

**COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE**



FY 2011-12 STAFF BUDGET BRIEFING

JUDICIAL DEPARTMENT

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

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**FY 2011-12 BUDGET BRIEFING
STAFF PRESENTATION TO THE JOINT BUDGET COMMITTEE**

JUDICIAL DEPARTMENT

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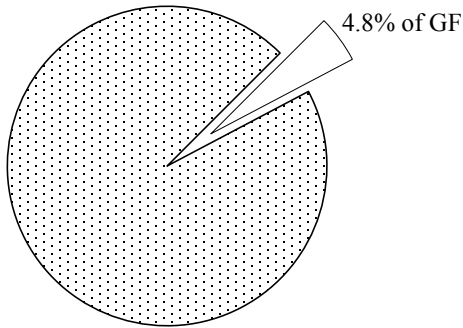
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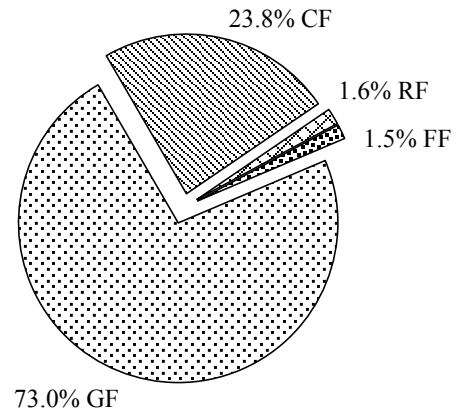
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Judicial Department**

GRAPHIC OVERVIEW

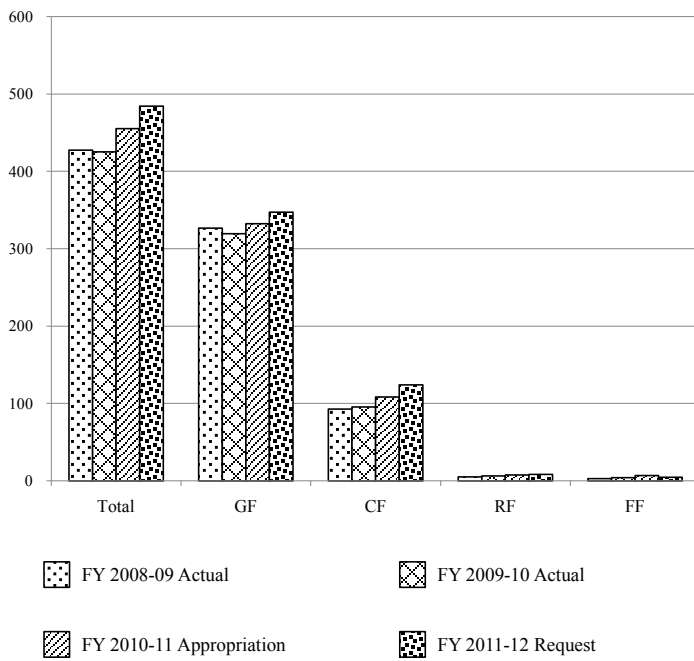
Department's Share of Statewide General Fund



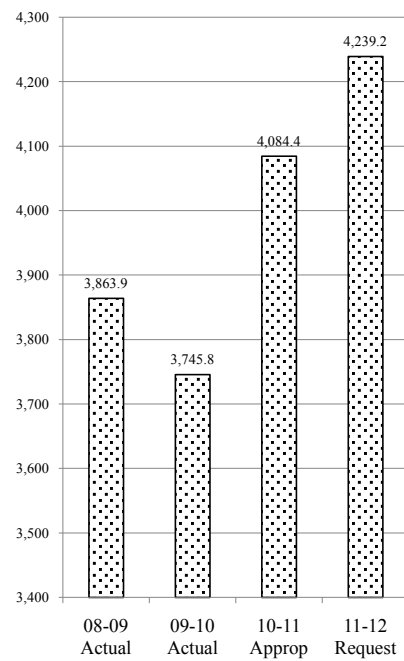
Department Funding Sources



Budget History
(Millions of Dollars)

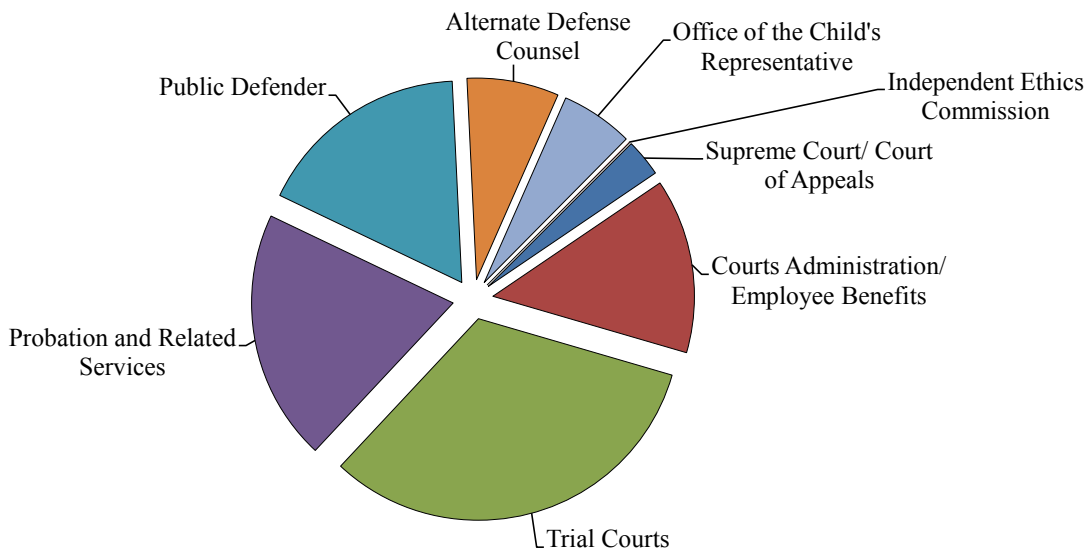


FTE History

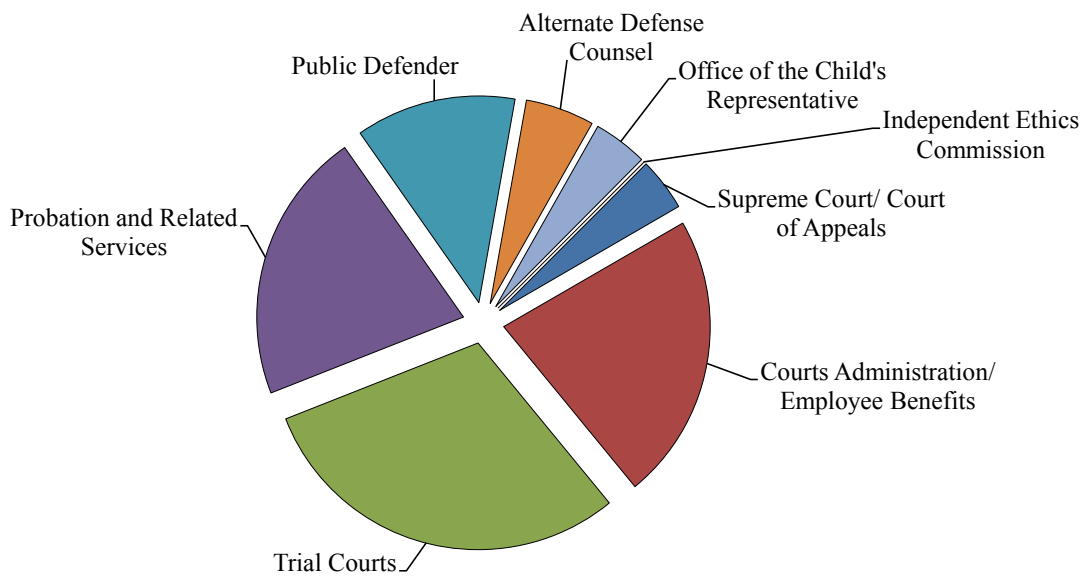


Unless otherwise noted, all charts are based on the FY 2010-11 appropriation.

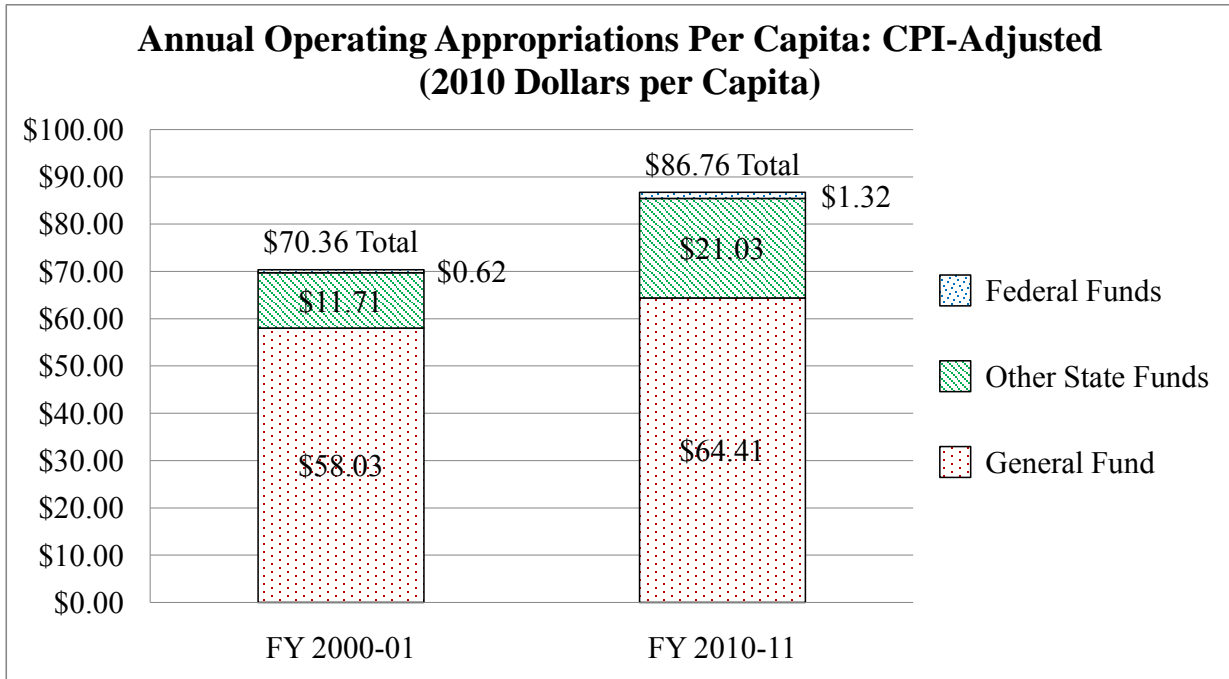
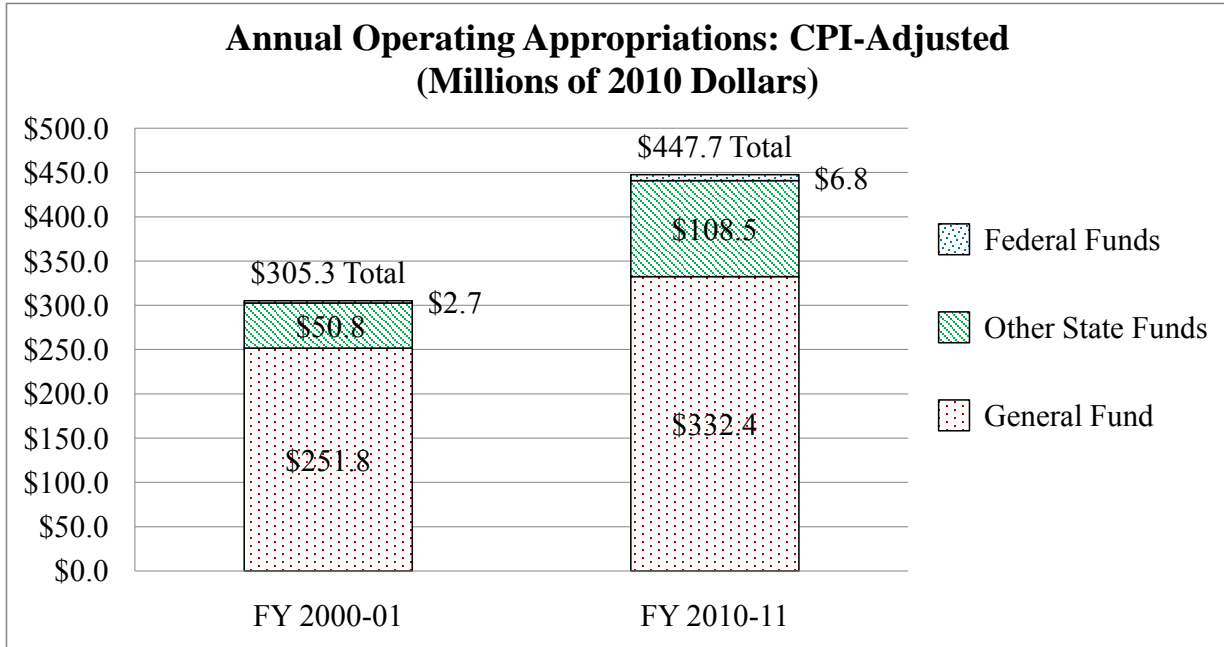
Distribution of General Fund by Division



Distribution of Total Funds by Division



FY 2011-12 Joint Budget Committee Staff Budget Briefing
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COMPARISON OF FY 2000-01 AND FY 2010-11 APPROPRIATIONS



NOTES: (1) All appropriations above *exclude* duplicate appropriations (i.e., these appropriations exclude reappropriated funds for FY 2010-11 and, for FY 2000-01, exclude amounts that would have been classified as reappropriated funds). For this department, these excluded amounts primarily reflect indirect cost recoveries, funds that are transferred from the Departments of Public Safety and Human Services, and local Victims and Witnesses Assistance and Law Enforcement funds that are allocated to various judicial districts.

(2) For the purpose of providing comparable figures, FY 2000-01 appropriations are adjusted to reflect changes in the Denver-Boulder-Greeley consumer price index (CPI) from 2000 to 2010. Based on the Legislative Council Staff September 2010 Economic and Revenue Forecast, the CPI is projected to increase 21.9 percent over this period.

(3) In the per capita chart, above, appropriations are divided by the Colorado population (for 2000 and 2010, respectively). Based on the Legislative Council Staff September 2010 Economic and Revenue Forecast, Colorado population is projected to increase by 18.9 percent over this period.

**FY 2011-12 Joint Budget Committee Staff Budget Briefing
Judicial Department**

DEPARTMENT OVERVIEW

Key Responsibilities

The Colorado Constitution vests the judicial power of the State in the Judicial Branch, which consists of the Supreme Court, the Court of Appeals, district courts, the Denver probate and juvenile courts, county courts, and municipal courts. All of these courts are funded by the State, with the exception of municipal courts and Denver's county court, which are funded by their respective governments. The components of the state Judicial Department are described below.

- ▶ The *Supreme Court* and *Court of Appeals* provide appellate review of decisions of trial courts as well as those of several state agencies. The Supreme Court is also responsible for overseeing the regulation of attorneys and the practice of law. The Chief Justice, who is selected by the justices of the Court, is the executive head of the Department.
- ▶ Trial courts consist of district courts, water courts, and county courts. *District courts*: preside over felony criminal matters, civil claims, juvenile matters, probate, mental health, and divorce proceedings; hear appeals from county and municipal courts; and review decisions of administrative boards and agencies. *Water courts* have exclusive jurisdiction over cases involving the determination of water rights and the use and administration of water. *County courts*: handle civil actions involving no more than \$15,000, misdemeanor cases, civil and criminal traffic infractions, and felony complaints; issue search warrants and protection orders in cases involving domestic violence; and hear municipal court appeals.
- ▶ The Judicial Department is also charged with enhancing public safety by preparing presentence investigation reports for the courts, supervising juvenile and adult offenders who are sentenced to *probation*, and providing victim notification and assistance.
- ▶ The *State Court Administrator*, who is appointed by the justices of the Supreme Court, oversees the daily administration of the Department and provides administrative and technical support to the courts and probation.

The Department also includes four independent agencies:

- ▶ The *Office of the State Public Defender* (OSPD) provides legal representation for indigent defendants who are facing the possibility of incarceration. Services are provided through state employees in 21 regional trial offices and an appellate office. The *Office of Alternate Defense Counsel* oversees the provision of legal representation for indigent defendants when the OSPD is precluded from doing so because of an ethical conflict of interest. Services are provided through contracts with licensed attorneys and investigators.

- ▶ The *Office of the Child's Representative* is responsible for ensuring the provision of uniform, high quality legal representation and non-legal advocacy to children involved in judicial proceedings. Generally, this includes representing children involved in the court system due to abuse or neglect, delinquency, truancy, high conflict divorce, alcohol or drug abuse, mental health issues, and probate matters.
- ▶ The *Independent Ethics Commission*, a five-member body established through a constitutional amendment that was approved by voters in 2006, is charged with hearing complaints, issuing findings, assessing penalties, and issuing advisory opinions on ethics-related matters that arise concerning public officers, members of the General Assembly, local government officials, or government employees.

