests **\$328,500 for mental health counsel**. Indigent individuals have the right to state-paid counsel in mental health cases. Such counsel may be appointed in a number of circumstances, including: an imposition of legal disability (removal or restoration of legal right); involuntary admittance to a treatment/evaluation facility; short-term treatment certification proceedings; involuntary commitment of a person under the influence of or incapacitated by alcohol or drugs; or medication refusal.

The Department pays for these types of counsel from the appropriation for "Court Costs, Jury Costs, and Court-appointed Counsel". This appropriation has remained at \$15,594,352 since FY 2009-10. From FY 2009-10 to FY 2011-12, expenditures for mental health counsel increased by \$417,856 (36 percent). Data for the first half of FY 2012-13 indicates that case filings and appointments continue to increase in this area, and the Department projects 1,314 more appointments in FY 2012-13 compared to FY 2009-10. The Department's request is based on 1,314 appointments multiplied by an average cost of \$250.

Second, the Department requests **\$62,840 for guardians *ad-litem* (GALs) in probate cases.** The Court may appoint a GAL to represent the interest of an incapacitated person, an unascertained person, or a person whose identity or address is unknown, in proceedings involving trusts or estates of decedents, protected persons, and in judicially supervised settlements. Data for the first half of FY 2012-13 indicates that case filings and appointments continue to increase in this area, and the Department projects 40 more appointments in FY 2012-13 compared to FY 2009-10. The Department's request is based on 40 appointments multiplied by an average cost of \$1,571.

Since FY 2009-10, the Department has been able to cover the increased costs of these types of appointments within existing resources due to reductions in other expenses within the line item (*e.g.*, reductions in court costs and jury costs), as well as through the use of fiscal year-end transfers from other line items. The magnitude of the increases in various expense categories has reached the point where the Department can no longer manage within existing resources. Staff recommends approving the request to ensure that all parties' liberties continue to be protected and their rights upheld.

Background Information – Court Costs, Jury Costs, and Court-appointed Counsel Line Item. "Mandated costs" are costs associated with activities, events, and services that accompany court cases that are required in statute and/or the U.S. and Colorado Constitutions to ensure a fair and speedy trial, and to ensure the right to legal representation. This is one of two line items administered by the State Court Administrator's Office that provides funding for mandated costs. This line item provides funding for three types of costs, described below.

Court-appointed Counsel (\$12,410,032 expended in FY 2011-12). This line item includes funding to cover fees and expenses for court-appointed counsel and other representatives for children and indigent persons. While the Department's three independent agencies provide legal representation for adults and children in certain matters, this appropriation covers the costs of providing representation for indigent parties who:

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

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

Jury Costs (\$1,714,537 expended in FY 2011-12). This line item includes funding to cover fees and expenses for jurors. Pursuant to Sections 13-71-125 through 13-71-131, C.R.S., jurors must be compensated \$50 daily³, beginning on their fourth day of service. These provisions also allow self-employed jurors to be compensated for their lost wages and unemployed jurors to be reimbursed for their travel, child care, and other necessary out-of-pocket expenses for the first three days of service; such compensation is limited to \$50 per day. In addition, this line item provides funding for printing, preparing, and mailing summons.

Court Costs (\$1,056,925 expended in FY 2011-12). Similar to mandated costs incurred by other judicial agencies, this line item provides funding for transcripts, expert and other witness fees and expenses, interpreters, psychological evaluations, sheriffs' fees, subpoenas, and other costs mandated by statute. For the State Court Administrator's Office, these costs primarily include evaluations/ expert witness fees.

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

- The Office of the State Public Defender (OSPD) provides legal representation for indigent defendants who are facing incarceration. In FY 2011-12, the OSPD expended a total of \$60,543,837.
- The Office of the Alternate Defense Counsel (OADC) pays for private attorneys to provide legal representation for indigent defendants in criminal and juvenile delinquency cases in which the OSPD is precluded from doing so because of an ethical conflict of interest. In FY 2011-12, OADC payments to private counsel totaled \$19,767,979.
- The Office of the Child's Representative (OCR) provides or pays for private attorneys to provide legal representation for children involved in the court system due to abuse or neglect, delinquency, truancy, high conflict divorce, alcohol or drug abuse, mental health issues, and probate matters. In FY 2011-12, OCR payments to private counsel totaled \$14,783,068.

The State Court Administrator's Office pays for court-appointed counsel in all other circumstances. In FY 2011-12, these expenditures totaled \$12,410,032. Those types of appointments that comprise the majority of these expenditures are described below.

- **Respondent Parent Counsel (\$8,374,063 expended in FY 2011-12):** Appointment of counsel for a respondent parent (the defendant) in a dependency and neglect action.
- **Mental Health Counsel (\$1,593,328):** Appointment of counsel for individuals in a variety of mental health-related circumstances including: an imposition of legal disability (removal or restoration of legal right); involuntary admittance to a treatment/evaluation facility; short-

³ This dollar amount has not changed since at least 1989.

term treatment certification proceedings; involuntary commitment of a person under the influence of or incapacitated by alcohol or drugs; or medication refusal.

- **Attorney Guardian Ad-litem or "GAL" (\$482,784):** Appointment of a GAL in a variety of circumstances, including: (1) to represent the interest of an incapacitated person, an unascertained person, or a person whose identity or address is unknown, in proceedings involving trusts or estates of decedents, protected persons, and in judicially supervised settlements; (2) to represent a parent, guardian, legal custodian, custodian, stepparent, or spousal equivalent in dependency or neglect proceedings for an adult (age 18 or older); and (3) to represent an incompetent person who does not have a representative and who is a party to a civil suit.
- **Parent-Refusal Counsel for Juvenile (\$402,033):** Appointment of counsel for a juvenile to protect the interest of the juvenile in a delinquency proceeding when parent or guardian refuses to hire counsel.
- **Non-Attorney Child and Family Investigator or "CFI" (\$116,938):** Appointment of a non-attorney CFI to serve the Court in a domestic relations matter that involves allocation of parental responsibilities and the responsible party is indigent. When a CFI is an attorney, the OCR pays for the appointment.

