

**COLORADO GENERAL ASSEMBLY**

**JOINT BUDGET COMMITTEE**



**FY 2006-07 SUPPLEMENTAL:**

**JUDICIAL BRANCH**

**PRIORITIZED AND NON-PRIORITIZED**

**REQUESTS**

**JBC Working Document - Subject to Change**

**Staff Recommendation Does Not Represent Committee Decision**

**Prepared By:**

**Stephanie Walsh, JBC Staff**

**January 23, 2007**

**For Further Information Contact:**

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

**JUDICIAL DEPARTMENT  
 FY 2006-07 SUPPLEMENTAL RECOMMENDATION  
 JBC WORKING DOCUMENT - SUBJECT TO CHANGE**

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	FY 2005-06	FY 2006-07	Fiscal Year 2006-07 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
<b>JUDICIAL DEPARTMENT</b>					
<b>Chief Justice Mary Mullarkey</b>					
<b>Supplemental JUD #1 - Salary Survey Technical Correction</b>					
<i>(2) Courts Administration</i>					
<i>(B) Administrative Special Purpose</i>					
Salary Survey	<u>4,538,489</u>	<u>4,170,093</u>	<u>482,559</u>	<u>482,559</u>	<u>4,652,652</u>
General Fund	4,466,340	3,964,840	482,559	482,559	4,447,399
Cash Funds (various Jud Dept cash funds)	72,149	205,253	0	0	205,253
<b>Supplemental JUD #2 - Mileage Reimbursement Increase (S.B. 06-173)</b>					
<i>(3) Trial Courts</i>					
Operating Expenses	<u>6,076,552</u>	<u>6,623,006</u>	<u>55,164</u>	<u>55,164</u>	<u>6,678,170</u>
General Fund	168,787	197,387	55,164	55,164	252,551
Cash Funds a/	5,907,765	6,425,619	0	0	6,425,619
Mandated Costs	<u>13,699,335</u>	<u>12,343,219</u>	<u>36,545</u>	<u>36,545</u>	<u>12,379,764</u>
General Fund	13,377,974	11,808,219	36,545	36,545	11,844,764
Cash Funds a/	321,361	535,000	0	0	535,000
Language Interpreters - GF	N.A.	2,705,561	8,105	8,105	2,713,666
<i>(4) Probation and Related Services</i>					
Operating Expenses	<u>1,939,680</u>	<u>2,050,160</u>	<u>87,231</u>	<u>87,231</u>	<u>2,137,391</u>
General Fund	1,844,115	1,875,660	87,231	87,231	1,962,891
Cash Funds b/	95,565	174,500	0	0	174,500

	FY 2005-06	FY 2006-07	Fiscal Year 2006-07 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
<b>Total for Supplemental JUD #2</b>	<u>21,715,567</u>	<u>23,721,946</u>	<u>187,045</u>	<u>187,045</u>	<u>23,908,991</u>
General Fund	15,390,876	16,586,827	187,045	187,045	16,773,872
Cash Funds a, b/	6,324,691	7,135,119	0	0	7,135,119
<p>a/ Sources of cash funds for the Trial Courts include the Judicial Stabilitation Cash Fund, the Water Adjudication Cash Fund, and various fees, cost recoveries, and grants.</p> <p>b/ Sources of cash funds for Probation include the Offender Services Fund and the Drug Offender Surcharge Fund.</p>					
<hr/>					
<b>Supplemental JUD #3 - Mandated Costs Increase</b>					
(3) Trial Courts					
Mandated Costs	<u>13,699,335</u>	<u>12,343,219</u>	<u>750,523</u>	<u>750,523</u>	<u>13,093,742</u>
General Fund	13,377,974	11,808,219	750,523	750,523	12,558,742
Cash Funds a/	321,361	535,000	0	0	535,000
<p>a/ Sources of cash funds for the Trial Courts include the Judicial Stabilitation Cash Fund, the Water Adjudication Cash Fund, and various fees, cost recoveries, and grants.</p>					
<hr/>					
<b>Supplemental JUD #4 - Retired Judges PERA Trust Payment</b>					
(2) Courts Administration					
(B) Administrative Special Purpose					
Retired Judges - GF	1,383,362	1,384,006	139,462	139,462	1,523,468

	FY 2005-06	FY 2006-07	Fiscal Year 2006-07 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
<b>Supplemental JUD #5 - Language Interpreter Cost Increase</b>					
<i>(3) Trial Courts</i>					
Mandated Costs	<u>13,699,335</u>	<u>12,343,219</u>	<u>0</u>	<u>(50,000)</u>	<u>12,293,219</u>
General Fund	13,377,974	11,808,219	0	0	11,808,219
Cash Funds a/	321,361	535,000	0	(50,000)	485,000
Language Interpreters	N.A.	<u>2,705,561</u>	<u>170,000</u>	<u>170,000</u>	<u>2,875,561</u>
General Fund		2,705,561	120,000	120,000	2,825,561
Cash Funds a/		0	50,000	50,000	50,000
<b>Total for Supplemental JUD #5</b>	<u>13,699,335</u>	<u>15,048,780</u>	<u>170,000</u>	<u>120,000</u>	<u>15,168,780</u>
General Fund	13,377,974	14,513,780	120,000	120,000	14,633,780
Cash Funds a/	321,361	535,000	50,000	0	535,000

a/ Sources of cash funds for the Trial Courts include the Judicial Stabilization Cash Fund, the Water Adjudication Cash Fund, and various fees, cost recoveries, and grants.

**Supplemental JUD #6 - Court of Appeals Leased Space**

*(1) Supreme Court/Court of Appeals*

Operating Expenses	<u>184,194</u>	<u>301,912</u>	<u>(80,850)</u>	<u>(80,850)</u>	<u>221,062</u>
General Fund	126,932	233,912	(80,850)	(80,850)	153,062
Cash Funds a/	57,262	68,000	0	0	68,000

	FY 2005-06	FY 2006-07	Fiscal Year 2006-07 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
<i>(2) Courts Administration</i>					
<i>(B) Administrative Special Purpose</i>					
Leased Space	<u>613,690</u>	<u>616,854</u>	<u>96,450</u>	<u>96,450</u>	<u>713,304</u>
General Fund	590,410	592,614	80,850	80,850	673,464
Cash Funds a/	23,280	24,240	15,600	15,600	39,840
<b>Total for Supplemental JUD #6</b>	<u>797,884</u>	<u>918,766</u>	<u>15,600</u>	<u>15,600</u>	<u>934,366</u>
General Fund	717,342	826,526	0	0	826,526
Cash Funds a/	80,542	92,240	15,600	15,600	107,840
a/ The sources of cash funds are various fees and cost recoveries; for the Leased Space line item, the source is exclusively employee parking fees.					
<b>Supplemental JUD #7 - Payroll FTE Transfer</b>					
<i>(2) Courts Administration</i>					
<i>(A) Administration</i>					
Personal Services	4,199,418	4,315,560	138,048	138,048	4,453,608
FTE	<u>52.0</u>	<u>58.0</u>	<u>3.0</u>	<u>3.0</u>	<u>61.0</u>
General Fund	3,301,369	3,291,219	138,048	138,048	3,429,267
Cash Funds Exempt a/	898,049	1,024,341	0	0	1,024,341

