

JOINT BUDGET COMMITTEE



STAFF BUDGET BALANCING FY 2019-20 AND FY 2020-21

JUDICIAL BRANCH INDEPENDENT AGENCIES

JBC WORKING DOCUMENT - SUBJECT TO CHANGE
STAFF RECOMMENDATION DOES NOT REPRESENT COMMITTEE DECISION

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APRIL 27, 2020

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HOW TO USE THIS DOCUMENT

The **first section** of this document includes a summary table showing:

- Committee action on Long Bill appropriations through March 16, 2020; and
- Staff recommended changes to Long Bill appropriations, assuming that General Fund appropriations in FY 2020-21 must be kept at approximately the same level as FY 2019-20 to bring the budget into balance. This recommendation is based on the Legislative Council Staff March 16, 2020, revenue forecast, assumes that the statutory General Fund reserve will be increased in FY 2020-21 as proposed by the Governor, and assumes that only the federal increase in the Medicaid matching funds rate will be available to help cover shortfalls.

The table is followed by descriptions of each change recommended by staff.

A **second section** of the document (if applicable) summarizes staff recommendations that require statutory changes. This may include appropriation reductions that cannot be implemented without a statutory change, changes that affect the amount of available General Fund (e.g., a transfer from a cash fund), or any other items that are not captured in the Long Bill appropriations table. The recommendations in the second section are also based on the assumption that General Fund appropriations in FY 2020-21 must be kept at approximately the level of FY 2019-20 to bring the budget into balance.

A **third section** of the document includes additional staff recommendations and options for the Committee to consider if deeper cuts are required. For purposes of this section, staff has assumed additional reductions of 10.0 to 20.0 percent in General Fund appropriations and transfers will be required to bring the budget into balance in FY 2020-21.

SUMMARY OF STAFF BUDGET BALANCING RECOMMENDATIONS FOR LONG BILL

JUDICIAL DEPARTMENT						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2019-20 APPROPRIATION						
S.B. 19-207 (Long Bill)	\$828,444,020	\$605,480,938	\$168,839,189	\$49,698,893	\$4,425,000	4,799.4
Other Legislation	12,079,781	10,653,554	1,426,227	0	0	70.4
H.B. 20-1249 (Supplemental)	3,968,134	1,562,394	35,000	2,370,740	0	1.0
TOTAL	\$844,491,935	\$617,696,886	\$170,300,416	\$52,069,633	\$4,425,000	4,870.8
FY 2020-21 RECOMMENDED APPROPRIATION						
FY 2019-20 Appropriation	\$844,491,935	\$617,696,886	\$170,300,416	\$52,069,633	\$4,425,000	4,870.8
JUD R1 Judicial budget adjustments	(500,000)	(500,000)	0	0	0	0.0
JUD R2 Magistrates	2,451,736	2,451,736	0	0	0	24.0
JUD R3 Additional probation officers	0	0	0	0	0	0.0
JUD R4 Contract management office	523,746	523,746	0	0	0	6.0
JUD BA3 Executive Assistant for the State Court Administrator	83,057	83,057	0	0	0	1.0

JUDICIAL DEPARTMENT						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
JUD BA8 Kronos and DocuSign software services	654,348	654,348	0	0	0	0.0
JUD R5 Language translators	287,798	287,798	0	0	0	1.0
JUD R8 BA2 Bridges program	380,876	380,876	0	0	0	8.0
JUD BA7 2.0 FTE for Human Resources Division and Budget Office	203,313	203,313	0	0	0	2.0
JUD R6 Adult diversion program expansion	473,705	473,705	0	0	0	0.0
JUD R7 Class C and D county judge FTE adjustment	246,197	246,197	0	0	0	1.3
JUD BA4 Contract attorney rate increase	253,659	253,659	0	0	0	0.0
JUD R12 BA9 Probation -- procurement, officers, and treatment	886,244	36,142	760,000	90,102	0	0.0
JUD R13 Increase CF approp for Family-friendly Court Program Grants	44,057	0	44,057	0	0	0.0
JUD R16 BA9 Technical adjustments	(236,529)	(46,631)	500,000	(689,898)	0	(9.0)
JUD R10 BA6B IT data center equipment replacement (withdrawn request)	0	0	0	0	0	0.0
JUD R14LD Carr center lease and debt adjustment	(104,331)	(61,137)	(152,690)	109,496	0	0.0
JUD BA6A Carr Debt Service Reduction	(5,500,000)	(500,000)	(5,000,000)	0	0	0.0
JUD R14M Carr Center maintenance adjustment	(3,600,000)	0	(3,100,000)	(500,000)	0	0.0
JUD R15 Fleet vehicles	(2,622)	(2,622)	0	0	0	0.0
JUD R11B BA5 Move and adjust appropriation for SB 19-108 (Juvenile Justice Reform)	(57,260)	(57,260)	0	0	0	0.0
JUD R11A Funding for SB 19-223 (Actions Related to Competency to Proceed)	173,645	173,645	0	0	0	2.1
JUD R9 BA1 Courthouse capital	5,025,531	5,025,531	0	0	0	0.0
JUD R16A Correctional Treatment Cash Fund Expenditures	181,941	0	0	181,941	0	0.0
OSPD R7 Grant funding from Denver	85,000	0	85,000	0	0	0.8
OSPD R1 Staffing needs	5,482,908	5,482,908	0	0	0	54.7
OSPD R2 IT	754,745	754,745	0	0	0	2.7
OSPD R3 Social workers	551,940	551,940	0	0	0	8.2
OSPD R4 Mandated costs	431,712	431,712	0	0	0	0.0
OSPD R5 Leases	357,103	357,103	0	0	0	0.0
OSPD R6 Golden courtroom staffing	115,941	115,941	0	0	0	1.6
OADC R1 Caseload increase	4,102,615	4,102,615	0	0	0	0.0
OADC R2 Coordinator of adjunct services	110,021	110,021	0	0	0	0.9
OADC R3 Staff accountant	104,805	104,805	0	0	0	0.9
OADC R4 Programs analyst	0	0	0	0	0	0.0
OADC R5 BA1 Operating adjustments	67,758	67,758	0	0	0	0.0
OADC R6 COLA-based contractor hourly rate increase	2,383,172	2,383,172	0	0	0	0.0
OCR R3a Agency Comeback on Common Comp Plan, Increase salary of training director	10,878	0	0	10,878	0	0.0
OCR R1 Caseload/workload adjustment	728,805	728,805	0	0	0	0.0
OCR R2 New staff attorney	171,858	0	0	171,858	0	1.0
OCR R3 Common compensation plan	0	0	0	0	0	0.0
OCR R4 Make deputy director and IS manager full time	61,776	61,776	0	0	0	0.4
OCR R5 Training increase	20,000	20,000	0	0	0	0.0
OCR R6 Title IV-E funding	1,441,902	0	0	1,441,902	0	0.0
OCR R7 Court-appointed counsel rate increase	1,145,367	1,145,367	0	0	0	0.0

JUDICIAL DEPARTMENT						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
ORPC Comeback - Common Compensation Plan	70,743	0	0	70,743	0	0.0
ORPC R3 BA2a Title IV-E Legal representation (reduced penetration rate)	(2,370,740)	0	0	(2,370,740)	0	0.0
ORPC R1 BA1 Increase in number of and costs per appointment	0	0	0	0	0	0.0
ORPC R2 Common compensation plan - attorneys	0	0	0	0	0	0.0
ORPC R3 Common compensation plan - other staff	0	0	0	0	0	0.0
ORPC R4 BA2 Title IV-E legal representation	4,741,480	0	0	4,741,480	0	0.0
ORPC R5 Social worker pilot program continuation	318,240	318,240	0	0	0	0.0
ORPC R6 Social work coordinator	0	0	0	0	0	0.0
ORPC R7 Carrie Ann Lucas fellowship	173,522	0	0	173,522	0	1.0
ORPC R8 Contractor rate increase	999,670	999,670	0	0	0	0.0
ORPC R9 BA3 Operating expenses	14,108	14,108	0	0	0	0.0
ORPC R10 Training	41,000	0	13,000	28,000	0	0.0
OCPO R1 Salary increases	35,749	35,749	0	0	0	0.0
OCPO R2 External assistance with communication	42,000	42,000	0	0	0	0.0
OPG Staff initiated: Eliminate GF for OPG for FY 2020-21 only	0	(263,411)	263,411	0	0	0.0
CDAC R1 District attorney mandated costs	109,851	79,851	30,000	0	0	0.0
Centrally appropriated line items	18,171,383	17,468,493	702,890	0	0	0.0
Annualize prior legislation	2,302,447	2,439,631	(137,184)	0	0	37.2
Community Provider Rate	702,986	315,421	311,652	75,913	0	0.0
Non-prioritized requests	4,583	4,583	0	0	0	0.0
Annualize prior budget actions	(3,675,219)	(3,645,219)	(30,000)	0	0	14.0
Indirect Cost Adjustment	(224,800)	0	(224,800)	0	0	0.0
SUBTOTAL - JBC ACTIONS AS OF 3/16/20	885,946,355	661,550,773	164,365,752	55,604,830	4,425,000	5,030.6
JUD R2-b Eliminate Magistrates	(2,451,736)	(2,451,736)	0	0	0	(24.0)
JUD R4 BA9-b Reduce Contract Management Office	(193,976)	(193,976)	0	0	0	(2.0)
JUD BA3-b Eliminate Executive Assistant for State Court Administrator	(83,057)	(83,057)	0	0	0	(1.0)
JUD BA8-b Reduce Kronos and DocuSign software services	(320,000)	(320,000)	0	0	0	0.0
JUD R5-b Eliminate Language Translators	(287,798)	(287,798)	0	0	0	(1.0)
JUD R8 BA2-b Eliminate added funding but not added FTE for Bridges program	(380,876)	(380,876)	0	0	0	0.0
JUD BA7-b Eliminate FTE for Human Resources Division and Budget Office	(203,313)	(203,313)	0	0	0	(2.0)
JUD R6-b Adult Diversion Program Expansion	(473,705)	(473,705)	0	0	0	0.0
JUD R7-b Eliminate \$ retain FTE, C and D County Judge FTE Adjustment	(246,197)	(246,197)	0	0	0	0.0
JUD BA4-b Eliminate Contract attorney rate increase	(253,659)	(253,659)	0	0	0	0.0
JUD R9-b Reduce courthouse capital	(904,375)	(904,375)	0	0	0	0.0
JUD R11A-b Eliminate added funding for SB 19-223 (Actions Related to Competency to Proceed)	(173,645)	(173,645)	0	0	0	(2.1)
JUD BR1 Reduce GF approp to Underfunded Courthouse Facilities Grant Program	(2,500,000)	(2,500,000)	0	0	0	0.0

JUDICIAL DEPARTMENT						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
JUD BR2 Eliminate Annualization of FY 19-20 JUD R2 Add probation officers and supporting staff	(1,380,291)	(1,380,291)	0	0	0	(12.5)
JUD BR2a Refinance \$250k of Probation Programs GF appropriation with Alcohol and Drug Driving Safety Program Fund	0	(250,000)	250,000	0	0	0.0
JUD BR3 Reduce Mental Health Criminal Justice Diversion Grant Program	(150,000)	(150,000)	0	0	0	0.0
JUD BR4 Reduce Approp to Correctional Treatment Cash Fund	(1,500,000)	(1,500,000)	0	0	0	0.0
JUD BR5 Refinance Courthouse Security Grants	0	(150,000)	150,000	0	0	0.0
JUD BR6 Eliminate transfer from Justice Center CF to Justice Center Maintenance CF, use to reduce GF for debt service	(1,500,000)	(1,500,000)	0	0	0	0.0
JUD BR7 Refinance \$1m GF in Trial Court Programs with \$1m from Judicial Collection Enhancement Fund	0	(1,000,000)	1,000,000	0	0	0.0
JUD BR7A Refinance \$500k GF in Trial Courts with \$500k from Judicial Stabilization CF	0	(500,000)	500,000	0	0	0.0
JUD BR8 Reduce GF approp for Offender Treatment	(200,000)	(200,000)	0	0	0	0.0
JUD R12 BA9-b Eliminate GF from this request	(36,142)	(36,142)	0	0	0	0.0
OSPD R1-b Reduce R1 Staffing Requirements	(2,614,020)	(2,614,020)	0	0	0	(25.9)
OSPD R2-b Reduce R2 IT	(305,899)	(305,899)	0	0	0	(2.7)
OSPD R3-b Eliminate R3 Social Workers	(551,940)	(551,940)	0	0	0	(8.2)
OSPD R5-b Reduce R5 leases	(192,000)	(192,000)	0	0	0	0.0
OSPD R6-b Eliminate R6 Golden Courtroom Staffing	(115,941)	(115,941)	0	0	0	(1.6)
OADC R2-b Eliminate R2 Coordinator of adjunct services	(110,021)	(110,021)	0	0	0	(0.9)
OADC R3-b Eliminate Staff accountant	(104,805)	(104,805)	0	0	0	(0.9)
OADC R5-b Eliminate Operating adjustments	(67,758)	(67,758)	0	0	0	0.0
OADC R6-b Eliminate COLA-based contractor hourly rate increase	(2,383,172)	(2,383,172)	0	0	0	0.0
OCR R1-b Eliminate GF increase for caseload/workload mandated costs adjustment	(728,805)	(728,805)	0	0	0	0.0
OCR R4-b Refinance Increase FTE of Deputy Director and IS Manager with Title IV-E funds	0	(61,776)	0	61,776	0	0.0
OCR R5-b Refinance training increase with Title IV-E funds	0	(20,000)	0	20,000	0	0.0
ORPC R5-b Refinance Continuation of Social Work Pilot Program	0	(318,240)	0	318,240	0	0.0
OCR R7-b Eliminate Court-appointed Counsel Rate Increase	(1,145,367)	(1,145,367)	0	0	0	0.0
IEC-b Reduction based on prior reversions	(10,000)	(10,000)	0	0	0	0.0
ORPC R8-b Eliminate Contractor Rate Increase	(999,670)	(999,670)	0	0	0	0.0
OCPO R1-b Eliminate salary increases	(35,749)	(35,749)	0	0	0	0.0
OCPO R2-b Eliminate external assistance with communication	(42,000)	(42,000)	0	0	0	0.0
TOTAL	\$863,300,438	\$636,604,840	\$166,265,752	\$56,004,846	\$4,425,000	4,945.8

JUDICIAL DEPARTMENT						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
INCREASE/(DECREASE)	\$18,808,503	\$18,907,954	(\$4,034,664)	\$3,935,213	\$0	75.0
Percentage Change	2.2%	3.1%	(2.4%)	7.6%	0.0%	1.5%

The numbering system in the preceding table and elsewhere in this document indicates the affected agency. Specifically:

- "JUD" - The courts or probation programs, sometimes called “main Judicial”;
 - "OSPD" - Office of the State Public Defender;
 - "OADC" - Office of the Alternate Defense Counsel;
 - "OCR" - Office of the Child's Representative;
 - "ORPC" - Office of the Respondent Parents' Counsel;
 - "OCPO" - Office of the Child Protection Ombudsman;
 - "OPG" - Office of Public Guardianship;
 - "IEC" - Independent Ethics Commission;
 - "CDAC" - Colorado District Attorneys' Council; and
 - "STAFF" - a JBC staff initiated recommendation.
- R indicates a request submitted in November 2019, thus “OADC R3” is request 3 from the Office of the Alternate Defense Counsel, submitted in November.
 - BA indicates a budget amendment submitted in January 2020, thus “JUD BA3” is budget amendment 3 submitted by main Judicial in January, while “JUD R8 BA2” is November request R8, as modified in January by budget amendment BA8.
 - The suffix “-b” indicates a balancing action affecting a request or budget amendment, for example “OADC R3-b” eliminates the funding previously approved for OADC R3.
 - BR indicates a budget reduction or balancing action not connected to a prior JBC decision.