Factors Driving the Budget

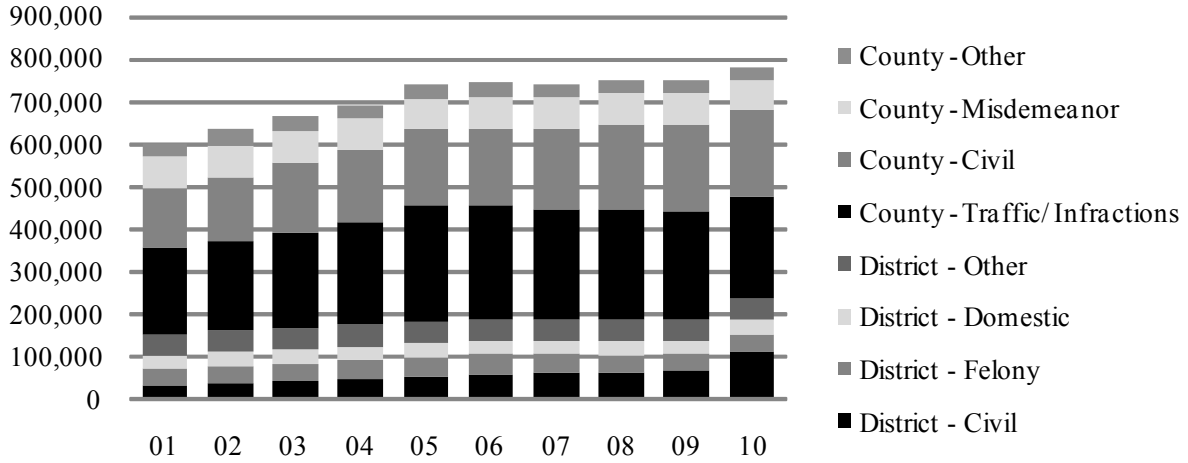
Fiscal year 2010-11 funding for this department consists of 73.0 percent General Fund, 23.8 percent cash funds, 1.6 percent reappropriated funds, and 1.5 percent federal funds. Cash funds that support court operations primarily come from various docket fees and surcharges established in statute. The Probation program also receives cash funds from individuals sentenced to probation who pay fees that support their supervision and treatment. Attorney licensing fees are used by the Supreme Court to regulate the practice of law in Colorado.

The main factor driving the budget for the Judicial Branch is caseload. Judges, magistrates, probation officers, public defenders, and staff can only manage a certain number of cases per year. As the caseload grows, so does the need for resources if the Branch is to continue fulfilling its constitutional and statutory duties in a timely and professional manner. Caseload is generally driven by population changes, changes in the State's economic climate (which affect both the crime rate and the proportion of clients requiring state-funded representation), and changes in state laws and sentencing provisions. Workload is also impacted by the types of cases filed, as some cases require more time and resources than others.

Case Filings and the Need for Court Staff

In FY 2009-10, approximately 786,000 cases were filed in the state court system, including 541,000 (69 percent) in county courts, 240,000 (31 percent) in district courts, 2,900 in the Court of Appeals, and 1,500 in the Supreme Court. The graph on the following page depicts the number of cases filed annually in district and county courts since FY 2000-01.

**DISTRICT AND COUNTY COURT FILINGS
FY 2000-01 through FY 2009-10**



The total number of county and district case filings has increased by 29 percent over the last ten years (with a compound annual growth rate of 2.5 percent), with the most significant growth occurring from FY 2000-01 through FY 2004-05. At the district court level, the most significant increase has occurred in civil cases, and in particular cases concerning foreclosures and tax liens. The number of district court civil cases filed has nearly tripled over the last ten years, and these cases now account for 49 percent of cases filed¹. Similarly, the number of county court civil cases has increased by nearly 80,000 (63 percent) over the last ten years, and these cases now account for 38 percent of cases filed.

To respond to these caseload increases, the General Assembly periodically increases the number of judges within the state court system. For example, H.B. 07-1054 increased the number of judges for the court of appeals, district courts, and county courts over a three year period. Of course, the addition of 43 judges requires funding for the judges and the associated court support staff along with additional staff required by the State Public Defender and the Attorney General's Office. House Bill 07-1054 was thus estimated to require a total increase of 307.2 FTE from FY 2007-08 through FY 2009-10. Funding was provided for the first two fiscal years to add 28 judgeships, as scheduled. In light of the state revenue shortfall, the remaining 15 judgeships have been delayed until early 2011.

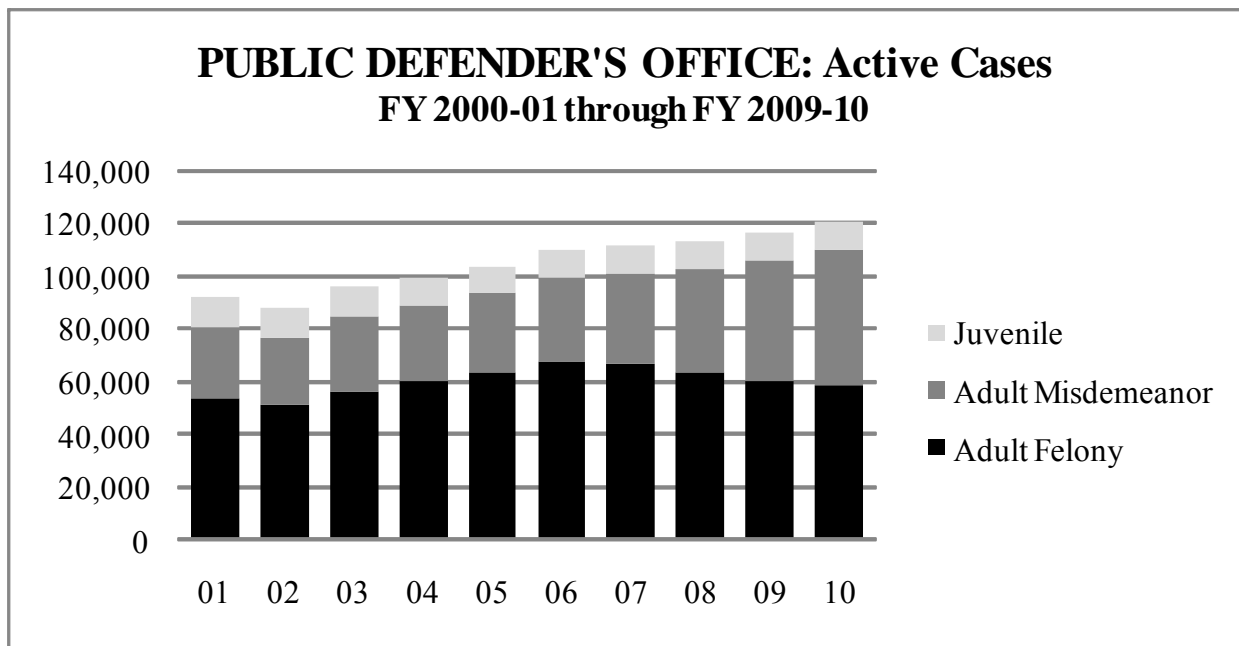
¹ Please note that while the number of foreclosure cases has continued to increase steadily, and the FY 2009-10 spike in civil cases relates to distraint warrants. The Department of Revenue recently implemented an electronic method of filing tax liens, which likely resulted in a temporary spike in cases filed. The workload associated with reviewing these cases and sending approved judgements is minimal.

Caseload Impacts Unique to Independent Agencies

Each of the independent agencies is affected by changes in the number of cases filed differently, based on the clients they are charged with representing. Each of these agencies is discussed below.

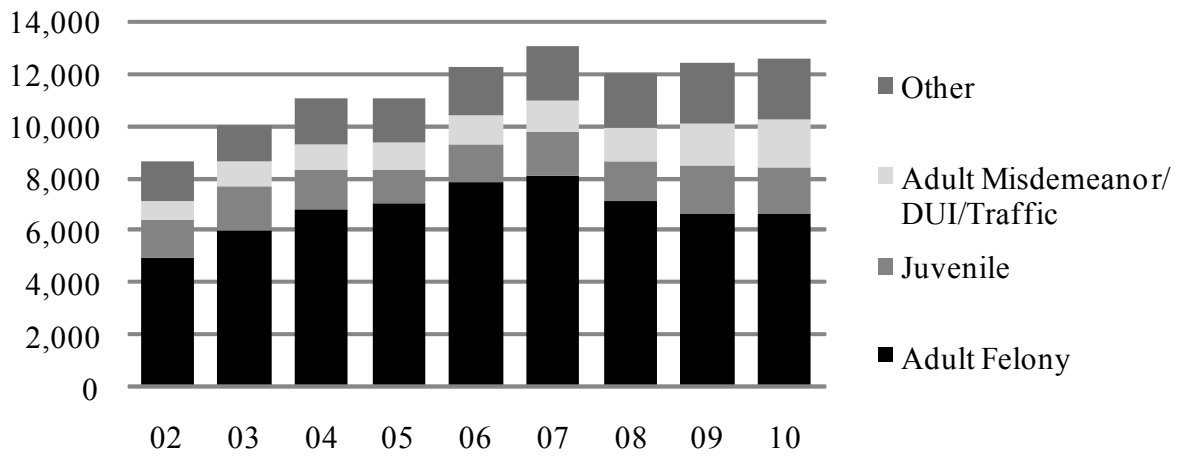
The *Public Defender's Office* represents criminal defendants who have inadequate resources to pay for their own defense. The Public Defender's Office' caseload is affected by the number and types of cases filed, as well as the proportion of clients who require state-funded representation. As in the court system, more complicated cases consume more resources than simpler cases: felonies cost more to defend than misdemeanors, and homicides cost more to defend than assaults or robberies.

As illustrated in the following graph, the number of cases requiring public defender involvement has increased annually since FY 2001-02. From FY 2001-02 through FY 2005-06, the number of felony cases (the primary factor driving public defender attorney staffing needs) increased by more than 16,000 (32 percent). Since FY 2005-06 the number of felony cases has actually declined by 8,600, while adult misdemeanor cases have increased by more than 58 percent (from 32,095 to 50,884).



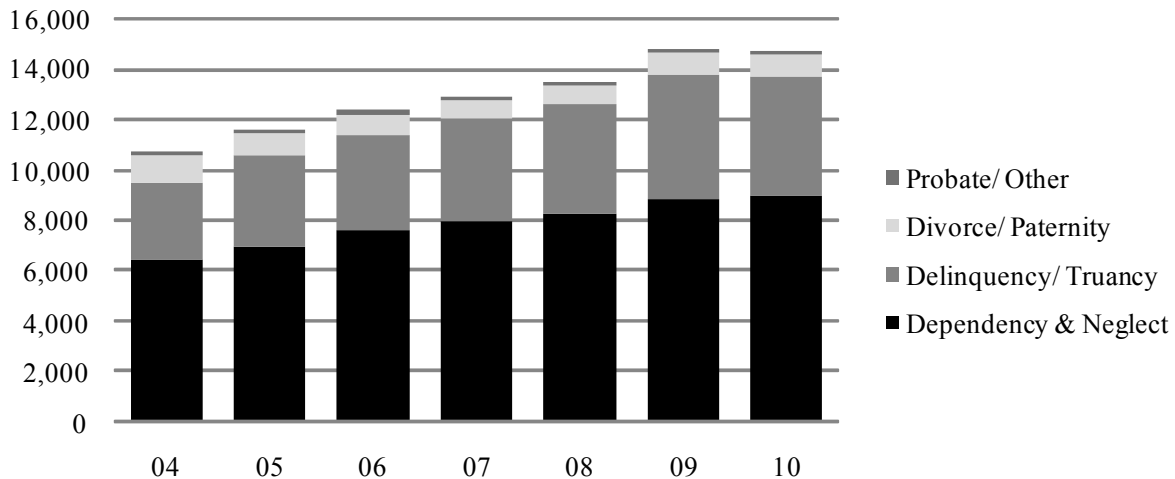
The *Office of the Alternate Defense Counsel (OADC)* contracts with private attorneys to represent indigent defendants in cases where the Public Defender has an ethical conflict of interest. Similar to the Public Defender, certain types of cases (e.g., death penalty cases) are more expensive than others; these types of cases require more hours of attorney time and the OADC pays a higher hourly rate for these types of cases. As illustrated in the graph on the following page, OADC caseload growth from FY 2001-02 through FY 2006-07 was primarily driven by increases in the number of felony cases. The number of felony cases has declined in each of the last three fiscal years, while the numbers of all other case types have increased.

**ALTERNATE DEFENSE COUNSEL: Cases Paid
FY 2001-02 through FY 2009-10**



The *Office of the Child's Representative (OCR)* is responsible for providing legal representation for children involved in the court system due to abuse or neglect, delinquency, truancy, high conflict divorce, alcohol or drug abuse, mental health issues, and probate matters. OCR expenditures are primarily driven by the number of cases involving abuse or neglect, as they account for the most court appointments and require the most attorney time (other than probate cases). The graph below illustrates recent caseload changes.

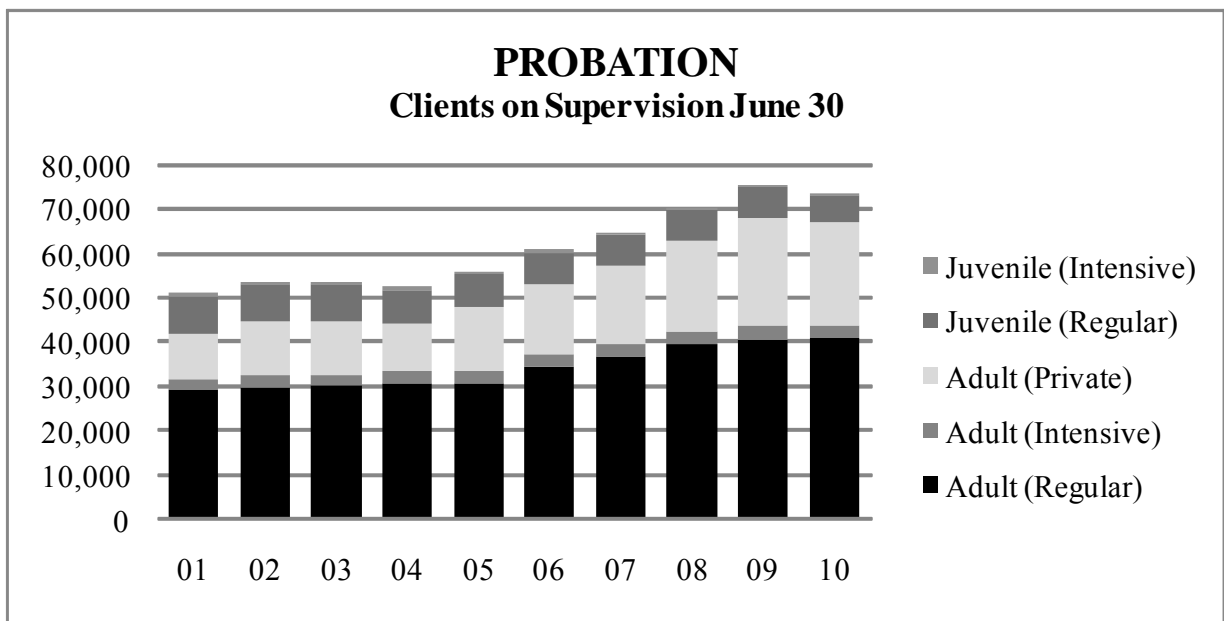
**OFFICE OF THE CHILD'S REPRESENTATIVE: Cases Paid
FY 2003-04 through FY 2009-10**



Probation and Related Services Caseload

Individuals sentenced to probation, as an alternative to incarceration, remain under the supervision of the court. Failure to meet the terms of probation set forth in the court's sentencing order may result in incarceration. Managed by the chief probation officer in each judicial district, 1,200 employees prepare assessments, provide pre-sentence investigation services to the courts, and supervise offenders sentenced to probation. Supervision services are provided based on each offender's risk of re-offending.

Funding for probation services is primarily driven by the number and types of offenders sentenced to probation and statutory requirements concerning the length of required supervision. The number of offenders sentenced to probation increased significantly from 2004 to 2009. Specifically, while the number of juvenile offenders declined by about 1,100 (13 percent), the number of adult offenders increased by nearly 24,000 (54 percent). While more than half of the growth in adult offenders was related to offenders who are supervised by private providers, the number of adult offenders supervised by state staff increased by about 10,300 (31 percent). The following graph depicts changes in the number of adults and juveniles on supervision since 2001.



Overall, the number of state-supervised offenders, including both juveniles and adults, increased from 40,334 in June 2001 to 50,501 in June 2010 (25 percent). As the number of state-supervised offenders grows, so does the need for probation officers and support staff to adequately supervise offenders.