	FY 2005-06	FY 2006-07	Fiscal Year 2006-07 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
<i>(3) Trial Courts</i>					
Personal Services	92,597,864	95,755,638	(92,032)	(92,032)	95,663,606
FTE	<u>1,528.4</u>	<u>1,688.0</u>	<u>(2.0)</u>	<u>(2.0)</u>	<u>1,686.0</u>
General Fund	84,504,084	88,897,671	(92,032)	(92,032)	88,805,639
Cash Funds b/	7,373,009	6,857,967	0	0	6,857,967
Federal Funds	720,771	0	0	0	0
<i>(4) Probation and Related Services</i>					
Personal Services	46,330,138	49,550,944	(46,016)	(46,016)	49,504,928
FTE	<u>781.9</u>	<u>882.4</u>	<u>(1.0)</u>	<u>(1.0)</u>	<u>881.4</u>
General Fund	44,094,277	45,258,574	(46,016)	(46,016)	45,212,558
Cash Funds c/	2,235,861	4,292,370	0	0	4,292,370
<b>Total for Supplemental JUD #7</b>	143,127,420	149,622,142	0	0	149,622,142
FTE	<u>2,362.3</u>	<u>2,628.4</u>	<u>0.0</u>	<u>0.0</u>	<u>2,628.4</u>
General Fund	131,899,730	137,447,464	0	0	137,447,464
Cash Funds b, c/	9,608,870	11,150,337	0	0	11,150,337
Cash Funds Exempt a/	898,049	1,024,341	0	0	1,024,341
Federal Funds	720,771	0	0	0	0
a/ Sources of cash funds exempt for Administration, Personal Services are statewide and departmental indirect cost recoveries.					
b/ Sources of cash funds for the Trial Courts include the Judicial Stabilitation Cash Fund, the Water Adjudication Cash Fund, and various fees, cost recoveries, and grants.					
c/ Sources of cash funds for Probation include the Offender Services Fund and the Drug Offender Surcharge Fund.					

**Supplemental JUD #8 - Cash Fund Clean-up**

	FY 2005-06	FY 2006-07	Fiscal Year 2006-07 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
<i>(1) Supreme Court/Court of Appeals</i>					
Law Library	<u>420,578</u>	<u>360,000</u>	<u>140,000</u>	<u>140,000</u>	<u>500,000</u>
General Fund	67,000	0	0	0	0
Cash Funds a/	353,578	360,000	140,000	140,000	500,000
<i>(2) Courts Administration</i>					
<i>(B) Administrative Special Purpose</i>					
Collections Investigators	<u>3,315,049</u>	<u>3,942,004</u>	<u>55,000</u>	<u>55,000</u>	<u>3,997,004</u>
Cash Funds b/	2,797,178	3,420,771	0	0	3,420,771
Cash Funds Exempt c/	517,871	521,233	55,000	55,000	576,233
<i>(2) Courts Administration</i>					
<i>(D) Integrated Information Services</i>					
Hardware Replacement	<u>1,724,181</u>	<u>1,764,920</u>	<u>450,000</u>	<u>450,000</u>	<u>2,214,920</u>
Cash Funds d/	1,649,181	1,764,920	450,000	450,000	2,214,920
Cash Funds Exempt e/	75,000	0	0	0	0
<i>(3) Trial Courts</i>					
Federal Funds and Other Grants	<u>1,060,599</u>	<u>1,141,627</u>	<u>1,005,000</u>	<u>1,005,000</u>	<u>2,146,627</u>
Cash Funds f/	178,442	363,000	350,000	350,000	713,000
Cash Funds Exempt g/	61,001	383,469	0	0	383,469
Federal Funds	821,156	395,158	655,000	655,000	1,050,158

	FY 2005-06	FY 2006-07	Fiscal Year 2006-07 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
<i>(4) Probation and Related Services</i>					
Federal Funds and Other Grants	<u>1,993,387</u>	<u>3,688,739</u>	<u>975,000</u>	<u>975,000</u>	<u>4,663,739</u>
Cash Funds f/	731,230	1,190,000	500,000	500,000	1,690,000
Cash Funds Exempt g/	294,898	1,737,985	0	0	1,737,985
Federal Funds	967,259	760,754	475,000	475,000	1,235,754
<b>Total for Supplemental JUD #8</b>	<u>8,513,794</u>	<u>10,897,290</u>	<u>2,625,000</u>	<u>2,625,000</u>	<u>13,522,290</u>
General Fund	67,000	0	0	0	0
Cash Funds	5,709,609	7,098,691	1,440,000	1,440,000	8,538,691
Cash Funds Exempt	948,770	2,642,687	55,000	55,000	2,697,687
Federal Funds	1,788,415	1,155,912	1,130,000	1,130,000	2,285,912
<p>a/ The sources of Law Library cash funds are appellate court filing fees and other fees credited to the Supreme Court Library Fund.</p> <p>b/ The sources of cash funds for the Collections Investigators line item are the Judicial Collection Enhancement Fund and the Fines Collection Cash Fund.</p> <p>c/ The sources of cash funds exempt for the Collections Investigators line item are local Victims and Witnesses Assistance and Law Enforcement (VALE) Boards.</p> <p>d/ The sources of cash funds for Hardware Replacement are various fees and other cash recoveries.</p> <p>e/ The source of cash funds exempt for Hardware Replacement are federal funds transferred from the Division of Criminal Justice.</p> <p>f/ The sources of cash funds for the Trial Courts and Probation are various fees, cost recoveries, and grants.</p> <p>g/ The source of cash funds exempt for the Trial Courts and Probation are federal funds appropriated in the Departments of Public Safety, Human Services, and Education, and cost recoveries, gifts, grants, and donations.</p>					

	FY 2005-06	FY 2006-07	Fiscal Year 2006-07 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
<b>Supplemental JUD #9 - Judicial Performance Program Line</b>					
<i>(2) Courts Administration</i>					
<i>(C) Judicial Performance</i>					
Personal Services - Cash Funds a/ FTE	87,765 1.0	87,552 1.0	(87,552) (1.0)	0 0.0	87,552 1.0
Operating Expenses - Cash Funds a/	176,575	478,445	(478,445)	0	478,445
Judicial Performance Program - Cash Funds a/ FTE	N.A. FTE	N.A. FTE	565,997 1.0	0 0.0	0 0.0
<b>Total for Supplemental JUD #9 - CF</b> FTE	264,340 1.0	565,997 1.0	0 0.0	0 0.0	565,997 1.0
a/ The source of cash funds is the State Commission on Judicial Performance Cash Fund.					
<b>Supplemental JUD #10 - Health/Life/Dental and Short-term Disability Reductions</b>					
<i>(2) Courts Administration</i>					
<i>(B) Administrative Special Purpose</i>					
Health, Life and Dental General Fund	<u>7,497,558</u> 7,151,688	<u>10,810,954</u> 10,289,530	<u>(571,303)</u> (571,303)	<u>(571,303)</u> (571,303)	<u>10,239,651</u> 9,718,227
Cash Funds a/	345,870	521,424	0	0	521,424

	FY 2005-06	FY 2006-07	Fiscal Year 2006-07 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Short-term Disability	<u>162,712</u>	<u>171,378</u>	<u>(29,630)</u>	<u>(29,630)</u>	<u>141,748</u>
General Fund	154,907	162,146	(29,630)	(29,630)	132,516
Cash Funds a/	7,805	9,232	0	0	9,232
<b>Total for Supplemental JUD #10</b>	<u>7,660,270</u>	<u>10,982,332</u>	<u>(600,933)</u>	<u>(600,933)</u>	<u>10,381,399</u>
General Fund	7,306,595	10,451,676	(600,933)	(600,933)	9,850,743
Cash Funds a/	353,675	530,656	0	0	530,656

a/ The cash funds are from various Judicial Department cash funds.

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**Supplemental JUD #11 - S.B. 91-94 True Up**

*(4) Probation and Related Services*

S.B. 91-94 - CFE a/	1,248,378	1,906,837	(431,561)	(431,561)	1,475,276
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a/ The source of cash funds exempt is funding transferred from the Department of Human Services, Division of Youth Corrections.