Changes to staff recommendations for common policy items, including salary survey and provider rates, will be addressed in statewide policy packets.

Because the large size of the preceding consolidated table makes it difficult to use, in the remainder of this document staff presents the recommended budget balancing actions for each Judicial Branch agency in separate tables. This makes it easier to see the effect of budget balancing actions on each agency’s total appropriation and easier to connect recommended budget reductions with increases that were previously approved.

MAIN JUDICIAL DEPARTMENT (JUD)

SUMMARY OF JUD STAFF BUDGET BALANCING RECOMMENDATIONS FOR LONG BILL

MAIN JUDICIAL						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2019-20 APPROPRIATION						
S.B. 19-207 (Long Bill)	\$621,004,314	\$398,264,236	\$168,674,189	\$49,640,889	\$4,425,000	3,853.4
Other Legislation	9,767,568	8,749,727	1,017,841	0	0	51.9
H.B. 20-1249 (Supplemental)	(419,790)	(449,790)	30,000	0	0	1.0
TOTAL	\$630,352,092	\$406,564,173	\$169,722,030	\$49,640,889	\$4,425,000	3,906.3
FY 2020-21 RECOMMENDED APPROPRIATION						
FY 2019-20 Appropriation	\$630,352,092	\$406,564,173	\$169,722,030	\$49,640,889	\$4,425,000	3,906.3
JUD R1 Judicial budget adjustments	(500,000)	(500,000)	0	0	0	0.0
JUD R2 Magistrates	2,451,736	2,451,736	0	0	0	24.0
JUD R3 Additional probation officers	0	0	0	0	0	0.0
JUD R4 Contract management office	523,746	523,746	0	0	0	6.0
JUD BA3 Executive Assistant for the State Court Administrator	83,057	83,057	0	0	0	1.0
JUD BA8 Kronos and DocuSign software services	654,348	654,348	0	0	0	0.0
JUD R5 Language translators	287,798	287,798	0	0	0	1.0
JUD R8 BA2 Bridges program	380,876	380,876	0	0	0	8.0
JUD BA7 2.0 FTE for Human Resources Division and Budget Office	203,313	203,313	0	0	0	2.0
JUD R6 Adult diversion program expansion	473,705	473,705	0	0	0	0.0
JUD R7 Class C and D county judge FTE adjustment	246,197	246,197	0	0	0	1.3
JUD BA4 Contract attorney rate increase	253,659	253,659	0	0	0	0.0
JUD R12 BA9 Probation -- procurement, officers, and treatment	886,244	36,142	760,000	90,102	0	0.0
JUD R13 Increase CF approp for Family-friendly Court Program Grants	44,057	0	44,057	0	0	0.0
JUD R16 BA9 Technical adjustments	(236,529)	(46,631)	500,000	(689,898)	0	(9.0)
JUD R10 BA6B IT data center equipment replacement (withdrawn request)	0	0	0	0	0	0.0
JUD R14LD Carr center lease and debt adjustment	(104,331)	(61,137)	(152,690)	109,496	0	0.0
JUD BA6A Carr Debt Service Reduction	(5,500,000)	(500,000)	(5,000,000)	0	0	0.0
JUD R14M Carr Center maintenance adjustment	(3,600,000)	0	(3,100,000)	(500,000)	0	0.0
JUD R15 Fleet vehicles	(2,622)	(2,622)	0	0	0	0.0
JUD R11B BA5 Move and adjust appropriation for SB 19-108 (Juvenile Justice Reform)	(57,260)	(57,260)	0	0	0	0.0
JUD R11A Funding for SB 19-223 (Actions Related to Competency to Proceed)	173,645	173,645	0	0	0	2.1
JUD R9 BA1 Courthouse capital	5,025,531	5,025,531	0	0	0	0.0
JUD R16A Correctional Treatment Cash Fund Expenditures	181,941	0	0	181,941	0	0.0
CDAC R1 District attorney mandated costs	109,851	79,851	30,000	0	0	0.0
Centrally appropriated line items	15,073,674	14,493,338	580,336	0	0	0.0
Annualize prior legislation	1,803,077	1,942,274	(139,197)	0	0	29.7
Community Provider Rate	702,986	315,421	311,652	75,913	0	0.0
Non-prioritized requests	30,446	30,446	0	0	0	0.0
Annualize prior budget actions	(3,179,650)	(3,149,650)	(30,000)	0	0	13.5
Indirect Cost Adjustment	(224,800)	0	(224,800)	0	0	0.0
SUBTOTAL - JBC ACTIONS AS OF 3/16/20	646,536,787	429,901,956	163,301,388	48,908,443	4,425,000	3,985.9
JUD R2-b Eliminate Magistrates	(2,451,736)	(2,451,736)	0	0	0	(24.0)
JUD R4 BA9-b Reduce Contract Management Office	(193,976)	(193,976)	0	0	0	(2.0)

MAIN JUDICIAL						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
JUD BA3-b Eliminate Executive Assistant for State Court Administrator	(83,057)	(83,057)	0	0	0	(1.0)
JUD BA8-b Reduce Kronos and DocuSign software services	(320,000)	(320,000)	0	0	0	0.0
JUD R5-b Eliminate Language Translators	(287,798)	(287,798)	0	0	0	(1.0)
JUD R8 BA2-b Eliminate added funding but not added FTE for Bridges program	(380,876)	(380,876)	0	0	0	0.0
JUD BA7-b Eliminate FTE for Human Resources Division and Budget Office	(203,313)	(203,313)	0	0	0	(2.0)
JUD R6-b Adult Diversion Program Expansion	(473,705)	(473,705)	0	0	0	0.0
JUD R7-b Eliminate \$ retain FTE, C and D County Judge FTE Adjustment	(246,197)	(246,197)	0	0	0	0.0
JUD BA4-b Eliminate Contract attorney rate increase	(253,659)	(253,659)	0	0	0	0.0
JUD R9-b Reduce courthouse capital	(904,375)	(904,375)	0	0	0	0.0
JUD R11A-b Eliminate added funding for SB 19-223 (Actions Related to Competency to Proceed)	(173,645)	(173,645)	0	0	0	(2.1)
JUD BR1 Reduce GF approp to Underfunded Courthouse Facilities Grant Program	(2,500,000)	(2,500,000)	0	0	0	0.0
JUD BR2 Eliminate Annualization of FY 19-20 JUD R2 Add probation officers and supporting staff	(1,380,291)	(1,380,291)	0	0	0	(12.5)
JUD BR2a Refinance \$250k of Probation Programs GF appropriation with Alcohol and Drug Driving Safety Program Fund	0	(250,000)	250,000	0	0	0.0
JUD BR3 Reduce Mental Health Criminal Justice Diversion Grant Program	(150,000)	(150,000)	0	0	0	0.0
JUD BR4 Reduce Approp to Correctional Treatment Cash Fund	(1,500,000)	(1,500,000)	0	0	0	0.0
JUD BR5 Refinance Courthouse Security Grants	0	(150,000)	150,000	0	0	0.0
JUD BR6 Eliminate transfer from Justice Center CF to Justice Center Maintenance CF, use to reduce GF for debt service	(1,500,000)	(1,500,000)	0	0	0	0.0
JUD BR7 Refinance \$1m GF in Trial Court Programs with \$1m from Judicial Collection Enhancement Fund	0	(1,000,000)	1,000,000	0	0	0.0
JUD BR7A Refinance \$500k GF in Trial Courts with \$500k from Judicial Stabilization CF	0	(500,000)	500,000	0	0	0.0
JUD BR8 Reduce GF approp for Offender Treatment	(200,000)	(200,000)	0	0	0	0.0
JUD R12 BA9-b Eliminate GF from this request	(36,142)	(36,142)	0	0	0	0.0
TOTAL	\$633,298,017	\$414,763,186	\$165,201,388	\$48,908,443	\$4,425,000	3,941.3
INCREASE/(DECREASE)	\$2,945,925	\$8,199,013	(\$4,520,642)	(\$732,446)	\$0	35.0
Percentage Change	0.5%	2.0%	(2.7%)	(1.5%)	0.0%	0.9%

The appropriation for centrally appropriated line items in the preceding table is a substantial part of the overall General Fund increase. This increase will be addressed in statewide budget balancing

documents. Approximately \$11.5 million of the General Fund increase for centrally appropriated line items is due to the statewide pay increase. If this increase is eliminated, the FY 2020-21 General Fund appropriation will be several million below its FY 2019-20 level.

JUD R2-B ELIMINATE MAGISTRATES

JBC ACTION AS OF 3/16/20: The Judicial Department received \$2,451,736 General Fund for 8.0 FTE magistrates and 16.0 FTE support staff for county courts. The appropriation adds judicial officers in the courts of eight counties (Adams, Arapahoe, El Paso, Jefferson, Larimer, Mesa, Pueblo, and Weld). The Judicial Department's updated workload study indicates that the county courts in those jurisdictions are on average 80 percent staffed, with Adams, Weld, and Larimer below 80 percent staffing.

RECOMMENDATION: Staff recommends elimination of this increase.

ANALYSIS:

While the Department's workload study indicates that the average judicial officer in the affected county courts is currently working 48.4 hours per week, staff does not believe that this increased appropriation can currently be justified, given the State's budget situation.

JUD R4 BA9-B REDUCE CONTRACT MANAGEMENT OFFICE

JBC ACTION AS OF 3/16/20: The Judicial Department received \$523,746 General Fund and 6.0 FTE for a centralized contract management office.

RECOMMENDATION: Staff recommends that this appropriation be decreased by \$193,976 General Fund (37 percent) and 2.0 FTE.

ANALYSIS:

The Department expresses a strong desire to reduce but not eliminate this appropriation. The Department submitted its original request for the creation of a contract management office because of what it believes are material deficiencies as well as inefficiencies in its current contracting and procurement process. The current process is decentralized, with most tasks assigned to employees in the 22 judicial districts who must balance their normal programmatic duties (such as probation-officer supervision) with contract and procurement duties. These contracting duties include coordinating background checks, verifying insurance requirements, renewing contracts, and maintaining contract records. Because non-specialist managers perform these duties, the managers spend an inordinate amount of time on these responsibilities. A centralized contract office will address the material deficiencies in the contracts and give managers in the Judicial Districts more time to perform their core (non-contracting) duties.

JUD BA3-B ELIMINATE EXECUTIVE ASSISTANT FOR STATE COURT ADMINISTRATOR

JBC ACTION AS OF 3/16/20: The Judicial Department received \$83,057 General Fund and 1.0 FTE for a new Executive Assistant for the newly appointed State Court Administrator.

RECOMMENDATION: Staff recommends elimination of this increase.

ANALYSIS:

Staff believes that this budget increase is not warranted given current General Fund revenue shortfalls.

JUD BA8-B REDUCE KRONOS AND DOCUSIGN SOFTWARE SERVICES

JBC ACTION AS OF 3/16/20: The Judicial Department received \$654,348 General Fund to (1) acquire Kronos Workforce Dimensions, a web-based electronic time keeping system that will integrate with the state's new HRWorks system and will replace the Department's aging and failing timekeeping system, and (2) acquire DocuSign, a web-based electronic document signature system.

RECOMMENDATION: Staff recommends that this appropriation be decreased by \$320,000 General Fund (49 percent).

ANALYSIS:

The Committee approved this request because:

- The Department needs to replace its current Department-built time keeping system, which was developed 15 years ago in an older computer language that no one in the Department's IT department has the skills to maintain or update. The current timekeeping system was designed to operate in a hardware and software environment that has substantially changed over the years. As a result, the system is starting to fail; it periodically produces inaccurate results that must be manually verified.
- The replacement Kronos timekeeping system is a much more capable timekeeping, scheduling and reporting system that, among other things, will provide substantially more detailed information about costs, particularly the labor costs involved in software development. Among other things, the added cost information will allow the Department to make more informed decision about building versus buying software.
- Kronos will smoothly integrate with the Department of Personnel and Administration's HRWorks system, something the Department must be able to do in the future but cannot do with its current timekeeping system.

Staff asked the Department whether the switch to Kronos could be delayed for a couple of years and concludes that the aggressive multi-year pricing that Kronos is offering during the current economic downturn, combined with these factors, justifies the expense.