SUPPLEMENTAL REQUEST #3, COURTS/PROBATION PRIORITY #3 STATE PATROL SERVICES FOR CARR CENTER

This request appears in the Non-Prioritized Supplemental Request section of this document, under "Department of Public Safety Supplemental Request #S-5: CSP Request for Additional Security for Carr Center".

SUPPLEMENTAL REQUEST #4, COURTS/PROBATION PRIORITY #4 LAW LIBRARY STAFF

	Request	Recommendation
Total	<u>\$62,704</u>	<u>\$62,704</u>
FTE	1.0	1.0
Reappropriated Funds	62,704	62,704

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of <i>data that was not available when the original appropriation was made.</i>	

Department Request: The Supreme Court Law Library requests the authority to receive and spend a total of \$62,704 from the Department of Law (reappropriated funds) in FY 2012-13, and a corresponding increase of 1.0 FTE.

Staff Recommendation: Staff recommends that the Committee approve the request.

Staff Analysis: The Supreme Court Law Library is a public library that recently relocated from the Denver Newspaper Agency Building to the Ralph L. Carr Colorado Judicial Center. The library is supported by appellate filing and other fees deposited in the Supreme Court Library Fund. This line item is shown for informational purposes only, as these cash funds are continuously appropriated under the Judicial Branch’s constitutional authority. In addition, in the last two fiscal years, this line item has included reappropriated funds that were transferred from the Department of Law.

The Law Library has been working with the Department of Law to consolidate their print and electronic library resources and, ultimately, to share the Law Library once both agencies relocate to the Carr Center. In order to provide high quality services to staff from Judicial Branch and the Department of Law, the agencies plan to add two part-time library staff (1.0 FTE). These two positions would be supported by funding transferred from the Department of Law. The Judicial Branch requests an appropriation of \$62,704 reappropriated funds and 1.0 FTE to receive and spend funds from the Department of Law to support these positions for FY 2012-13.

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

**SUPPLEMENTAL REQUEST #5, COURTS/PROBATION PRIORITY #5
LAW LIBRARY OPERATIONS**

	Request	Recommendation
Total	<u>\$143,288</u>	<u>\$143,288</u>
FTE	1.0	1.0
Reappropriated Funds	143,288	143,288

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of <i>data that was not available when the original appropriation was made.</i>	

Department Request: The Supreme Court Law Library requests the authority to receive and spend a total of \$143,288 from the Department of Law and the Legislature (reappropriated funds) in FY 2012-13. The Law Library also requests an increase of 1.0 FTE which will be supported by existing cash funds.

Staff Recommendation: Staff recommends that the Committee approve the request.

Staff Analysis: The supplemental budget request includes three distinct components:

- The Supreme Court Law Library, the Department of Law, and the Legislature have worked together to negotiate a **joint contract for online legal resources**, thus obtaining better pricing and better services. For FY 2012-13, the Law Library paid contract-related expenses for all three agencies. The Law Library needs an appropriation of **\$93,288** reappropriated funds to receive reimbursement from the Department of Law and the Legislature. In future fiscal years, each agency will directly pay its own share of the contract costs.
- The General Assembly previously authorized the Law Library to receive funds transferred from the Department of Law to contract with a temporary staff person to coordinate a **joint effort to consolidate their print and electronic library resources**. This funding was received for the last three months of FY 2010-11 and for 12 months of FY 2011-12. The two agencies anticipated that the planning and implementation work would be completed by the end of FY 2011-12. However, this project has been extended into FY 2012-13. The Law Library requests an appropriation of **\$50,000** reappropriated funds to continue receive reimbursement from the Department of Law for this project for FY 2012-13.
- The Law Library is transitioning from purchasing books and other "hard" materials to providing more **intensive research services**. The Law Library plans to utilize more of its available cash funds for staffing, and less to purchase books and other materials. The Judicial Branch requests an increase of **1.0 FTE** (from 1.5 FTE to 2.5 FTE).

All of the above-described initiatives have been designed to make Law Library services more efficient and effective. No additional state resources are required to facilitate these initiatives.

**SUPPLEMENTAL REQUEST #6, COURTS/PROBATION PRIORITY #6
TECHNICAL FUND SOURCE NOTATION CHANGE**

	Request	Recommendation
Total	\$0	\$0
FTE	0.0	0.0
General Fund	0	0

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of a <i>technical error in calculating the original appropriation</i> .	

Department Request: The Department requests a technical correction to a notation in the FY 2012-13 Long Bill. This notation describes the sources of cash funds that are appropriated for the following four line item appropriations to the Judicial Branch for Courts Administration:

- Health, Life, and Dental
- Short-term Disability
- S.B. 04-257 Amortization Equalization Disbursement
- S.B. 06-235 Supplemental Amortization Equalization Disbursement

The Department requests that the Judicial Collection Enhancement Fund be added to the list of fund sources.

Staff Recommendation: Staff recommends that the Committee approve the request. Specifically, staff recommends amending the Long Bill notation as follows:

^a These amounts shall be from various sources of cash funds including: the Judicial Stabilization Cash Fund created in Section 13-32-101 (6), C.R.S., the State Commission on Judicial Performance Cash Fund created in Section 13-5.5-107 (1), C.R.S., the Offender Services Fund created in Section 16-11-214 (1) (a), C.R.S., the Judicial Department Information Technology Cash Fund created in Section 13-32-114 (1), C.R.S., THE JUDICIAL COLLECTION ENHANCEMENT FUND CREATED IN SECTION 16-11-101.6 (2), C.R.S., the Fines Collection Cash Fund created in Section 18-1.3-401 (1) (a) (III) (D), C.R.S., the Drug Offender Surcharge Fund created in Section 18-19-103 (4) (a), C.R.S., and the Alcohol and Drug Driving Safety Program Fund created in Section 42-4-1301.3 (4) (a), C.R.S.