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**Non-prioritized Staff Initiated Supplemental for JUD: Indirect Costs Technical Correction**

*(2) Courts Administration*

*(A) Administration*

Personal Services	<u>4,199,418</u>	<u>4,315,560</u>	<u>0</u>	<u>0</u>	<u>4,315,560</u>
General Fund	3,301,369	3,291,219	0	(22,890)	3,268,329
Cash Funds Exempt a/	898,049	1,024,341	0	22,890	1,047,231

a/ The sources of cash funds exempt are statewide and departmental indirect cost recoveries.

	FY 2005-06	FY 2006-07	Fiscal Year 2006-07 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
<b>Supplemental PDO #1 - Mandated Costs Increase</b>					
<i>(5) Public Defender</i>					
Mandated Costs - GF	2,178,921	2,048,699	482,919	482,919	2,531,618
<b>Supplemental PDO #2 - Denver Drug Court</b>					
<i>(5) Public Defender</i>					
Personal Services	26,024,434	28,955,590	93,750	93,750	29,049,340
FTE	<u>357.9</u>	<u>393.9</u>	<u>0.0</u>	<u>4.0</u>	<u>397.9</u>
General Fund	25,961,044	28,892,200	0	0	28,892,200
Cash Funds a/	63,390	63,390	93,750	93,750	157,140
a/ The existing source of cash funds is the Offender Services Fund. The supplemental seeks additional cash funds spending authority so that the PDO can receive funding through a contract with the City and County of Denver.					
<b>Supplemental OCR #1 - Caseload Increase</b>					
<i>(7) Office of the Child's Representative</i>					
Court-appointed Counsel - GF	7,415,368	10,321,014	289,024	289,024	10,610,038
<b>Supplemental OCR #2 - Mileage Reimbursement Increase (S.B. 06-173)</b>					
<i>(7) Office of the Child's Representative</i>					
Operating Expenses - GF	157,694	130,836	4,653	4,291	135,127

	FY 2005-06	FY 2006-07	Fiscal Year 2006-07 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation

<b>Totals Excluding Pending Items</b>					
JUDICIAL DEPARTMENT					
TOTALS for ALL Departmental line items	306,973,015	337,074,194	4,208,041	4,157,679	281,490,786
FTE	<u>3,222.1</u>	<u>3,542.6</u>	<u>0.0</u>	<u>4.0</u>	<u>3,027.3</u>
General Fund	241,019,448	262,618,380	1,855,252	1,832,000	243,499,306
Cash Funds	59,309,380	63,387,875	1,599,350	1,549,350	29,461,033
Cash Funds Exempt	4,135,001	9,901,692	(376,561)	(353,671)	6,244,535
Federal Funds	2,509,186	1,166,247	1,130,000	1,130,000	2,285,912

<b>Statewide Supplementals - JUD and PDO</b> <b>(see narrative for more detail) - GF</b>	N.A.	N.A.	164,213	Pending	N.A.
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<b>Totals Including Pending Items in Request</b>					
JUDICIAL DEPARTMENT					
TOTALS for ALL Departmental line items	306,973,015	337,074,194	4,372,254	4,157,679	341,231,873
FTE	<u>3,222.1</u>	<u>3,542.6</u>	<u>0.0</u>	<u>4.0</u>	<u>3,546.6</u>
General Fund	241,019,448	262,618,380	2,019,465	1,832,000	264,450,380
Cash Funds	59,309,380	63,387,875	1,599,350	1,549,350	64,937,225
Cash Funds Exempt	4,135,001	9,901,692	(376,561)	(353,671)	9,548,021
Federal Funds	2,509,186	1,166,247	1,130,000	1,130,000	2,296,247

Key:  
"N.A." = Not Applicable

**JUDICIAL DEPARTMENT  
 FY 2006-07 SUPPLEMENTAL RECOMMENDATION  
 JBC WORKING DOCUMENT - SUBJECT TO CHANGE**

**Supplemental JUD #1 - Salary Survey Technical Correction**

	<b>Request</b>	<b>Recommendation</b>
Total	<u>\$482,559</u>	<u>\$482,559</u>
General Fund	482,559	482,559
Cash Funds	0	0

<b>Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria?</b>	<b>YES</b>
[An emergency or act of God / a technical error in the appropriation / new data / an unforeseen contingency]	
This supplemental is due to a technical error in how the Department's FY 2006-07 Salary Survey appropriation was calculated.	

**Department Request:** When calculating Salary Survey for FY 2006-07, staff neglected to include the funding increases the Department would need to pay for the corresponding increases in Medicare and PERA. The Department is requesting an increase of \$482,559 General Fund to cover these costs. The Department did not include a cash fund increase because it is not in danger of overspending its current cash funds appropriation.

**Staff Recommendation:** *Staff recommends that the Committee approve the request* to make the Judicial Department Salary Survey appropriation consistent with FY 2006-07 common policies.

If an additional appropriation is not made, the Department will likely hold positions open to create vacancy savings (the equivalent of approximately 15.0 FTE for one year) and use its end-of-year transfer authority to cover these costs. However, the Committee has approved additional staff for the Department in recent years to address increased case filings and probation caseloads: For FY 2006-07, the Department received funding for 31.0 additional trial courts staff, 20.0 additional probation staff, and 45.0 additional court staff associated with newly funded and created judgeships and magistrates. For FY 2005-06, the Department received funding for 24.0 additional trial courts staff associated with newly funded judgeships, and 61.9 additional probation staff. It seems contrary to those policy decisions to force the Department to hold positions open in order to pay for salary survey it should have received under the statewide common policies for FY 2006-07.

**JUDICIAL DEPARTMENT  
 FY 2006-07 SUPPLEMENTAL RECOMMENDATION  
 JBC WORKING DOCUMENT - SUBJECT TO CHANGE**

**Supplemental # 2 - Supplemental JUD #2 - Mileage Reimbursement Increase (S.B. 06-173)**

	<b>Request</b>	<b>Recommendation</b>
Total	<u>\$187,045</u>	<u>\$187,045</u>
General Fund	187,045	187,045
Cash Funds	0	0

<b>Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria?</b>	<b>YES</b>
[An emergency or act of God / a technical error in the appropriation / new data / an unforeseen contingency]	
This request was submitted to address the costs of implementing S.B. 06-173. It meets supplemental criteria because it addresses a contingency that was unforeseen at the time of FY 2006-07 figure setting.	

**Department Request:** The Department requests a \$187,045 General Fund increase for costs associated with S.B. 06-173; this increase would be base-building and carry over in FY 2007-08. 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 Department estimates that the total cost of implementing the S.B. 06-173 mileage rate change in FY 2006-07 will be \$313,429.<sup>1</sup> However, it is only requesting funding for the increased reimbursement in situations where the amount of mileage cannot reasonably be reduced: employees whose jobs are critical to processing cases and require travel (circuit court judges); where travel is required to protect public safety (probation officer home visits); and for individuals whose presence is required in the courts (jurors, witnesses, and language interpreters). Other types of mileage (general administration, information technology support, training, meeting attendance) will be reduced in an attempt to absorb the cost of the bill. The various components of the request are shown in the table below.

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<sup>1</sup> The Legislative Council Staff final fiscal note for this bill (dated October 19, 2006) shows a FY 2006-07 cost of \$347,687 for the Judicial Branch.