The appropriation also includes \$15,000 for an annual subscription to DocuSign, an electronic signature software system that will be used as an integral part of the Department's contracting process.

JUD R5-B ELIMINATE LANGUAGE TRANSLATORS

JBC ACTION AS OF 3/16/20: The Judicial Department received \$287,798 General Fund and 1.0 FTE for 1.0 FTE translator, which would increase the Spanish-language translator staff from 2.0 to 3.0 FTE, and would provide additional funding for contract translators. (Translators translate written documents while interpreters translate the spoken word.)

RECOMMENDATION: Staff recommends elimination of this increase.

ANALYSIS:

Staff believes that this budget increase is not warranted given current General Fund revenue shortfalls. Translations will still get done, but not as quickly as they would if this request was funded.

JUD R8 BA2-B ELIMINATE ADDED FUNDING AND 2.0 ADDED FTE FOR BRIDGES PROGRAM

JBC ACTION AS OF 3/16/20: The Judicial Department received \$380,876 and 8.0 FTE for the Bridges program established by S.B. 18-251 (Behavioral Health Court Liaison Program). More specifically it received:

- \$180,876 General Fund for 2.0 FTE to coordinate the program and provide supervision for Court Liaisons.
- \$200,000 for a program evaluation study.
- 6.0 FTE and no dollars for Court Liaisons positions in districts unable to secure a satisfactory contract through a community mental health provider for the services of a liaison.

RECOMMENDATION: Staff recommends elimination of the salaried FTE and the program evaluation study but not elimination of the 6.0 FTE.

ANALYSIS:

Staff believes that this budget increase is not warranted given current General Fund revenue shortfalls. The program would function more smoothly with the added FTE, but it will still function adequately. The program evaluation study can be safely delayed.

JUD BA7-B ELIMINATE FTE FOR HUMAN RESOURCES DIVISION AND BUDGET OFFICE

JBC ACTION AS OF 3/16/20: The Judicial Department received \$203,313 General Fund and 2.0 FTE for their Human Resources and Budget Office to handle the growing workload of the two offices.

RECOMMENDATION: Staff recommends elimination of this increase.

ANALYSIS:

Staff believes that this budget increase is not warranted given current General Fund revenue shortfalls. The increases can be delayed.

JUD R6-B ADULT DIVERSION PROGRAM EXPANSION

JBC ACTION AS OF 3/16/20: The Judicial Department received \$473,705 General Fund to increase funding for existing diversion programs across the state and to provide funding to add a diversion program in an additional district.

RECOMMENDATION: Staff recommends elimination of this increase.

ANALYSIS:

Staff believes that this budget increase, which helps fund local diversion programs, is not warranted given current General Fund revenue shortfalls.

JUD R7-B ELIMINATE \$ RETAIN FTE, C AND D COUNTY JUDGE FTE ADJUSTMENT

JBC ACTION AS OF 3/16/20: The Judicial Department received \$246,197 General Fund and 1.3 FTE for the Trial Court Programs to fund increased payments to Class C and D county judges (i.e. county judges in small counties) that have resulted from (1) caseload/workload growth and (2) a revision to the methodology used to compute the fractional appointments of county judges in small counties. Staff recommends approval of this request.

RECOMMENDATION: Staff recommends elimination of the added General Fund appropriation but not of the additional FTE.

ANALYSIS:

Staff believes that this General Fund increase is not warranted given current revenue shortfalls, but an accurate indication of Judicial-officer FTE in the Long Bill is desirable.

JUD BA4-B ELIMINATE CONTRACT ATTORNEY RATE INCREASE

JBC ACTION AS OF 3/16/20: The Judicial Department received \$253,659 General Fund for a 5 percent rate increase for the contract attorneys who do work for the Judicial Department. This increase matches the 5 percent rate increase approved for contract attorneys who do work for the Office of Alternate Defense Counsel, the Office of Respondent Parents' Counsel, and the Office of the Child's Representative.

RECOMMENDATION: Staff recommends elimination of this increase.

ANALYSIS:

Staff believes that this budget increase cannot be justified given current General Fund revenue shortfalls.

JUD R9-B REDUCE COURTHOUSE CAPITAL

JBC ACTION AS OF 3/16/20: The Judicial Department received \$3,550,009 General Fund for Courthouse Furnishings and Infrastructure Maintenance, which pays for infrastructure and courthouse furnishings in expanded, remodeled, or new facilities, and for replacement or refurbishment of existing infrastructure and furniture. County decisions to open and remodel courts generally drive this appropriation.

RECOMMENDATION: Staff recommends that this appropriation be decreased by \$904,375 General Fund.

ANALYSIS:

This reduction is a consequence of decisions that counties have made regarding the building and remodeling of their courthouses. This is the current FY 2020-21 project list:

PROJECTS	
COUNTY	AMOUNT
Huerfano	\$975,267
Weld	276,040
Boulder	117,405
Jefferson	850,750
Denver	311,172
Fremont	115,000
Total:	\$2,645,634

Comparing this list with the list presented during figure setting shows that \$1.0 million of projects for Centennial, Denver, Pitkin, and Weld counties are gone and a project from Fremont county has been added. Given the current economic situation, further reductions as counties delay or cancel projects may occur.

JUD R11A-B ELIMINATE ADDED FUNDING FOR SB 19-223 (ACTIONS RELATED TO COMPETENCY TO PROCEED)

JBC ACTION AS OF 3/16/20: The main Judicial Department received \$173,645 General Fund and 2.1 FTE to correct an under appropriation in S.B.19-223.

RECOMMENDATION: Staff recommends elimination of this increase.

ANALYSIS:

Senate Bill 19-223 (Actions Related to Competency to Proceed) contains an appropriation clause that is \$173,645 General Fund lower than the Legislative Council Staff fiscal note. In April 2019, the House Appropriations Committee adopted an amendment that revised the bill’s appropriations clause to make it consistent with the recently revised fiscal note. This was the only amendment to the reengrossed bill before second reading. The House rejected the Appropriations amendment during second reading to avoid a trip back to the Senate where the bill might have died.

The added appropriation approved by the JBC aligns the bill's appropriation with the final fiscal note. The Department indicates that it will do its best to implement the bill for a year or two with the lower appropriation, but it plans to request full funding when General Fund revenues recover.

JUD BR1 REDUCE GF APPROPRIATION TO UNDERFUNDED COURTHOUSE FACILITIES GRANT PROGRAM

JBC ACTION AS OF 3/16/20: The JBC approved an appropriation of \$3,000,000 to the Underfund Courthouse Facilities Grant Program.

RECOMMENDATION: Staff recommends that this appropriation be decreased by \$2,500,000 General Fund.

ANALYSIS:

The Department believes that the current economic downturn will dramatically reduce the number and dollar value of grant requests that it receives from counties. Though there is no formal matching requirement for these grants, the commission that oversees the grant program almost always asks for matching funds, believing it important that counties have "skin in the game." The need to produce matching funds in a bad economy will substantially cut requests.

The \$500,000 that remains in the fund should be sufficient to pay for planning grants and grants for small emergencies. This reduced funding will not diminish the Department's ability to honor the prior multi-year grants that it has already made. The Department indicates that it will seek a supplemental appropriation if an unexpected number of grant requests arrive. It plans to seek restored funding after the recession ends.

JUD BR2 ELIMINATE ANNUALIZATION OF FY 19-20 JUD R2 ADD PROBATION OFFICERS AND SUPPORTING STAFF

JBC ACTION AS OF 3/16/20: During the 2019 session, the General Assembly approved a staffing increase for the Probation Department that was spread over two years with 36.5 FTE added in FY 2019-20 at a cost of \$3,040,883 General Fund and an additional 12.5 added in FY 2020-21 at an additional cost of \$1,380,291 General Fund.

RECOMMENDATION: Staff recommends elimination of this increase.

ANALYSIS:

The Probation Division has approximately 1,200 FTE; though the cumulative effect of repeated decisions to not increase probation staff would be significant, the short term effect of 12.5 fewer FTE probation officers on FY 2020-21 supervision ratios will be modest.

JUD BR2A REFINANCE \$250K OF PROBATION PROGRAMS GF APPROPRIATION WITH ALCOHOL AND DRUG DRIVING SAFETY PROGRAM FUND

JBC ACTION AS OF 3/16/20: The Judicial Department's Probation Programs line item received an appropriation of \$88.9 million General Fund.

RECOMMENDATION: Staff recommends that the General Fund appropriation to the Probation Programs line item be decreased by \$250,000 and the appropriation to the line item from the Alcohol and Drug Driving Safety Fund be increased by \$250,000.

ANALYSIS:

Revenues of the Alcohol and Drug Driving Safety Program Fund are used to pay for alcohol and drug evaluations of DWAI/DUI offenders. The assessments are performed by probation officers. The Alcohol and Drug Driving Safety Program Fund has sufficient fund balance and revenue to absorb the increased expenditure.

JUD BR3 REDUCE MENTAL HEALTH CRIMINAL JUSTICE DIVERSION GRANT PROGRAM

JBC ACTION AS OF 3/16/20: During figure setting the JBC approved an appropriation of \$1,195,573 General Fund to the Mental Health Criminal Justice Diversion Grant Program. .

RECOMMENDATION: Staff recommends that this appropriation be decreased by \$150,000 General Fund.

ANALYSIS: This reduction is based on projected FY 2020-21 spending levels by the program, which in turn are based on FY 2019-20 expenditures.

JUD BR4 REDUCE APPROPRIATION TO CORRECTIONAL TREATMENT CASH FUND

JBC ACTION AS OF 3/16/20: During figure setting the JBC approved a total appropriation of \$17,655,396 to the Correctional Treatment Cash Fund, including \$16,021,614 General Fund and \$1,633,782 from the Marijuana Tax Cash Fund.

RECOMMENDATION: Staff recommends that this appropriation be decreased by \$1,500,000 General Fund.

ANALYSIS:

The Correctional Treatment Cash Fund (CTCF) funds the treatment of substance abuse and co-occurring disorders in adult and juvenile offenders. The moneys are initially appropriated to the Judicial Department where some of the funding is expended on treatment programs. The remainder is reappropriated to the Departments of Corrections, Human Services, and Public Safety where most is also spent on treatment providers.

Revenues of the CTCF derive from a surcharge paid by convicted drug offenders, from interest earned on the fund balance, and from annual General Fund and Marijuana Tax Cash Fund appropriations to

the CTCF. Sections 18-19-103 (3.5)(b) and (4)(a), C.R.S., require a minimum annual appropriation from the General Fund to the CTCF of \$11.2 million. An additional \$3.5 million General Fund appropriation in Section 18-19-103 (3.5)(c) was required only in FY 2014-15.

The General Fund appropriation to the CTCF is adjusted each year by the provider rate increase. If the Committee eliminates that increase for FY 2020-21, the General Fund appropriation to the CTCF will decline by an additional \$298,735 and the Marijuana Tax Fund appropriation to the CTCF will decline by \$30,463.

The CTCF has a sufficient fund balance to maintain current levels of expenditure from the fund with this reduction.

JUD BR5 REFINANCE COURTHOUSE SECURITY GRANTS

JBC ACTION AS OF 3/16/20: The Judicial Department received an appropriation of \$3,256,785 total funds and 1.0 FTE, comprised of \$379,465 General fund and \$2,877,320 from the Court Security Cash Fund created in Section 13-1-204 (1)(a), C.R.S.

RECOMMENDATION: Staff recommends that \$150,000 of the General Fund portion of this appropriation be refinanced by increasing the appropriation from the Court Security Cash Fund by \$150,000.

ANALYSIS: The Courthouse Security Grant Program is funded from the General Fund and from the Court Security Cash Fund, which receives revenue from a \$5 surcharge on: docket fees and jury fees for certain civil actions; docket fees for criminal convictions, special proceeding filings, and certain traffic infraction penalties; filing fees for certain probate filings; and fees for certain filings on water matters. Moneys in the Fund are used for grants and related administrative costs.

JUD BR6 ELIMINATE TRANSFER FROM JUSTICE CENTER CF TO JUSTICE CENTER MAINTENANCE CF, USE TO REDUCE GF FOR DEBT SERVICE

JBC ACTION AS OF 3/16/20: The Justice Center Maintenance Fund was established by S.B. 18-267 to pay future controlled maintenance needs of the Carr Center. Appropriations to the fund are based on projections of future controlled maintenance needs. During figure setting the JBC approved an appropriation of \$1,500,000 into the Maintenance Fund from the Justice Center Cash Fund.

During figure setting, the JBC also approved an appropriation of \$16,187,655 total funds for Carr Center Debt Service Payments, comprised of \$3,883,418 General Fund and \$12,304,237 cash and reappropriated funds.

RECOMMENDATION: Staff recommends eliminating for one year the \$1,500,000 transfer from the Justice Center Cash Fund to the Justice Center Maintenance Fund, increasing the appropriation for Carr Center debt service from the Justice Center Cash Fund by \$1,500,000, and reducing the appropriation for Carr Center debt service from the General Fund by \$1,500,000.

ANALYSIS:

The current balance in the Carr Center Maintenance Fund is large enough to meet the controlled maintenance needs of the Carr Center in FY 2020-21 and FY 2021-22 even if it does not receive the anticipated \$1.5 million appropriation from the Justice Center Cash Fund in either year. The current balance in the Maintenance Fund is not sufficient to meet projected controlled maintenance needs in FY 2022-23 unless appropriations from the Justice Center Cash Fund resume in that year. If contributions to the Maintenance Fund are suspended in FY 2020-21 and/or FY 2021-22, the fund balance will be insufficient to meet all of the projected controlled maintenance needs of the Carr Center in subsequent years unless catch-up appropriations are approved to make up for the under appropriations during the current economic downturn.

JUD BR7 REFINANCE \$1M GF IN TRIAL COURT PROGRAMS WITH \$1M FROM JUDICIAL COLLECTION ENHANCEMENT CF

JBC ACTION AS OF 3/16/20: The main Judicial Department’s Trial Courts Programs line item received an appropriation of \$131.5 million General Fund.