Staff Analysis: Collection investigators, located in each judicial district, are responsible for collecting fines, fees, restitution, and any other payments ordered by the court. Recoveries are credited to the General Fund, victim restitution, victims compensation and support programs, and various law enforcement, trial court, and probation funds. Investigator personnel and operating costs are supported by: (1) the Judicial Collection Enhancement Fund (which consists of reasonable costs incurred and collected by the State, time payment fees, and late penalty fees); (2) the Fines Collection Cash Fund (consisting of fees imposed for felony convictions); and (3) grants from local Victims and Witness Assistance Law Enforcement (VALE) Boards. The Long Bill notation should correctly reflect that the costs of investigator employee benefits are paid, in part, from the Judicial Collection Enhancement Fund.

**SUPPLEMENTAL REQUEST #7, COLORADO DISTRICT ATTORNEYS' COUNCIL PRIORITY #1
DA MANDATED COSTS**

	Request	Recommendation
Total	<u>\$265,100</u>	<u>\$265,100</u>
FTE	0.0	0.0
General Fund	265,100	265,100

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the CDAC agree that this request is the result of <i>an unforeseen contingency</i> .	

CDAC Request: Colorado District Attorneys' Council (CDAC)⁴ submitted a supplemental request to increase the General Fund appropriation for District Attorney Mandated Costs by \$265,100 (an 11.7 percent increase in the total appropriation) to cover unanticipated expenditures associated with two specific cases:

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

The additional funds would cover expert witness fees and witness travel expenses for both cases.

Staff Recommendation: Staff recommends that the Committee approve the request. In addition, staff recommends that the Committee add a footnote associated with this appropriation as follows:

33b JUDICIAL DEPARTMENT, TRIAL COURTS, DISTRICT ATTORNEY MANDATED COSTS -- IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT \$265,100 OF THE AMOUNT APPROPRIATED FOR DISTRICT ATTORNEY MANDATED COSTS BE USED ONLY TO REIMBURSE MANDATED COSTS ASSOCIATED WITH TWO CASES: THE PEOPLE OF THE STATE OF COLORADO V. JAMES HOLMES (12CR1522); AND THE PEOPLE V. AUSTIN REED SIGG (2012CR2899). SHOULD REIMBURSABLE MANDATED COSTS INCURRED IN FY 2012-13 FOR THESE TWO CASES TOTAL LESS THAN \$265,100, IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE UNEXPENDED FUNDS REVERT TO THE GENERAL FUND.

This footnote is intended to document the stated intent of the CDAC that the requested funds will only be made available to the District Attorneys in the 1st and the 18th judicial districts for mandated costs incurred for these two cases.

⁴ The CDAC is a quasi-government agency, supported by assessments charged to each member's office (through an intergovernmental agreement).

Staff Analysis: The "District Attorney Mandated Costs" line item provides state funding to reimburse District Attorneys (DAs) for costs incurred for prosecution of state matters, as required by state statute. Section 16-18-101, C.R.S., states that, "The costs in criminal cases shall be paid by the state pursuant to section 13-3-104, C.R.S.⁵, when the defendant is acquitted or when the defendant is convicted and the court determines he is unable to pay them." Pursuant to Section 18-1.3-701 (2), C.R.S., when a person is convicted of an offense or a juvenile is adjudicated, the Court shall give judgment in favor of the State, the prosecuting attorney, or the law enforcement agency and against the offender or juvenile for the amount of the costs of prosecution. Section 16-18-101, C.R.S., specifies the types of expenditures that may be included under this provision.

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

District Attorneys' Mandated Costs								
Fiscal Year	Appropriation			Actual Expenditures				Over/ (Under) Budget
	General Fund	Cash Funds	Total	General Fund	Cash Funds	Total	Annual % Change	
2000-01	\$1,938,724	\$0	\$1,938,724	\$1,889,687	\$0	\$1,889,687		(\$49,037)
2001-02	1,938,724	0	1,938,724	1,978,963	0	1,978,963	4.7%	40,239
2002-03	2,025,199	125,000	2,150,199	1,833,410	71,117	1,904,527	-3.8%	(245,672)
2003-04	2,025,199	125,000	2,150,199	1,847,369	59,334	1,906,703	0.1%	(243,496)
2004-05	1,911,899	0	1,911,899	1,911,970	0	1,911,970	0.3%	71
2005-06	1,911,899	0	1,911,899	1,772,849	106,325	1,879,174	-1.7%	(32,725)
2006-07	1,841,899	125,000	1,966,899	1,928,795	99,090	2,027,885	7.9%	60,986
2007-08	1,837,733	125,000	1,962,733	2,092,974	130,674	2,223,648	9.7%	260,915
2008-09	2,101,052	125,000	2,226,052	2,063,785	125,000	2,188,785	-1.6%	(37,267)
2009-10	2,101,052	125,000	2,226,052	2,101,050	125,000	2,226,050	1.7%	(2)
2010-11*	2,005,324	125,000	2,130,324	2,005,507	125,000	2,130,507	-4.3%	183
2011-12	2,073,494	125,000	2,198,494	2,061,883	125,000	2,186,883	2.6%	(11,611)
2012-13	2,124,449	140,000	2,264,449					
2013-14 Request	2,172,381	160,000	2,332,381					

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

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

- Witness fees and travel expenses (\$560,293 or 29 percent of reimbursed expenditures)
- Mailing subpoenas (\$556,777 or 29 percent)
- Expert witness fees and travel expenses (\$456,498 or 16 percent)

⁵ This section states that the State "shall provide funds by annual appropriation for the operations, salaries, and other expenses of all courts of record within the state, except for county courts in the city and county of Denver and municipal courts".