**JUDICIAL DEPARTMENT  
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Category	FY 2006-07 Additional Mileage Costs
Circuit Court Judges	55,164
Probation Officer Home Visits	87,231
Jurors & Witnesses	36,545
Language Interpreters	8,105
<b>Total</b>	<b>187,045</b>

**Staff Recommendation:** *Staff recommends that the Committee approve the request.* The Department is trying to comply with the spirit of the bill by only asking for funding for those mileage costs that cannot reasonably be reduced. There is a precedent for providing some funding for costs related to this bill. Last year, the Committee approved partial funding for some of the Department of Human Services' S.B. 06-173 related costs. Funding was provided for those programs where driving is not incidental, notably the institutional programs that have to transport clients or move staff around to see clients in different facilities (Division of Yourth Corrections, mental health institutes, regional centers, and the Office of Operations that manages and maintains the 302 DHS buildings).

If an additional appropriation is not made, the Department will likely hold positions open to create vacancy savings and use its end-of-year transfer authority to cover these costs. However, the Committee has approved additional staff for the Department in recent years to address increased case filings and probation caseloads: for FY 2006-07, the Department received funding for 31.0 additional trial courts staff, 20.0 additional probation staff, and 45.0 additional court staff associated with newly funded and created judgeships and magistrates; for FY 2005-06, the Department received funding for 24.0 additional trial courts staff associated with newly funded judgeships, and 61.9 additional probation staff. It seems contrary to those policy decisions to then force the Department to hold positions open in order to pay for cost increases over which it has no control.

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**Supplemental JUD #3 - Mandated Costs Increase**

	<b>Request</b>	<b>Recommendation</b>
Total	<u>\$750,523</u>	<u>\$750,523</u>
General Fund	750,523	750,523
Cash Funds	0	0

<b>Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria?</b> [An emergency or act of God / a technical error in the appropriation / new data / an unforeseen contingency]	<b>YES</b>
This request meets supplemental criteria because it is the result of new data.	

**Department Request:** The Department requests an increase of \$750,523 General Fund to cover increased costs for court-appointed counsel for respondent parents (\$506,588) and petit juries (\$243,935). This increase would be base-building and carry forward to FY 2007-08.

**Court-appointed Counsel for Respondent Parents.** The court appoints respondent parent counsel (RPC) to represent indigent respondent parents in dependency and neglect cases pursuant to Colorado law (Section 19-3-202 (1), C.R.S.). RPC accounts for the highest volume of court-appointed counsel costs (40.5 percent), and the total number of RPC appointments has increased 17 percent since FY 2002-03. The Department identified several factors that are contributing to the increase in RPC appointments:

- A trend in the Department of Human Services in making stronger attempts to engage more fathers in cases and involve fathers in dependency and neglect (D&N) proceedings.
- Recent laws, such as H.B. 03-1004 and H.B. 03-1169, which expanded the definition of child abuse and neglect to include the manufacturing of a controlled substance in the presence of a child.
- Increased law enforcement efforts to detect and halt methamphetamine and other drug manufacture and distribution has led to increased D&N actions (i.e., "drug busts" in which children are present).
- More indigent respondent parents are requesting court-appointed counsel rather than defending themselves.

In FY 2003-04, the Department received funding for an additional 432 RPC appointments; however, there were 143 appointments more than were projected that year, leaving base funding short. Since that time, the Department has not received any additional funding, but RPC appointments have continued to increase by another 213 appointments (FY 2006-07 estimate). At an average cost of \$1,423 per appointment, this increase has left the Mandated Costs appropriation short by \$506,588.

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**Petit Juries.** A petit jury is a jury for the trial of a civil or criminal case. Juror fees and other reimbursable expenses are provided for in Sections 13-71-125 through 13-71-131, C.R.S. Statute requires that jurors who are self-employed to be compensated for their lost wages, and those who are unemployed to be reimbursed for travel, child care, and other necessary out-of-pocket expenses, up to \$50 per day, beginning on their first day of service. All jurors are compensated \$50 per day beginning on their fourth day of service.

Jury volume has gradually increased in the last three years. In FY 2003-04 there were 1,901 jury trials; the FY 2006-07 estimate is 2,312 jury trials, a 21.6 percent increase. The Department believes factors contributing to this increase are increases in court filings and the strengthening of laws over the years that have resulted in increased penalties for offenders (resulting in offenders being less likely to plea bargain). Based on a three-year average cost per jury trial of \$734, the FY 2006-07 cost estimate is approximately \$1,697,000, which is \$243,935 more than the current allocation for jury costs.

**Staff Recommendation:** *Staff recommends funding the supplemental as requested* since the Department is required to pay these costs and another source of funding is not available. As discussed above, if the supplemental is not funded, the Department will likely need to rely on forced vacancy savings to cover these costs.

**Supplemental JUD #4 - Retired Judges PERA Trust Payment**

	Request	Recommendation
Total - General Fund	\$139,462	\$139,462

<b>Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria?</b>	<b>YES</b>
[An emergency or act of God / a technical error in the appropriation / new data / an unforeseen contingency]	
This request meets supplemental criteria because it is the result of new data.	

**Department Request:** The Department is seeking \$139,462 General Fund for the provision of retired judge services in FY 2005-06. This increase would be base-building and carry over into FY 2007-08.

Statute allows for retired judges who perform temporary judicial duties for up to 90 days a year to receive a temporary increase in their retirement benefits (Section 24-51-1105, C.R.S.). These retired judges cover sitting judges in case of disqualifications, vacations, sick leave, over-scheduled dockets, judicial education, and conflicts of interest. 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.

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***FY 2006-07 Costs.*** Pursuant to Section 24-51-1105(4), C.R.S., the Judicial Department must reimburse the Judicial Division Trust Fund for the payments of these retired judges' additional benefits during the subsequent fiscal year after the expenses are incurred (i.e., costs incurred in FY 2005-06 are paid by the Department in FY 2006-07). Two factors have driven increased costs for this program: (1) Increases in judge salaries; and (2) An increase in the number of retired judge days utilized.

First, retired judges are compensated a percentage of the current judge salary that corresponds to the level of court they served on prior to retirement. For example, most contracts allow retired judges to work up to 60 days per year. Thus, a retired district court judge who worked 60 days a year would earn 20 percent of a sitting district court judge's salary (the percentage is based on then number of days worked). Therefore, salary increases afforded to sitting judges result in cost increases to the retired judge program.<sup>2</sup>

The second factor driving cost increases in the retired judge program is an increase in the number of judge days utilized (see table below). Retired judges have been utilized, in part, to address the increase in fillings seen in recent years. For FY 2005-06, 55.9 percent of retired judge days were used to cover over-scheduled dockets (2,103 days). These judges are being used to help fill the gap that exists between the current number of judicial officers and the number of judicial officers needed. However, it should be noted that the Department is limited in then number of retired judge days it can used based on the number of individuals who seek this work. Recently, more judges have been retiring but fewer have been signing up for this program.

**Retired Judge Day Utilization, FY 2002-03 to FY 2006-07 (est.)**

	<b>FY 2002-03</b>	<b>FY 2003-04</b>	<b>FY 2004-05</b>	<b>FY 2005-06</b>	<b>FY 2006-07 (est.)</b>
Retired Judge Days	2,979	3,639	3,564	3,759	3,750
Percent Change		22.2%	-2.1%	5.5%	-0.2%

If the additional judges being sought via H.B. 07-1054 are appropriated,<sup>3</sup> it is possible that the use of retired judges may decline beginning in FY 2007-08. However, since retired judge days are paid in arrears, any cost reduction would not be seen until FY 2008-09.

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<sup>2</sup> In recent years, salary increases for sitting judges have been equal to the salary survey received by Administrative Law Judges (ALJ) IIIs.

<sup>3</sup> As introduced, H.B. 07-1054 would - between 2007 and 2010 - increase the number of district court judges by 52, the number of county court judges by seven, and the number of Court of Appeals judges by six.