RECOMMENDATION: Staff recommends that the General Fund portion of the Trial Court Programs appropriation be decreased by \$1,000,000 and the cash funds portion be increased by \$1,000,000 from the Judicial Collection Enhancement Cash Fund (the “Enhancement Fund”).

ANALYSIS:

The Enhancement Fund is used to pay administrative and personnel costs incurred in collecting restitution, fines, costs, fees, and other monetary assessments. Some of these costs are incurred in the Collections Investigators line and some in the Trial Courts Programs line where investigator supervision costs are incurred. The Enhancement Fund has sufficient fund balance and revenue to support the increased appropriation.

JUD BR7A REFINANCE \$500K GF IN TRIAL COURTS WITH \$500K FROM JUDICIAL STABILIZATION CF

JBC ACTION AS OF 3/16/20: The main Judicial Department’s Trial Courts Programs line item received an appropriation of \$131.5 million General Fund.

RECOMMENDATION: Staff recommends that the General Fund portion of the Trial Court Programs appropriation be decreased by \$500,000 and the cash funds portion be increased by \$500,000 from the Judicial Collection Enhancement Cash Fund (the “Enhancement Fund”).

ANALYSIS:

The Judicial Stabilization Fund is used to expenses of the trial courts. It receives revenue from court docket fees, filing fees, and other court-related fees. The Fund has enough fund balance and revenue to support the increased appropriation.

JUD BR8 REDUCE GF APPROPRIATION FOR OFFENDER TREATMENT BY \$200K

JBC ACTION AS OF 3/16/20: The Offender Treatment and Services line item, which funds treatment of probationers, received an appropriation of \$20,046,754 total funds, including \$894,932 General Fund.

RECOMMENDATION: Staff recommends that this appropriation be decreased by \$200,000 General Fund.

ANALYSIS:

The Department states that it can handle this comparatively small reduction in the Offender Treatment and Services appropriation without reducing services.

JUD R12 BA9-B ELIMINATE GF FROM REQUEST R12 BA9

- *JBC ACTION AS OF 3/16/20:* Part 1 of request R12 BA9 (Probation procurement, officers, and offender treatment) asked for \$336,142 total funds (comprised of \$36,142 from the General Fund and \$300,000 cash funds from the *Offender Services Fund*) on the *IT Infrastructure* line item, to pay the annual cost of a web-based contracting and procurement system from Ivalua that is used primarily by the Probation Division but is also used by other parts of the main Judicial department for contracting. The \$36,142 General Fund portion of this appropriation pays for the “other” (i.e. non probation) use of the Ivalua system.

RECOMMENDATION: Staff recommends that this appropriation be decreased by \$36,142 General Fund.

ANALYSIS: The Department indicates that it can find \$36,142 from various small savings in its existing IT Infrastructure base appropriation that it can use to pay this portion of the cost.

SUMMARY OF JUD RECOMMENDATIONS REQUIRING STATUTORY CHANGE

JUD BR10 DELAY HB 19-1229 (PRESERVATION OF ABANDONED ESTATE DOCUMENTS)

JBC ACTION AS OF 3/16/20: The Committee included an appropriation of \$153,376 General Fund in the main Judicial Department’s portion of the FY 2020-21 Long Bill for implementation of H.B. 19-1229, which corresponds to the appropriation indicated in the bill’s fiscal note.

RECOMMENDATION: Staff recommends that the effective date of H.B. 19-1229 be delayed from January 1, 2021, as specified in Section 6 of the bill, to January 1, 2023. This will delay the bill’s \$153,376 General Fund cost until FY 2022-23.

ANALYSIS:

House Bill 19-1229 (Roberts & Snyder, Gardner & Lee) requires the Judicial Department to electronically preserve abandoned estate planning documents. In the bill's first startup year, costs are paid from the General Fund. In subsequent years, after the preservation system is operating, costs are paid from filing fees. Because the act does not take effect until January 2021, it requires a General Fund appropriation of \$153,376 in FY 2020-21 and a cash fund appropriation of \$67,653 in subsequent years.

JUD BR11 FUND THE EVICTION LEGAL DEFENSE FUND WITH A FEE

Senate Bill 19-180 (Eviction Legal Defense Fund, Winter and McCluskie) created the Eviction Legal Defense Fund, from which grants are awarded to nonprofit organizations that provide legal advice, counseling, and representation to indigent clients who are facing or are at risk of eviction. For FY 2020-21 the JBC approved an appropriation of \$750,000 General Fund to the Eviction Legal Defense Fund and a \$750,000 reappropriation from the Fund. The reappropriation is used to make the grants to nonprofit organizations.

The Department suggests that \$30 fee on eviction filings by landlords would yield about \$1.14 million of cash fund revenue to operate the program, which would allow the \$750,000 General Fund appropriation to be eliminated. The fee could be adjusted up or down to hit a revenue target.

SUMMARY OF OTHER JUD RECOMMENDATIONS AND OPTIONS IF DEEPER CUTS ARE REQUIRED

Staff recommends that the Committee consider the following options based on a scenario in which General Fund appropriations and transfers must be reduced by 10.0-20.0 percent (or revenue increased by an equivalent amount) in FY 2020-21.

The Department's base General Fund appropriation in FY 2019-20 was \$406,564,173

- A 10.0 percent reduction would be (\$40.7 million)
- A 20.0 percent reduction would be (\$81.4 million)

Reductions of this magnitude will require reductions to personal services and personal-services related appropriations.

OFFICE OF THE STATE PUBLIC DEFENDER (OSPD)

SUMMARY OF OSPD STAFF BUDGET BALANCING RECOMMENDATIONS FOR LONG BILL

OFFICE OF THE STATE PUBLIC DEFENDER (OSPD)						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2019-20 Appropriation						
S.B. 19-207 (Long Bill)	\$105,995,438	\$105,940,438	\$55,000	\$0	\$0	875.1
Other Legislation	1,396,977	1,396,977	0	0	0	14.0
H.B. 20-1249 (Supplemental)	0	0	0	0	0	0.0
TOTAL	\$107,392,415	\$107,337,415	\$55,000	\$0	\$0	889.1
FY 2020-21 RECOMMENDED APPROPRIATION						
FY 2019-20 Appropriation	\$107,392,415	\$107,337,415	\$55,000	\$0	\$0	889.1
COMEBACK						
OSPD R7 Grant funding from Denver	85,000	0	85,000	0	0	0.8
PREVIOUSLY APPROVED ITEMS						
OSPD R1 Staffing needs	5,482,908	5,482,908	0	0	0	54.7
OSPD R2 IT	754,745	754,745	0	0	0	2.7
OSPD R3 Social workers	551,940	551,940	0	0	0	8.2
OSPD R4 Mandated costs	431,712	431,712	0	0	0	0.0
OSPD R5 Leases	357,103	357,103	0	0	0	0.0
OSPD R6 Golden courtroom staffing	115,941	115,941	0	0	0	1.6
Centrally appropriated line items	2,623,548	2,623,548	0	0	0	0.0
Annualize prior legislation	647,055	647,055	0	0	0	5.9
Non-prioritized requests	(25,863)	(25,863)	0	0	0	0.0
Annualize prior budget actions	17,524	17,524	0	0	0	0.5
SUBTOTAL - JBC ACTION AS OF 3/16/20	118,434,028	118,294,028	140,000	0	0	963.5
OSPD R1-b Reduce R1 Staffing Requirements	(2,614,020)	(2,614,020)	0	0	0	(25.9)
OSPD R2-b Reduce R2 IT	(305,899)	(305,899)	0	0	0	(2.7)
OSPD R3-b Eliminate R3 Social Workers	(551,940)	(551,940)	0	0	0	(8.2)
OSPD R5-b Reduce R5 leases	(192,000)	(192,000)	0	0	0	0.0
OSPD R6-b Eliminate R6 Golden Courtroom Staffing	(115,941)	(115,941)	0	0	0	(1.6)
TOTAL	\$114,654,228	\$114,514,228	\$140,000	\$0	\$0	925.1
INCREASE/(DECREASE)	\$7,261,813	\$7,176,813	\$85,000	\$0	\$0	36.0
% Change from prior year	6.8%	6.7%	154.5%	0.0%	0.0%	4.0%

The OSPD's appropriations for centrally appropriated line items, which are a large part of the increase shown above, will be addressed in statewide budget balancing documents. Most of the Office's \$2.6 million increase for centrally appropriated line items is due to a merit pay increase, which the OSPD requested in lieu of salary survey. Elimination of merit pay increases would decrease the Office's General Fund appropriation by approximately \$2.48 million. This would reduce the FY 2020-21 General Fund appropriation to \$112.2 million, which is \$4.77 million (4.4 percent) above the FY 2019-20 General Fund appropriation.

The Office has 875 FTE and 87% of the Office's appropriation pays for salaries and benefits. It has no cash funds to draw upon during an economic contraction.

More than half of the annualization of prior legislation in the preceding table is due to S.B. 19-043 (Increase number of district court judges), which created more criminal district courts where an increased number of defendants are tried. Most of the remainder of the annualization of prior legislation is due to S.B. 18-200 PERA.

The OSPD budget includes an increase of \$431,712 for mandated costs, which have been rising in recent years, primarily due to the Office's increasing felony caseload. These costs are associated with activities, events, and services that accompany court cases and are necessary to ensure a fair and speedy trial and the right to constitutionally and statutorily-required effective legal representation. The Office has no effective control over these costs.

OSPD COMEBACK: SPENDING AUTHORITY FOR A GRANT FROM DENVER

After figure setting for the Judicial Branch was over, the OSPD learned that the City of Denver has received a federal grant that provides funding for a new problem-solving juvenile court that will handle cases involving children (i.e. individuals under the age of 18) who are charged with crimes involving handguns. In some cases the crime might be possession of a handgun, which is illegal for children in Colorado. In other cases the crime might be menacing with a handgun or use of a handgun in a robbery. The new problem-solving court is part of an effort to reduce the number of juvenile crimes involving handguns, which increased 160 percent between 2016 and 2019 in Denver. Too frequently, a child who is sentenced to probation for possession of a handgun, will return to court a few months later with a much more serious crime involving a handgun that results in Commitment to the Division of Youth Services. The new specialty juvenile court will provide interventions and treatment that are designed to reduce future handgun use by children.

REQUEST: Denver's grant includes \$85,000 for an attorney from the OSPD to staff this new juvenile court. The OSPD requests the authority to spend this grant and requests that a corresponding 0.8 FTE be included in the Long Bill.

RECOMMENDATION: Staff recommends approval of this request.

OSPD R1-B REDUCE R1 STAFFING REQUIREMENTS

JBC ACTION AS OF 3/16/20: The OSPD received 54.7 FTE and \$5,482,908, General Fund for FY 2020-21 to address its growing staffing needs. According to the Office's staffing model, its staffing percentage has declined substantially since FY 2011-12 when it had 97.6 percent of the attorneys it needed to handle its caseload. For FY 2019-20 the agency has 80.3 percent of the attorneys it needs to be fully staffed. Without a staffing increase, that percentage is projected to decline to 79.0 percent in FY 2020-21. Note that these percentages are averages, some OSPD offices are below this percentage and some are above.

RECOMMENDATION: Staff recommends that the appropriation for R1 be reduced by \$2,614,020 and 25.9 FTE, which means that after adjustment for the paydate shift, 19 attorneys and 12.5 support staff will be added at a cost of \$2,868,888 General Fund, enough to keep staffing at all OSPD offices above 80 percent.

ANALYSIS:

This recommendation is designed to keep the OSPD's staffing percentage from dropping below 80 percent at any of its offices, which means that some offices will receive more staff and others will receive none. The OSPD believes that it becomes increasingly difficult to provide effective assistance of counsel if its staffing percentage declines below 80 percent. It notes that the right to counsel is the right to *effective* assistance of counsel; if attorneys are forced to carry excessive caseloads, claims of ineffective assistance of counsel and motions to withdraw will almost certainly increase. See *People v. Roberts*, 321 P.3d 581, 589 (Colo. App. 2013) (a conflict of interest is created when counsel's excessive caseload compels counsel to choose between the rights of multiple clients and, in such situations, the lawyer should move to withdraw). An increase in such claims means more costs and case delays, as clients challenge attorney performance during and after the representation, resulting in cases being handled by the Office of the Alternate Defense Counsel (OADC) at nearly three times the \$517 per case cost of the OSPD. If the OSPD declines a case due to staffing concerns, the case is sent to the OADC. If adequacy of representation by an OSPD attorney is raised as an issue in an appeal, it drives two appellate cases: one at the OADC, which represents the defendant, and one at the Department of Law, which represents the state.

OSPD R2-B REDUCE R2 IT

JBC ACTION AS OF 3/16/20: During figure setting, the OSPD received 2.7 FTE and \$754,745 General Fund for FY 2020-21, annualizing to 3.0 FTE and \$674,975 for FY 2021-22 and subsequent years, to address the Agency's IT staffing and funding needs. This request is comprised of:

- \$426,470 annually to deal with electronic discovery (which, as more and more DA's use e-discovery, has increased almost 10 fold over two years and continues to increase);
- \$81,390 onetime in FY 2020-21 to integrate with the Colorado District Attorney's Council (CDAC) eDiscovery system;
- \$204,633 and 2.7 FTE in FY 2020-21 for IT Support; and
- \$42,252 for security, in FY 2020-21 and on-going.

RECOMMENDATION: Staff recommends that the appropriation be reduced by \$305,899 to \$448,846 General Fund.

ANALYSIS:

This recommendation is designed to pay the following costs on the above list: \$119,148 to increase bandwidth, \$164,980 for storage needs, and \$81,390 for the integration with the CDAC eDiscovery system. In addition, the OSPD's current 3-year Enterprise Agreement with Microsoft ends May 31, 2020. As part of the new agreement, the OSPD needs \$83,328 to cover the additional costs related to the change in the Microsoft 365 licensing model and increase in staff (135) from when the current agreement was signed in 2017.