- Service of process (\$293,511 or 15 percent)
- Court reporter fees for transcripts (\$183,216 or nine percent)

Last November, the CDAC submitted a request to increase the appropriation for DAs' Mandated Costs by \$67,932 (3.0 percent) for FY 2013-14 to cover increases in the costs of prosecution for all judicial districts. Subsequently, the CDAC submitted a request for a mid-year increase of \$265,100 for FY 2012-13 and an increase of \$353,500 (over and above the previously requested \$67,932) for FY 2013-14. These recent requests are specifically related to the Holmes and Sigg cases. The CDAC estimates that these two cases will require a total of \$618,600 in FY 2012-13 and FY 2013-14, including \$265,100 for expert witness fees and \$353,500 for witness travel expenses.

Staff recommends approving the request. More than half of the request for both fiscal years (\$343,500) is for witness travel expenses for 90 victims in the Holmes case. In its request, the CDAC states that grant funding has been requested to cover these expenses. If the grant is approved, this portion of the appropriation would remain unexpended. In addition, the CDAC has indicated verbally to Joint Budget Committee staff that it intends to limit the use of the requested funds to reimbursements to the 1st and 18th judicial districts for the Sigg and Holmes cases. The CDAC does not intend to make any of the requested funds available at the close of the state fiscal year to District Attorneys' offices for mandated costs in other cases.

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

1. The Department of Law's budget includes an appropriation for "District Attorneys' Salaries" (\$2,656,368 for FY 2012-13).
2. The Judicial Branch's budget includes an appropriation for "District Attorney Mandated Costs" (\$2,264,449 for FY 2012-13). This line item is described above.
3. The Department of Corrections' budget includes an appropriation for "Payments to District Attorneys" for costs associated with prosecuting a crime alleged to have been committed by a person in the custody of the Department (\$366,880 for FY 2012-13).
4. The Department of Public Safety's budget includes an appropriation for "Witness Protection Fund Expenditures" to pay DAs for qualifying expenses related to security personnel, travel expenses, lodging, and other immediate needs (\$83,000 for FY 2012-13).

In addition, the General Assembly appropriates funds to the State Court Administrator's Office, the Office of the State Public Defender (OSPD), the Office of the Alternate Defense Counsel (OADC), and the Office of the Child's Representative to cover the costs of obtaining

discoverable materials⁶. In FY 2011-12, these offices spent a total of \$2,298,508 for discoverable materials; 98 percent of these costs were incurred by the OSPD and the OADC. These costs have increased by 84 percent in the last five fiscal years. The majority of these expenditures were paid to reimburse DAs.

Finally, the Colorado Attorney General employs two attorneys and a homicide investigator who provide critical support and assistance to District Attorneys and to local law enforcement in all aspects of violent felony investigations and prosecutions. This support is provided upon request, as resources allow. This team also conducts a variety of training sessions for State prosecutors and investigators on the topic of complex prosecutions, including cold case homicides.

Background Information – District Attorney Mandated Costs Line Item. Prior to January of 2000, funding for DAs' mandated costs was included within the "Mandated Costs" line item appropriation to the Judicial Department. A judge presiding over a case had the responsibility to approve expenditures by the defense and the prosecution, and to give both sides a fair hearing. There was a concern that this created an inherent conflict in which the judge, by his or her decision about expenditures, could compromise a case. An ad hoc committee on mandated costs established by Chief Justice Vollack issued a report recommending the transfer of responsibility for managing these costs to the entities that incur them.

Thus, since FY 1999-00⁷, the General Assembly has provided a separate appropriation for DAs' mandated costs. This line item has been accompanied by a footnote or a request for information (e.g., RFI #1 for FY 2012-13) indicating that DAs in each judicial district are responsible for allocations made by an oversight committee (currently the CDAC). Any increases in the line item are to be requested and justified in writing by the CDAC, rather than the Judicial Department.

The CDAC allocates the appropriated amount among the 22 judicial districts, including those districts that are not members of the CDAC, based on historical spending (*i.e.*, the last three fiscal years). However, the CDAC initially holds back a portion of the appropriation to cover its costs of administering the allocation (5.0 percent of the appropriation) plus another \$300,000 to cover any unanticipated needs. DAs make payments related to any mandated costs, and submit a list of such payments to the local district court administrator each month in order to receive reimbursement. On a quarterly basis, DAs also submit a list of mandated cost expenditures to the CDAC so that the CDAC can manage the allocation of the appropriation among districts. The CDAC has a special process for a DA to request additional funds above the initial allocated amount. Three district attorneys serve on a Mandated Costs Committee to oversee the annual allocation process and to review and take action on any DA requests for funds above the initial allocation.

⁶ Under Colorado Supreme Court Rule 16, the prosecuting attorney is required to make available to the defense certain material and information that is within his or her control and to provide duplicates upon request. The State pays the costs of "duplicating" discoverable material when legal representation is provided for an indigent defendant.

⁷ This budget format change was implemented through mid-year adjustments enacted through H.B. 00-1403.

In order to limit state expenditures, the CDAC has required DAs to continue to follow a Chief Justice Directive which limits expert witness fees (this limit was recently increased from \$1,000 to \$1,500). Fees paid in excess of the limits established in this Directive are only reimbursed if funds remain available at the end of the fiscal year. In FY 2011-12, the appropriation was sufficient to reimburse all DAs expenditures that exceeded this limit (\$70,729).