**FY 2011-12 Joint Budget Committee Staff Budget Briefing
Judicial Department**

DECISION ITEM PRIORITY LIST

Decision Item	GF	CF	RF	FF	Total	FTE
JUD-1	\$0	\$605,399	\$0	\$0	\$605,399	2.0
<p>Judicial Network Infrastructure & Staff</p> <p>Courts Administration, Administration and Technology, General Courts Administration, and Information Technology Infrastructure; Centrally Administered Programs, Courthouse Capital/ Infrastructure Maintenance; Trial Courts, Trial Court Programs. The Department requests \$605,399 cash funds from the Judicial Stabilization Fund to cover the initial costs of upgrading the Judicial Branch network, including 2.0 FTE to support the network. The ongoing costs associated with the request (\$597,793, beginning in FY 2012-13) would be supported by the Information Technology Cash Fund. <i>Statutory authority: Sections 13-3-101 and 106, and 13-32-101 (6), C.R.S.</i></p>						
JUD-2	0	2,706,096	0	0	2,706,096	54.0
<p>Trial Court and Appellate Court Staff</p> <p>Supreme Court/ Court of Appeals, Appellate Court Programs; Courts Administration, Centrally Administered Programs, Various Central Appropriations, and Courthouse Capital/ Infrastructure Maintenance; Trial Courts, Trial Court Programs. Last Session, the General Assembly reduced appropriations for county, district, and appellate courts by \$5.9 million and 158.0 FTE as part of the budget balancing process – more than a 10 percent reduction in support staff positions. To ensure core functioning of the state’s trial and appellate courts, the Department is requesting spending authority from the Judicial Stabilization Fund to restore about one-third of these positions. <i>Statutory authority: Section 13-5-101, et seq., and 13-6-101, C.R.S.</i></p>						
JUD -3	473,000	0	0	0	473,000	0.0
<p>Certified Spanish Interpreter Rate Increase</p> <p>Courts Administration, Centrally Administered Programs, Language Interpreters. The Department requests \$473,000 General Fund to increase the hourly rate paid to certified Spanish language interpreters (independent contractors) from \$30 to \$40. The request is intended to ensure availability of a sufficient number of professionally certified interpreters and to work toward compliance with federal Civil Rights Act requirements. <i>Statutory authority: Title VI of the federal Civil Rights Act of 1964 (and associated regulations) and the federal Omnibus Crime Control and Safe Streets Act of 1968; Sections 13-90-113 and 114, C.R.S.</i></p>						
JUD-4	0	461,000	0	0	461,000	0.0
<p>Courthouse Furnishings</p> <p>Courts Administration, Centrally Administered Programs, Courthouse Capital/ Infrastructure Maintenance. The Department requests \$461,000 cash funds from the Judicial Stabilization Cash Fund to furnish new and remodeled courthouse and probation facilities that are anticipated to be completed in three judicial districts in FY 2011-12. <i>Statutory authority: Sections 13-3-104 and 108, and 13-32-101 (6), C.R.S.</i></p>						

Decision Item	GF	CF	RF	FF	Total	FTE
JUD-5	0	1,734,927	0	(2,271,053)	(536,126)	7.0
<p>Problem-Solving Courts</p> <p>Courts Administration, Centrally Administered Programs, Problem-solving Courts; and Various Central Appropriations. The Department requests \$1,734,927 cash funds from the Judicial Stabilization Cash Fund and an increase of 7.0 FTE to maintain and expand problem-solving courts. Specifically, the Department requests: \$1,116,662 to replace federal grant funds that currently support 15.5 FTE added in FY 2010-11 to expand the capacity of adult drug and DUI courts; and \$618,267 for 6.5 FTE to enhance existing Family/ Dependency & Neglect Courts. <i>Statutory authority: Section 13-5-101, et seq., 13-6-101, et seq., and 13-32-101 (6), C.R.S.</i></p>						
JUD-6	0	7,000,000	0	0	7,000,000	0.0
<p>HB 10-1352 Cash Fund Spending Authority</p> <p>Probation and Related Services, Offender Treatment and Services. Consistent with H.B. 10-1352 and the associated Legislative Council Staff fiscal note, the Judicial Department's budget request includes a \$6,156,118 General Fund appropriation to the Drug Offender Surcharge Fund. Through this decision item, the Department is seeking the authority to spend General Fund moneys credited to the Drug Offender Surcharge Fund to provide substance abuse treatment services to adult offenders on diversion, on probation, on parole, in community corrections, or in jail. <i>Statutory authority: Sections 18-19-103 (4), C.R.S.</i></p>						
JUD-7	0	500,000	0	0	500,000	0.0
<p>Drug Treatment Fund Spending Authority</p> <p>Probation and Related Services, S.B. 03-318 Community Treatment Funding. The Department requests \$500,000 cash fund spending authority from the Drug Offender Treatment Fund to access funds remaining unspent in previous fiscal years. <i>Statutory authority: Section 18-19-103 (5.5), C.R.S.</i></p>						
JUD-8	91,004	68,275	0	0	159,279	1.5
<p>Delay Eliminating Funding to Implement SB 09-241</p> <p>Probation and Related Services, Probation Programs. Senate Bill 09-241 requires every individual arrested for or charged with a felony after September 30, 2010 to provide a DNA sample to the local law enforcement agency as part of the booking process. This act was anticipated to reduce probation workload by the equivalent of 1.5 FTE probation officers (\$91,004 General Fund) along with associated operating costs related to DNA test kits (\$61,275 cash funds). Due to implementation delays, it appears that probation officers will continue to need to collect DNA samples for all felony offenders, so the Department is requesting to delay this funding and staff reduction. <i>Statutory authority: Section 16-23-101, et seq., C.R.S.</i></p>						
JUD-9	(258,680)	0	0	0	(258,680)	0.0
<p>Senior Judge Program Reduction</p> <p>Courts Administration, Centrally Administered Programs, Senior Judge Program. In response to rapidly increasing costs associated with the this program, the Department has consciously reduced its use of retired judges. The Department's budget request for FY 2011-12 reflects a reduction of \$258,680 General Fund (13.7 percent). <i>Statutory authority: Section 13-3-111, C.R.S.</i></p>						

Decision Item	GF	CF	RF	FF	Total	FTE
JUD-10	15,127	0	0	0	15,127	0.0
<p>Common Policy - DPA Printing</p> <p>Courts Administration, Administration and Technology, General Courts Administration. This is a statewide request initiated by the Department of Personnel and Administration.</p>						
PD-1	(4,989)	0	0	0	(4,989)	0.0
<p>Add Leased Vehicles</p> <p>Public Defender. The OSPD has identified eight opportunities among its office locations statewide to acquire state leased vehicles in order to achieve overall savings compared to current employee mileage reimbursement. <i>Statutory authority: Section 21-1-101, et seq., and 24-30-1117, C.R.S.</i></p>						
OADC-1	(457,494)	0	0	0	(457,494)	0.0
<p>Conflict of Interest Contracts</p> <p>Alternate Defense Counsel. The Office requests a decrease of \$457,494 for conflict of interest contracts, based on a projected decrease in the overall caseload and a redistribution of case types. Specifically, the number of OADC felony cases has declined as a percent of all OADC cases, reducing the average cost per case. <i>Statutory authority: Section 21-2-101, et seq., C.R.S.</i></p>						
OCR-1	257,904	0	0	0	257,904	0.0
<p>Address Caseload Increases</p> <p>Office of the Child's Representative. The Office requests additional funding to cover a projected 1.6 percent caseload increase. Specifically, the number of OCR dependency and neglect, juvenile delinquency, and paternity cases are anticipated to increase, offset by decreases in all other case types. <i>Statutory authority: Section 13-91-101, et seq., C.R.S.</i></p>						
IEC-1	24,491	0	0	0	24,491	0.0
<p>IEC Executive Director Salary Adjustment</p> <p>Independent Ethics Commission. The Commission requests funding to increase its Executive Director's salary in order to attract and retain qualified staff and in the interest of fairness. <i>Statutory authority: Section 24-18.5-101, et seq., C.R.S.</i></p>						
Total	\$140,363	\$13,075,697	\$0	(\$2,271,053)	\$10,945,007	64.5

**FY 2011-12 Joint Budget Committee Staff Budget Briefing
Judicial Department**

OVERVIEW OF NUMBERS PAGES

The following table highlights changes contained in the Department's FY 2011-12 budget request, as compared with the FY 2010-11 appropriation. For additional detail, see the numbers pages in Appendix A.

Summary of Requested Changes, FY 2010-11 to FY 2011-12

Category	GF	CF	RF	FF	Total	FTE
FY 2010-11 Appropriation	\$332,423,582	\$108,528,846	\$7,478,592	\$6,814,742	\$455,245,762	4,084.4
FY 2011-12 Request	347,387,341	124,151,307	8,326,504	4,543,174	484,408,326	4,239.2
Increase / (Decrease)	\$14,963,759	\$15,622,461	\$847,912	(\$2,271,568)	\$29,162,564	154.8
Percentage Change	4.5%	14.4%	11.3%	-33.3%	6.4%	3.8%

Requested Changes, FY 2010-11 to FY 2011-12

Description	GF	CF	RF	FF	Total	FTE
Annualize FY 10-11 decision items (DIs), budget reductions, & prior year legislation ²	\$7,573,400	\$331,421	\$0	\$0	\$7,904,821	90.3

² Most significantly, these figures include the following: \$5,849,547 (including \$2,955,920 General Fund) and 90.8 FTE for Trial Court and Public Defender staff associated with the third year of adding judgeships pursuant to H.B. 07-1054; an increase of \$4,688,167 in the General Fund appropriation to the Drug Offender Surcharge Fund based on estimated savings to the Department of Corrections pursuant to H.B. 10-1352; \$314,438 spending authority from the Persistent Drunk Driver Cash Fund pursuant to H.B. 10-1347; a reduction of \$15,369 cash funds and the addition of 1.0 FTE for the development of an in-house e-filing system; a reduction of \$152,279 and 1.5 FTE associated with S.B. 09-241; and the elimination of \$2,800,000 provided for courthouse furnishings for FY 2010-11.

Description	GF	CF	RF	FF	Total	FTE
Drug Offender <i>Surcharge</i> Fund spending authority per H.B. 10-1352 (JUD-DI#6)	0	7,000,000	0	0	7,000,000	0.0
Discontinue temporary 2.5% PERA employer contribution adjustment	4,657,571	767,435	28,961	0	5,453,967	0.0
Employee benefits ³	3,084,089	753,027	0	0	3,837,116	0.0
Restore a portion of trial court and appellate court staff (JUD-DI#2)	0	2,706,096	0	0	2,706,096	54.0
Judicial network infrastructure and staff (JUD-DI#1) ⁴	0	605,399	0	0	605,399	2.0
Restore one-time reductions in funding for operating expenses, IT infrastructure, and mandated costs (OSPD)	553,178	0	0	0	553,178	0.0
Drug Offender <i>Treatment</i> Fund spending authority per S.B. 03-318 (JUD-DI#7)	0	500,000	0	0	500,000	0.0
Certified Spanish interpreter rate increase (JUD-DI#3)	500,000	0	0	0	500,000	0.0
Furnish courthouses and probation facilities (JUD-DI#4)	0	461,000	0	0	461,000	0.0
Delay eliminating funding associated with S.B. 09-241 (JUD-DI#8)	91,004	61,275	0	0	152,279	1.5

³ Includes changes related to the following employee benefits: health, life, and dental; short-term disability, PERA amortization equalization disbursement (AED) and supplemental AED, and workers' compensation.

⁴ Includes \$450,000 for expanding network bandwidths and \$178,577 to add 2.0 FTE network support staff.

Description	GF	CF	RF	FF	Total	FTE
Increase funding for District Attorneys' mandated costs	90,539	0	0	0	90,539	0.0
Independent Ethics Commission Executive Director salary adjustment (IEC-DI#1)	24,491	0	0	0	24,491	0.0
Statewide common policy for DPA printing (JUD-DI#10)	15,127	0	0	0	15,127	0.0
Add leased vehicles (OSPD-DI#1)	(4,989)	0	0	0	(4,989)	0.0
Court appointed counsel caseload/ cost changes (OADC-DI#1; OCR-DI#1)	(199,590)	0	0	0	(199,590)	0.0
Senior Judge Program reduction (JUD-DI#9)	(258,680)	0	0	0	(258,680)	0.0
Maintain and expand problem-solving courts (JUD-DI#5)	0	1,734,927	0	(2,271,053)	(536,126)	7.0
Extend temporary 2.5% PERA employer contribution adjustment (reflected in PD request only)	(939,048)	0	0	0	(939,048)	0.0
Other ⁵	(223,333)	701,881	818,951	(515)	1,296,984	0.0
Total requested changes*	14,963,759	15,622,461	847,912	(2,271,568)	29,162,564	154.8

* Please note that only one agency (the Office of the State Public Defender) reflected an extension of the PERA employer contribution shift in the FY 2011-12 budget request. If all agencies had reflected this extension, the Judicial Branch request would have totaled \$4.5 million less (including \$3.7 million less General Fund). The request would have thus reflected a General Fund increase of \$11.3 million (3.4 percent).

⁵ Other changes include: leased space escalators; indirect cost adjustments; and changes to common line items such as vehicle lease payments, risk management, purchase of services from computer center, multiuse network payments, and communication services.

**FY 2011-12 Joint Budget Committee Staff Budget Briefing
Judicial Department**

BRIEFING ISSUE

ISSUE: Significant Actions Taken from FY 2007-08 to FY 2010-11 to Balance the Budget

Total appropriations to the Judicial Department have primarily increased since FY 2007-08 to provide employee salary and benefit increases; to add court, probation, and public defender staff; and to cover the increasing costs of court-appointed counsel. Since the most recent economic downturn started in 2008, however, the General Assembly has taken several actions to mitigate General Fund increases in this department. As a result, the General Fund appropriation to the Judicial Department increased by \$32.8 million (11.0 percent) from FY 2007-08 to FY 2010-11.

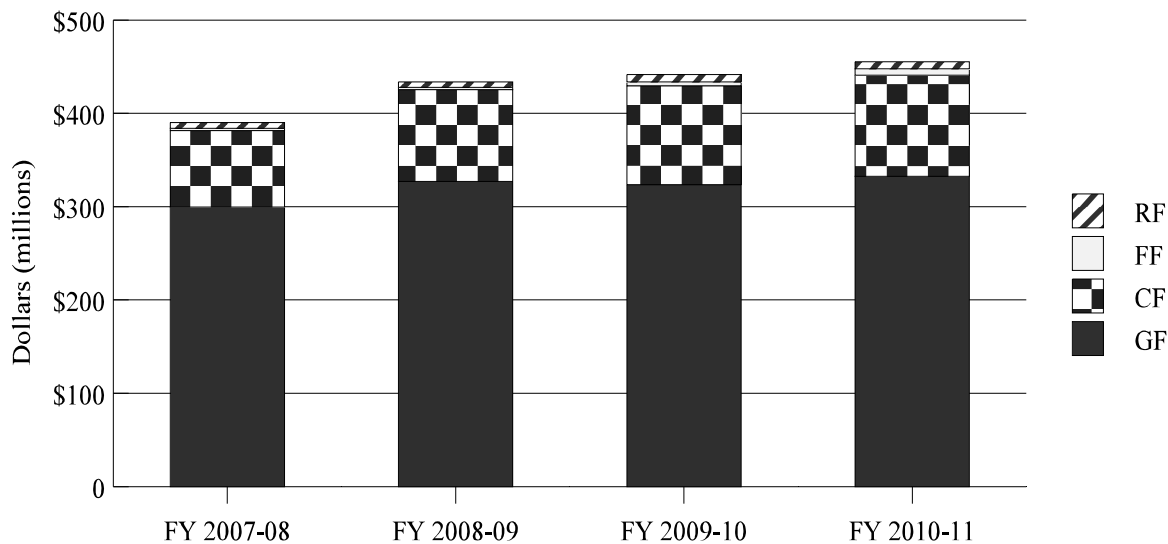
SUMMARY:

- ❑ The General Assembly reduced base funding for personnel, requiring the Department to leave vacant positions open, delay filling newly authorized positions, and lay off some personnel. While funding has largely been restored for probation and public defender personnel, funding for court staff has declined by about 10 percent and funding for Department administrative staff has declined by about nine percent.
- ❑ Pursuant to H.B. 07-1054, the General Assembly authorized 43 new judgeships over three years. The General Assembly has delayed the implementation of the final 15 judgeships by about 18 months, freeing up cash funds to cover costs that would otherwise be supported by General Fund. Further, the additional public defender staff associated with the second and third years of implementing the act were delayed until November 2010, reducing General Fund expenditures in the last two fiscal years and the current fiscal year.
- ❑ The General Assembly has reduced General Fund support for the Department's information technology infrastructure, for offender treatment and services, and for a variety of operating expenses.

DISCUSSION:

From FY 2007-08 to FY 2010-11, total appropriations to the Judicial Department increased by 16.7 percent (\$65.1 million). Half of this increase was provided from the General Fund (\$32.8 million), another 40 percent was provided from cash funds (\$26.6 million), with the remainder from federal funds and reappropriated funds. Appropriations to the Judicial Department for FY 2007-08 through FY 2010-11 are illustrated in the bar chart and detailed in the table on the next page.

Department Appropriations FY 2007-08 to FY 2010-11



Judicial Department Appropriations FY 2007-08 to FY 2010-11					
	Total Funds	General Fund	Cash Funds	Federal Funds	Reappropriated Funds
FY 2007-08 /a	\$390,126,495	\$299,604,040	\$81,937,604	\$2,291,464	\$6,293,387
FY 2008-09	433,774,947	327,079,558	98,439,018	2,290,265	5,966,106
FY 2009-10	441,595,052	323,814,931	105,630,825	4,430,420	7,718,876
FY 2010-11	455,245,762	332,423,582	108,528,846	6,814,742	7,478,592
Increase/(Decrease) /b	\$65,119,267	\$32,819,542	\$26,591,242	\$4,523,278	\$1,185,205
Percent Change /b	16.7%	11.0%	32.5%	197.4%	18.8%

a/ FY 2007-08 Appropriations have been adjusted to reflect the same "cash funds" and "reappropriated funds" format implemented in FY 2008-09. Source: Page 263 of the FY 2008-09 Appropriations Report, plus a \$686,137 General Fund appropriation in S.B. 09-190, plus a \$5,408 increase in cash funds (and an equal reduction in reappropriated funds) to correctly reflect the Statewide Indirect Costs line item fund sources.

b/ Increase/(Decrease) and Percent Change compare FY 2007-08 and FY 2010-11.

As illustrated in the bar chart above, the most significant funding increase over this time period occurred in FY 2008-09, followed by modest increases in the last two fiscal years. These increases primarily occurred in three areas. First, the Judicial Branch is a staff-intensive agency; more than half of the increase provided over the last three years (\$34 million) was related to employee salary increases (in FY 2008-09 only) and increases in employer contributions for retirement, health, life, and dental benefits. Second, \$24 million was provided to add court, probation, and public defender staff, including \$12 million for the phased implementation H.B. 07-1054, which added 43 judgeships over three years. Third, \$7 million was added for court-appointed counsel provided through the Alternate Defense Counsel and the Office of the Child's Representative.

Beginning in January of 2009 and continuing through the 2010 Session, the General Assembly has taken a number of actions to reduce General Fund expenditures in this department. These actions are discussed in more detail below.

Major Budget Balancing Actions from FY 2007-08 to FY 2010-11

1. *Hiring freeze, voluntary furloughs, and staff reductions.* In October 2008, the Chief Justice implemented a hiring freeze and encouraged voluntary furloughs. The General Assembly reduced FY 2008-09 appropriations mid-year by \$4.2 million to recognize the associated savings. These reductions were largely maintained in FY 2009-10 through a 1.82 percent (\$3.9 million) reduction in funding for personnel (excluding judges and justices due to constitutional limitations). Subsequently, the General Assembly reduced FY 2009-10 funding for trial court, probation, and public defender personnel by another \$8.2 million. Generally, the Department managed these reductions by holding vacant and newly authorized positions open and laying off some staff.

Finally, for FY 2010-11, while funding was largely restored for probation and public defender personnel, funding for court staff and Department administrative staff was reduced by another \$3.7 million. Since FY 2008-09, base funding for court staff has declined by about 10 percent and funding for Department administrative staff has declined by about nine percent.