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**Staff Recommendation:** *Staff recommends that the Committee approve the supplemental as requested since the payments have already been made and, according to statute, the Department must reimburse the Judicial Division Trust Fund.*

**Supplemental JUD #5 - Language Interpreter Cost Increase**

	Request	Recommendation
Total	\$170,000	\$120,000
General Fund	120,000	120,000
Cash Funds	50,000	0

<p><b>Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria?</b>          [An emergency or act of God / a technical error in the appropriation / new data / an unforeseen contingency]</p>	<b>YES</b>
<p>This request meets supplemental criteria because it is the result of new data and a technical error.</p>	

**Department Request:** The Department is seeking an increase of \$170,000 for language interpreters, comprised of \$120,000 General Fund and \$50,000 in cash funds spending authority for cost recoveries. The increase would be base building and carry forward into FY 2007-08.

**Background.** 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. Therefore, the federal government has asked courts to develop plans to provide universal language interpretation. However, in light of resource constraints, the U.S. Department of Justice (DOJ) developed a four-factor analysis to be used in setting priorities, determining when language assistance might be required to ensure meaningful access, and in identifying cost-effective measures to address language access.

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**Language Interpretation in Colorado Courts.** The State Court Administrator's Office has been using the DOJ guidelines to develop a strategy for determining when language interpreter services will be provided in courts. Pursuant to Chief Justice Directive 06-03, the courts now provide and pay for interpretation in court proceedings relating to the following case types:

- *Criminal Cases:* felonies, misdemeanors, and misdemeanor traffic (86.3 percent of services)
- *Juvenile Cases:* juvenile delinquency and truancy, dependency and neglect, paternity and support when covered under Title IV-D of the Social Security Act, and voluntary relinquishment of parental rights (11.3 percent of services)
- *Other Cases:* Protection orders involving domestic abuse and mental health (1.8 percent of services)<sup>4</sup>

**Language Interpretation Costs.** The table below shows language interpreter costs for the past several years. As can be seen, these costs have been growing. The Colorado trial courts serve a growing state population that has an expanding non-English speaking component. According to the 2000 census, the number of limited English proficiency persons in Colorado has grown dramatically (up 143 percent from 1990 levels). The percentage of the population speaking Spanish as the primary language at home increased from 6.7 percent to 10.5 percent of Colorado residents during the same period. To address increasing costs, funding for language interpreters (then part of the Mandated Costs line item) was increased by \$410,000 in FY 2005-06. In response to this growth and in an effort by the Department to manage these costs better, the Department requested and received a separate line item in the Long Bill for Language Interpreters beginning in FY 2006-07.

**Judicial Department Language Interpreter Costs  
 FY 1999-00 through FY 2006-07 (est.)**

	FY 99-00	FY 00-01	FY 01-02	FY 02-03	FY 03-04	FY 04-05	FY 05-06	FY 06-07 (est.)
Costs (millions)	\$1.391	1.736	2.136	2.261	2.224	2.546	2.826	2.876
\$ change from prior year (millions)		0.345	0.400	0.125	(0.037)	0.322	0.280	0.050
% change from prior year		24.8%	23.0%	5.9%	-1.6%	14.5%	11.0%	1.8%
Cumulative % change FY 99-00 through FY 2005-06							103.2%	

<sup>4</sup> Additionally, the court may appoint and pay for an interpreter for any party to a court case where a determination of indigency has been made in accordance with the fiscal standards established by the Supreme Court.

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***FY 2006-07 Cost Projections.*** Last year, the Department was short \$120,000 in its Language Interpreter allocation; it used its year-end transfer authority to move \$644,990 to the Mandated Costs line item to cover this and other cost over-runs (the Department's supplemental #3 addresses the other shortfalls in Mandated Costs funding). The Department reports that FY 2006-07 language interpreter costs to date have slightly exceeded last year's costs. The General Fund portion of the request is equal to the difference between FY 2005-06 actual costs and the current appropriation.

The cash fund portion of the request is to give the Department spending authority over cost recoveries for language interpreter services. Historically, these cash recoveries were recouped in the Mandated Costs line item. However, when the Language Interpreter line item was created in FY 2006-07, staff neglected to move the associated cash funds spending authority.

Staff discussed the possibility of trying to recoup more cost recoveries for language interpreter services with the Department. However, since these services are largely considered a constitutional right, the instances when the court could potentially order reimbursement involves only a small subset of interpreter services that occurred outside the criminal and juvenile case types.

**Staff Recommendation:** *Staff recommends approving the \$120,000 General Fund increase as requested* since the Department is required to pay these costs and another source of funding is not available. As discussed above, if the supplemental is not funded, the Department will likely need to rely on forced vacancy savings to cover these costs. *Staff recommends approving the \$50,000 cash funds spending authority increase, as requested, and implementing a corresponding cash funds decrease in the Mandated Costs line item* since this change is related to an appropriation transfer, not a need for a cash funds spending authority increase. The Department concurs with this recommendation.

**Supplemental JUD #6 - Court of Appeals Leased Space**

	Request	Recommendation
Total - Cash Funds	\$15,600	\$15,600
Also:	GF transfer between line items	GF transfer between line items

<b>Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria?</b> [An emergency or act of God / a technical error in the appropriation / new data / an unforeseen contingency]	<b>YES</b>
This request meets supplemental criteria because it is the result of a technical error in the appropriation and an unforeseen contingency.	

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**Department Request:** The Department is seeking an \$80,850 General Fund transfer between line items, and a \$15,600 cash funds increase. The cash fund increase would be base building and carry forward into FY 2007-08.

**Funding transfer.** House Bill 06-1028 (T. Carroll/Mitchell) created a new panel on the Colorado Court of Appeals (three judgeships) and provided 10.5 FTE support staff positions for the Court of Appeals.<sup>5</sup> The bill also provided the Department with \$80,850 to acquire leased space to house the new staff since the current Supreme Court building is at capacity.<sup>6</sup> However, in the Legislative Counsel Staff Fiscal Note, the leased space expenses were inadvertently rolled into the Operating Expenses. As a result, when the appropriations clause was drafted, the funding for leased space was directed to the Court of Appeals program line item instead of into the Leased Space line item.

Headnote number 7 in the FY 2006-07 Long Bill defines leased space and states that no funds may be expended for leased space except where a specific appropriation has been made for that purpose. While this headnote was vetoed by Governor Owens, the current appropriation does not reflect the intent of the bill or headnote 7. Since this appropriation is on-going, if the Leased Space headnote is not vetoed in the future, the Department would be precluded from using this funding for its intended purpose. Therefore, the first part of the request is to move the \$80,850 General Fund appropriation for Court of Appeals staff leased space from the Court of Appeals Program line item to the Courts Administration, Leased Space line item.

**Cash Funds increase.** As part of the leased space acquired for the new Court of Appeals staff, the Department acquired the ability to lease parking spaces for the new staff at a cost of \$100 per space per month. As with other judicial leases involving employee parking, the employees pay the Department which then pays the landlord. As a result, the Department needs a \$15,600 cash funds spending authority to receive and expend these funds ( $\$100 \times 13 \text{ employees} \times 12 \text{ months} = \$15,600$ ).

**Staff Recommendation:** *Staff recommends that the Committee approve both of these technical changes, as requested.*

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<sup>5</sup> House Bill 06-1028 also created four new county court judgeships and provided for 12.0 FTE in associated support staff.

<sup>6</sup> The Department decided to house all of the Court of Appeals judges at the Supreme Court building. To make space for the judges, the existing COA staff also moved into leased space.

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**Supplemental JUD #7 - Payroll FTE Transfer**

Request	Recommendation
Trial Courts: Reduce PS by 2.0 FTE and \$92,032 GF Probation: Reduce PS by 1.0 FTE and \$46,016 GF	Approve Request
Transfer 3.0 FTE and \$138,048 GF to Admin, PS	
There is no net change to total FTE or funding	

<b>Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria?</b>	<b>YES</b>
[An emergency or act of God / a technical error in the appropriation / new data / an unforeseen contingency]	
This supplemental request is the result of an unforeseen contingency.	