SUPPLEMENTAL REQUEST #8, OFFICE OF THE STATE PUBLIC DEFENDER PRIORITY #1 OPERATING SHORTFALLS

	Request	Recommendation
Total	<u>\$560,080</u>	<u>\$560,080</u>
FTE	0.0	0.0
General Fund	560,080	560,080

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the OSPD agree that this request is the result of <i>data that was not available when the original appropriation was made.</i>	

OSPD Request: The Office of the State Public Defender (OSPD) requests \$560,080 General Fund to address ongoing funding shortfalls in operational appropriations, including: mandated costs; operating and travel expenses; legal services related to client grievance claims; and information technology asset maintenance.

Staff Recommendation: Staff recommends that the Committee approve the request.

Staff Analysis: Last November, the OSPD submitted a request (priority #2) for \$1,160,693 General Fund for FY 2013-14 to address ongoing funding shortfalls in several operational appropriations. Through this request, the OSPD is requesting a mid-year increase of \$560,080 General Fund to partially address these funding shortfalls for FY 2012-13. The following table details these requests for each fiscal year, by line item. Each line item is described below.

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

Automation Plan (\$894,768 appropriated for FY 2012-13): This line item funds the following types of expenditures for all OSPD offices and staff: telecommunications equipment and networking; information technology hardware and software lifecycle replacement and maintenance; technology-related supplies; and contractual expenses for online legal research resources.

Mandated Costs (\$3,884,183 appropriated for FY 2012-13): Mandated costs are associated with activities, events, and services that accompany court cases that are required in statute and/or the U.S. and Colorado Constitutions to ensure a fair and speedy trial, and to ensure the right to legal representation. For the OSPD, these costs primarily include obtaining transcripts and reimbursing district attorney offices for duplicating discoverable materials. The OSPD also incurs costs for expert witnesses, interpreter services (for activities outside the courtroom), and travel (both for witnesses and for public defender staff to conduct out-of-state investigations).

Operating Expenses (\$1,331,367 appropriated for FY 2012-13): This line item provides funding for basic office operational expenses, including:

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

Contract Services (\$18,000 appropriated for FY 2012-13): This line item allows the OSPD to hire attorneys to represent OSPD attorneys in grievance claims filed by former clients.

The annual Long Bill includes a footnote that authorizes the OSPD (as well as the three other independent agencies) to transfer a limited amount of funding among line item appropriations, over and above the annual transfer of up to \$1.0 million that is statutorily authorized for the

Judicial Branch as a whole. The following table details OSPD transfers made by the OSPD over the last five fiscal years pursuant to this footnote.

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

In four of the last five fiscal years, the OSPD has transferred funds to cover Operating Expenses; these transfers have ranged from \$10,000 to \$405,000. In each of the last five fiscal years, the OSPD has transferred funds to cover Automation Plan expenses; these transfers have ranged from \$403,000 to \$1,218,000. Over expenditures in these line items have primarily been covered by transfers from the Personal Services line item.

In addition, the OSPD has managed over expenditures related to the Contract Services line item by charging a portion of the expenses associated with contract attorneys to the Personal Services line item (under professional services contract expenses).

Staff recommends approving the request. The OSPD has taken several steps to minimize its operating expenses, including: delaying equipment replacements; using bulk purchasing and long-term contracts whenever possible; keeping per diem rates at the lowest allowable level; and making use of online and regional training. The OSPD has managed to cover operational funding shortfalls by transferring funds from other line items. This has primarily been possible based on an OSPD practice of delaying new hires to fill vacant positions.

This temporary solution will be less viable in FY 2012-13 due to the \$214,221 (0.5 percent) base personal services funding reduction, as well as the new practice of calculating appropriations for employee benefits based on actual filled positions (rather than a "full fill" assumption). As a result, the previous practice of delaying new hires will not produce the same level of savings in FY 2012-13 and future fiscal years. The OSPD would need to further delay new hires to achieve similar savings, thereby exacerbating the OSPD staffing deficit⁸.

Staff has provided below further information related to the funding requested for each line item.

- Staff recommends approving the request for a \$342,305 increase in the appropriation for Mandated Costs (from \$3,884,183 to \$4,226,488). The OSPD has received six very serious homicide cases in recent months, including five that are considered death penalty eligible.

⁸ For FY 2011-12, based on closed cases, the overall OSPD staffing deficit was 14.7 percent. For trial attorneys (excluding appellate attorneys, investigators, and support staff), the staffing deficit was 4.5 percent.

The expert witness, travel, and discovery expenses associated with these types of cases are significantly higher than for most cases. In addition, those state and local agencies that are allowed to charge the OSPD for discoverable material (District Attorneys' offices, the Department of Law, the Department of Corrections, and the State Mental Health Institutes) continue to increase the rates charged to the OSPD and other defense counsel.

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

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

- Staff recommends approving the request for a \$175,441 increase in the appropriation for Operating Expenses (from \$1,331,367 to \$1,506,808). The OSPD employs more than 600 staff in 23 locations statewide. While the appropriation for Operating Expenses has increased over the last five fiscal years (by about \$175,000), the amount of funding available per FTE has declined by 25 percent over the last five fiscal years (from \$2,652 to \$1,994).
- Staff recommends approving the request for a \$31,395 increase in the appropriation for Contract Services (from \$18,000 to \$49,395) to better reflect actual expenditures for contract legal expenses. This line item appropriation has remained at \$18,000 since FY 2002-03, when it was reduced from \$20,000 to \$18,000 due to the revenue shortfall. The number of active cases requiring involvement of the OSPD increased by more than 25 percent from FY 2002-03 to FY 2011-12. Actual expenditures for contract services have ranged from \$36,987 to \$63,466 in the last three fiscal years. The request is based on the average expenditure for these three fiscal years.
- Staff recommends approving the request for a \$10,939 increase in the appropriation for the Automation Plan line item (from \$894,768 to \$905,717). This minimal increase should cover required expenditures for FY 2012-13. The funding shortfall for this line item is primarily addressed through the OSPD's request for FY 2013-14.