2. *Delayed implementation of H.B. 07-1054.* House Bill 07-1054 authorized 15 new judgeships to be filled in July 2009. Over the last two years the General Assembly has delayed the implementation of most of these judgeships to January 2011 (with the three judgeships in the 1st judicial district delayed until July 2011). These delays produced one-time savings of \$4.9 million cash funds in FY 2009-10 and \$2.8 million cash funds in FY 2010-11. These cash funds were instead used to cover the cost of furnishing new and refurbished courthouses and probation facilities, thereby reducing the need for General Fund expenditures. Further, the additional public defender staff required the second and third years of implementing H.B. 07-1054 were delayed until November 2010, saving \$1.2 million General Fund in FY 2008-09 and \$2.3 million General Fund in FY 2009-10.
3. *Substitution of cash funds for General Fund support.* In FY 2008-09, General Fund support for probation and offender treatment services (\$487,000) and for the collection of DNA samples (\$70,000) was eliminated and replaced with cash fund sources. Beginning in FY 2009-10, General Fund support for the Department's information technology infrastructure was reduced by \$1.0 million; in FY 2010-11, this funding was restored using cash fund revenue related to the Department's in-house public access system.
4. *Operating expenditure reductions.* In FY 2008-09, the General Assembly temporarily reduced appropriations for the Office of the State Public Defender by \$495,000 mid-year, requiring delays in replacing information technology equipment and office furnishings as well as restrictions on travel, training, and expert witness expenditures. The General

Assembly also permanently reduced funding for the Department to purchase legal services from the Department of Law by \$100,000. In FY 2009-10, the General Assembly temporarily reduced appropriations for the Public Defender by another \$860,000, requiring continued expenditure delays and restrictions. While the Public Defender reductions were largely restored in FY 2010-11, funding for operating expenses for the courts, probation, and Department administration was permanently reduced by \$295,000.

Actions Taken to Increase Available State Revenues

The General Assembly transferred a total of \$7.7 million from various Judicial Branch cash funds in FY 2008-09 and FY 2009-10. These transfers are detailed in the following table.

Name of Fund	Bill	Amount of Transfer
<i>FY 2008-09 Transfers to General Fund:</i>		
Court Security Cash Fund	S.B. 09-208	\$1,500,000
Dispute Resolution Fund	S.B. 09-208	32,500
Drug Offender Surcharge Fund	S.B. 09-208	151,341
Drug Offender Treatment Fund	S.B. 09-208	350,000
Family-friendly Court Program Cash Fund	S.B. 09-208	200,000
Guardian Ad Litem Fund	S.B. 09-208	8,000
Offender Services Fund	S.B. 09-208	250,000
State Commission on Judicial Performance Cash Fund	S.B. 09-208	900,000
<i>FY 2009-10 Transfers to General Fund:</i>		
Court Security Cash Fund	S.B. 09-279	500,000
Drug Offender Surcharge Fund	S.B. 09-279	1,360,000
Offender Services Fund	S.B. 09-279	2,498,439
Total Transfers		\$7,750,280

**FY 2011-12 Joint Budget Committee Staff Budget Briefing
Judicial Department**

BRIEFING ISSUE

ISSUE: Implementing the Public Access System and Developing an In-house E-Filing System

The Department successfully implemented an in-house public access system on July 1, 2010, and it has begun development of an in-house e-filing system.

SUMMARY:

- ❑ Since the late 1990s, the Department has developed three critical information systems. In 1997, the Department developed a case management system, followed by two systems that were developed through outside vendors: a public access system in 2000 and an e-filing system in 2001. The latter two systems have been supported entirely by user fees.
- ❑ In response to a request from the Joint Budget Committee, the Judicial Department studied the feasibility of bringing the public access and e-filing systems in-house. The Department recommended that it be authorized to develop and deploy both systems in-house, beginning with a public access system.
- ❑ The General Assembly authorized the Department to begin developing both systems in FY 2008-09 using existing fee revenues. The public access system was completed by November 2009, government users were transitioned to the new system in May and June 2010, and the system went live for public users on July 1, 2010. The transition has been successful.
- ❑ The Department has begun a phased development of an e-filing system, beginning with small claims and domestic relations cases, followed by those cases for which e-filing services are currently available (primarily civil cases) and criminal cases. The full system is scheduled to be completed December 2012.

DISCUSSION:

Background Information - Development of Major IT Systems

Three critical information technology systems have been developed since the late 1990's. One system was developed in-house, and the other two were developed by outside vendors.

1. The Department deployed a unified, statewide court and probation *case management system* called ICON (i.e., the Integrated Colorado On-line Network) in 1997. Prior to the deployment of ICON, the State Court Administrator's Office handled requests for data on a case-by-case basis. With the deployment of ICON, the number of requests from government agencies, background search companies, the public, and media increased substantially,

quickly overwhelming the Office. The Department is in the process of developing a new case management system called jPOD (i.e., Judicial Paper On Demand) to replace ICON. This system will be deployed incrementally through the end of 2011.

2. Lacking the resources and expertise to develop a web-based *public access system* to efficiently respond to court and probation data requests, the Department issued a request for proposal (RFP) for a vendor-based solution in October 1999. The project was awarded to Acxiom, and the “CoCourts” system went live in November 2000. This system provided access to all non-protected court case data, but not to the associated documents. All judicial officers and Department staff, as well as approved governmental entities, were provided free access to the system; all other users paid an access fee. A second RFP was issued and awarded to LexisNexis/CourtLink in August 2005; this contract expired on June 30, 2010. In addition to providing more timely, accessible data to the public, this system has benefitted the courts by reducing the number of phone and walk-in inquiries, and reducing paper costs.

The vendor-operated public access system was supported by user fees collected by the vendor. In addition, beginning in FY 2003-04, the Department required the vendor to collect a cost recovery fee on the Department's behalf. The Department used this fee revenue to cover the direct and indirect costs of hardware replacement and other expenses required to maintain the equipment and network connections necessary for the use of the Department's computer information systems by the public and other agencies.

3. For the last two decades, courts have been aware of the high costs of receiving, storing, retrieving, copying, and mailing documents. Lacking the resources and expertise to develop an electronic document management system, the Department issued an RFP for a vendor-based *e-filing system* for attorneys in December 1998. The project was awarded to Law Plus¹. The e-filing system was piloted in July 2000, and implemented statewide in district courts by February 2001, in county courts (for limited case types) in early 2007, in the Court of Appeals in July 2008, and most recently in the Supreme Court. The Department indicates that Colorado has the only statewide e-filing system that is fully integrated with its case management system. This system has made it easier and cheaper for attorneys to file cases, reduced costs associated with managing paper, increased the speed and reliability of retrieving documents, reduced the number of lost documents, and reduced the time required to distribute court orders. The system has also reduced court staff workload, allowing them to focus on other operational needs of the courts.

The vendor-operated e-filing system is supported by user fees paid directly to the vendor. Similar to the public access system, since FY 2003-04 the Department has required the vendor to also collect a cost recovery fee on the Department's behalf. The current contract with LexisNexis expires in December 2012.

¹ Law Plus subsequently merged with JusticeLink, then with CourtLink, and was subsequently acquired by LexisNexis.

Proposal to Bring Two Systems In-house

In April 2008, the Joint Budget Committee requested that the Department study the feasibility of providing its public access and e-filing programs in-house. The Department conducted the study in-house, and contracted with the National Center for State Courts to review and certify the study.

The Department recommended that it be authorized to develop and deploy both systems in-house. To minimize risks, the Department recommended that it be authorized to develop and implement the public access system (PAS) first using existing cost recovery fee revenues and a portion of the Department's IT Cash Fund balance². Subsequently, the Department would develop the e-filing system using existing cost recovery fee revenues as well as fee revenue related to the new public access system. The Department's proposed development would thus not require any General Fund moneys, and the Department anticipated that once both systems were implemented, the General Assembly could consider using revenues generated through both systems to reduce user fees, continue to improve information technology supporting the state court system, or reduce Department General Fund expenditures related to information technology. The National Center for State Courts endorsed the Department's proposal.

In December 2008, the Joint Budget Committee voted to direct the Department to move ahead with plans to develop both systems. Subsequently, the General Assembly appropriated \$722,296 cash funds in FY 2008-09 to begin developing these systems. This funding was intended to allow the Department to hire five individuals in the latter part of FY 2008-09 and to begin acquiring hardware and software. Subsequently, the FY 2009-10 Long Bill was introduced, authorizing the Department to spend a total of \$2,594,733 cash funds to implement the PAS and begin development of the e-filing system. This funding was to support an additional ten staff positions, as well as hardware and software expenditures associated with the e-filing project. Ultimately, however, this funding was eliminated from the bill.

Through utilizing the funds provided for FY 2008-09 and redirecting some existing staff resources, the Department completed development of the PAS by November 1, as planned. Through a supplemental bill, the General Assembly appropriated \$72,245 cash funds and 1.0 FTE (four FTE for three months) for FY 2009-10 to allow the Department to proceed with the implementation of the PAS and to ensure a smooth migration of system users by July 1, 2010. The General Assembly also reduced the General Fund appropriation for the Department's information technology infrastructure by \$1.0 million. For FY 2010-11, the General Assembly appropriated a total of \$2,923,498 cash funds and 19.0 FTE for the operations of the PAS, for the development of an e-filing system, and to restore the \$1.0 million reduction in funding for information technology infrastructure.

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

Project Status - Public Access System

Transition

During May and June of 2010, Judicial employees and other government employee users were trained on and transitioned to the new PAS. In August 2010, government users were surveyed, providing overall positive feedback and suggestions for system enhancements. On July 1, 2010, PAS went live for public users via two vendors: Background Information Services, Inc. (BIS) and Acxiom Identity Solutions, Inc.³ The cost recovery fee of \$0.75 per search has been eliminated. There are currently about 13,000 approved government users, including 9,500 actually using PAS. Based on September 2010 data, users are conducting about 620,000 searches per month, including 442,000 (71 percent) by government users and about 180,000 through the two vendors (split fairly evenly between BIS and Acxiom). An updated table detailing PAS revenues and expenditures is included at Appendix D.

The Department reports that there were issues with system slowness when PAS first went live in July. The Department indicates that it has addressed this issue with the exception of some public defender locations⁴, and reports that the average CPU utilization rate for the database server has been stable at 20 to 25 percent (well below industry standard) since July. Representatives for BIS confirm that the slowness issue has been addressed, the transition was successful, and PAS is working and stable. The Department also reported that while they have redundancy for server failures at the State's e-Fort complex, a total network outage at their base facility occurred on August 12, causing a PAS outage (similar to outages that occurred under the vendor-operated system). The Department is currently working with Qwest to provide network redundancy in the event of another total network outage.

Next Steps

When LexisNexis operated the public access system, it provided an "alerts" system for its customers. This service allows litigants to know when a case is filed against a particular person or entity. LexisNexis would like to continue to provide this service through PAS in partnership with BIS. The Department indicates that it recently reached consensus with BIS on the approach and specifications for this enhancement, and it expects to have this service available by the end of December.

In addition, BIS is interested in gaining access to "mirror data", which would allow it to manipulate the data and provide additional services to its customers. However, the existing vendor contracts specifically prohibit the Department from providing mirror data to any customer for any purpose. The Judicial Department indicates that it has provided mirror data in the past, but it has only been

³ LexisNexis ultimately chose not to contract with the Department. Instead, it accesses data through BIS.

⁴ Judicial Department staff are working with Public Defender staff to identify and resolve these technical issues.

provided to the primary vendor that operated the public access system. Now that the system is operated in-house, the Department plans to maintain ownership and control over the data.

Project Status - E-filing System

The development of the new e-filing system, called the "Integrated Colorado Courts E-filing System" or ICCES, is under way. All staff positions have been filled, the Department has established an advisory committee to support and inform system development, and the Department is creating a website to allow advisory committee members and other interested parties to access information related to system development (e.g., meeting minutes, technical information, and project milestones). The Department has entered into a memorandum of understanding (MOU) with the Denver County Court (which is not part of the state court system) to co-develop an e-filing front-end program. This MOU will thus ensure that the format and cost of the e-filing system will be consistent for all county courts.

The Department has begun system development with a module for small claims cases for three reasons: (1) this service is not currently offered through LexisNexis; (2) many individuals who are not attorneys file these cases (called *pro se* cases), so the same approach can then be used for other areas in which a large number of *pro se* cases exist; and (3) the Department expects this module to be relatively easy to develop so that it can be ready in the next few months. The system is being designed to walk the user through a series of questions, rather than simply providing a form to be filled out. Once implemented, this module should reduce court workload by eliminating the need for data entry from claimant forms.

Next, the Department plans to develop a module for domestic relations cases. Again, LexisNexis does not offer this service, and a large number of these cases are filed *pro se*. The Department will then develop modules for all case for which services are currently offered by LexisNexis (including civil, probate, water, and domestic relations cases that involve counsel). The Department would like to get this development under way to ensure that it is ready by December 2012. Finally, the Department will develop a module for criminal cases. An updated table detailing ICCES revenues and expenditures is included at Appendix D.

**FY 2011-12 Joint Budget Committee Staff Budget Briefing
Judicial Department**

BRIEFING ISSUE

ISSUE: Status of the History Center Colorado and Ralph L. Carr Judicial Center Projects

This issue brief provides background information and a status update concerning ongoing projects to construct a new Colorado history museum and a new complex to house the Judicial Branch agencies and the Department of Law.

SUMMARY:

- ❑ Senate Bill 08-206 authorized the construction of a new Colorado history museum as well as a new state justice center. The act authorized the State to enter into lease-purchase agreements for the development and construction of both facilities; these agreements are to be paid using moneys from the State Historical Fund, civil filing fee revenues, and lease payments received from agencies occupying the state justice center. Development costs are now estimated to total \$368.5 million – \$15 million *lower* than those contemplated in S.B. 08-206.
- ❑ Financing for both projects was completed under very favorable terms. Net debt service payments of \$18.7 million per fiscal year will be \$5.3 million *lower* than the cap of \$24.0 million established in S.B. 08-206.
- ❑ History Center construction is anticipated to be completed in September 2011, and the museum staff should be relocated and the exhibits installed and ready for the public by Spring 2012. The Judicial Center parking garage is anticipated to be completed in December 2011, followed by the Center itself in April 2013.
- ❑ Senate Bill 08-206 anticipated that the consolidation and co-location of justice-related offices would result in programmatic efficiencies and reduce operating costs. The State Court Administrator's Office has been working with Trammell Crow Company and the other primary tenants to identify common operating expenses and potential opportunities to consolidate services and reduce operating expenses.

DISCUSSION:

Background Information: Judicial Heritage Complex

The Judicial Branch and the Colorado History Museum previously shared the "Judicial Heritage Complex" (bordered by 13th and 14th Streets, Broadway, and Lincoln), which was constructed in 1977. A number of studies were conducted concerning the facility needs for both entities. In November 2005, the Urban Land Institute (ULI) was engaged to conduct a review of all previous

studies and render an independent conclusion. The ULI concluded that the Complex did not function adequately or provide adequate space for either the Judicial Department or the Museum, the programmatic site needs of each operation oppose one another in many ways, the unique site design of the Complex lent itself to a high level of vulnerability, and the Judicial Building had a number of life, health, safety, and accessibility issues that affected the operation of the courts. The ULI recommended that the judicial facilities be expanded and remain on the Complex site, and the Museum be moved to a new site.

In July 2006, the Judicial Department and the Colorado Historical Society contracted with Trammell Crow Company and a team of consultants for management services related to their facility needs, including: feasibility studies, site procurement, financing alternatives, space programs, design and renovation or new construction management services as required, and move management. In December 2006, Trammell Crow Company submitted a report concerning the feasibility of constructing a new state justice center on the site of the Complex, and procuring a new site and building for the Colorado History Museum. The feasibility study estimated total development costs of \$385.1 million, including \$112.2 million for a 241,000 GSF museum and \$272.9 million for a 560,000 GSF state justice center. These estimates assumed that the Museum would be relocated to a new site, the Supreme Court and the Court of Appeals would be relocated to an interim leased space for 28 months, and the existing judicial and museum buildings would be demolished. The feasibility report recommended financing the projects through a series of certificates of participation (COPs).

Senate Bill 08-206

Senate Bill 08-206 (Shaffer; Penry/ T. Carroll; Marostica) authorized the construction of a new Colorado history museum using moneys in the State Historical Fund and \$25 million transferred from the Judicial Department. The act authorized the Judicial Branch to increase various civil filing fees to help fund the consolidation of all justice-related state agencies into a single complex at the Judicial Heritage Complex site. The act's legislative declaration stated that the new state justice center shall initially include the following agencies:

- Colorado Supreme Court (currently located in leased space in the Denver Post building at 101 W. Colfax)
- Colorado Court of Appeals (also located at 101 W. Colfax)
- Judicial Department administrative offices (also located at 101 W. Colfax)
- Office of the State Public Defender (central administrative and appellate offices are currently located in leased space at 1290 Broadway)
- Alternate Defense Counsel (currently located in leased space at 1580 Logan Street)
- Office of the Child's Representative (also leasing space at 1580 Logan Street)

- Department of Law (currently leasing space within the Capitol Complex at 1525 Sherman Street; also rents private storage space)

The project will address both the lack of adequate space and the lack of adequate safety and security measures in the current buildings. The project is also expected to benefit the State financially by allowing the State to avoid ongoing payments for privately owned leased space, and achieving greater programmatic efficiencies and decreased operating costs.

The act authorizes the State to enter into lease-purchase agreements for the development and construction of a new museum (now known as "History Center Colorado") and a state justice center (now known as the "Ralph L. Carr Judicial Center"). The total amount of the principal component of the lease-purchase agreements concerning the History Center may not exceed \$85 million¹, the annual rental and lease-purchase payments may not exceed \$4,998,000, and the term may not exceed 37 years. The General Assembly is required to make annual appropriations from the State Historical Fund to the State Historical Society beginning in FY 2011-12 and annually thereafter as long as payments are due.

With respect to the Judicial Center, the total amount of the principal component of the lease-purchase agreements may not exceed \$275 million², the annual rental and lease-purchase payments may not exceed \$19,000,000, and the term may not exceed 38 years.