**Department Request:** The Department requests transfers of 2.0 FTE and \$92,032 General Fund from Trial Courts, Personal Services and 1.0 FTE and \$46,016 General Fund from Probation, Personal Services, to the Courts Administration, Personal Services line item (a total of 3.0 FTE and \$138,048 General Fund).

**Former payroll system.** Historically, the Judicial payroll system was largely decentralized. Local district staff (approximately 30 employees) could enter time sheets, process leave requests, and perform other basic functions. These tasks were only a small part of their administrative responsibilities, which also included ordering supplies, answering phones, paying bills, and so forth. Central payroll specialists at the State Court Administrator's Office (SCAO) were the only individuals authorized to conduct other functions, such as entering position changes or new employee entries.

The payroll itself was generated automatically from Central Payroll at the Department of Personnel and Administration (DPA). The state's central payroll system has a separate section for Judicial that is programmed to follow its unique personnel rules.

This decentralized payroll system left the system vulnerable to data entry errors and increased the possibility of fraudulent payroll activity. Another shortcoming with the system was the need to provide training and support for district staff.

**New payroll system.** In September 2005, DPA implemented a new payroll system for the Executive Branch. Consequently, Judicial took part in numerous meetings over the course of a year to identify and correct issues unique to Judicial's payroll system.

In August 2006, Judicial centralized its payroll function. Since then, 3.0 FTE were reduced from throughout the Trial Courts and Probation and relocated in the State Court Administrator's Office (SCAO). Each district

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lost a fraction of an FTE (from 0.01 to 0.26); these changes are small enough that the districts can manage them through regular turnover. This supplemental seeks to transfer the FTE from the Trial Courts and Probation to the SCAO.

**Staff Recommendation:** *Staff recommends that the Committee approve this supplemental as requested since the organizational change has already occurred and it does not affect total FTE or total funding.*

**Supplemental JUD #8 - Cash Fund Clean-up**

	Request	Recommendation
Total	<u>\$2,625,000</u>	<u>\$2,625,000</u>
Cash Funds	1,440,000	1,440,000
Cash Funds Exempt	55,000	55,000
Federal Funds	1,130,000	1,130,000

<p><b>Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria?</b>          [An emergency or act of God / a technical error in the appropriation / new data / an unforeseen contingency]</p>	<b>YES</b>
<p>The request meets supplemental criteria because it is the result of new data.</p>	

**Department Request:** This supplemental request has three components:

- (a) Law Library Cash Fund Increase
- (b) Grants Adjustments
- (c) Integrated Information Services Cash Funds Spending Authority Increase

**(a) Law Library Cash Fund Increase**

In FY 2005-06, the Law Library required a one-time General Fund subsidy of \$67,000 to help meet its costs as the revenue from Appellate Docket Fees was not enough to cover the library's costs. Since then, the Supreme Court decided to divert fee revenue from the Attorney Regulation Cash Fund into the Law Library Fund. This change in fee disbursement will increase the revenue going into the Law Library Fund and allow the library to meet its ongoing annual expenses.

This supplemental seeks to increase the cash fund spending authority for the Law Library Fund for FY 2006-07 by \$140,000. This change is included in the FY 2007-08 budget request. It should be noted that this information is provided for informational purposes only, as the Law Library Fund is continuously

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appropriated as part of the Supreme Court's Constitutional responsibility for regulating the practice of law in Colorado.

*Staff recommends that the Committee approve this request* so that the Long Bill better reflects the actual expenditures of the Law Library.

***(b) Grants Adjustments***

Due to the fact that many grant cycles cross the state's fiscal year, it is difficult to know exactly what grants will be requested and received prior to the November 1 budget submission. Consequently, in any given year, the budget request reflects the prior year's spending authority for grants. In most instances, the spending authority in the Long Bill is close enough to actual grant receipts that no adjustments are necessary. However, for FY 2006-07 and beyond, the Trial Courts and Probation offices have applied for and received a significant increase in the number of grants and the amount of grant funding.

This supplemental (and the corresponding FY 2007-08 budget amendment) seeks the following increases:

- Collections Investigators, VALE grants: \$55,000 cash funds exempt
- Trial Courts, Federal Funds and Other Grants: \$350,000 cash funds  
\$655,000 federal funds
- Probation, Federal Funds and Other Grants: \$500,000 cash funds  
\$475,000 federal funds

*Staff recommends that the Committee approve this request* so that the Department has spending authority for the various grants it has received and the Long Bill better reflects actual federal fund expenditures.

***(c) Integrated Information Services Cash Funds Spending Authority Increase***

Cash funds for this division come from public access and e-filing programs. The collections are used to offset the costs associated with supporting the data network that allows these programs to operate. The electronic programs began in FY 2003-04 and the cash collected has continued to increase as the use of e-filing and public access has grown. Specific to FY 2006-07, e-filing of county court cases went on-line in some districts this fall and is expected to be available statewide by spring. Due to this new case type being e-filed, usage is already increasing and is expected to increase dramatically this spring.

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As the use of the network increases, so do the costs associated with upgrading and maintaining the network. This supplemental seeks an increase of \$450,000 cash funds to the Division's Hardware Replacement line item to allow the Division to ensure that each judicial district has the appropriate hardware to handle the increases in e-filing. This increase would be base building and carry forward into FY 2007-08.

*Staff recommends that the Committee approve this request* so that the Department can utilize the increased revenues it is receiving to provide the hardware necessary to support e-filing services across the state.

**Supplemental JUD #9 - Judicial Performance Program Line**

Request	Recommendation
No funding change Merge Judicial Performance PS & OE line items	No changes

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God / a technical error in the appropriation / new data / an unforeseen contingency]	NO
The Department submitted this request as a technical supplemental. While the change requested is technical in nature, staff does not believe it meets supplemental criteria because it is not due to a technical error, but rather, a desire to restructure the appropriation.	

**Department Request:** 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

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progress, the program is unable to hire temporary clerical help because it lacks funding in the Personal Services line item.

**Staff Recommendation:** While staff agrees that consolidating the two line items makes practical sense and does not reduce accountability for the program (spending details would still be provided in the budget request), staff does not feel that the request meets supplemental criteria: the request is not due to an act of God, a technical error in the appropriation, new data, or an unforeseen contingency. Therefore, *staff does not recommend this supplemental request*. This request is more appropriated for figure-setting.

**Supplemental JUD #10 - Health/Life/Dental and Short-term Disability Reductions**

	Request	Recommendation
Total	(\$600,933)	(\$600,933)
General Fund	(600,933)	(600,933)
Cash Funds	0	0

<b>Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria?</b>	<b>YES</b>
[An emergency or act of God / a technical error in the appropriation / new data / an unforeseen contingency]	
This request meets supplemental criteria because it is based on new data.	

**Department Request:** The Department is requesting General Fund reductions of \$571,303 from its Health, Life and Dental (HLD) appropriation, and \$29,630 from its Short-term Disability (STD) appropriation. The FY 2006-07 appropriations are greater than necessary due to changes in enrollment since they were calculated. The data used for the FY 2006-07 appropriation was generated in December 2006, so it was six months old before the fiscal year began. That lag, coupled with regular turnover in a Department with over 1,100 employees, has resulted in significant changes in enrollment and the associated funding needs.

**Staff Recommendation:** *Staff recommends that the Committee approve the supplemental as requested* since the funding will otherwise likely be reverted.