Non-prioritized Supplemental Requests

JBC STAFF-INITIATED SUPPLEMENTAL #1 TECHNICAL FUND SOURCE NOTATION CHANGE

	Request	Recommendation
Total	<u>\$0</u>	<u>\$0</u>
FTE	0.0	0.0
General Fund	0	0

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
This request is the result of <i>a technical error in calculating the original appropriation.</i>	

Staff Recommendation: Staff recommends a technical correction to a notation in the FY 2012-13 Long Bill. This notation describes the sources of cash funds that are appropriated for two indirect cost assessment line items. Specifically, staff recommends that the Committee amend the Long Bill notation that appears in the Courts Administration, Administration and Technology section of the budget, as follows:

^d Of this amount, an estimated ~~\$2,012,435~~ \$1,870,435 shall be from departmental indirect cost recoveries and RECOVERIES, AN ESTIMATED \$142,000 SHALL BE FROM INDIRECT COST RECOVERIES FROM FEDERAL GRANTS TO COVER BOTH DEPARTMENTAL AND STATEWIDE INDIRECT COSTS, AND an estimated \$110,175 shall be from statewide indirect cost recoveries collected by the Judicial Department.

The above language more correctly describes the different types of indirect cost recoveries that are collected by the Department.

NON-PRIORITIZED SUPPLEMENTAL DEPARTMENT OF PUBLIC SAFETY SUPPLEMENTAL REQUEST #S-5: CSP REQUEST FOR ADDITIONAL SECURITY FOR CARR CENTER

	Request	Recommendation
Total	<u>\$82,521</u>	Pending JBC Action on DPS Request
FTE	0.0	
Cash Funds	82,521	

Summary: The Judicial Department submitted a supplemental request (priority #3) for an \$82,521 increase in its cash funds appropriations that support the operation of the Ralph L. Carr Colorado Judicial Center. The requested increase is needed to cover the additional costs of State Patrol security services related to the earlier than anticipated completion of the facility. This request is intended to correspond with a supplemental request submitted by the Department of Public Safety (priority #5) for the same purpose.

However, the Department of Public Safety's request reflects an increase of only \$18,951 reappropriated funds (received from the Judicial Department). It is staff's understanding that this discrepancy is due to a miscommunication, and the amount requested by the Department of Public Safety is the actual amount that will be billed to the Judicial Department. Thus, the Department of Public Safety indicates that an additional \$18,951 is required, over and above the \$559,693 that was included in the FY 2012-13 Long Bill, to cover the State Patrol costs associated with the earlier than anticipated opening.

Statewide Common Policy Supplemental Requests

This request is not prioritized and is not analyzed in this packet.

Branch's Portion of Statewide Supplemental Request	Total	General Fund	Cash Funds	Reapprop. Funds	Federal Funds	FTE
Liability Premiums Technical True-up	\$107,826	\$107,826	\$	\$	\$	0.0
Department's Total Statewide Supplemental Requests	\$107,826	\$107,826	\$X	\$X	\$X	0.0

Staff Recommendation: This amount represents the Judicial Branch's share of the *Liability Premiums Technical True-up* interim 1331 supplemental request that was approved by the Committee on Friday, Jan. 4, 2013. **Staff recommends that this adjustment be included in the Branch's supplemental bill.**

JBC Staff Supplemental Recommendations - FY 2012-13
Staff Working Document - Does Not Represent Committee Decision

Appendix A: Number Pages

	FY 2011-12 Actual	FY 2012-13 Appropriation	FY 2012-13 Requested Change	FY 2012-13 Rec'd Change	FY 2012-13 Total W/ Rec'd Change
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JUDICIAL DEPARTMENT

JUD Priority 1: ICCES E-File Project

COURTS ADMINISTRATION
Administration and Technology

General Courts Administration	<u>15,463,633</u>	<u>16,170,926</u>	<u>1,440,307</u>	<u>1,374,339</u>	<u>17,545,265</u>
FTE	174.7	196.4	0.0	0.0	196.4
General Fund	11,751,693	11,438,402	0	0	11,438,402
Cash Funds	1,364,502	2,518,836	1,440,307	1,374,339	3,893,175
Reappropriated Funds	2,347,438	2,213,688	0	0	2,213,688
Total for JUD Priority 1: ICCES E-File Project	<u>15,463,633</u>	<u>16,170,926</u>	<u>1,440,307</u>	<u>1,374,339</u>	<u>17,545,265</u>
<i>FTE</i>	<u>174.7</u>	<u>196.4</u>	<u>0.0</u>	<u>0.0</u>	<u>196.4</u>
General Fund	11,751,693	11,438,402	0	0	11,438,402
Cash Funds	1,364,502	2,518,836	1,440,307	1,374,339	3,893,175
Reappropriated Funds	2,347,438	2,213,688	0	0	2,213,688

JBC Staff Supplemental Recommendations - FY 2012-13
Staff Working Document - Does Not Represent Committee Decision

	FY 2011-12 Actual	FY 2012-13 Appropriation	FY 2012-13 Requested Change	FY 2012-13 Rec'd Change	FY 2012-13 Total W/ Rec'd Change
JUD Priority 2: Court-appointed Counsel					
TRIAL COURTS					
Court Costs, Jury Costs, and Court-appointed Counsel					
	<u>15,181,493</u>	<u>15,594,352</u>	<u>391,340</u>	<u>391,340</u>	<u>15,985,692</u>
General Fund	14,696,493	15,109,352	391,340	391,340	15,500,692
Cash Funds	485,000	485,000	0	0	485,000
Total for JUD Priority 2: Court-appointed Counsel	15,181,493	15,594,352	391,340	391,340	15,985,692
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
General Fund	14,696,493	15,109,352	391,340	391,340	15,500,692
Cash Funds	485,000	485,000	0	0	485,000