OSPD R3-B ELIMINATE R3 SOCIAL WORKERS

JBC ACTION AS OF 3/16/20: The Office of the State Public Defender received 8.2 FTE and \$551,940 General Fund to pay for 1.0 Supervising Social Worker and 8.0 Licensed Social Workers who will

support OSPD attorneys as they defend clients. Social workers are equipped to recognize and advocate for services to meet the needs of defendants with special needs, such as mental health or substance abuse issues, or physical, cognitive, or social-emotional disabilities. Social workers also have specialized knowledge about a wide variety of evidenced-based programming to meet those needs. The incorporation of forensic social workers into defense practice can reduce overall system costs and increase community safety, by expanding upon and advocating for safe, appropriate alternatives to incarceration.

RECOMMENDATION: Staff recommends elimination of this increase.

ANALYSIS:

Staff and the Department agree that defense-based social workers are valuable but also agree that this budget increase is not warranted given current General Fund revenue shortfalls.

OSPD R5-B REDUCE LEASES

JBC ACTION AS OF 3/16/20: The Office of the State Public Defender requested and received \$357,103 General Fund for increased lease expenses at its 21 office locations throughout the state. The OSPD utilizes the services of Jones Lang LaSalle, a brokerage firm contracted by the Office of the State Architect to assist state agencies in such negotiations. Many of these leases were negotiated a decade ago at favorable rates during the Great Recession.

RECOMMENDATION: Staff recommends that this increase be reduced by \$192,000 to \$165,103 General Fund.

ANALYSIS:

With the help of its broker, the OSPD has contacted landlords in an attempt to restructure its leases. The Office has had some success; thus the appropriation can be reduced.

OSPD R6-B ELIMINATE R6 GOLDEN COURTROOM STAFFING

JBC ACTION AS OF 3/16/20: The Office of the State Public Defender received 1.6 FTE and \$115,941 General Fund to address staffing and funding needs for an additional criminal court in the 1st Judicial District (Jefferson County).

RECOMMENDATION: Staff recommends elimination of this increase.

ANALYSIS:

The OSPD states that it will be able to staff the new criminal court in Golden with a combination of existing resources and the new staff provided by R1.

① NEW FEDERAL FUNDS TO BE RECEIVED

Job losses associated with the coronavirus pandemic will cause some defendants to qualify for OSPD representation who would not have qualified if they still had their jobs. Colorado's federal funding

from the CARES Act can be used to pay for this representation. It is not possible to estimate the cost at this time. The Judicial Department is modifying its application for a public defender and its data systems to gather the information needed to determine whether a defendant is unemployed due to the pandemic.

SUMMARY OF OSPD RECOMMENDATIONS REQUIRING STATUTORY CHANGE

None.

SUMMARY OF OTHER OSPD RECOMMENDATIONS AND OPTIONS IF DEEPER CUTS ARE REQUIRED

Staff recommends that the Committee consider the following options based on a scenario in which General Fund appropriations and transfers must be reduced by 10.0-20.0 percent (or revenue increased by an equivalent amount) in FY 2020-21.

The Department's base General Fund appropriation in FY 2019-20 was \$107,337,415

- A 10.0 percent reduction would be (\$10.7 million)
- A 20.0 percent reduction would be (\$21.4 million)

As noted earlier, 87 percent of the Office's appropriation pays for salaries and benefits; it has no cash funds to draw upon, and has little discretion over other significant parts of its budget, such as mandated costs. As a consequence, the only way to reduce the OSPD's appropriation is to reduce the appropriation for personal services. However, if mandatory furloughs are instituted, the OSPD risks being unable to effectively represent its clients, which would send cases to the Office of the Alternate Defense Counsel and drive increased appellate costs in future years.

OFFICE OF THE ALTERNATE DEFENSE COUNSEL (OADC)

SUMMARY OF OADC STAFF BUDGET BALANCING RECOMMENDATIONS FOR FY 2019-20

JBC ACTION AS OF 3/16/20: The OADC portion of the Judicial Branch's FY 2019-20 supplemental bill, H.B. 20-1249, contained General Fund appropriations of \$42,654,216 for *Conflict-of-interest Contracts* and \$2,922,390 for *Mandated Costs*.

ADDITIONAL INFORMATION: The OADC estimates that it will revert \$2,083,265 from its *Conflict-of-interest Contracts* line item and \$142,732 from its *Mandated Costs* line item for a total reversion of \$2,225,997 General Fund. Based on recent trends, these reversions may grow.

RECOMMENDATION: Staff recommends that the FY 2019-20 General Fund appropriation to the Alternate Defense Counsel be reduced by \$2,225,997 with \$2,083,265 coming from *Conflict-of-interest Contracts* and \$142,732 from *Mandated Costs*.

SUMMARY OF OADC STAFF BUDGET BALANCING RECOMMENDATIONS FOR FY 2020-21 LONG BILL

OFFICE OF THE ALTERNATE DEFENSE COUNSEL (OADC)						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2019-20 APPROPRIATION						
S.B. 19-207 (Long Bill)	\$48,139,361	\$48,059,361	\$80,000	\$0	\$0	15.9
Other Legislation	20,000	20,000	0	0	0	0.0
H.B. 20-1249 (Supplemental)	10,617	10,617	0	0	0	0.0
TOTAL	\$48,169,978	\$48,089,978	\$80,000	\$0	\$0	15.9
FY 2020-21 RECOMMENDED APPROPRIATION						
FY 2019-20 Appropriation	\$48,169,978	\$48,089,978	\$80,000	\$0	\$0	15.9
OADC R1 Caseload increase	4,102,615	4,102,615	0	0	0	0.0
OADC R2 Coordinator of adjunct services	110,021	110,021	0	0	0	0.9
OADC R3 Staff accountant	104,805	104,805	0	0	0	0.9
OADC R5 BA1 Operating adjustments	67,758	67,758	0	0	0	0.0
OADC R6 COLA-based contractor hourly rate increase	2,383,172	2,383,172	0	0	0	0.0
Centrally appropriated line items	67,285	67,285	0	0	0	0.0
Annualize prior legislation	(10,952)	(10,952)	0	0	0	0.1
Annualize prior budget actions	(109,973)	(109,973)	0	0	0	0.0
SUBTOTAL - JBC ACTION AS OF 3/16/20	54,884,709	54,804,709	80,000	0	0	17.8
OADC R2-b Eliminate R2 Coordinator of adjunct services	(110,021)	(110,021)	0	0	0	(0.9)
OADC R3-b Eliminate Staff accountant	(104,805)	(104,805)	0	0	0	(0.9)
OADC R5-b Eliminate Operating adjustments	(67,758)	(67,758)	0	0	0	0.0
OADC R6-b Eliminate COLA-based contractor hourly rate increase	(2,383,172)	(2,383,172)	0	0	0	0.0
TOTAL	\$52,218,953	\$52,138,953	\$80,000	\$0	\$0	16.0
INCREASE/(DECREASE)	\$4,048,975	\$4,048,975	\$0	\$0	\$0	0.1
Percentage Change	8.4%	8.4%	0.0%	0.0%	0.0%	0.6%

The OADC's appropriations for centrally appropriated line items will be addressed in statewide budget balancing documents. Most of the Office's \$67,758 increase for centrally appropriated line items is due to a merit pay increase, which the OSPD requested in lieu of salary survey.

The Office is almost completely dependent on General Fund appropriations. It has no cash funds to draw upon during an economic contraction.

The principal reason the proposed budget balancing adjustments do not return the OADC appropriation to its FY 2019-20 level is *OADC R1 Caseload increase*, which is not eliminated in the above table. This caseload increase reflects the increasing number of felony and misdemeanor cases in which the OADC must provide representation. These representation costs account for 95 percent of the OADC's expenditures and appear on two line items:

- *Conflict of Interest Contracts*, which fund contract attorneys who are appointed to represent indigent defendants and the investigators, paralegals, and other contractors who support them, and

- *Mandated Costs*, which 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.

When asked what the OADC can do to reduce contractor costs, the Office wrote: “The OADC at this time has no specific method to reduce contractor costs beyond the actions we have taken over the past many years. We try to drive the work from attorneys to lower cost contractors as much as possible. We encourage attorneys to only do that work which must be done by attorneys.” As with the Office of the State Public Defender, the OADC also has little control over Mandated Costs.

OADC R2-B ELIMINATE R2 COORDINATOR OF ADJUNCT SERVICES

JBC ACTION AS OF 3/16/20: The OADC received \$110,021 General Fund and 0.9 FTE to hire a Coordinator of Adjunct Services who will coordinate the work of the contract investigators, paralegals, legal researchers, social workers, and case assistants who work in conjunction with OADC contract attorneys to defend clients.

RECOMMENDATION: Staff recommends elimination of this increase.

ANALYSIS:

Staff believes that this budget increase is not warranted given current General Fund revenue shortfalls.

OADC R3-B ELIMINATE STAFF ACCOUNTANT

JBC ACTION AS OF 3/16/20: The OADC received \$104,805 and 0.9 FTE to add a Staff Accountant, a position that will assist with what the OADC describes as overburdened areas within the Financial Division.

RECOMMENDATION: Staff recommends elimination of this increase.

ANALYSIS:

Staff believes that this budget increase is not warranted given current General Fund revenue shortfalls.

OADC R5-B ELIMINATE OPERATING ADJUSTMENTS

JBC ACTION AS OF 3/16/20: The OADC received \$67,758 General Fund for operating expenses for FY 2020-21.

RECOMMENDATION: Staff recommends elimination of this increase.

ANALYSIS:

Staff believes that this budget increase is not warranted given current General Fund revenue shortfalls.

OADC R6-B ELIMINATE COLA-BASED CONTRACTOR HOURLY RATE INCREASE

JBC ACTION AS OF 3/16/20: The OADC received \$2,383,172 General Fund for a 5 percent rate

increase for its attorney contractors and for the other contractors who support the work of those attorneys. The Office of the Child’s Representative (OCR) and the Office of the Respondent Parent’s Counsel received similar increases.

RECOMMENDATION: Staff recommends elimination of this increase.

ANALYSIS:

Staff believes that this budget increase cannot be justified given current General Fund revenue shortfalls.

NEW FEDERAL FUNDS TO BE RECEIVED

Job losses associated with the coronavirus pandemic will cause some defendants to qualify for OADC representation who would not have qualified if they still had their jobs. Colorado’s federal funding from the CARES Act can be used to pay for this representation. It is not possible to estimate the cost at this time. The Judicial Department is modifying its application for a public defender and its data systems to gather the information needed to determine whether a defendant is unemployed due to the pandemic.

SUMMARY OF OADC RECOMMENDATIONS REQUIRING STATUTORY CHANGE

None.

SUMMARY OF OTHER OADC RECOMMENDATIONS AND OPTIONS IF DEEPER CUTS ARE REQUIRED

Staff recommends that the Committee consider the following options based on a scenario in which General Fund appropriations and transfers must be reduced by 10.0-20.0 percent (or revenue increased by an equivalent amount) in FY 2020-21.

The Department’s base General Fund appropriation in FY 2019-20 was \$48,169,978

- A 10.0 percent reduction would be (\$4.8 million)
- A 20.0 percent reduction would be (\$9.6 million)

REDUCE THE RATE PAID TO CONTRACTORS.

RECOMMENDATION: Staff is not recommending a contractor rate cut at this time but presents it as an option if deeper budget reductions are required.

If the Committee decides to reduce contractor rates, staff recommends a uniform percentage decrease for each of the four agencies that utilizes contractors (Main Judicial, Office of the Alternate Defense Counsel, Office of the Child’s Representative, Office of the Respondent Parent’s Counsel).

ANALYSIS: Since the appropriation for *Conflict of Interest Contracts* accounts for 89 percent of the Office’s expenditures, any action to reduce the OADC’s appropriations by 10 to 20 percent must reduce this appropriation. The only viable way to reduce the appropriation is to reduce the rates paid to the contract attorneys who represent OADC clients and the other contractors who support the work of those attorneys.

The following table shows the savings that would result from a 5 percent rate decrease for each agency that uses contractors. As this table indicates, each 1% reduction in contractor rates reduces appropriations for the four affected agencies by approximately \$1 million.

5 PERCENT CONTRACTOR RATE DECREASE	
AGENCY	GF SAVINGS
Main Judicial	(\$253,659)
Office of the Alternate Defense Counsel	(2,383,172)
Office of the Child’s Representative	(1,267,027)
Office of the Respondent Parent’s Counsel	(999,670)
Total	(\$4,903,528)

OFFICE OF THE CHILD’S REPRESENTATIVE (OCR)

SUMMARY OF OCR STAFF BUDGET BALANCING RECOMMENDATIONS FOR FY 2019-20

JBC ACTION AS OF 3/16/20: The OCR portion of the Judicial Branch’s FY 2019-20 supplemental bill, H.B. 20-1249, contained a General Fund appropriation of \$25.3 million for *Court-appointed Counsel*.

ADDITIONAL INFORMATION: The OADC currently estimates that it will revert \$1,400,000 from its *Court-appointed Counsel* line item. If there is a significant spike in billings as stay-at-home orders are revised, the reversion could fall.

RECOMMENDATION: Staff recommends that the FY 2019-20 General Fund appropriation to the OCR for *Court-appointed Counsel* be reduced by \$1,400,000.