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**Supplemental JUD #11 - S.B. 91-94 True Up**

	Request	Recommendation
Total - Cash Funds Exempt	(\$431,561)	(\$431,561)

<b>Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria?</b> [An emergency or act of God / a technical error in the appropriation / new data / an unforeseen contingency]	<b>YES</b>
This request meets supplemental criteria because it is based on new data.	

**Department Request:** The Department is seeking a reduction in its S.B. 91-94 appropriation of \$431,561 cash funds exempt. 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 Recommendation:** *Staff recommends that the Committee approve the supplemental as requested* so that the Long Bill accurately reflects the terms of the contract between DHS and the Judicial Department.

**Non-prioritized Staff Initiated Supplemental for JUD - Indirect Costs Technical Correction**

	Request	Recommendation
Total	\$0	\$0
FTE	<u>0.0</u>	<u>0.0</u>
General Fund	0	(22,890)
Cash Funds	0	0
Cash Funds Exempt	0	22,890
Federal Funds	0	0

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<b>Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria?</b>	<b>YES</b>
[An emergency or act of God / a technical error in the appropriation / new data / an unforeseen contingency]	
This supplemental would correct a technical error in the calculation of the FY 2006-07 appropriation.	

**Request:** This supplemental seeks to reduce the Administration, Personal Services line item by \$22,890 General Fund, and to increase the cash funds exempt spending authority for that line item by a like amount. In calculating this appropriation for the FY 2006-07 Long Bill, staff did not correctly account for all departmental indirect cost recoveries. As a result, the current appropriation does not fully utilize indirect costs collections to offset General Fund.

*Staff recommends that the Courts Administration, Administration, Personal Services line item be reduced by \$22,890 General Fund, and the cash funds exempt spending authority for that line item be increased by a like amount.*

**Supplemental PDO #1 - Mandated Costs Increase**

	Request	Recommendation
Total - GF	\$482,919	\$482,919

<b>Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria?</b>	<b>YES</b>
[An emergency or act of God / a technical error in the appropriation / new data / an unforeseen contingency]	
This supplemental request is based on new data.	

**Department Request:** The Public Defender's Office (PDO) is requesting an increase of \$482,919 General Fund for a projected increase in 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, interpreters, travel costs, transcripts, discovery, and other related expenses.

**Growth in Mandated Costs.** The increase seen in the PDO's Mandated Costs costs are due to: (1) increases in the rates charged by service providers; and (2) increased caseload. Examples of rate increases faced by the PDO include:

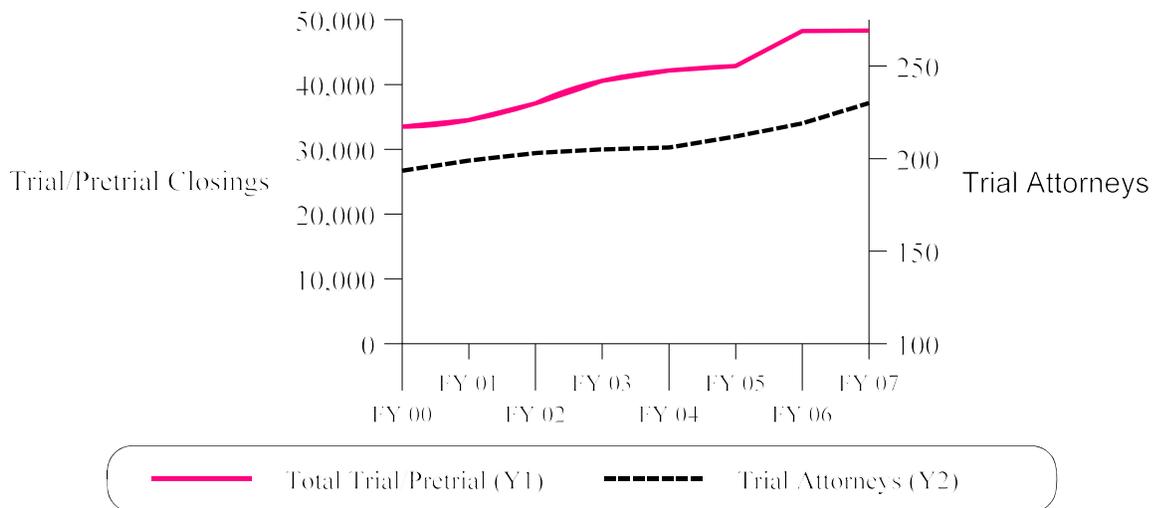
- **Experts:** In sex offender cases, the standard rate for evaluations has increased from \$800 to \$1,000.

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- **Interpreters:** The PDO is experiencing an increase in demand for non-Spanish interpreters who generally charge higher rates.
- **Discovery:** Some judicial districts have increased rates. For example, the 8th District was charging \$20 per CD, but now it is charging \$22 per CD.
- **Transcripts and discovery:** The PDO pays for transcripts and some discovery by the page, so as cases get more complex (resulting in longer hearings and more discovery), there are more pages to obtain and thus higher costs.

Since FY 1999-00, the PDO's total trial/pretrial caseload has increased by almost 44 percent (see graph below).

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



This 6.3 percent average annual growth rate is more than triple the state's general population growth rate, which has averaged 1.9 percent since 2000. Factors driving the total PDO caseload increase include:

- Population increases;
- Large staffing of law enforcement agencies;
- More counts being filed per case;
- Juveniles being treated as adults;

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- Changes in laws (particularly relating to sentencing and parole) creating significant adverse potential consequences for clients; and
- Cases once being charged as misdemeanors being charged as felonies.

These changes make it more difficult and time consuming for attorneys to provide effective representation. Additionally, the portion of the state population earning at or below 125 percent of poverty level<sup>7</sup> has grown at an average annual rate of 6.5 percent since FY 1999-00, increasing the number of people eligible for representation.

***FY 2006-07 and FY 2007-08 Projections.*** To project Mandated Costs expenses for FY 2006-07, the PDO looked at each cost category for the first five months of FY 2006-07 and compared them to costs for the first five months of FY 2005-06. The percentage increase seen in each category was then applied to the total FY 2005-06 costs for that category. In addition, due to several pending death penalty cases (which are the most expensive cases to represent), the PDO added an additional \$25,000 to the request. The total projection of \$2.5 million is \$482,919 greater than the current appropriation. It should be noted that in the FY 2006-07 budget request, the PDO submitted a decision item for a \$100,000 increase in its Mandated Costs line item. However, that request was denied in lieu of staffing increases.

For FY 2007-08, the PDO projects its Mandated Cost expenses will further increase to \$2.7 million. However, the PDO is only requesting a continuation of its FY 2006-07 appropriation (including the requested supplemental). It is projecting that it will be able to cover the unfunded FY 2007-08 balance from staff attrition savings. For FY 2006-07, the PDO also anticipates savings due to attrition, but it has earmarked those funds for over-expenditures in Operating Expenses, Health/Life/Dental, Utilities, and other line items.

**Staff Recommendation:** *Staff recommends that the Committee approve the supplemental as requested.* The PDO is required to pay for Mandated Costs and does not have another funding source in its budget to draw from.

If the supplemental is not received and expenditures continue on their current trend, the PDO would be forced to hold open vacancies and perhaps overexpend the line item. However, the Committee has approved additional staff for the PDO in recent years to address increased caseloads: for FY 2006-07, the PDO received funding for 12.0 additional staff, and for FY 2005-06, the PDO received funding for 6.0 additional staff. It seems contrary to those policy decisions to force the PDO to hold positions open in order to pay for cost increases over which it has no control.

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**Supplemental PDO #2 - Denver Drug Court**

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<sup>7</sup> One hundred twenty-five percent of poverty level is the standard of eligibility for indigent defense representation by the State Public Defender, per Chief Justice Directive 04-04.