Revenues from various filing fees and any lease payments received from state agencies occupying the Judicial Center are to be credited to the newly created Justice Center Cash Fund. Moneys in the Fund are subject to annual appropriation for expenses related to the design, construction, maintenance, operation, and interim accommodations for the Judicial Center. The act requires the Judicial Branch to transfer a total of \$25 million from the Justice Center Cash Fund to the newly created State Museum Cash Fund to compensate the State Historical Society for the land on which the Colorado history museum resided².

Beginning in FY 2014-15, the act requires the Executive Director of the Department of Personnel and Administration to calculate the net savings to the State by locating the Department of Law and any other executive branch agency in the Judicial Center, and requires the General Assembly to appropriate from the General Fund to the Justice Center Cash Fund the amount of net savings to repay any lease purchase obligations.

¹ These amounts exclude "reasonable and necessary administrative, monitoring, and closing costs and interest".

² The act requires a transfer of up to \$15 million in FY 2008-09, up to \$10 million in FY 2009-10, and an remaining moneys necessary to transfer a cumulative total of \$25 million in FY 2010-11.

Current Status of Construction Projects and Financing

Trammell Crow Company recently provided updated information related to the History Center and Judicial Center projects. These updated estimates anticipate the following total development costs (excluding the cost of financing):

History Center	\$110,888,000
Judicial Center	<u>257,688,970</u>
Total	368,576,970

These estimates are \$16.8 million lower than those contained in the December 2006 feasibility study, and \$15 million lower than those contemplated in S.B. 08-206. The Judicial Center project also now includes a 327 car parking garage that will be constructed on a site directly north of the History Center.

Project financing was secured in July 2009 through a single issuance for both projects totaling \$338.8 million. This issuance included two components: \$39.0 million in traditional tax-exempt COPs; and \$299.8 million in taxable Build America COPs, a new financing mechanism made available through the federal American Recovery and Reinvestment Act. Build America COPs offer lower costs to public entities because the federal government subsidizes 35 percent of the interest paid on the project. The net effective annual interest rate on these COPs is 4.24 percent, resulting in debt payments of \$18.7 million per year for 33 years (September 2012 through September 2045). These annually appropriated debt service payments are significantly lower than originally anticipated. Senate Bill 08-206 capped combined project debt service payments at \$24.0 million per year for terms not exceeding 37 years for the History Center and 38 years for the Judicial Center. Overall, the project financing will cost nearly \$215 million less than the total debt service costs anticipated when S.B. 08-206 was passed. During the term of the COPs, the new facilities will be owned by a newly formed non-profit called CHS/CJC Building, Inc. Upon full repayment, ownership of the facilities will revert to the State.

Both constructions projects are on-time and within budget. Based on recent conversations with project management staff, the following table sets forth the project time lines.

Project Milestones Time line	
Fiscal Year	Milestones
FY 2009-10	<ul style="list-style-type: none"> • Financing for both projects completed (July 2009) • History Center Colorado construction began (August 2009) • History Center design completed (January 2010) • Ralph L. Carr Judicial Center schematic design completed (January 2010) • Relocated museum staff and store exhibits (February to April 2010) • Relocated Supreme Court and Court of Appeals (April 2010) • Demolished existing museum and judicial facilities (May to September 2010)
FY 2010-11	<ul style="list-style-type: none"> • Judicial Center construction began (September 2010) • Begin construction of Judicial Center parking garage (December 2010)

Project Milestones Time line	
Fiscal Year	Milestones
FY 2011-12	<ul style="list-style-type: none"> • Complete History Center construction (September 2011) • Relocate Historical Society offices to History Center (September to October 2011) • Complete construction of Judicial Center parking garage (December 2011) • Complete relocation of museum staff and exhibits to History Center and open museum to the public (Spring 2012)
FY 2012-13	<ul style="list-style-type: none"> • Begin COP payments (September 2012) • Complete Judicial Center construction (April 2013)

A total of \$14.0 million in revenue was credited to the Justice Center Cash Fund in FY 2008-09 and transferred to the State Museum Cash Fund. In FY 2009-10, \$16.6 million was credited to the Justice Center Cash Fund, and \$10.0 million was transferred to the State Museum Cash Fund; the remaining \$1.0 million was transferred earlier this fiscal year. The Department projects that \$18.5 million will be credited to the Justice Center Cash Fund in FY 2010-11 and in subsequent fiscal years. These moneys will be used to pay the Judicial Center project development and financing costs. Appendix E details appropriations related to these projects to date, as well as projected COP payments for both projects through FY 2045-46.

The Judicial Center will have secure basement parking for 75 vehicles and some bicycles. In addition, a separate Judicial Center parking structure will be built on the north side of the History Center Colorado; this garage will be completed 16 months prior to the Judicial Center. During this interim period, the Department plans to lease parking spaces to state employees who are on the wait list for a state garages (as well as potentially museum employees). Over the longer-term, the Department is considering contracting with a firm to manage the parking garage at night as a public garage. All parking revenue will be used to (1) pay parking garage operating costs; and (2) offset costs of Judicial Center.

Discussions Begin Concerning Programmatic and Operating Efficiencies

Senate Bill 08-206 anticipated that the consolidation and co-location of justice-related offices would result in programmatic efficiencies and reduce operating costs. The State Court Administrator's Office has been working with Trammell Crow Company and the other primary tenants of the Judicial Center to analyze existing leases and space needs in order to finalize the allocation of space, including shared spaces. These agencies are working together to identify common operating expenses and potential opportunities to consolidate services and reduce operating expenses. Potential shared spaces and services include the following:

- Building operations and maintenance (operated by third-party vendor)
- Building security (provided by Colorado State Patrol)
- Copy center (operated by third-party vendor)
- Mail room (incoming mail that has been screened by the Department of Personnel and Administration in an off-site facility will be sorted by the same vendor providing Copy Center services)

- Conference center (can be used for training; will include mock court rooms for the Department of Law and the State Public Defender)
- Data center (for server equipment)
- IT services (data infrastructure and cabling)
- State Supreme Court Law Library
- Building lobbies (one for office building, one for court building) and Reception area
- Loading facilities
- Food service (for kiosk type food service vendors) and exterior courtyard
- Fitness center

The agencies will also likely discuss other services and contracts such as Internet, telephone, legal research, payroll and bill paying, procurement, human resource functions, etc. Given that the needs of the agencies differ, the State Court Administrator's Office will likely develop a pricing structure that allows each agency to pay for services based on usage (e.g., copy services). Confidentiality is an issue of major concern to all parties, and it will likely limit their ability to share services such as IT support.

**FY 2011-12 Joint Budget Committee Staff Budget Briefing
Judicial Department**

BRIEFING ISSUE

ISSUE: Rates Charged by District Attorneys for Duplicating Discoverable Materials

The State Court Administrator's Office and the Colorado District Attorneys' Council are in the process of responding to requests from the Joint Budget Committee to resolve disagreements concerning procedures and fees associated with duplicating discoverable materials.

SUMMARY:

- ❑ Colorado Supreme Court Rule 16 requires the prosecuting attorney to make available to the defense certain material and information which is within his or her control and to provide duplicates upon request. The State pays the costs of duplicating the discoverable material when legal representation is provided for an indigent defendant.
- ❑ It appears that there is a long history of disagreements between the State Public Defender and local District Attorneys concerning the procedures and fees associated with duplicating discoverable materials. Over the last two legislative sessions, the Joint Budget Committee has taken several actions to facilitate resolution of this issue.
- ❑ In response to Committee action, the State Court Administrator plans to propose a change to Rule 16 early next year clarifying what types of costs may be recovered by District Attorneys for duplicating discoverable materials.
- ❑ Members of the Colorado District Attorneys' Council (CDAC) have agreed to notify the defense of rate changes in a timely manner, whenever possible. Further, the CDAC has gathered input from the State Public Defender and the Alternate Defense Counsel and is working on identifying best practices and developing examples of invoices and rate change notification letters.

DISCUSSION:

Background Information - Rule 16

Colorado Supreme Court Rule 16 requires the prosecuting attorney to make available to the defense certain material and information which is within his or her possession or control¹, and to provide

¹ Rule 16 lists the following types of material and information that shall be provided: police reports; grand jury testimony transcripts; reports or statements of experts; documents, photographs or objects held as evidence; any record of prior criminal convictions of the accused; tapes and transcripts of any electronic surveillance; names and addresses of witnesses; and written or recorded statements of the

duplicates upon request. The prosecuting attorney is to make such materials and information available as soon as practicable, but not later than 30 days before trial. The rule indicates that when some parts of such material are discoverable and other parts are not, the non-discoverable parts may be excised and the remainder made available. With regard to the cost and location of discovery, the rule indicates the following:

"The cost of duplicating any material discoverable under this rule shall be borne by the party receiving the material, based on the actual cost of copying the same to the party furnishing the material. Copies of any discovery provided to a defendant by court appointed counsel shall be paid for by the defendant. The place of discovery and furnishing of materials shall be at the office of the party furnishing it, or at a mutually agreeable location." [Rule 16, Part V (c)]

Section 18-1-403, C.R.S., states that "all indigent persons who are charged with or held for the commission of a crime are entitled to legal representation and supporting services at state expense...". Thus, the costs of duplicating discoverable materials are paid by entities that provide legal representation for indigent defendants.

2009 State Public Defender Proposal

In 2009, as part of budget balancing discussions, the State Public Defender proposed a statutory change that would exempt legal counsel for indigent defendants and *pro se* defendants from paying District Attorneys (DAs) for the costs of duplicating discoverable material. At that time, the Office of the State Public Defender (OSPD) was paying approximately \$944,000 annually to district attorney offices for discovery, and the Office of the Alternate Defense Counsel (OADC) was paying approximately \$379,000 annually. If these offices were exempted from paying these costs, State expenditures would decrease accordingly.

In the 2009 session, staff did not recommend that the Committee introduce a bill as suggested by the State Public Defender due to two primary concerns:

- The proposal would reduce revenues to DAs without making a commensurate reduction in their workload. Given the proportion of defendants who are indigent and thus require state-funded legal representation, it does not appear to be feasible or fair to shift the costs of discovery to non-indigent clients. Specifically, data provided by the OSPD indicated that the OSPD is involved in about 53 percent of non-traffic criminal cases, 73 percent of felony cases, 35 percent of misdemeanor cases, and 68 percent of juvenile cases.
- Mandated costs, including the costs of duplicating discoverable materials, were previously included in a single line item appropriation to the Judicial Department. Each judge had the responsibility of approving costs incurred by each party in a case. It is staff's understanding that these costs are now reflected in separate line items for the purpose of transferring the

accused or of a codefendant.

responsibility for managing these costs to the entities responsible for incurring them. Staff agrees with this approach and believes that it serves to limit expenditures.

However, given the magnitude of state funds expended for duplicating discoverable materials, the rate of expenditure growth in recent years, and the variance in discovery costs charged by DAs, this issue clearly merited further analysis and attention.

2009 Request for Information

Based on discussions with various Judicial Branch staff, as well as the CDAC, staff recommended that this issue is best addressed internally by the Branch. Staff thus recommended that the Committee include the following request for information in its letter to the Chief Justice:

Judicial Department, Courts Administration -- The Department is requested to review and analyze the impact of Colorado Supreme Court Rule 16 on state expenditures, and to determine whether amendments to Rule 16 and/or statutory changes are warranted. Specifically, the Department is requested to collect and analyze data concerning rates currently charged to state agencies by each district attorney's office for duplicating discoverable material, the methodology used by each office to calculate these rates, as well as the timing and frequency of rate changes. The Department is requested to determine the following: (a) whether existing rates are consistent with Part V (c) of Rule 16 and appropriately reimburse district attorneys' duplication costs; and (b) whether the existing process of establishing these rates allows state agencies to effectively manage their resources. Finally, the Department is requested to provide a report to the Joint Budget Committee and to the House and Senate Judiciary Committees by November 1, 2009, summarizing its findings, including any recommended rule changes and/or statutory changes.

The Department submitted the requested report for its November 16, 2009 hearing. Based on information provided by the CDAC and the OSPD, the Department confirmed that rates vary from district to district. To some extent, this variation relates to differences in staffing costs and lease equipment costs. The report explained the reasons that DAs may change their rates at different points during the year. The report also acknowledged that rate changes that occur throughout the fiscal year can cause budget planning difficulties for those who pay the costs.

The report indicated that whether individual DAs base their fees on actual cost of copying is not known and it is believed that the Judicial Department lacks authority to make such a determination as part of this process. The report acknowledged that questions about what should be counted, whether a portion of the cost of converting materials to electronic format if it is the practice of the DA to convert all materials to an electronic format for internal use anyway, how to account for the costs of acquiring new technology, etc., are not easily addressed by the rule as currently written.

The report indicated that a clarification of the definition of “actual costs of copying” would provide additional guidance on how rates are to be set. The report indicated that the Department is willing to address this issue through a Chief Justice Directive or a request to the Supreme Court Criminal Rules Committee for modification of Rule 16.

December 2009 JBC Meeting with DA’s/ 2010 Actions

In December 2009, the Joint Budget Committee met with several DAs and their representatives to discuss Rule 16. Specifically, DAs were asked what they understand is meant by "actual costs of copying", and whether they would recommend any statutory or rule changes to clarify the rule. Based on the information provided by DAs at this meeting and discussions with interested parties, staff recommended the following next steps:

- *Clarification of “cost of duplicating” and “actual cost of copying” and rate methodology.* All of the parties who provided input to the Committee in late 2009 appear to agree that more guidance as to what types of costs Rule 16 intends to authorize DAs to recover would be helpful. Staff does not recommend that the Committee consider statutory changes to either establish a standard process for DAs to use in calculating reimbursement rates, or establishing rates or rate ceilings in statute. Discovery is governed by Supreme Court rule, and the clarification should be addressed through a rule change.

The State Court Administrator’s Office (SCAO) has agreed to make a recommendation to the Supreme Court Criminal Rules Committee to amend Rule 16 to clarify what the “cost of duplicating” and “actual cost of copying” discoverable materials mean. The SCAO also intends to update the rule to reflect technological and procedural changes that have occurred since the inception of Rule 16. Staff has suggested that the SCAO try to avoid proposing rule changes that would create unnecessary or unfair disincentives for DAs to invest in technology or make procedural changes that make the process of sharing discoverable materials more efficient for both the prosecution and the defense.

The SCAO indicates it will seek input from the OSPD, the OADC, and the CDAC prior to making its recommendation. In addition, through the rule making process, all of these groups, as well as DAs who are not members of the CDAC and the private defense bar will have an opportunity to provide input to the Rules Committee.

Please note, it is not clear what impact a rule change will have on the total state costs associated with duplicating discoverable materials. Given the significant disparity in existing rates, it is possible that such a clarification may cause some DAs to raise rates, and require others to reduce rates. However, staff believes that a consistent, defensible rate methodology is an appropriate goal. While it is possible that such a change would increase state expenditures in the short-term, it would provide more stability and predictability for both the prosecution and the defense.

- *Improving and Standardizing Invoicing and Rate Change Notification Processes.* The State Public Defender has raised three other issues that remain to be addressed. First, not all DAs submit invoices that clearly indicate the basis for the charge (i.e., the quantity and nature of the materials provided and the applicable rates). Second, not all DAs submit information about periodic rate changes that adequately describe the basis for the rates and the reason for the rate changes. Third, DAs currently change rates at various times throughout the year, making it difficult for state agencies to plan for and manage their appropriations.

The Judicial Department does not believe that it has the authority to set forth requirements for DAs, as part of the Executive Branch, that cover administrative issues such as those identified above. Not only are DAs part of the Executive Branch, they are also locally elected officials. Thus, it appears that there are two options: (1) Encourage the DAs to voluntarily address these issues, or (2) make statutory changes that address these issues.

Staff recommends encouraging voluntary action, and only considering statutory changes if DAs do not adequately address the issues. The CDAC is not a governing body, but it does exist to facilitate the exchange of information among DAs. The Executive Director of the CDAC has agreed to raise these issues with his board. Staff recommends that the Committee send a letter to the CDAC requesting that they address the following issues as soon as possible:

- Identify best practices and develop a standardized statement(s) for DAs to use in recovering costs from public agencies pursuant to Rule 16.
- Identify best practices and develop a standardized letter(s) for DAs to use when notifying state agencies and others when rates charged for duplicating discoverable materials change.
- Adopt a standard practice with respect to the timing of rate changes to ensure that state agencies have rate information in time to submit budget requests to the General Assembly. This practice should be designed to provide predictability and stability for both state agencies and DAs.

Finally, in order to keep the General Assembly apprised of rate changes imposed by DAs for the purpose of recovering costs pursuant to Rule 16, staff recommends that the Committee send a letter to the CDAC (and perhaps to DAs who are not members of the CDAC) requesting that each DA copy the Joint Budget Committee when it notifies a state agency about rate changes. The resulting letter from the Joint Budget Committee to Ted Tow is included in Appendix F.

Status Update

- *Proposed Changes to Rule 16.* The State Court Administrator's Office (SCAO) drafted a proposed rule change, and has sought input on the proposal from the OSPD, the OADC, and the Executive Director of the CDAC. The proposed change would specify the types of costs that may be included in the "actual costs of duplicating". The proposed change may also require the party furnishing the material to provide an itemization of the calculation of fees. The SCAO hopes that the Criminal Rules Committee will review the proposed change early next year and make a recommendation to the Supreme Court.
- *Improving and Standardizing Invoicing and Rate Change Notification Practices.* Ted Tow indicated that CDAC members have committed to announcing rate changes in a timely manner (i.e., nine months before the beginning of the next fiscal year - September 30). However, he acknowledged that there may be situations when a DA will need to change rates at another time to ensure that they can perform discovery duties. With respect to the other two requests in the JBC letter, the CDAC recently sought input from the OSPD concerning (a) the content of statements used in recovering discovery costs, and (b) the content of letters concerning rate changes. Staff also requested that the OADC provide input to the CDAC on these issues. Both the OSPD and the OADC have provided the CDAC with specific suggestions and examples of billing statements and rate change letters.
- *JBC Notification Regarding Rate Changes.* In June 2010, the Denver District Attorney's office sent a copy of a letter announcing rate changes effective July 1, 2010. The letter indicates that the price increases were necessitated by cost increases over the last seven years, as well as a recent change in the policy of the State Public Defender who will no longer provide staff to make their own copies. Staff has also learned that prices have increased in the 17th judicial district (Adams/Broomfield), also due to the recent change in the policy of the State Public Defender to no longer provide staff to make copies, and the District Attorney in the 21st judicial district (Mesa) is shifting to an electronic discovery system and has changed prices accordingly.