JBC Staff Supplemental Recommendations - FY 2012-13
Staff Working Document - Does Not Represent Committee Decision

	FY 2011-12 Actual	FY 2012-13 Appropriation	FY 2012-13 Requested Change	FY 2012-13 Rec'd Change	FY 2012-13 Total W/ Rec'd Change
JUD Priority 4: Law Library Staff					
SUPREME COURT/COURT OF APPEALS					
Law Library	<u>439,526</u>	<u>500,000</u>	<u>62,704</u>	<u>62,704</u>	<u>562,704</u>
FTE	1.5	1.5	1.0	1.0	2.5
Cash Funds	392,562	500,000	0	0	500,000
Reappropriated Funds	46,964	0	62,704	62,704	62,704
Total for JUD Priority 4: Law Library Staff	439,526	500,000	62,704	62,704	562,704
FTE	<u>1.5</u>	<u>1.5</u>	<u>1.0</u>	<u>1.0</u>	<u>2.5</u>
Cash Funds	392,562	500,000	0	0	500,000
Reappropriated Funds	46,964	0	62,704	62,704	62,704

JBC Staff Supplemental Recommendations - FY 2012-13
Staff Working Document - Does Not Represent Committee Decision

	FY 2011-12 Actual	FY 2012-13 Appropriation	FY 2012-13 Requested Change	FY 2012-13 Rec'd Change	FY 2012-13 Total W/ Rec'd Change
JUD Priority 5: Law Library Operations					
SUPREME COURT/COURT OF APPEALS					
Law Library	<u>439,526</u>	<u>500,000</u>	<u>143,288</u>	<u>143,288</u>	<u>643,288</u>
FTE	1.5	1.5	1.0	1.0	2.5
Cash Funds	392,562	500,000	0	0	500,000
Reappropriated Funds	46,964	0	143,288	143,288	143,288
Total for JUD Priority 5: Law Library Operations	439,526	500,000	143,288	143,288	643,288
<i>FTE</i>	<u>1.5</u>	<u>1.5</u>	<u>1.0</u>	<u>1.0</u>	<u>2.5</u>
Cash Funds	392,562	500,000	0	0	500,000
Reappropriated Funds	46,964	0	143,288	143,288	143,288

JBC Staff Supplemental Recommendations - FY 2012-13
Staff Working Document - Does Not Represent Committee Decision

	FY 2011-12 Actual	FY 2012-13 Appropriation	FY 2012-13 Requested Change	FY 2012-13 Rec'd Change	FY 2012-13 Total W/ Rec'd Change
CDAC Priority 1: DA Mandated Costs					
TRIAL COURTS					
District Attorney Mandated Costs	<u>2,186,883</u>	<u>2,264,449</u>	<u>265,100</u>	<u>265,100</u>	<u>2,529,549</u>
General Fund	2,061,883	2,124,449	265,100	265,100	2,389,549
Cash Funds	125,000	140,000	0	0	140,000
Total for CDAC Priority 1: DA Mandated Costs	2,186,883	2,264,449	265,100	265,100	2,529,549
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
General Fund	2,061,883	2,124,449	265,100	265,100	2,389,549
Cash Funds	125,000	140,000	0	0	140,000

JBC Staff Supplemental Recommendations - FY 2012-13
Staff Working Document - Does Not Represent Committee Decision

	FY 2011-12 Actual	FY 2012-13 Appropriation	FY 2012-13 Requested Change	FY 2012-13 Rec'd Change	FY 2012-13 Total W/ Rec'd Change
OSPD Priority 1: Operating Shortfalls					
OFFICE OF THE STATE PUBLIC DEFENDER					
Operating Expenses	<u>1,422,866</u>	<u>1,331,367</u>	<u>175,441</u>	<u>175,441</u>	<u>1,506,808</u>
General Fund	1,404,206	1,301,367	175,441	175,441	1,476,808
Cash Funds	18,660	30,000	0	0	30,000
Automation Plan	<u>1,336,920</u>	<u>894,768</u>	<u>10,939</u>	<u>10,939</u>	<u>905,707</u>
General Fund	1,336,920	894,768	10,939	10,939	905,707
Contract Services	<u>18,000</u>	<u>18,000</u>	<u>31,395</u>	<u>31,395</u>	<u>49,395</u>
General Fund	18,000	18,000	31,395	31,395	49,395
Mandated Costs	<u>3,758,632</u>	<u>3,884,183</u>	<u>342,305</u>	<u>342,305</u>	<u>4,226,488</u>
General Fund	3,758,632	3,884,183	342,305	342,305	4,226,488
Total for OSPD Priority 1: Operating Shortfalls	6,536,418	6,128,318	560,080	560,080	6,688,398
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
General Fund	6,517,758	6,098,318	560,080	560,080	6,658,398
Cash Funds	18,660	30,000	0	0	30,000
Totals Excluding Pending Items					
JUDICIAL					
TOTALS for ALL Departmental line items	460,808,397	508,453,153	2,862,819	2,796,851	511,250,004
<i>FTE</i>	<u>3,974.0</u>	<u>4,267.6</u>	<u>2.0</u>	<u>2.0</u>	<u>4,269.6</u>
General Fund	336,190,407	352,087,442	1,216,520	1,216,520	353,303,962
Cash Funds	105,120,011	132,827,681	1,440,307	1,374,339	134,202,020
Reappropriated Funds	16,155,565	19,113,030	205,992	205,992	19,319,022
Federal Funds	3,342,414	4,425,000	0	0	4,425,000