SUMMARY OF OCR STAFF BUDGET BALANCING RECOMMENDATIONS FOR LONG BILL

OFFICE OF THE CHILD'S REPRESENTATIVE						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2019-20 Appropriation						
S.B. 19-207 (Long Bill)	\$31,240,004	\$31,213,095	\$0	\$26,909	\$0	33.0
Other Legislation	59,850	59,850	0	0	0	0.0
H.B. 20-1249 (Supplemental)	7,136	7,136	0	0	0	0.0
TOTAL	\$31,306,990	\$31,280,081	\$0	\$26,909	\$0	33.0
FY 2020-21 RECOMMENDED APPROPRIATION						
FY 2019-20 Appropriation	\$31,306,990	\$31,280,081	\$0	\$26,909	\$0	33.0

OFFICE OF THE CHILD'S REPRESENTATIVE						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
COMEBACK BY OCR						
Salary increase for Training Director	10,878	0	0	10,878	0	0.0
ADJUSTMENTS APPROVED DURING FIGURE SETTING						
OCR R1 Caseload/workload adjustment	728,805	728,805	0	0	0	0.0
OCR R2 New staff attorney	171,858	0	0	171,858	0	1.0
OCR R3 Common compensation plan	0	0	0	0	0	0.0
OCR R4 Make deputy director and IS manager full time	61,776	61,776	0	0	0	0.4
OCR R5 Training increase	20,000	20,000	0	0	0	0.0
OCR R6 Title IV-E funding	1,481,902	0	0	1,481,902	0	0.0
OCR R7 Court-appointed counsel rate increase	1,145,367	1,145,367	0	0	0	0.0
Centrally appropriated line items	180,703	180,703	0	0	0	0.0
Annualize prior legislation	13,249	13,249	0	0	0	0.0
Annualize prior budget actions	(113,455)	(113,455)	0	0	0	0.0
SUBTOTAL - JBC ACTION AS OF 3/16/20	34,997,195	33,316,526	0	1,680,669	0	34.4
Budget-balancing actions unrelated to Title IV-E funding						
OCR R1-b Eliminate GF increase for caseload/workload mandated costs adjustment	(728,805)	(728,805)	0	0	0	0.0
OCR R7-b Eliminate Court-appointed Counsel Rate Increase	(1,145,367)	(1,145,367)	0	0	0	0.0
Budget-balancing actions that use Title IV-E funding						
OCR R4-b Refinance Increase FTE of Deputy Director and IS Manager with Title IV-E funds	0	(61,776)	0	61,776	0	0.0
OCR R5-b Refinance training increase with Title IV-E funds	0	(20,000)	0	20,000	0	0.0
TOTAL	\$33,123,023	\$31,360,578	\$0	\$1,762,445	\$0	34.4
INCREASE/(DECREASE)	\$1,816,033	\$80,497	\$0	\$1,735,536	\$0	1.4
Percentage Change	5.8%	0.3%	0.0%	6,449.6%	0.0%	4.2%

The OCR's appropriations for centrally appropriated line items will be addressed in statewide budget balancing documents. Of the Office's \$180,703 increase for centrally appropriated line items, \$105,688 is a consequence of merit pay increases that the OCR requested in lieu of salary survey. If this merit increase is eliminated, the appropriation to the OCR will be very close to its FY 2019-20 level.

OCR COMEBACK: TRAINING DIRECTOR SALARY INCREASE

During figure setting, staff recommended against and the Committee did not approve request OCR R3, which asked for \$53,230 of salary increases for OCR employees. These increases were in addition to the common policy salary increase. The additional increases, which were financed by the General Fund, were designed to implement the common compensation plan that was approved last year. That plan was intended to align salaries of the Office of the Child's Representative, the Office of the Alternate Defense Counsel, and the Office of the Respondent Parents Counsel with salaries in the other agencies and salaries elsewhere in state government. During figure setting, JBC staff suggested

that some of the salaries in this plan were not based upon a reasonable comparison to salaries in the Judicial Branch and the Executive Branch and did not recommend the increase.

On March 16, 2020, the OCR submitted a comeback asking for reconsideration of the rejected salary request. The JBC did not have an opportunity to decide on this comeback. On April 17, 2020, the OCR revised and resubmitted its comeback request. It now asks for a salary increase of \$10,878, using Title IV-E funding instead of General Fund, for one position, the Training Director. In the April 17th email that accompanied this revised comeback, the Department wrote:

The narrative included with OCR’s original [March 16th] budget and comeback requests described the increased responsibilities of this position. The Training Director will also be developing new curriculum and training and support offerings related to the enhanced representation made possible through the Title IV-E funding (decision item R6). We therefore feel comfortable funding the additional costs associated with this position using Title IV-E funds.

In the OCR’s March 16th comeback the Department wrote:

OCR’s Training Director has both an MSW and a JD degree, and this position singlehandedly develops and implements an ambitious training program covering ten case types. The OCR considered multiple executive and judicial branch positions and decided that the Executive Branch Training Specialist V best reflects the decision-making responsibilities and the complexity of the position.

The Committee must decide whether to approve this comeback request for a \$10,878 salary increase for the Training Director, financed with Title IV-E funds. JBC staff recommended against an earlier version of this request but expresses no opinion on this comeback, which utilizes a different fund source.

OCR R1-B ELIMINATE GF INCREASE FOR CASELOAD/WORKLOAD MANDATED COSTS ADJUSTMENT

JBC ACTION AS OF 3/16/20: The OCR received \$728,805 General Fund for a caseload and workload increase and an increase in accompanying mandated costs.

RECOMMENDATION: Staff recommends elimination of this increase, based on information about recent OCR caseload growth.

ANALYSIS:

The OCR reports that the growth of its caseload has flattened in recent months. Based on this flattening, the Office is cautiously optimistic that an appropriation equal to its current FY 2019-20 appropriation will be sufficient to handle the FY 2020-21 caseload. If caseload should rise, an increased appropriation will be necessary.

Staff also asked the OCR if it is possible to reduce contractor costs. In response, the Office wrote: “OCR has brainstormed many ideas to reduce contractor costs.... State statute, the Chief Justice

Directive and the needs of each individual case drive appointments and workload of Guardians ad Litem. The safety and well-being of children is paramount to OCR and its attorneys, and as OCR billing policies and procedures only allow reasonable billing for necessary case-related activities, we are unable to eliminate or reduce any activities due to the very real risk to children. OCR does not control its appointments; they are mandated based on filings and judicial discretion. After considering several ideas, OCR is unable to identify any specific cost reductions that would not directly impact at-risk children or the attorneys who represent them.”

OCR R7-B ELIMINATE COURT-APPOINTED COUNSEL RATE INCREASE

JBC ACTION AS OF 3/16/20: The OCR received \$1,145,367 General Fund for a 5 percent rate increase for its attorney contractors and for the other contractors who provide support for the attorneys. The Office of the Alternative Defense Counsel and the Office of the Respondent Parents Counsel received similar increases.

RECOMMENDATION: Staff recommends elimination of this increase.

ANALYSIS:

Staff believes that this increase is not warranted given current General Fund revenue shortfalls.

BUDGET BALANCING WITH TITLE IV-E REIMBURSEMENT FUNDING

As discussed during briefing and figure setting, both the Office of the Child’s Representative and the Office of the Respondent Parents’ Counsel (ORPC) have a new source of funding that derives from federal reimbursement for legal representation costs connected to children who are either in foster care or could be placed in foster care.

Title IV-E of the Social Security Act is the source of federal funding for foster care. The Children’s Bureau in the United States Department of Health and Human Services, which is in charge of federal foster care programs, recently made a change to its Child Welfare Policy Manual that allows a state’s Title IV-E agency to claim Title IV-E reimbursement for costs of legal representation by an attorney for (1) a child who is a candidate for title IV-E foster care or is already in foster care and (2) the child’s parent. As a result of this change, the OCR and the ORPC, applying through the Colorado Department of Human Services (Colorado’s Title IV-E agency) may now receive federal matching funds for allowable legal representation costs that they incur.¹ These expenditures are reimbursed at an approximately 16 percent rate; for each dollar spent on qualifying legal representation, Colorado receives 16 cents from the federal government. The matching funds are received by the DHS and pass through as reappropriated funds to the OCR and ORPC pursuant to S.B. 19-258, a JBC bill.

During figure setting, staff used citations to federal statute and published guidance from the Children’s Bureau to argue that the reimbursement Colorado receives for Title IV-E representation of

¹ On April 20, 2020, the Office of the Respondent Parents’ Counsel informed JBC staff of new federal guidance that allows reimbursement to be drawn for social workers and experts to the extent that they support an attorney in providing independent legal representation to prepare for and participate in all stages of foster care legal proceedings for candidates for title IV-E foster care, youth in foster care and his/her parents.

respondent parents and of children is flexible money that the state can spend as it sees fit. The directors of the OCR and the ORPC agree that nothing in the published guidance from the Children’s Bureau contradicts this interpretation, but both directors report that they have attended presentations in which individuals who they characterize as authoritative have indicated that the reimbursement must be used to expand and enhance existing attorney services related to Title IV-E. If the directors are correct then further guidance will presumably be issued by the Children’s Bureau that will restrict the use of the reimbursed funds. The Director of the OCR has also asserted that there will be a maintenance of effort requirement associated with the reimbursement, though the OCR is unable to find a published documents that supports this conclusion.

During figure setting, staff recommended and the Committee approved appropriations of reimbursement dollars that align with the staff interpretation. These appropriations used Title IV-E dollars to fund several General Fund requests. The next two budget balancing measures (OCR R4-b and OCR R5-b) both recommend that Title IV-E reimbursement dollars be substituted for General Fund.

Though staff disagrees with the assertion by the agency directors that reimbursement dollars must be used to “expand and enhance existing attorney services”, staff acknowledges that the Directors could be correct. If guidance was issued that supports the Director’s position, the state may be forced to replace some of its Title IV-E appropriations with General Fund appropriations. In addition, a federal auditor at a future date might require a refund or even impose a penalty after finding that state expenditures failed to “expand and enhance existing attorney services”.

There are other risks associated with appropriations of Title IV-E reimbursement funds. The OCR points out that the ability of states to begin seeking Title IV-E reimbursement for attorney services is a recent change by the Children’s Bureau and that decision could be reversed with little or no notice. It’s also possible that the federal appropriation to the Children’s Bureau could be insufficient to support a surge of reimbursement requests from states during a coronavirus recession.

OCR R4-B REFINANCE INCREASE FTE OF DEPUTY DIRECTOR AND IS MANAGER WITH TITLE IV-E FUNDS

JBC ACTION AS OF 3/16/20: The OCR received \$61,776 General Fund to increase the hours worked by its Deputy Director and its IS Manager. Both will now work full time.

RECOMMENDATION: Staff recommends refinancing this \$61,776 increase with Title IV-E reimbursement funds. The work that they do supports the Agency’s Title IV-E activities.

OCR R5-B REFINANCE TRAINING INCREASE WITH TITLE IV-E FUNDS

JBC ACTION AS OF 3/16/20: The OCR received \$20,000 General Fund to expand its training program.

RECOMMENDATION: Staff recommends refinancing this \$20,000 increase with Title IV-E reimbursement funds. The training supports the Agency’s Title IV-E activities.

SUMMARY OF OCR RECOMMENDATIONS REQUIRING STATUTORY CHANGE

None.

SUMMARY OF OTHER OCR RECOMMENDATIONS AND OPTIONS IF DEEPER CUTS ARE REQUIRED

Staff recommends that the Committee consider the following options based on a scenario in which General Fund appropriations and transfers must be reduced by 10.0-20.0 percent (or revenue increased by an equivalent amount) in FY 2020-21.

The OCR's base General Fund appropriation in FY 2019-20 was \$48,169,978.

- A 10.0 percent reduction would be (\$4.8 million)
- A 20.0 percent reduction would be (\$9.6 million)

REFINANCE OTHER OCR GF EXPENDITURES WITH TITLE IV-E FUNDS

RECOMMENDATION: At this time, staff does not recommend that the Committee use other Title IV-E funds to replace General Fund. Staff presents it as an options, perhaps controversial, if deeper cuts are required.

ANALYSIS: The \$1.8 million of Title IV-E reimbursement expenditures listed in the preceding table are all for new programs or expansion of existing programs. The largest item, titled *OCR R6 Title IV-E funding*, which has an appropriation of \$1,481,902. The OCR states that it "plans to use these dollars to expand and enhance its litigation and social service professional support programs. Through these additional funds, children will benefit from holistic representation by attorneys whose advocacy is informed by the expertise of social service professionals and enhanced by direct assistance from legal experts in topics such as sibling connections and placement, education law, housing, and public benefits."

The Committee could eliminate this \$1,481,902 appropriation of Title IV-E dollars and use the money to refinance existing OCR General Fund appropriations. While staff believes that such a refinance would accord with existing federal law and with published guidance from the Children's Bureau, the Director of the OCR may oppose this action, arguing that highly placed individuals in the Children's Bureau have indicated that reimbursements must be used to expand and enhance existing attorney services related to Title IV-E.

If the Committee eliminated all of the increases in the preceding table involving the use of Title IV-E dollars, it could refinance \$1,762,445 of General Fund expenditures by the OCR.

REDUCE THE RATE PAID TO CONTRACTORS.

RECOMMENDATION: Since the appropriation for *Court Appointed Counsel* accounts for 81 percent of the Office’s expenditures, any action to reduce the OCR’s appropriations by 10 to 20 percent must reduce this appropriation. Staff does not recommend a contractor rate cut at this time but presents it as an option if deeper budget reductions are required.

ANALYSIS: If the Committee decides to reduce contractor rates, staff recommends a uniform percentage decrease for each agency that utilizes. The following table shows the savings that would result from a 5 percent rate decrease. As this table indicates, each 1% reduction in contractor rates reduces appropriations for the four affected agencies by approximately \$1 million.

5 PERCENT CONTRACTOR RATE DECREASE	
AGENCY	GF SAVINGS
Main Judicial	(\$253,659)
Office of the Alternate Defense Counsel	(2,383,172)
Office of the Child’s Representative	(1,267,027)
Office of the Respondent Parent’s Counsel	(999,670)
Total	(\$4,903,528)

REDUCE THE CASA CONTRACTS APPROPRIATION

RECOMMENDATION: Staff does not recommend a reduction of the CASA Contracts line item at this time but presents a \$155,000 General Fund reduction as an option if deeper OCR budget reductions are required.

ANALYSIS: The *CASA Contracts* line item in the Office of the Child’s Representative portion of the Long Bill supports the nonprofit Colorado CASA organization. (CASA stands for Court Appointed Special Advocates. Colorado CASA coordinates individual CASA programs throughout the state.) The CASA General Fund appropriation has grown substantially since FY 2007-08. In response to initiatives by Joint Budget Committee members, its appropriation has risen from \$20,000 in FY 2007-08 to \$1,550,000 in FY 2019-20. The most recent increase came in FY 2018-19 when the appropriation was increased from \$1,050,000 to \$1,550,000.