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	Actual	Actual	Appropriation	Request	Requests

JUDICIAL DEPARTMENT
Chief Justice Mary Mullarkey

(1) SUPREME COURT/COURT OF APPEALS

The primary functions of the Supreme Court include: general supervisory control of lower courts; appellate review of lower court judgements; original jurisdiction for certain constitutional and other cases; and rule-making for the state court system. The Court of Appeals is the initial jurisdiction for appeals from district courts and certain state agencies. Cash fund sources include the Judicial Stabilization Cash Fund and various fees and cost recoveries.

Appellate Court Programs	11,205,403	11,824,879	11,086,903	11,564,386	
FTE	<u>141.8</u>	<u>138.2</u>	<u>136.0</u>	<u>140.0</u>	
General Fund	10,150,428	10,748,628	10,035,031	10,232,616	
FTE	128.3	124.7	122.5	122.5	
Cash Funds	1,054,975	1,076,251	1,051,872	1,331,770	JUD DI #2
FTE	13.5	13.5	13.5	17.5	JUD DI #2
Capital Outlay	<u>213,640</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	0	0	0	0	
Cash Funds	213,640	0	0	0	
Attorney Regulation Committees - CF a/	5,527,576	6,077,482	6,000,000	6,000,000	
FTE b/	40.5	40.5	40.5	40.5	
Continuing Legal Education - CF a/	353,169	345,628	370,000	370,000	
FTE b/	4.0	4.0	4.0	4.0	
Law Examiner Board - CF a/	897,853	942,214	900,000	900,000	
FTE b/	8.2	8.2	8.2	8.2	
Law Library - CF a/	482,316	332,080	500,000	500,000	

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	Actual	Actual	Appropriation	Request	Requests
					<i>Request v. Approp.</i>
TOTAL - Supreme Court/ Court of Appeals	18,679,957	19,522,283	18,856,903	19,334,386	2.5%
FTE	<u>194.5</u>	<u>190.9</u>	<u>188.7</u>	<u>192.7</u>	<u>2.1%</u>
General Fund	10,150,428	10,748,628	10,035,031	10,232,616	2.0%
FTE	128.3	124.7	122.5	122.5	0.0%
Cash Funds	8,529,529	8,773,655	8,821,872	9,101,770	3.2%
FTE	66.2	66.2	66.2	70.2	6.0%

a/ These appropriations are included in the Long Bill for informational purposes as they are continuously appropriated under the Judicial Branch's constitutional authority.

b/ FTE figures for FY 2008-09 and 2009-10 reflect appropriated, rather than actual, levels.

(2) COURTS ADMINISTRATION

(A) Administration and Technology

This subdivision includes funding and staff associated with central administration of the State's judicial system, including budgeting, research, information technology systems and support, training, and technical assistance. Cash fund sources include the Judicial Department Information Technology Cash Fund and various fees and cost recoveries. Reappropriated funds include statewide and departmental indirect recoveries and funds transferred from other state agencies.

General Courts Administration	15,994,421	a/	16,411,860	
FTE	<u>188.5</u>	a/	<u>191.5</u>	
General Fund	12,630,747		12,245,699	JUD DI #1, 10
FTE	169.5		171.5	JUD DI #1
Cash Funds	1,825,845		1,920,628	
FTE	19.0		20.0	
Reappropriated Funds	1,537,829		2,245,533	

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	Actual	Actual	Appropriation	Request	Requests
Personal Services	5,025,436	8,613,288	b/ See above		
FTE	<u>59.4</u>	<u>104.4</u>	b/ line item		
General Fund	3,914,540	7,253,607			
FTE	59.4	104.4			
Cash Funds	0	43,445			
FTE	0.0	0.4			
Reappropriated Funds	1,110,896	1,316,236			
Operating Expenses	<u>370,918</u>	<u>523,398</u>	b/ See above		
General Fund	370,396	479,290	line item		
Cash Funds	522	44,108			
Capital Outlay - GF	6,220	0	0	0	
Information Technology Infrastructure	See Integrated	<u>2,961,486</u>	<u>4,269,146</u>	<u>4,642,845</u>	
General Fund	Information Svcs.	353,094	403,094	853,094	JUD DI #1
Cash Funds		2,608,392	3,866,052	3,789,751	
Statewide Indirect Cost Assessment	<u>124,593</u>	<u>62,984</u>	<u>117,200</u>	<u>143,284</u>	
Cash Funds	124,593	62,984	113,511	136,134	
Reappropriated Funds	0	0	0	3,976	
Federal Funds	0	0	3,689	3,174	
Departmental Indirect Cost Assessment - CF	986,303	1,242,659	1,253,437	1,907,327	
Judicial/Heritage Program	737,801	680,736	n/a		
FTE	<u>3.0</u>	<u>3.0</u>			
General Fund	504,903	503,260			
FTE	3.0	3.0			
Reappropriated Funds	232,898	177,476			

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	Actual	Actual	Appropriation	Request	Requests
Family Friendly Court Program - CF FTE	See Centrally Admin. Pgms.	See Centrally Admin. Pgms.			
Office of Judicial Performance Evaluation - CF FTE	See Centrally Admin. Pgms.	See Centrally Admin. Pgms.			
Courthouse Capital/ Infrastructure Maintenance General Fund Cash Funds	See Centrally Admin. Pgms.	See Centrally Admin. Pgms.			
Courthouse Security - CF FTE	See Centrally Admin. Pgms.	See Centrally Admin. Pgms.			
Family Violence Justice Grants General Fund Cash Funds	See Centrally Admin. Pgms.	See Centrally Admin. Pgms.			
					<i>Request v. Approp.</i>
SUBTOTAL - Administration and Technology ("Administration" prior to FY 2010-11)	7,251,271	14,084,551 b/	21,634,204 a/	23,105,316	6.8%
FTE	<u>62.4</u>	<u>107.4</u> b/	<u>188.5</u> a/	<u>191.5</u>	<u>1.6%</u>
General Fund	4,796,059	8,589,251	13,033,841	13,098,793	0.5%
FTE	62.4	107.4	169.5	171.5	1.2%
Cash Funds	1,111,418	4,001,588	7,058,845	7,753,840	9.8%
FTE	0.0	0.0	19.0	20.0	5.3%
Reappropriated Funds	1,343,794	1,493,712	1,537,829	2,249,509	46.3%
Federal Funds	0	0	3,689	3,174	-14.0%

a/ Beginning in FY 2010-11, this subsection reflects the transfer of funding associated with 127.4 FTE previously included in other Long Bill sections, including: 57.9 FTE transferred from the Integrated Information Services subsection, 44.5 FTE transferred from the Trial Courts section, and 25.0 FTE transferred from the Probation and Related Services section.

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	Actual	Actual	Appropriation	Request	Requests

b/ Actual expenditures include those associated with Personal Services and Operating Expenses line items in "Integrated Information Services" subsection.

(B) Central Appropriations

This subdivision includes centrally appropriated line items (which generally exclude funding associated with the three independent agencies). Cash fund sources include the Judicial Stabilization Cash Fund, the State Commission on Judicial Performance Cash Fund, the Offender Services Fund, the Judicial Department Information Technology Cash Fund, the Fines Collection Cash Fund, the Drug Offender Surcharge Fund, and the Alcohol and Drug Driving Safety Program Fund, and employee parking fees.

Health, Life, and Dental	<u>16,106,295</u>	<u>16,393,757</u>	<u>18,096,023</u>	<u>19,474,768</u>	
General Fund	13,905,933	16,077,590	16,365,672	17,049,433	
Cash Funds	2,200,362	316,167	1,730,351	2,425,335	JUD DI #2, 5
Short-term Disability	<u>200,386</u>	<u>203,044</u>	<u>302,799</u>	<u>344,697</u>	
General Fund	166,112	192,515	264,809	282,272	
Cash Funds	34,274	10,529	37,990	62,425	JUD DI #2, 5
S.B. 04-257 Amortization Equalization Disbursement	<u>3,014,203</u>	<u>3,464,910</u>	<u>4,631,574</u>	<u>5,622,027</u>	
General Fund	2,592,370	3,458,308	4,043,325	4,593,835	
Cash Funds	421,833	6,602	588,249	1,028,192	JUD DI #2, 5
S.B. 06-235 Supplemental Amortization Equalization Disbursement	<u>1,369,816</u>	<u>2,218,565</u>	<u>3,347,529</u>	<u>4,492,992</u>	
General Fund	1,172,082	2,124,448	2,918,597	3,666,766	
Cash Funds	197,734	94,117	428,932	826,226	JUD DI #2, 5
Salary Survey	<u>10,285,486</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	9,410,617	0	0	0	
Cash Funds	874,869	0	0	0	

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	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	Change
	Actual	Actual	Appropriation	Request	Requests
Anniversary Increases	<u>2,052,664</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	1,828,268	0	0	0	
Cash Funds	224,396	0	0	0	
Workers' Compensation - GF	2,071,929	1,623,687	1,647,138	2,030,749	
Legal Services - GF	207,517	157,590	220,110	220,110	
Hours	2,763.2	2,090.6	3,000.0	3,000.0	
Purchase of Services from Computer Center - GF	268,774	256,998	295,960	373,421	
Multiuse Network Payments - GF	334,800	334,800	270,664	411,121	
Payment to Risk Management and Property Funds - GF	341,001	214,188	65,718	294,450	
Vehicle Lease Payments - GF	43,428	55,025 a/	56,105	56,345	
Leased Space	<u>843,850</u>	<u>1,207,774</u>	<u>1,255,283</u>	<u>1,285,765</u>	
General Fund	809,675 b/	1,083,763 c/	1,083,803	1,114,285	
Cash Funds	34,175	124,011	171,480	171,480	
Communication Services Payments - GF	10,938	10,938	11,377	11,599	
Lease Purchase - GF	119,878	119,878	119,878	119,878	
Administrative Purposes	<u>163,081</u>	<u>131,913</u>	Transferred to		
General Fund	120,515	106,614	General Courts		
Cash Funds	42,566	25,299	Admin. line item		
Appellate Reports Publication - GF	46,899 d/	55,822 e/	See Appellate Court Pgms.		

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	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	Change
	Actual	Actual	Appropriation	Request	Requests
Retired Judges - GF	See Centrally Admin. Pgms.	See Centrally Admin. Pgms.			
Child Support Enforcement FTE General Fund Reappropriated Funds FTE	See Centrally Admin. Pgms.	See Centrally Admin. Pgms.			
Collections Investigators FTE General Fund Cash Funds FTE Reappropriated Funds	See Centrally Admin. Pgms.	See Centrally Admin. Pgms.			
					<i>Request v. Approp.</i>
SUBTOTAL - Central Appropriations ("Special Purpose" Prior to FY 2010-11)	<u>37,480,945</u>	<u>26,448,889</u>	<u>30,320,158</u>	<u>34,737,922</u>	<u>14.6%</u>
General Fund	33,450,736	25,872,164	27,363,156	30,224,264	10.5%
Cash Funds	4,030,209	576,725	2,957,002	4,513,658	52.6%

a/ Includes \$14 transferred from Legal Services line item.

b/ Includes \$20,566 transferred in from various other line item appropriations.

c/ Includes \$115,729 transferred in from various other line item appropriations.

d/ Includes \$9,800 transferred in from various other line item appropriations.

e/ Includes \$18,722 transferred from various other line item appropriations.

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	Actual	Actual	Appropriation	Request	Requests
(C) Centrally Administered Programs					
This subdivision includes funding and staff associated with specific functions, grant programs, and distributions that are administered by the State Court Administrator's Office. Cash fund sources include the Victims and Witnesses and Law Enforcement Fund, the Crime Victim Compensation Fund, the Judicial Collections Enhancement Fund, the Fines Collection Cash Fund, the Judicial Stabilization Cash Fund, the Court Security Cash Fund, the State Commission on Judicial Performance Cash Fund, the Family Violence Justice Fund, the Family-friendly Court Program Cash Fund, and various fees, cost recoveries, and grants. Reappropriated funds include Victims and Witnesses Assistance and Law Enforcement funds transferred from the Trial Courts section, and federal funds transferred from the Department of Human Services.					
Victim Assistance - CF a/	15,872,570	16,373,571	15,095,039	15,095,039	
Victim Compensation - CF a/	11,538,703	12,175,283	12,120,121	12,120,121	
Collections Investigators	4,611,106	5,081,134	5,084,959	5,171,486	
FTE	<u>72.1</u>	<u>71.3</u>	<u>83.2</u>	<u>83.2</u>	
General Fund	0	0	0	0	
Cash Funds	3,886,663	4,267,516	4,187,418	4,273,945	
FTE	72.1	71.3	83.2	83.2	
Reappropriated Funds	724,443	813,618	897,541	897,541	
Problem-solving Courts		1,375,160	b/ 3,501,688	2,724,881	
FTE		<u>18.3</u>	b/ <u>32.2</u>	<u>39.2</u>	
Cash Funds		926,231	1,115,635	2,609,881	JUD DI #5
FTE		13.6	17.2	39.2	JUD DI #5
Federal Funds		448,929	2,386,053 c/	115,000 c/	JUD DI #5
FTE		4.7	15.0	0.0	JUD DI #5
Language Interpreters	3,390,105	3,174,489	3,428,312	3,928,163	
FTE	<u>22.3</u>	<u>19.9</u>	<u>25.0</u>	<u>25.0</u>	
General Fund	3,343,467	3,146,340	3,378,312	3,878,163	JUD DI #3
FTE	22.3	19.9	25.0	25.0	
Cash Funds	46,638	28,149	50,000	50,000	

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	Actual	Actual	Appropriation	Request	Requests
Courthouse Security - CF	1,813,352	2,778,305	3,869,622	3,864,989	
FTE	1.0	1.0	1.0	1.0	
Courthouse Capital/ Infrastructure Maintenance	<u>1,000,000</u>	<u>3,064,041</u>	<u>2,880,791</u>	<u>535,026</u>	
General Fund	1,000,000	0	80,791	0	
Cash Funds	0	3,064,041	2,800,000	535,026	JUD DI #1, 2, 4
Senior Judge Program - GF	1,917,486 d/	1,943,200 e/	1,894,006	1,635,326	JUD DI #9
Office of Judicial Performance Evaluation - CF	809,712	646,686	887,112	920,635	
FTE	1.7	1.6	2.0	2.0	
Family Violence Justice Grants	<u>746,640</u>	<u>860,912</u>	<u>893,430</u>	<u>893,430</u>	
General Fund	746,640	750,000	750,000	750,000	
Cash Funds	0	110,912	143,430	143,430	
Family Friendly Court Program - CF	339,806	319,252	375,000	375,000	
FTE	0.5	0.5	0.5	0.5	
Child Support Enforcement	74,703	73,333	88,864	90,730	
FTE	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	
General Fund	25,321	24,923	30,212	30,846	
Reappropriated Funds	49,382	48,410	58,652	59,884	
FTE	1.0	1.0	1.0	1.0	

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	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	Change
	Actual	Actual	Appropriation	Request	Requests
					<i>Request v. Approp.</i>
SUBTOTAL - Centrally Administered Programs	42,114,183	47,865,366	50,118,944	47,354,826	-5.5%
FTE	<u>98.6</u>	<u>113.6</u>	<u>144.9</u>	<u>151.9</u>	<u>4.8%</u>
General Fund	7,032,914	5,864,463	6,133,321	6,294,335	2.6%
FTE	22.3	19.9	25.0	25.0	0.0%
Cash Funds	34,307,444	40,689,946	40,643,377	39,988,066	-1.6%
FTE	75.3	88.0	103.9	125.9	21.2%
Reappropriated Funds	773,825	862,028	956,193	957,425	0.1%
FTE	1.0	1.0	1.0	1.0	0.0%
Federal Funds	0	448,929	2,386,053	115,000	-95.2%
FTE	0.0	4.7	15.0	0.0	-100.0%

a/ These appropriations are included in the Long Bill for informational purposes as they are continuously appropriated under the Judicial Branch's constitutional authority.

b/ Reflects expenditures related to Problem-solving Courts. However, please note that the funds and staff were actually appropriated as part of the Trial Courts Program line item in FY 2009-10.

c/ On November 3, 2010, the Department learned that the federal Byrne grant period has been extended through June 30, 2012. Based on this extension, the Department now estimates grant expenditures of \$1,155,000 in FY 2010-11 and \$782,124 in FY 2011-12. This expenditure pattern would reduce the cash funds required in FY 2011-12 to \$1,067,806.

d/ Includes \$23,656 transferred in from various other line item appropriations.

e/ Includes \$49,194 transferred in from various other line item appropriations.

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	Actual	Actual	Appropriation	Request	Requests

(C) Integrated Information Services

Prior to FY 2010-11, this subdivision provided funding to develop and maintain information technology systems used by the courts, provided associated staff training, and assure data integrity. Cash fund sources included various fees and other cost recoveries. Reappropriated funds were federal funds transferred from the Department of Public Safety.

Personal Services	3,224,060	See "General	See "General		
FTE	<u>43.4</u>	Courts Admin." in	Courts Admin." in		
General Fund	3,187,012	Admin. and Tech.	Admin. and Tech.		
FTE	43.4				
Cash Funds	37,048				
FTE	0.0				
Reappropriated Funds	0				
Operating Expenses	<u>327,888</u>	<u>See Admin. & Tech.:</u>	<u>See Admin. & Tech.:</u>		
General Fund	177,888	" Gen. Cts. Admin."	" Gen. Cts. Admin."		
Cash Funds	150,000	"IT Infrastructure"	"IT Infrastructure"		
JAVA Conversion - GF	311,054		0		
FTE	5.0		0.0		
Capital Outlay	<u>2,765</u>		<u>0</u>		
General Fund	2,765		0		
Cash Funds	0		0		
Purchase of Services from Computer Center - GF	See Admin. and Tech.	See Admin. and Tech.	See Admin. and Tech.		
Multiuse Network Payments - GF	See Admin. and Tech.	See Admin. and Tech.	See Admin. and Tech.		
Communication Services Payments - GF	See Admin. and Tech.	See Admin. and Tech.	See Admin. and Tech.		