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	Request	Recommendation
Total - Cash Funds	\$93,750	\$93,750
FTE	0.0	4.0

<b>Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria?</b> [An emergency or act of God / a technical error in the appropriation / new data / an unforeseen contingency]	<b>YES</b>
The request meets supplemental criteria because it is due to an unforeseen contingency.	

**Department Request:** The Public Defender's Office (PDO) is seeking a cash fund spending authority increase of \$93,750 to allow it to enter into a contract with the City and County of Denver to provide public defenders for a new drug court.

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

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

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

*The new drug court* will be comprised of three magistrates in two courtrooms. All funding for the court is being provided by the City and County of Denver. Denver is currently entering into a contract with the State Court Administrator's Office (the SCAO in the Judicial Department) regarding the hiring of magistrates and court staff. The Judicial Department will be receiving funding (as cash funds) from Denver for these costs. The Judicial Department's supplemental #8 includes an adjustment to its grant funding for Trial Courts.

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

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

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

According to the Executive Director of the Commission, without the public defenders to represent defendants, the court can not operate. The City Attorney cannot take these types of cases, and it is not feasible to limit the caseload to only those defendants with private counsel. Since the monies are coming from another government, they are cash funds.

**Staff Recommendation:** *Staff recommends approving the requested \$93,750 cash funds increase.* However, staff is concerned about the use of long-term contractors to fill these positions since they do not meet IRS standards for independent contractors (the attorneys would be under the direct supervision and control of the PDO). The PDO informed staff that because of budget decisions made several years ago, it has approximately 30 positions that are funded as long-term contractors yet are under the PDO's direct supervision and control. The PDO hires people to fill these positions, and as turnover occurs, they are typically moved into FTE positions within six months. The PDO anticipates a similar pattern with the people who would be hired under this contract. However, in the interest of transparency, since these employees would for all intents and purposes be FTE, *staff also recommends an increase of 4.0 FTE* (three attorneys and one support staff). Since PDO staff are not part of the state personnel system, these FTE would be non-classified positions.

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**Supplemental OCR #1 - Caseload Increase**

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	Request	Recommendation
Total - General Fund	\$289,024	\$289,024

<b>Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria?</b>	<b>YES</b>
[An emergency or act of God / a technical error in the appropriation / new data / an unforeseen contingency]	
This request meets supplemental criteria because it is the result of new data.	

**Department Request:** The Office of the Child's Representative is seeking an increase of \$289,024 General Fund to address caseload increases and cost per case increases. This increase would be base building and carry forward into FY 2007-08.

**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.

**Caseload Increases.** The following table shows OCR's caseload over the past three fiscal years.

Case Type	FY 03-04	FY 04-05	FY 05-06	Average Annual Change FY 04 to FY 06	FY 06-07 (est.)	FY 07-08 (est)
Dependency & Neglect	6,493	6,972	7,618	<b>8.7%</b>	8,380	9,050
Juvenile Delinquency <sup>a</sup>	2,673	3,374	3,459	<b>2.5%</b>	3,493	3,528
Domestic Relations	969	762	671	<b>-15.4%</b>	637	622
Truancy	369	281	374	<b>0.7%</b>	374	340
Paternity	125	86	107	<b>-7.2%</b>	103	95
Probate	113	149	137	<b>10.6%</b>	124	111
All Other Case Types	52	36	42	<b>-9.6%</b>	35	30
<b>Total</b>	<b>10,794</b>	<b>11,660</b>	<b>12,408</b>	<b>7.5%</b>	<b>13,146</b>	<b>13,776</b>

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

<sup>a</sup> 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.

The number of dependency and neglect cases billed has grown steadily at a rate of approximately 8 percent annually over the past three years. According to OCR, juvenile delinquency caseload growth, once subject

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to wide springs, appears to have slowed significantly. It should be noted that OCR has no control over appointments; appointments are made by judges and OCR is obligated to pay for the associated costs.

**Cost per Case Increases.** 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. 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. Now 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.

**FY 2006-07 and FY 2007-08 Cost Projections.** To project the estimated number of cases for FY 2006-07, OCR looked at caseload for each case type for July through November 2006 and compared them to caseload for the first five months of FY 2005-06. The percentage increase seen in each category was then applied to the total FY 2005-06 caseload for that category. The result was an estimated 10.0 percent increase in D&N cases and an estimated 1.0 increase in juvenile delinquency cases. The other case types make up a much smaller portion of the OCR's billings, and as a result, fluctuations in those caseloads can be absorbed.

To come up with an average annual cost per case for FY 2006-07, OCR used the annual average cost per case from FY 2005-06, adjusted to account for the hourly rate change approved for FY 2006-07. The estimated caseload per case type was then multiplied by the estimated annual cost per case. The result projects total FY 2006-07 Court-appointed Counsel costs of \$10,610,038, which is \$289,024 short of the \$10,321,014 appropriation.

**Staff Recommendation:** *Staff recommends that the Committee approve the supplemental as requested.* 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. If the request is not approved and actual costs

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for the remainder of the fiscal year follow the trends seen to date, the OCR will likely require additional funds or be forced to over-expend this line item.

**Supplemental OCR #2 - Mileage Reimbursement Increase (S.B. 06-173)**

	Request	Recommendation
Total - General Fund	\$4,653	\$4,291

<b>Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria?</b>	<b>YES</b>
[An emergency or act of God / a technical error in the appropriation / new data / an unforeseen contingency]	
This request was submitted to address the costs of implementing S.B. 06-173. It meets supplemental criteria because it addresses a contingency that was unforeseen at the time of FY 2006-07 figure setting.	

**Department Request:** The Office of the Child's Representative is seeking a \$4,653 General Fund increase for costs associated with S.B. 06-173. This bill 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 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 estimated cost increase from S.B. 06-173 is a total of \$4,653: \$362 for administrative travel and \$4,291 for GAL travel.

**Staff Recommendation:** *Staff recommends providing funding for the costs associated with GAL travel only (an increase of \$4,291 General Fund)*, as these FTE cannot reasonably reduce the amount of mileage they travel and still provide adequate representation for the children they represent. The OCR's Operating Expenses budget has 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.

**Statewide Common Policy Supplemental Requests**

These requests are not prioritized and are not analyzed in this packet . These items will be acted on separately by the JBC when it makes a decision regarding common policies.

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<b>Judicial Branch's Portion of Statewide Supplemental Request</b>	<b>General Fund</b>	<b>Cash Funds</b>	<b>Cash Funds Exempt</b>	<b>Federal Funds</b>	<b>Total</b>	<b>FTE</b>
1. Vehicle Lease (JUD)	(\$38,318)	\$0	\$0	\$0	(\$38,318)	0.0
Vehicle Lease (PDO)	5,947	0	0	0	5,947	0.0
2. MNT / Telecommunications (JUD)	(41,239)	0	0	0	(41,239)	0.0
MNT / Telecommunications (PDO)	10,985	0	0	0	10,985	0.0
3. Computer Service (GGCC) (JUD)	57,550	0	0	0	57,550	0.0
4. Communication Services Payments (JUD)	222	0	0	0	222	0.0
5. Risk Management (JUD)	28,285	0	0	0	28,285	0.0
6. Workers' Compensation (JUD)	140,781	0	0	0	140,781	0.0
Total Statewide Supplemental Requests for Judicial Branch	164,213	0	0	0	164,213	0.0

**Staff Recommendation:** *The staff recommendation for these requests is pending Committee approval of common policy supplementals.* Staff asks permission to include the corresponding appropriations in the Department's supplemental bill when the committee approves this common policy supplemental. If staff believes there is reason to deviate from the common policy, staff will appear before the committee later to present the relevant analysis.