If the CASA appropriation was reduced 10 percent (\$155,000) it would still be substantially more than the CASA appropriation of two years ago.

Court-appointed special advocates (CASA) are trained volunteers who courts may appoint to enhance the quality of representation for children. A CASA volunteer may conduct an independent investigation regarding the best interests of the child in an effort to determine if an appropriate treatment plan has been created for the child, whether appropriate services are being provided to the child and family, and whether the treatment plan is progressing in a timely manner. A CASA volunteer may also make recommendations consistent with the best interests of the child regarding placement, visitation, and appropriate services.

**OFFICE OF THE RESPONDENT PARENTS’ COUNSEL
(ORPC)**

SUMMARY OF ORPC STAFF BUDGET BALANCING RECOMMENDATIONS FOR LONG BILL

OFFICE OF THE RESPONDENT PARENTS' COUNSEL (ORPC)						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2019-20 APPROPRIATION						
S.B. 19-207 (Long Bill)	\$20,869,276	\$20,808,181	\$30,000	\$31,095	\$0	13.0
H.B. 20-1249 (Supplemental)	4,370,171	1,994,431	5,000	2,370,740	0	0.0
TOTAL	\$25,239,447	\$22,802,612	\$35,000	\$2,401,835	\$0	13.0
FY 2020-21 RECOMMENDED APPROPRIATION						
FY 2019-20 Appropriation	\$25,239,447	\$22,802,612	\$35,000	\$2,401,835	\$0	13.0
COMEBACK BY ORPC						
ORPC Comeback - Common Compensation Plan	70,743	0	0	70,743	0	0.0
COMEBACK BY STAFF						
ORPC R3 BA2 Title IV-E Legal representation (reduced penetration rate)	(2,370,740)	0	0	(2,370,740)	0	0.0
ADJUSTMENTS APPROVED DURING FIGURE SETTING						
ORPC R2 Common compensation plan - attorneys	0	0	0	0	0	0.0
ORPC R3 Common compensation plan - other staff	0	0	0	0	0	0.0
ORPC R4 BA2 Title IV-E legal representation	4,741,480	0	0	4,741,480	0	0.0
ORPC R5 Social work pilot program continuation	318,240	318,240	0	0	0	0.0
ORPC R6 Social work coordinator	0	0	0	0	0	0.0
ORPC R7 Carrie Ann Lucas fellowship	173,522	0	0	173,522	0	1.0
ORPC R8 Contractor rate increase	999,670	999,670	0	0	0	0.0
ORPC R9 BA3 Operating expenses	14,108	14,108	0	0	0	0.0
ORPC R10 Training	41,000	0	13,000	28,000	0	0.0
Centrally appropriated line items	64,096	64,096	0	0	0	0.0
Annualize prior legislation	7,333	7,333	0	0	0	0.0
Annualize prior budget actions	(289,665)	(289,665)	0	0	0	0.0
SUBTOTAL - JBC ACTION AS OF 3/16/20	\$29,009,234	\$23,916,394	\$48,000	\$5,044,840	\$0	14.0
ORPC R5-b Refinance Continuation of Social Worker Pilot Program	0	(318,240)	0	318,240	0	0.0
ORPC R8-b Eliminate Contractor Rate Increase	(999,670)	(999,670)	0	0	0	0.0
TOTAL	\$28,009,564	\$22,598,484	\$48,000	\$5,363,080	\$0	14.0
INCREASE/(DECREASE)	\$2,770,117	(\$204,128)	\$13,000	\$2,961,245	\$0	1.0
Percentage Change	11.0%	(0.9%)	37.1%	123.3%	0.0%	7.7%

The ORPC's appropriations for centrally appropriated line items will be addressed in statewide budget balancing documents. Of the Office's \$180,703 increase for centrally appropriated line items, \$105,688 is a consequence of merit pay increases that the ORPC requested in lieu of salary survey. If this merit increase is eliminated, the appropriation to the ORPC will be approximately \$300,000 below its FY 2019-20 level.

ORPC COMEBACK: COMMON COMPENSATION PLAN

During figure setting, staff recommended against and the Committee did not approve request ORPC R2 and R3, which are shown with zeros in the above table. The two requests asked for \$136,618 General Fund to increase the salaries of eight ORPC employees. These increases were in addition to the common policy salary increase. The additional increases were designed to implement the common compensation plan that was approved last year. That plan was intended to align salaries of the Office of the Child’s Representative, the Office of the Alternate Defense Counsel, and the Office of the Respondent Parents Counsel with salaries in the other agencies and salaries elsewhere in state government. During figure setting, JBC staff suggested that some of the salaries in this plan were not based upon a reasonable comparison to salaries in the Judicial Branch and the Executive Branch and did not recommend the increases.

On March 16, 2020, the ORPC submitted a video comeback asking for reconsideration of the rejected salary request. The JBC did not have an opportunity to decide on this comeback. In response to a JBC staff offer to include a comeback request with this document, the ORPC revised its comeback request and resubmitted it on April 23, 2020. The revised comeback request is in Appendix 1 at the end of this document. It asks for \$70,743 reappropriated Title IV-E funds to increase the salary and benefits of three ORPC staff members whose salaries, the ORPC believes, are too low.

The Committee must decide whether to approve this comeback request for a \$70,743 salary increase for the Training Director, financed with Title IV-E funds. JBC staff recommended against an earlier version of this request but expresses no opinion on this comeback, which utilizes a different fund source.

BUDGET BALANCING WITH TITLE IV-E REIMBURSEMENT FUNDING

In the earlier discussion of Title IV-E funding in the Office of the Child’s Representative (OCR) section of this document, staff discussed the merits and the risks of using Title IV-E funding to refinance more of the OCR’s General Fund appropriation. That analysis applies to the ORPC.

ORPC R1-B ORPC R5-B REFINANCE CONTINUATION OF SOCIAL WORKER PILOT PROGRAM

JBC ACTION AS OF 3/16/20: The ORPC received \$318,240 General Fund to continue its Social Worker Pilot Program.

RECOMMENDATION: Staff recommends that the General Fund appropriation for the Social Worker Pilot Program be refinanced with Title IV-E funds.

ANALYSIS:

Background on the program: The Social Worker Pilot Program that has been operating since July 2017 in three judicial districts: the 4th (El Paso and Teller Counties), the 17th (Adams and Broomfield Counties), and the 21st (Mesa County). The program is based on a multidisciplinary approach to parent representation and is designed to improve outcomes for parents and children involved in dependency and neglect proceedings. The ORPC contracts with a small number of social workers in the participating judicial districts. These social workers are referred at the onset of select cases and

conduct an independent evaluation and assessment to determine what services are necessary for the parent and child to achieve reunification. This assessment helps to inform the ORPC attorney's advocacy during court hearings and during meetings with the County Department of Human Services, so that a treatment plan is developed that is individually tailored, manageable, and appropriate for the parent and child.

ORPC R8-B ELIMINATE CONTRACTOR RATE INCREASE

JBC ACTION AS OF 3/16/20: The ORPC received \$999,670 General Fund for a 5 percent rate increase for its attorney contractors and for the other contractors who support the work of the attorneys. The Office of the Alternative Defense Counsel and the Office of the Respondent Parents Counsel received similar rate increases.

RECOMMENDATION: Staff recommends elimination of this increase.

ANALYSIS:

Staff believes that this increase is not warranted given current General Fund revenue shortfalls.

SUMMARY OF ORPC RECOMMENDATIONS REQUIRING STATUTORY CHANGE

None.

SUMMARY OF OTHER ORPC RECOMMENDATIONS AND OPTIONS IF DEEPER CUTS ARE REQUIRED

Staff recommends that the Committee consider the following options based on a scenario in which General Fund appropriations and transfers must be reduced by 10.0-20.0 percent (or revenue increased by an equivalent amount) in FY 2020-21.

The ORPC's base General Fund appropriation in FY 2019-20 was \$22,868,707.

- A 10.0 percent reduction would be (\$2.3 million)
- A 20.0 percent reduction would be (\$4.5 million)

REFINANCE EXISTING ORPC GF EXPENDITURES WITH TITLE IV-E FUNDS

RECOMMENDATION: At this time, Staff is not recommending that the Committee use Title IV-E funding to replace General Fund but presents it as an option if deeper cuts are required.

ANALYSIS: Though the appropriation of Title IV-E funds to the ORPC equals \$4,741,480 for FY 2020-21, estimates provided by the ORPC indicate that the Department will have access to about \$6 million of Title IV-E reimbursement dollars during that year. The ORPC states that it will use its FY 2020-21 appropriation to "deliver evidence-based legal interventions to parents and to move the child welfare system so that removal of a child from his or her home is reserved for the most extreme circumstances. A hallmark of such a child welfare system is through allowing parents to have early

access to high quality legal representation—with the optimal goal that parents have legal representation from the first moment a family faces child welfare intervention."

The Committee could use these Title IV-E dollars to refinance existing ORPC General Fund appropriations. While staff believes that such a refinance would accord with existing federal law and with published guidance from the Children’s Bureau, the Director of the ORPC may oppose this action, arguing that highly placed individuals in the Children’s Bureau have indicated that reimbursements must be used to expand and enhance existing attorney services related to Title IV-E.

If the Committee eliminated all of the increases in the preceding table involving the use of Title IV-E dollars, it could refinance about \$6 million of General Fund expenditures by the ORPC.

REDUCE THE RATE PAID TO CONTRACTORS.

RECOMMENDATION: Since the appropriation for *Court-appointed Counsel* accounts for 85 percent of the Office’s expenditures, any action to reduce the ORPC’s appropriations by 10 to 20 percent must reduce this appropriation. Staff is not recommending a contractor rate cut at this time but presents it as an option if deeper budget reductions are required.

ANALYSIS: If the Committee decides to reduce contractor rates, staff recommends a uniform percentage decrease for each agency that utilizes attorney contractors. The following table shows the savings that would result from a 5 percent rate decrease. As this table indicates, each 1% reduction in contractor rates reduces appropriations for the four affected agencies by approximately \$1 million.

5 PERCENT CONTRACTOR RATE DECREASE	
AGENCY	GF SAVINGS
Main Judicial	(\$253,659)
Office of the Alternate Defense Counsel	(2,383,172)
Office of the Child’s Representative	(1,267,027)
Office of the Respondent Parent’s Counsel	(999,670)
Total	(\$4,903,528)

**OFFICE OF THE CHILD PROTECTION OMBUDSMAN
(OCPO)**

**SUMMARY OF OCPO STAFF BUDGET BALANCING
RECOMMENDATIONS FOR LONG BILL**

OFFICE OF THE CHILD PROTECTION OMBUDSMAN						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2019-20 Appropriation						
S.B. 19-207 (Long Bill)	\$990,918	\$990,918	\$0	\$0	\$0	8.0
TOTAL	\$990,918	\$990,918	\$0	\$0	\$0	8.0
FY 2020-21 RECOMMENDED APPROPRIATION						

OFFICE OF THE CHILD PROTECTION OMBUDSMAN						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2019-20 Appropriation	\$990,918	\$990,918	\$0	\$0	\$0	8.0
OCPO R1 Salary increases	35,749	35,749	0	0	0	0.0
OCPO R2 External assistance with communication	42,000	42,000	0	0	0	0.0
Centrally appropriated line items	27,712	27,712	0	0	0	0.0
Annualize prior legislation	3,636	3,636	0	0	0	0.0
OCPO R1-b Eliminate salary increases	(35,749)	(35,749)	0	0	0	0.0
OCPO R2-b Eliminate external assistance with communication	(42,000)	(42,000)	0	0	0	0.0
TOTAL	\$1,022,266	\$1,022,266	\$0	\$0	\$0	8.0
INCREASE/(DECREASE)	\$31,348	\$31,348	\$0	\$0	\$0	0.0
Percentage Change	3.2%	3.2%	0.0%	0.0%	0.0%	0.0%

The OCPO’s appropriations for centrally appropriated line items will be addressed in statewide budget balancing documents. Elimination of the 3% statewide salary increase would reduce the agency’s appropriation by about \$24,000.

OCPO R1-B ELIMINATE SALARY INCREASES

JBC ACTION AS OF 3/16/20: The OCPO received \$35,749 General Fund to increase the salaries of six of the eight people it employs. The increases were in addition to common policy salary increases and reflect growing job responsibilities.

RECOMMENDATION: Staff recommends elimination of these salary increases.

ANALYSIS: Given the current budget situation, staff does not believe that these increases are warranted.

OCPO R1-B ELIMINATE EXTERNAL ASSISTANCE WITH COMMUNICATION

JBC ACTION AS OF 3/16/20: The OCPO received \$42,000 General Fund on an ongoing basis to engage a local communications firm to help it connect with outside stakeholders and citizens and help make them aware of the OCPO’s services, its findings, and the guidance it provides. The communications firm that the OCPO planned to engage had developed a strategic plan to promote the Office to stakeholders and citizens in a low cost fashion that takes advantage of social media, videos, e-newsletters, and other ideas.

RECOMMENDATION: Staff recommends elimination of this appropriation.

ANALYSIS: Given the current budget situation, staff does not believe that this increase is warranted.

SUMMARY OF OCPO RECOMMENDATIONS REQUIRING STATUTORY CHANGE

None.

SUMMARY OF OTHER OCPO RECOMMENDATIONS AND OPTIONS IF DEEPER CUTS ARE REQUIRED

Staff recommends that the Committee consider the following options based on a scenario in which General Fund appropriations and transfers must be reduced by 10.0-20.0 percent (or revenue increased by an equivalent amount) in FY 2020-21.

The OCR's base General Fund appropriation in FY 2019-20 was \$990,918.

- A 10.0 percent reduction would be (\$99,091)
- A 20.0 percent reduction would be (\$1,981,836)

Almost all of the OCPO's total appropriation pays for salaries and benefits; it has no cash funds. As a consequence, the only way to reduce the OCPO's appropriation 10 to 20 percent is to reduce the appropriation for personal services.