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	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	Change
	Actual	Actual	Appropriation	Request	Requests
Information Technology Infrastructure		See Admin. and Tech.	See Admin. and Tech.		
General Fund					
Cash Funds					
Telecommunications Expenses	<u>525,527</u>	See "IT			
General Fund	310,000	Infrastructure" in			
Cash Funds	215,527	Admin. and Tech.			
Hardware Replacement	<u>2,580,776</u>	See "IT			
General Fund	0	Infrastructure" in			
Cash Funds	2,580,776	Admin. and Tech.			
Hardware/Software Maintenance	<u>1,178,094</u>	See "IT			
General Fund	1,043,094	Infrastructure" in			
Cash Funds	135,000	Admin. and Tech.			
SUBTOTAL - Integrated Information Services	8,161,102	0	n/a	n/a	
FTE	<u>48.4</u>	<u>0.0</u>			
General Fund	5,042,751	0			
FTE	48.4	0.0			
Cash Funds	3,118,351	0			
FTE	0.0	0.0			
Reappropriated Funds	0	0			

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	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	Change
	Actual	Actual	Appropriation	Request	Requests
					<i>Request v. Approp.</i>
TOTAL - Courts Administration	95,007,501	88,398,806	102,073,306 a/	105,198,064	3.1%
FTE	<u>209.4</u>	<u>221.0</u>	<u>333.4</u> a/	<u>343.4</u>	<u>3.0%</u>
General Fund	50,322,460	40,325,878	46,530,318	49,617,392	6.6%
FTE	133.1	127.3	194.5	196.5	1.0%
Cash Funds	42,567,422	45,268,259	50,659,224	52,255,564	3.2%
FTE	75.3	88.0	122.9	145.9	18.7%
Reappropriated Funds	2,117,619	2,355,740	2,494,022	3,206,934	28.6%
FTE	1.0	1.0	1.0	1.0	0.0%
Federal Funds	0	448,929	2,389,742	118,174	-95.1%
FTE	0.0	4.7	15.0	0.0	-100.0%

a/ Beginning in FY 2010-11, this section reflects the transfer of funding associated with 69.5 FTE previously included in other Long Bill sections, including: 44.5 FTE transferred from the Trial Courts section, and 25.0 FTE transferred from the Probation and Related Services section.

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	FY 2008-09	FY 2009-10	FY 2010-11	<u>FY 2011-12</u>	Change
	Actual	Actual	Appropriation	Request	Requests

(3) TRIAL COURTS

Trial courts consist of district courts in 22 judicial districts, water courts, and county courts. *District courts:* preside over felony criminal matters, civil claims, juvenile matters, probate, mental health, and divorce proceedings; handle appeals from municipal and county courts; and review decisions of administrative boards and agencies. *Water courts* have exclusive jurisdiction over cases involving the determination of water rights and the use and administration of water. *County courts:* handle civil actions involving no more than \$15,000, misdemeanor cases, civil and criminal traffic infractions, and felony complaints; issue search warrants and protection orders in cases involving domestic violence; and hear municipal court appeals. Cash fund sources include the Judicial Stabilization Cash Fund, various court fees and cost recoveries, and the sale of jury pattern instructions. Reappropriated funds reflect federal funds transferred from the Departments of Public Safety and Human Services.

Trial Court Programs	115,637,931	114,457,217 a/	115,739,757 b/	123,046,134	
FTE	<u>1,751.1</u>	<u>1,671.0</u> a/	<u>1,711.5</u> b/	<u>1,804.5</u>	
General Fund	93,620,721	93,400,654	90,752,552	92,184,678	JUD DI #1
FTE	1,619.2	1,407.5	1,441.6	1,441.6	
Cash Funds	22,017,210	20,020,057	24,022,205	29,761,456	JUD DI #1, 2
FTE	131.9	263.5	269.9	362.9	JUD DI #2
Reappropriated Funds	0	1,036,506	965,000	1,100,000	
Capital Outlay	<u>1,450,806</u>	<u>1,015,079</u>	<u>0</u>	<u>0</u>	
General Fund	0	0	0	0	
Cash Funds	1,450,806	1,015,079	0	0	
Court Costs, Jury Costs, and Court-appointed Counsel	<u>15,331,788</u>	<u>15,841,967</u>	<u>15,594,352</u>	<u>15,594,352</u>	
General Fund	15,124,817 c/	15,649,308 d/	15,109,352	15,109,352	
Cash Funds	206,971	192,659	485,000	485,000	
District Attorney Mandated Costs	<u>2,188,785</u>	<u>2,226,050</u>	<u>2,130,324</u>	<u>2,220,863</u>	
General Fund	2,063,785	2,101,050	2,005,324	2,095,863	
Cash Funds	125,000	125,000	125,000	125,000	

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	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	Change
	Actual	Actual	Appropriation	Request	Requests
Federal Funds and Other Grants	1,602,789	1,337,344	2,900,000	2,900,000	
FTE e/	<u>8.5</u>	<u>14.0</u>	<u>14.0</u>	<u>14.0</u>	
Cash Funds	305,991	254,272	975,000	975,000	
FTE e/	0.0	3.0	3.0	3.0	
Reappropriated Funds	133,012	48,385	300,000	300,000	
FTE e/	6.0	6.0	6.0	6.0	
Federal Funds	1,163,786	1,034,687	1,625,000	1,625,000	
FTE e/	2.5	5.0	5.0	5.0	
Language Interpreters	See Centrally	See Centrally			
FTE	Admin. Pgms.	Admin. Pgms.			
General Fund					
FTE					
Cash Funds					
Victim Compensation - CF	See Centrally	See Centrally			
	Admin. Pgms.	Admin. Pgms.			
Victim Assistance - CF	See Centrally	See Centrally			
	Admin. Pgms.	Admin. Pgms.			
					<i>Request v. Approp.</i>
TOTAL - Trial Courts	136,212,099	134,877,657	136,364,433	b/ 143,761,349	5.4%
FTE	<u>1,759.6</u>	<u>1,685.0</u>	<u>1,725.5</u>	b/ <u>1,818.5</u>	<u>5.4%</u>
General Fund	110,809,323	111,151,012	107,867,228	109,389,893	1.4%
FTE	1,619.2	1,407.5	1,441.6	1,441.6	0.0%
Cash Funds	24,105,978	21,607,067	25,607,205	31,346,456	22.4%
FTE	131.9	266.5	272.9	365.9	34.1%
Reappropriated Funds	133,012	1,084,891	1,265,000	1,400,000	10.7%
FTE	6.0	6.0	6.0	6.0	0.0%
Federal Funds	1,163,786	1,034,687	1,625,000	1,625,000	0.0%
FTE	2.5	5.0	5.0	5.0	0.0%

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	FY 2008-09	FY 2009-10	FY 2010-11	<u>FY 2011-12</u>	Change
	Actual	Actual	Appropriation	Request	Requests

a/ Excludes expenditures and staff related to Problem-solving Courts, which are instead reflected in the Centrally Administered Programs subsection.

b/ Beginning in FY 2010-11, this section reflects the transfer of funding associated with 44.5 FTE that are now included in the Courts Administration, Administration and Technology subsection of the Long Bill.

c/ Includes \$315,480 transferred in from various other line item appropriations.

d/ Includes \$366,955 transferred in from other various line item appropriations.

e/ FTE figures for FY 2008-09 and 2009-10 reflect appropriated, rather than actual, levels.

(4) PROBATION AND RELATED SERVICES

This division provides supervision of offenders sentenced to probation, presentence investigations for the courts, victim notification and assistance, and community outreach programs. Cash funds are from fees paid by offenders for supervision and restitution, and various cost recoveries. Reappropriated funds include Victims and Witnesses Assistance and Law Enforcement funds transferred from the Trial Courts division, and funds transferred from other departments.

Probation Programs			73,316,202	a/ 74,891,474	
FTE			<u>1,131.9</u>	a/ <u>1,131.9</u>	
General Fund			62,864,697	64,247,435	JUD DI #8
FTE			978.0	978.0	JUD DI #8
Cash Funds			10,451,505	10,644,039	JUD DI #8
FTE			153.9	153.9	
Personal Services	68,108,725	68,661,106	See above		
FTE	<u>1,081.2</u>	<u>1,038.6</u>	line item		
General Fund	58,805,464	59,025,104			
FTE	927.3	884.7			
Cash Funds	9,303,261	9,636,002			
FTE	153.9	153.9			
Operating Expenses	<u>2,589,368</u>	<u>2,398,304</u>	See above		
General Fund	2,262,118	1,988,697	line item		
Cash Funds	327,250	409,607			

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	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	Change
	Actual	Actual	Appropriation	Request	Requests
Capital Outlay - GF	168,604	0	0	0	
Offender Treatment and Services	<u>6,750,220</u>	<u>8,658,982</u>	<u>11,181,773</u>	<u>18,496,211</u>	
General Fund	0	0	0	0	
Cash Funds	6,697,671	8,473,958	10,869,040	18,183,478	JUD DI #6
Reappropriated Funds	52,549	185,024	312,733	312,733	
S.B. 03-318 Community Treatment Funding	<u>2,200,000</u>	<u>2,200,000</u>	<u>2,200,000</u>	<u>2,700,000</u>	
General Fund	2,200,000	2,200,000	2,200,000	2,200,000	
Cash Funds	0	0	0	500,000	JUD DI #7
H.B. 10-1352 Appropriation to Drug Offender Surcharge Fund - GF	n/a	n/a	1,468,196	6,156,118	
S.B. 91-94 Juvenile Services - RF	1,629,184	1,633,255	1,906,837	1,906,837	
FTE	25.0	16.6	25.0	25.0	
Day Reporting Services - GF	n/a	186,067	393,078	393,078	
Victims Grants - RF	433,029	431,481	650,000	650,000	
FTE b/	17.3	6.0	6.0	6.0	
Federal Funds and Other Grants	3,529,754	4,460,495	5,600,000	5,600,000	
FTE b/	<u>32.3</u>	<u>33.0</u>	<u>33.0</u>	<u>33.0</u>	
Cash Funds	1,011,041	1,094,693	1,950,000	1,950,000	
FTE b/	2.0	2.0	2.0	2.0	
Reappropriated Funds	822,563	773,008	850,000	850,000	
FTE b/	17.8	18.0	18.0	18.0	
Federal Funds	1,696,150	2,592,794	2,800,000	2,800,000	
FTE b/	12.5	13.0	13.0	13.0	

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	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	Change
	Actual	Actual	Appropriation	Request	Requests
					<i>Request v. Approp.</i>
TOTAL - Probation and Related Services	85,408,884	88,629,690	96,716,086 a/	110,793,718	14.6%
FTE	<u>1,155.8</u>	<u>1,094.2</u>	<u>1,195.9</u> a/	<u>1,195.9</u>	0.0%
General Fund	63,436,186	63,399,868	66,925,971	72,996,631	9.1%
FTE	927.3	884.7	978.0	978.0	0.0%
Cash Funds	17,339,223	19,614,260	23,270,545	31,277,517	34.4%
FTE	155.9	155.9	155.9	155.9	0.0%
Reappropriated Funds	2,937,325	3,022,768	3,719,570	3,719,570	0.0%
FTE	60.1	40.6	49.0	49.0	0.0%
Federal Funds	1,696,150	2,592,794	2,800,000	2,800,000	0.0%
FTE	12.5	13.0	13.0	13.0	0.0%

a/ Beginning in FY 2010-11, this section reflects the transfer of funding associated with 25.0 FTE that are now included in the Courts Administration, Administration and Technology subsection of the Long Bill.

b/ FTE figures for FY 2008-09 and 2009-10 reflected appropriated, rather than actual, levels.

	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	Change
	Actual	Actual	Appropriation	Request	Requests
					<i>Request v. Approp.</i>
TOTAL - Judicial Department	335,308,441	331,428,436	354,010,728	379,087,517	7.1%
FTE	<u>3,319.3</u>	<u>3,191.1</u>	<u>3,443.5</u>	<u>3,550.5</u>	3.1%
General Fund	234,718,397	225,625,386	231,358,548	242,236,532	4.7%
FTE	2,807.9	2,544.2	2,736.6	2,738.6	0.1%
Cash Funds	92,542,152	95,263,241	108,358,846	123,981,307	14.4%
FTE	429.3	576.6	617.9	737.9	19.4%
Reappropriated Funds	5,187,956	6,463,399	7,478,592	8,326,504	11.3%
FTE	67.1	47.6	56.0	56.0	0.0%
Federal Funds	2,859,936	4,076,410	6,814,742	4,543,174	-33.3%
FTE	15.0	22.7	33.0	18.0	-100.0%

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	Actual	Actual	Appropriation	Request	Requests

(5) PUBLIC DEFENDER

Douglas Wilson, State Public Defender

This agency provides legal counsel for indigent defendants in criminal and juvenile delinquency cases where there is a possibility of being jailed or imprisoned. Cash funds consist of training fees paid by private attorneys, grants, and funds received from the City of Denver for contract services related to its drug court. Reappropriated funds are federal funds transferred from the Department of Public Safety.

Personal Services	35,641,348	37,852,827	40,036,495	42,353,834	
FTE	<u>510.3</u>	<u>518.4</u>	<u>602.5</u>	<u>650.3</u>	
General Fund	35,416,348	37,852,827	40,036,495	42,353,834	
FTE	506.3	518.4	602.5	650.3	
Cash Funds	225,000	0	0	0	
FTE	4.0	0.0	0.0	0.0	
 Health, Life, and Dental - GF	 2,642,260	 3,056,218	 4,046,851	 4,589,644	
 Short-term Disability	 <u>40,831</u>	 <u>50,852</u>	 <u>57,220</u>	 <u>65,996</u>	
General Fund	40,814	50,852	57,220	65,996	
Cash Funds	17	0	0	0	
 S.B. 04-257 Amortization Equalization Disbursement	 <u>492,072</u>	 <u>650,696</u>	 <u>873,686</u>	 <u>1,074,511</u>	
General Fund	491,865	650,696	873,686	1,074,511	
Cash Funds	207	0	0	0	
 S.B. 06-235 Supplemental Amortization Equalization					
Disbursement	<u>222,483</u>	<u>371,880</u>	<u>630,654</u>	<u>857,876</u>	
General Fund	222,386	371,880	630,654	857,876	
Cash Funds	97	0	0	0	
 Salary Survey	 <u>1,342,685</u>	 <u>0</u>	 <u>0</u>	 <u>0</u>	
General Fund	1,331,059	0	0	0	
Cash Funds	11,626	0	0	0	

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	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	Change
	Actual	Actual	Appropriation	Request	Requests
Anniversary Increases	<u>477,544</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	473,418	0	0	0	
Cash Funds	4,126	0	0	0	
Operating Expenses	<u>1,169,809</u>	<u>988,518</u>	<u>1,146,981</u>	<u>1,369,157</u>	
General Fund	1,152,309	966,968	1,116,981	1,339,157	
Cash Funds	17,500	21,550	30,000	30,000	
Purchase of Services from Computer Center - GF	19,579	19,579	See Cts. Admin, Admin. & Tech.	See Cts. Admin, Admin. & Tech.	
Vehicle Lease Payments - GF	47,764	50,688	52,067	61,948	
Capital Outlay - GF	62,760	100,000	233,910	164,605	
Leased Space/Utilities - GF	4,105,017	4,490,715	5,755,388	6,061,372	
Automation Plan - GF	1,084,390	1,097,199 a/	673,335	894,768	
Contract Services - GF	18,000	18,000	18,000	18,000	
Mandated Costs - GF	2,954,166	3,092,601	3,466,792	3,649,464	
Grants	40,647	88,729	120,000	120,000	
FTE	<u>0.0</u>	<u>2.0</u>	<u>2.0</u>	<u>2.0</u>	
Cash Funds	0	81,558	120,000	120,000	
FTE	0.0	1.0	2.0	2.0	
Reappropriated Funds	40,647	7,171	0	0	
FTE	0.0	1.0	0.0	0.0	

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	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	Change
	Actual	Actual	Appropriation	Request	Requests
					<i>Request v. Approp.</i>
TOTAL - Public Defender	50,361,355	51,928,502	57,111,379	61,281,175	7.3%
FTE	<u>510.3</u>	<u>520.4</u>	<u>604.5</u>	<u>652.3</u>	<u>7.9%</u>
General Fund	50,062,135	51,818,223	56,961,379	61,131,175	7.3%
FTE	506.3	518.4	602.5	650.3	7.9%
Cash Funds	258,573	103,108	150,000	150,000	0.0%
FTE	4.0	1.0	2.0	2.0	0.0%
Reappropriated Funds	40,647	7,171	0	0	n/a
FTE	0.0	1.0	0.0	0.0	n/a

a/ Includes \$414,029 transferred in from various other line item appropriations.

(6) ALTERNATE DEFENSE COUNSEL

Lindy Frolich, State Alternate Defense Counsel

This agency provides legal representation for indigent defendants in cases where the Public Defender is precluded from doing so because of an ethical conflict of interest. Cash funds are received from private attorneys and investigators for training.