TABLE 1						
Cash Flow for Public Access System (CSCDA) and E-filing System (ICCES)						
Description	FY 09-10	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15
Public Access System						
<u>Revenues</u>						
Vendors:						
Acxiom		\$1,920,000	\$2,098,036	(\$127,534)	\$0	\$0
LexisNexis Vitalchek				1,347,142	1,755,000	1,755,000
Background Info. Services		<u>1,764,000</u>	<u>1,917,736</u>	<u>2,700,000</u>	<u>2,700,000</u>	<u>2,700,000</u>
Subtotal: Vendors		3,684,000	4,015,772	3,919,608	4,455,000	4,455,000
Private Probation Providers	718,545	696,000	718,545	600,000	600,000	600,000
Data Searches				1,000	1,000	1,000
Jury Wheel				1,000	1,000	1,000
Interest				8,000	8,000	8,000
Cost recovery fees	<u>1,068,853</u>	<u>2,500</u>	<u>2,500</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total CSCDA Revenues	1,787,398	4,382,500	4,736,817	4,529,608	5,065,000	5,065,000
<u>Expenses</u>						
Staff salaries/Benefits	43,445	884,408	916,356	916,356	916,356	916,356
FTE	1.0	11.0	11.0	11.0	11.0	11.0
Hardware acquisition	0	0	0	196,097	0	0
Software acquisition		0	0	0	0	0
Networking	0	9,000	9,900	10,890	11,979	11,979
External consulting	24,350	10,000	0	0	0	0
Credit card fees	0	6,443	6,654	6,874	7,101	7,101
Maintenance:						
Hardware	0	4,068	4,068	4,068	4,068	4,068
Software	0	30,302	38,102	45,902	30,302	36,456
Operating:						
Travel	995	22,000	24,200	5,000	5,000	5,000
Training users	0	44,000	48,400	10,000	10,000	10,000
Leased space	0	0	0	0	0	0
Operating and phone service	0	30,206	33,227	36,549	36,549	36,549
Base budget expenses funded through cost recovery fees/ IT Cash Fund	<u>1,386,146</u>	<u>2,322,051</u>	<u>2,324,667</u>	<u>2,940,418</u>	<u>2,943,634</u>	<u>2,925,814</u>
Total CSCDA Expenses	1,454,936	3,362,478	3,405,574	4,172,153	3,964,988	3,953,323
Net CSCDA Revenues	332,462	1,020,022	1,331,243	357,455	1,100,012	1,111,677

TABLE 1						
Cash Flow for Public Access System (CSCDA) and E-filing System (ICCES)						
Description	FY 09-10	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15
ICCES System (ICCES)						
Revenues						
Efiling - File and Serve Express (FSX)				198,941		
Efiling - ICCES				2,635,063	8,000,000	8,000,000
Cost recovery fees - Lexis	<u>1,265,911</u>	<u>1,323,600</u>	<u>1,334,292</u>	<u>625,000</u>	<u>0</u>	<u>0</u>
Total ICCES Revenues	<u>1,265,911</u>	<u>1,323,600</u>	<u>1,334,292</u>	<u>3,459,004</u>	<u>8,000,000</u>	<u>8,000,000</u>
Expenses						
Staff salaries/Benefits		697,059	772,943	1,315,658	1,315,658	1,315,658
FTE		8.0	9.0	17.0	17.0	17.0
Transaction Fees						
Fee payment to SIPA/CI				790,315	1,000,000	1,000,000
Transaction Payment to SIPA/CI				529,024	1,853,603	1,853,603
Postage to OSI				25,000	60,000	60,000
Printing to OSI				30,000	30,000	30,000
Hardware acquisition		85,000	0	0	0	0
Software acquisition		0	0	23,400	0	0
External consulting		20,000	20,000	30,000	6,154	0
Maintenance:						
Hardware		30,450	30,450	30,450	30,450	30,450
Software		48,840	48,840	84,075	6,154	84,075
Operating:						
Furniture, phones, equipment		14,000	3,500	28,000	0	0
Travel		33,000	36,300	36,000	36,000	36,000
Training users		33,000	36,300	36,000	36,000	36,000
Operating		22,000	24,200	26,620	26,620	26,620
Base budget expenses funded through						
cost recovery fees/ IT Cash Fund	<u>1,265,911</u>	<u>1,323,600</u>	<u>1,334,292</u>	<u>2,020,255</u>	<u>1,765,766</u>	<u>1,687,149</u>
Total ICCES Expenses	<u>1,265,911</u>	<u>2,306,949</u>	<u>2,306,825</u>	<u>5,004,797</u>	<u>6,166,405</u>	<u>6,159,554</u>
Net ICCES Revenues	0	(983,349)	(972,533)	(1,545,793)	1,833,595	1,840,446
Total Revenues	3,053,309	5,706,100	6,071,109	7,988,612	13,065,000	13,065,000
Less: Total Expenses	<u>2,720,847</u>	<u>5,669,427</u>	<u>5,712,399</u>	<u>9,176,950</u>	<u>10,131,393</u>	<u>10,112,877</u>
Total Net Revenues	332,462	36,673	358,710	(1,188,338)	2,933,607	2,952,123

TABLE 2			
Judicial Department Information Technology Cash Fund			
Beginning Balance	\$1,879,479	\$691,141	\$3,624,747
Total Revenues	7,988,612	13,065,000	13,065,000
Less Total Spending Authority	<u>(9,176,950)</u>	<u>(10,131,393)</u>	<u>(10,112,877)</u>
Ending Balance	691,141	3,624,747	6,576,870