INDEPENDENT ETHICS COMMISSION (IEC)

SUMMARY OF IEC STAFF BUDGET BALANCING RECOMMENDATIONS FOR LONG BILL

INDEPENDENT ETHICS COMMISSION						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2019-20 Appropriation						
S.B. 19-207 (Long Bill)	\$204,709	\$204,709	\$0	\$0	\$0	1.0
TOTAL	\$204,709	\$204,709	\$0	\$0	\$0	1.0
FY 2020-21 RECOMMENDED APPROPRIATION						
FY 2019-20 Appropriation	\$204,709	\$204,709	\$0	\$0	\$0	1.0
Centrally appropriated line items	11,811	11,811	0	0	0	0.0
Annualize prior legislation	625	625	0	0	0	0.0
IEC-b Reduction based on prior reversions	(10,000)	(10,000)	0	0	0	0.0
TOTAL	\$207,145	\$207,145	\$0	\$0	\$0	1.0
INCREASE/(DECREASE)	\$2,436	\$2,436	\$0	\$0	\$0	0.0
Percentage Change	1.2%	1.2%	0.0%	0.0%	0.0%	0.0%

The IEC's appropriations for centrally appropriated line items will be addressed in statewide budget balancing documents. Elimination of the 3 percent salary survey increase will reduce the IEC's appropriation by about \$4,500.

IEC-B REDUCTION BASED ON PRIOR REVERSIONS

JBC ACTION AS OF 3/16/20: No action on this item.

RECOMMENDATION: Staff recommends reducing the appropriation by \$10,000 based on prior reversions.

ANALYSIS: A review of prior reversions indicate that this appropriation will probably not be needed.

SUMMARY OF IEC RECOMMENDATIONS REQUIRING STATUTORY CHANGE

None.

SUMMARY OF OTHER IEC RECOMMENDATIONS AND OPTIONS IF DEEPER CUTS ARE REQUIRED

Staff recommends that the Committee consider the following options based on a scenario in which General Fund appropriations and transfers must be reduced by 10.0-20.0 percent (or revenue increased by an equivalent amount) in FY 2020-21.

The IEC base General Fund appropriation in FY 2019-20 was \$204,709.

- A 10.0 percent reduction would be (\$20,470)
- A 20.0 percent reduction would be (\$40,940)

Almost all of the IEC’s appropriation pays for salaries and benefits; it has no cash funds. As a consequence, the only way to reduce the IEC’s appropriation 10 to 20 percent is to reduce the appropriation for personal services.

OFFICE OF PUBLIC GUARDIANSHIP (OPG)

SUMMARY OF OPG STAFF BUDGET BALANCING RECOMMENDATIONS FOR LONG BILL

OFFICE OF PUBLIC GUARDIANSHIP						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
FY 2019-20 Appropriation						
S.B. 19-207 (Long Bill)	\$0	\$0	\$0	\$0	\$0	0.0
Other Legislation	835,386	427,000	408,386	0	0	4.5
TOTAL	\$835,386	\$427,000	\$408,386	\$0	\$0	4.5
FY 2020-21 RECOMMENDED APPROPRIATION						
FY 2019-20 Appropriation	\$835,386	\$427,000	\$408,386	\$0	\$0	4.5

OFFICE OF PUBLIC GUARDIANSHIP						
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS	FTE
OPG Staff initiated: Eliminate GF for OPG for FY 2020-21 only	0	(263,411)	263,411	0	0	0.0
Centrally appropriated line items	122,554	0	122,554	0	0	0.0
Annualize prior legislation	(161,576)	(163,589)	2,013	0	0	1.5
TOTAL	\$796,364	\$0	\$796,364	\$0	\$0	6.0
INCREASE/(DECREASE)	(\$39,022)	(\$427,000)	\$387,978	\$0	\$0	1.5
Percentage Change	(4.7%)	(100.0%)	95.0%	0.0%	0.0%	33.3%

The IEC's appropriations for centrally appropriated line items will be addressed in statewide budget balancing documents.

SUMMARY OF OPG RECOMMENDATIONS REQUIRING STATUTORY CHANGE

STAFF WITHDRAWS OPG BILL RECOMMENDATION

During figure setting, staff recommended that the Committee carry a bill to address several problems associated with the Office of Public Guardianship statute (Title 13, Article 94). **Staff now recommends that this bill be delayed until the 2021 session because one of those problems has turned into a moderate source of revenue that is generating enough cash funds to eliminate the OPG's need for General Fund appropriations.** Staff still recommends a bill in a future session to shut off this unexpected source of revenue and deal with other problems, but staff also believes that the current economic situation justifies delay.

BACKGROUND: The original OPG legislation (H.B. 17-1087) envisioned that the pilot program would begin operating in the summer of 2017, financed entirely by gifts, grants, and donations. However, a lack of funding made it impossible to operate. House Bill 19-1045 narrowed the scope of the pilot, delayed until 2023 the date on which the pilot must report results to the General Assembly, delayed until 2023 the General Assembly's decision to continue, discontinue, or expand the program, and financed the program with a combination of General Fund and cash funds derived from increased fees paid on probate cases that are filed with the courts. The OPG is now in its first year of operation, more than two years later than originally intended.

UNEXPECTED REVENUE: Among the fee increases contained in H.B. 19-1045, the revenue from the increased "jury demand fee" stands out. Jury demand fees are paid by litigants who request a jury in a civil suit. Though the apparent intent was to raise the jury demand fee for probate cases and direct the extra revenue to the OPG, H.B. 19-1045 inadvertently increased the jury demand fee for *all* civil cases by \$41, thus raising more revenue than expected.

During figure setting, staff recommended that a bill to fix the jury demand fee also do the following:

- Fix two incorrect dates in the OPG statute.
- Add a hard termination date to the statute if the General Assembly decides not to renew the OPG.

- Create a reminder to eliminate the OPG's fees if the OPG is discontinued.

All these fixes can be delayed until the 2021 session when the Committee may decide to run a bill to alter the jury demand fee and fix the other problems. If the Committee decides not to alter the jury demand fee in 2021, staff recommends a 2021 bill that focuses only on the other problems.

If the Committee decides to retain this revenue source after the economy recovers, staff recommends that it redirect jury demand fee revenue to the Judicial Stabilization Fund, which receives revenue from many similar Judicial fees. .

SUMMARY OF OTHER OPG RECOMMENDATIONS AND OPTIONS IF DEEPER CUTS ARE REQUIRED

Staff recommends that the Committee consider the following options based on a scenario in which General Fund appropriations and transfers must be reduced by 10.0-20.0 percent (or revenue increased by an equivalent amount) in FY 2020-21.

The OCR's base General Fund appropriation in FY 2019-20 was \$427,000 however the OPG has no General Fund appropriation in FY 2020-21.



APPENDIX

Comeback: Common Compensation Plan Alignment

Summary of Incremental Funding Change for FY 2020-21	Total funds	Reappropriated Funds	FTE
TOTAL REQUEST (All Lines)	\$70,743	\$70,743	-
Personal Services	\$64,846	\$64,846	-
Short-term Disability	\$99	\$99	-
AED	\$2,899	\$2,899	-
SAED	\$2,899	\$2,899	-

Request Summary:

The Office of Respondent Parents' Counsel (ORPC) requests \$70,743 Reappropriated Funds to adjust the salary and benefits of staff whose realigned salaries fell below the range minimum of comparable positions in the Common Compensation Plan.

Background:

At the request of the JBC, the Office of Respondent Parents' Counsel, the Office of the Child's Representative (OCR), and the Office of the Alternate Defense Counsel (OADC) developed a Common Compensation Plan which was reviewed in detail by JBC staff and approved by the JBC in FY 2019-20. The basic premise of the Common Compensation Plan was that employees doing the same or similar work and who have the same levels of education, experience, and expertise should be compensated similarly.

The ORPC has experienced staff turnover since the preparation of the Common Compensation Plan and the submission of the FY 2019-20 budget request and has hired two new staff members whose education, extensive and comprehensive experience, and specialized expertise require that they be classified at higher ranges and compensated at higher levels than those which former staff received and above the minimum of the range.

In addition, the JBC approved a new ORPC attorney position for FY 2019-20, but it became clear during the application and interview processes that the ORPC would be unable to attract qualified attorney staff for the newly created position at the compensation level requested in the FY 2019-20 budget request.

In order to attract and retain qualified staff, to maintain the integrity of the Common Compensation Plan, to ensure that ORPC staff is strong in accordance with the ORPC strategic plan, and to equitably compensate the attorney staff of the agency, the ORPC compensates two staff attorney positions above the range minimum and at amounts slightly below but comparable to attorney staff in the Denver offices of OCR and OADC in their Denver offices. In addition, the ORPC needs to adjust the salary of one staffperson who has as much or more experience but is paid significantly less than staff doing the same work at OADC.

Assumptions and Calculations:

For the Staff Attorney positions, the table includes the additional amount above the new range minimum which the ORPC had to offer in order to hire qualified and experienced staff.

The positions for which the ORPC requests salary realignment are described below.

Common Compensation Plan Realignments and S.B. 18-200 Adjustment to PERA Contributions			
Position	Salary that Reflects Experience, Abilities & Job Duties	Funding	Additional Adjustment needed to Reflect Experience, Abilities & Job Duties
Staff Attorney 1 - Director of Engagement	11,500.00	9,298.00	2,202.00
Staff Attorney 2 - Case Strategy Director	10,041.50	9,298.00	743.50
Director of Programs - Social Worker	8,000.00	6,114.18	1,885.82
Total	29,541.50	24,710.18	4,831.32
	Number of months		11
	Annual Salary Adjustment		\$ 57,976
	PERA (10.40%)		6,029
	Medicare (1.45%)		841
	Total Personal Services		64,846
	AED (5%)		2,899
	SAED (5%)		2,899
	STD (0.17%)		99
	Total		\$ 70,743

Staff Attorney 1 (Director of Engagement): The Director of Engagement has nearly a quarter century of experience in the State of Colorado government, the Federal government, and private practice. She is a skilled trial attorney and has tried dozens of cases, both civil and criminal, ranging from municipal ordinance violations to homicide charges. She also has extensive experience in evaluating, training, and supporting independent attorneys, which are key strengths in her current role. She is nationally recognized for her social justice work and is a founding member of the National Alliance of Indigent Defense Educators, and a member of the National Association for Public Defense, the National Association of Criminal Defense Lawyers, the Colorado Criminal Defense Bar, and the National Legal Aid and Defender Association. She understands the challenges facing respondent parents both in and out of the courtroom, is committed to system reform, and is perfectly positioned to respond to the challenges and opportunities presented by the Family First

Prevention Services Act, which will have a profound impact on the ORPC and on attorneys representing indigent parents.

Staff Attorney 2 (Case Strategy Director): The Case Strategy Director has over ten years of experience in complex family law cases, and has held nearly every advocacy position in the dependency and neglect system, including representation of parents and children at the trial and appellate levels as Respondent Parent Counsel and Guardian *ad Litem*, and representation of the county department of human services as County Attorney. For years, she has generally been in court three to five days each week. She knows what resources are available to help parents work their treatment plans and has worked with the Family Treatment Court Program in Jefferson County to improve policy and procedures in that court. Prior to attending law school, she served as a case manager for children in foster care and for those aging out of the system. She also has experience in grant writing, grant program implementation, and program evaluation and reporting.

Director of Programs: The Director of Programs has a Master's degree in Social Work and is a Licensed Clinical Social Worker. She has over 17 years of child welfare experience in family and juvenile courts and over 15 years of direct experience on legal defense teams in a frontline, supervisory and oversight capacity. She previously worked at the Center for Family Representation (CFR) in New York and was part of designing and implementing the interdisciplinary practice model there that is considered one of the best in the country. She is published with Michele Cortese, a founder of and the current Executive Director for CFR, in an ABA Child Law Practice article titled, *Cornerstone Advocacy in the first 60 days: Achieving Safe and Lasting Reunification for Families*.¹ In 2017 she began working with RPCs and parents in Adams county as a social worker in the ORPC's Social Worker Pilot Program (SWPP). She has since transitioned to the ORPC as the Director of Programs, where she oversees the agency's entire social worker program, including providing supervision and mentoring to contract social workers and assisting in the design, implementation, and analysis of the SWPP. She is also responsible for oversight of the ORPC's expert program which requires conducting daily case consultations with RPCs as well as review and approval of requests for experts and negotiation of expert rates. She conducts statewide training for attorneys and social workers and consults nationally on the development of interdisciplinary law offices for parents' attorneys. The ORPC's request includes a reclassification of the position to the same job class (Judicial R42475) as that of her counterpart at the OADC, who has similar experience. The ORPC also requests an increase of her salary to equal that of her OADC counterpart.

Anticipated Outcomes:

If approved, the ORPC will be able to fully implement the Common Compensation Plan, thereby increasing accountability and transparency of compensation adjustment requests and the equitability

¹ Cohen, J., & Cortese, M, *Cornerstone Advocacy in the first 60 days: Achieving Safe and Lasting Reunification for Families*, ABA Child Law Practice, Volume 28 No. 3 (May 2009), available at https://www.americanbar.org/content/dam/aba/publications/center_on_children_and_the_law/parentrepresentation/cornerstone_advocacy.authcheckdam.pdf

of pay for the staff of the ORPC. The ORPC will be able to hire and retain qualified staff and fulfill its fundamental and mandated requirements to ensure the provision and availability of high quality legal representation for parents in Dependency and Neglect proceedings and to make and enforce minimum practice standards by reviewing and overseeing contract attorneys, social workers, and experts.

Consequences if Not Funded:

If not funded, the basic objectives of the Common Compensation Plan approved by the JBC will not be met. The ORPC will use almost all its Personal Services appropriation for salaries and will not have enough spending authority for needed professional services such as IT support, attorney payment system support and development, and other professional services. When future turnover occurs, the ORPC will have difficulty attracting and retaining experienced and capable attorneys.

Impact to Other State Government Agencies:

None.