Personal Services - GF	659,819	704,510	690,704	704,807
FTE	7.5	7.5	7.5	7.5
Health, Life, and Dental - GF	47,420	65,348	72,424	73,457
Short-term Disability - GF	789	941	954	1,046
S.B. 04-257 Amortization Equalization Disbursement - GF	9,233	11,523	14,564	17,026
S.B. 06-235 Supplemental Amortization Equalization Disbursement - GF	4,197	7,080	10,513	13,590
Salary Survey - GF	29,321	0	0	0

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	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	Change
	Actual	Actual	Appropriation	Request	Requests
Performance-based Pay Awards - GF	7,323	0	0	0	
Operating Expenses	<u>65,840</u>	<u>65,619</u>	<u>67,030</u>	<u>67,030</u>	
General Fund	65,840	65,619	67,030	67,030	
Cash Funds	0	0	0	0	
Capital Outlay - GF	3,455	0	0	0	
Purchase of Services from Computer Center - GF	1,203	1,203	See Cts. Admin, Admin. & Tech.	See Cts. Admin, Admin. & Tech.	
Leased Space - GF	38,351	32,022	39,999	40,544	
Training and Conferences	<u>28,000</u>	<u>40,000</u>	<u>40,000</u>	<u>40,000</u>	
General Fund	20,000	20,000	20,000	20,000	
Cash Funds	8,000	20,000	20,000	20,000	
Conflict of Interest Contracts - GF	20,692,161	20,760,634	21,956,638	21,499,144	ADC DI #1
Mandated Costs - GF	1,589,848	1,513,582	1,663,839	1,663,839	<i>Request v. Approp.</i>
TOTAL - Alternate Defense Counsel	23,176,960	23,202,462	24,556,665	24,120,483	-1.8%
FTE	<u>7.5</u>	<u>7.5</u>	<u>7.5</u>	<u>7.5</u>	0.0%
General Fund	23,168,960	23,182,462	24,536,665	24,100,483	-1.8%
FTE	7.5	7.5	7.5	7.5	0.0%
Cash Funds	8,000	20,000	20,000	20,000	0.0%

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	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	Change
	Actual	Actual	Appropriation	Request	Requests

(7) OFFICE OF THE CHILD'S REPRESENTATIVE

Linda Weinerman, Executive Director

This agency provides legal representation for children involved in the court system due to abuse or neglect, delinquency, truancy, high conflict divorce, alcohol or drug abuse, mental health issues, and probate matters.

Personal Services - GF	1,666,918	1,865,701	1,895,244	1,935,054	
FTE	26.8	26.8	26.9	26.9	
Health, Life, and Dental - GF	129,824	139,235	165,272	167,808	
Short-term Disability - GF	2,017	2,512	2,653	2,953	
S.B. 04-257 Amortization Equalization Disbursement - GF	23,983	31,595	40,505	48,060	
S.B. 06-235 Supplemental Amortization Equalization Disbursement - GF	10,889	19,384	29,238	38,362	
Salary Survey - GF	87,642	0	0	0	
Anniversary Increases - GF	26,554	0	0	0	
Operating Expenses - GF	197,235	172,112	159,929	159,929	
Capital Outlay - GF	3,280	3,517	0	0	
Purchase of Services from Computer Center - GF	1,553	1,553	See Cts. Admin, Admin. & Tech.	See Cts. Admin, Admin. & Tech.	
Leased Space - GF	162,758	144,178	145,443	150,380	

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	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	Change
	Actual	Actual	Appropriation	Request	Requests
CASA Contracts - GF	520,000	520,000	520,000	520,000	
Training - GF	32,519	36,999	38,000	38,000	
Court Appointed Counsel - GF	15,725,982 a/	15,853,321	16,273,656	16,531,560	OCR DI #1
Mandated Costs - GF	34,437	39,717	26,228	26,228	
					<i>Request v. Approp.</i>
TOTAL - Office of the Child's Representative - GF	18,625,591	18,829,824	19,296,168	19,618,334	1.7%
FTE	26.8	26.8	26.9	26.9	0.0%

a/ Includes over expenditure of \$118,685.

(8) INDEPENDENT ETHICS COMMISSION

Jane Feldman, Executive Director

Established through a 2006 constitutional amendment, the Commission is charged with hearing complaints, issuing findings, assessing penalties, and issuing advisory opinions on ethics issues that arise concerning public officers, members of the General Assembly, local government officials, or government employees.

Personal Services - GF a/ FTE	Included in Dept. of Personnel and Administration	175,799 2.0	203,224 2.0	IEC DI #1
Health, Life, and Dental - GF a/		4,437	4,437	
Short-term Disability - GF a/		250	310	
S.B. 04-257 Amortization Equalization Disbursement - GF a/		3,867	5,099	
S.B. 06-235 Supplemental Amortization Equalization Disbursement - GF a/		2,820	4,098	

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	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	Change
	Actual	Actual	Appropriation	Request	Requests
Operating Expenses - GF a/			15,807	15,807	
Legal Services - GF a/ Hours			67,842 900.0	67,842 900.0	
					<i>Request v. Approp.</i>
TOTAL - Independent Ethics Commission - GF			270,822	300,817	11.1%
FTE			2.0	2.0	0.0%

a/ Please note that the FY 2010-11 appropriation was provided in a lump sum; amounts are shown by line item, above, for informational purposes.

					<i>Request v. Approp.</i>
JUDICIAL GRAND TOTAL	427,472,347	425,389,224	455,245,762	484,408,326	6.4%
FTE	<u>3,863.9</u>	<u>3,745.8</u>	<u>4,084.4</u>	<u>4,239.2</u>	<u>3.8%</u>
General Fund	326,575,083	319,455,895	332,423,582	347,387,341	4.5%
FTE	3,348.5	3,096.9	3,375.5	3,425.3	1.5%
Cash Funds	92,808,725	95,386,349	108,528,846	124,151,307	14.4%
FTE	433.3	577.6	619.9	739.9	19.4%
Reappropriated Funds	5,228,603	6,470,570	7,478,592	8,326,504	11.3%
FTE	67.1	48.6	56.0	56.0	0.0%
Federal Funds	2,859,936	4,076,410	6,814,742	4,543,174	-33.3%
FTE	15.0	22.7	33.0	18.0	-45.5%

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APPENDIX B: SUMMARY OF MAJOR LEGISLATION

- ❑ **H.B. 10-1338 (McCann/Steadman): Probation Eligibility.** Allows a person who has two or more prior felony convictions to be eligible for probation, with certain exceptions. For the implementation of H.B. 10-1338, appropriates \$308,628 General Fund and 5.2 FTE to the Judicial Department for probation services, and decreases the General Fund appropriation to the Department of Corrections for payments to house state prisoners by \$2,541,810. Also includes appropriations and adjustments for FY 2010-11 affecting the Department of Revenue (for the implementation of H.B. 09-1137), and to the Department of Human Services and the Department Health Care Policy and Financing (for child welfare services to mitigate funding reductions).

- ❑ **H.B. 10-1347 (Levy/Morse): DUI Penalties.** Adjusts the penalties for second offenses of driving under the influence (DUI), DUI per se, habitual user, driving while ability impaired (DWAI), and creates new penalties for third and subsequent offenses of DUI and DWAI. In sentencing persons for DUI, DWAI, DUI per se, and habitual user, encourages courts to require the use of approved ignition interlock devices by persons as a condition of bond, probation, and participation in work, educational, and medical release programs. Raises the minimum persistent drunk driver surcharge from \$50 to \$100. For FY 2010-11, appropriates \$438,518 General Fund and 7.3 FTE to the Judicial Department for probation services, and \$249,750 cash funds from the Persistent Drunk Driver Cash Fund for the provision of court-ordered alcohol treatment programs, approved ignition interlock devices, and continuous monitoring technology or devices for indigent and incarcerated offenders.

- ❑ **H.B. 10-1352 (Waller/Steadman): Controlled Substance Crime Changes.** Makes a number of changes to offenses related to controlled substances. Directs the General Assembly to annually appropriate the General Fund savings generated by the act to the Drug Offender Surcharge Fund, and requires that such moneys be allocated to cover the costs associated with the treatment of substance abuse or co-occurring disorders of adult offenders who are assessed to be in need of treatment and who are on diversion, on probation, on parole, in community corrections, or in jail. Makes the following appropriations and adjustments for FY 2010-11:
 - Appropriates \$1,468,196 General Fund to the Judicial Department, to be credited to the Drug Offender Surcharge Fund pursuant to Section 18-19-103 (3.5). C.R.S.;
 - Appropriates \$263,377 General Fund and 4.8 FTE to the Judicial Department for probation services;

- Appropriates \$36,528 General Fund and 0.5 FTE to the Department of Public Safety, Division of Criminal Justice, for analyzing and reporting on the annual fiscal savings generated by H.B. 10-1352;
- Decreases the General Fund appropriation to the Department of Corrections for payments to house state prisoners by \$1,523,589; and
- Decreases General Fund appropriations to the Judicial Department for the Public Defender by \$244,512 and 5.6 FTE.

☐ **H.B. 10-1404 (McCann/Steadman): Independent Ethics Commission:** Moves the Independent Ethics Commission out of the Office of Administrative Courts in the Department of Personnel and Administration and establishes it as an independent agency within the Judicial Department. Decreases General Fund appropriations to the Department of Personnel and Administration for FY 2010-11 by \$270,822 and 2.0 FTE, and appropriates \$270,822 General Fund and 2.0 FTE to the Judicial Department for FY 2010-11.

☐ **S.B. 08-206 (Shaffer and Penry/ T. Carroll and Marostica): Justice Center and State Museum.** Authorizes the Judicial Branch to increase various civil filing fees to help fund the consolidation of all justice-related state agencies (all Judicial Department divisions and agencies, plus the Attorney General's office) into a single complex at the now former site of the Colorado Supreme Court and the Colorado History Museum (at 13th and Broadway/Lincoln). Authorizes the construction of a new Colorado history museum at 12th and Broadway/Lincoln using a limited amount from the State Historical Fund and moneys transferred from the Judicial Department.

Authorizes the State to enter into lease-purchase agreements for the development and construction of a state justice center and the new museum. The total amount of the principal component of the lease-purchase agreements concerning the Justice Complex may not exceed \$275 million, annual payments may not exceed \$19 million, and the term may not exceed 38 years.

Creates the Justice Center Cash Fund, to consist of revenues from various filing fees and any lease payments received from agencies occupying the Justice Complex. Moneys in the Fund are subject to annual appropriation for expenses related to the design, construction, maintenance, operation, and interim accommodations for the Justice Complex. In addition, requires the Judicial Branch to transfer a total of \$25 million from the Justice Center Cash Fund to the newly created State Museum Cash Fund to compensate the State Historical Society for the land on which the Colorado History Museum previously resided.

Beginning in FY 2014-15, requires the Executive Director of the Department of Personnel and Administration to calculate the net savings to the State by locating the Department of Law and any other executive branch agency in the new state justice center, and requires the General Assembly to appropriate from the General Fund to the Justice Center Cash Fund the amount of net savings to repay any lease purchase obligations.

- ❑ **H.B. 07-1054 (T. Carroll/Shaffer): Increase the Number of Court of Appeals, District, and County Court Judges.** In FY 2007-08, creates nine new district court judgeships. Subject to available appropriations, also creates three new judgeships on the Colorado Court of Appeals, 22 new district court judgeships, and eight new county court judgeships to be phased in during FY 2008-09 and FY 2009-10.

- ❑ **H.B. 06-1028 (T. Carroll/Mitchell): Increase the Number of Court of Appeals and County Judges.** Creates three new Colorado Court of Appeals judgeships and four new county court judgeships (located in Jefferson, Douglas, Mesa, and Weld counties).

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**APPENDIX C: UPDATE OF FY 2010-11
LONG BILL FOOTNOTES AND REQUESTS FOR INFORMATION**

Long Bill Footnotes

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

Comment: Of the funds listed, the Judicial Branch is designated as the lead agency for the Drug Offender Surcharge Fund and the Offender Identification Fund, it receives an allocation from the Sex Offender Surcharge Fund, and it administers the Alcohol and Drug Driving Safety Program and the associated Fund. Prior to FY 2010-11, the Judicial Department did not receive appropriations from the Persistent Drunk Driver Cash Fund. Pursuant to H.B. 10-1347, moneys are appropriated from this fund to the Judicial Department for the provision of court-ordered alcohol treatment programs, approved ignition interlock devices, and continuous monitoring technology or devices for indigent and incarcerated offenders.

Drug Offender Surcharge Fund [Section 18-19-103 (4), C.R.S.] - This fund consists of 90 percent of drug offender surcharge revenues. These surcharges range from \$200 to \$4,500 for each conviction or deferred sentence; these surcharges were increased by H.B. 10-1352. Moneys credited to the Fund are subject to annual appropriation to the Judicial Department, the Department of Corrections, the Department of Public Safety's Division of Criminal Justice, and the Department of Human Services to cover the costs associated with substance abuse assessment, testing, education, and treatment. In addition, pursuant to H.B. 10-1352 [see Section 16-11.5-102, C.R.S.], General Fund moneys appropriated to this fund shall only be used to cover the costs associated with the treatment of substance abuse or co-occurring

disorders of adult offenders who are assessed to be in need of treatment and who are on diversion, on probation, on parole, in community corrections, or in jail.

Pursuant to Section 16-11.5-102 (3), C.R.S., the Judicial, Corrections, Human Services, and Public Safety departments are required to cooperate and develop a plan for the allocation of moneys deposited in this fund. With respect to moneys appropriated to the Fund based on savings generated by H.B. 10-1352, allocation decisions are made by these same four departments plus three representatives for District Attorneys and one representative for the State Public Defender. The Judicial Department is required to submit the allocation plan with its annual budget request.

The following table details the allocation plan submitted with the Department's FY 2011-12 budget request:

Drug Offender Surcharge Fund Allocation Plan (Excluding HB 10-1352 Revenues): FY 2011-12			
Program/Line Item	Purpose	Amount	% of Total
Corrections:			
TASC Staff (4 regions)	Assessment	\$177,393	4.1%
TASC Parolee Assessments	Assessment	250,000	4.7%
TASC Parolee Treatment Services	Treatment	452,607	7.1%
OSMI Parolee Wrap Around Services	Treatment	325,127	6.1%
Research Services	Program Review/ Research	<u>40,000</u>	0.7%
Subtotal: Corrections		1,245,127	23.2%
Human Services, Alcohol and Drug Abuse Division:			
Outpatient	Treatment	837,168	16.5%
STIRRT	Treatment	383,316	7.1%
Haven (ARTS)	Treatment	46,143	0.9%
Regional Training	Training	<u>4,000</u>	0.1%
Subtotal: Human Services		1,270,627	23.7%
Judicial, Probation and Related Services:			
Assessment Staff	Assessment	806,773	15.0%
Annual Licensing Fees	Assessment	17,500	0.3%
Indirect Costs	Assessment	77,439	1.4%
Substance Abuse Treatment	Treatment	793,767	14.8%
Multi-agency Training	Training	<u>50,000</u>	4.5%
Subtotal: Judicial		1,745,479	32.5%

Drug Offender Surcharge Fund Allocation Plan (Excluding HB 10-1352 Revenues): FY 2011-12			
Program/Line Item	Purpose	Amount	% of Total
Public Safety:			
Div IRT (31.4 beds)	Treatment	204,855	3.8%
90-Day Female IRT Pilot	Treatment	87,291	1.6%
TC Peer1/ Haven	Treatment	405,077	7.5%
TC Day Treatment	Treatment	97,628	1.8%
Personal Services, Operating, and Indirect Costs	Program Review/ Research	105,586	2.3%
90-Day IRT Pilot	Program Review/ Research	197,076	2.3%
SOA-R Training	Training	<u>10,300</u>	0.2%
Subtotal: Public Safety		1,107,813	20.6%
TOTALS	Total Allocated	<u>5,369,046</u>	100.0%
	Assessment	1,329,105	24.8%
	Treatment	3,632,979	67.7%
	Program Review/ Research	342,662	6.4%
	Training	64,300	1.2%

As detailed in the above table, departments are requesting appropriations totaling \$5,369,046 for FY 2011-12. Requested appropriations for FY 2011-12 are anticipated to exceed projected available fund by \$964,835. The Fund oversight committee has planned for spending restrictions totaling \$804,611 in the next two fiscal year. However, given the most recent revenue projections, these restrictions will need to be closer to \$965,000. The following two tables provide Fund cash flow trend data. Revenues and expenditures related to H.B. 10-1352 are excluded from the main table and are instead reflected separately in the second table.

Drug Offender Surcharge Fund (Excluding HB 10-1352 Revenues): Revenue and Expenditure Trends					
Description	FY 08-09 Actual	FY 09-10 Actual	FY 10-11 Proj.	FY 11-12 Proj.	FY 12-13 Proj.
Beginning Fund Balance	\$2,851,059	\$2,302,257	\$1,034,717	\$2,421	(\$160,224)
Revenue:					
Surcharges	4,548,711	4,272,439	4,293,801	4,336,739	4,380,107
Interest	<u>104,579</u>	<u>37,592</u>	<u>42,938</u>	<u>65,051</u>	<u>65,702</u>
Total Revenues	4,653,290	4,310,031	4,336,739	4,401,790	4,445,809

Drug Offender Surcharge Fund (Excluding HB 10-1352 Revenues): Revenue and Expenditure Trends					
Description	FY 08-09 Actual	FY 09-10 Actual	FY 10-11 Proj.	FY 11-12 Proj.	FY 12-13 Proj.
Expenditures:					
Corrections	995,127	1,245,128	1,245,127	1,245,127	1,245,127
Human Services	1,009,385	1,239,714	1,270,616	1,270,627	1,270,627
Judicial	2,405,908	784,279	1,745,479	1,745,479	1,745,479
Public Safety	640,331	948,450	1,107,813	1,107,813	1,107,813
All agency restriction				(804,611)	(804,611)
Total Expenditures	5,050,751	4,217,571	5,369,035	4,564,435	4,564,435
Transfers	151,341	1,360,000			
Ending Fund Balance	2,302,257	1,034,717	2,421	(160,224)	(278,850)
Annual Change in Fund Balance		(1,267,540)	(1,032,296)	(162,645)	(118,626)
<i>Fund Balance as Percent of Annual Expenditures</i>	45.6%	24.5%	0.0%	-3.5%	-6.1%

Drug Offender Surcharge Fund Revenues Related to HB 10-1352: Revenue and Expenditure Trends					
Description	FY 08-09 Actual	FY 09-10 Actual	FY 10-11 Proj.	FY 11-12 Proj.	FY 12-13 Proj.
Beginning Fund Balance			\$0	\$1,568,196	\$724,314
Revenue:					
HB 10-1352 GF Appropriation			1,568,196	6,156,118	6,156,118
Interest			0	0	0
Total Revenues			1,568,196	6,156,118	6,156,118
HB 10-1352 Expenditures			0	7,000,000	6,156,118
Ending Fund Balance			1,568,196	724,314	724,314
Annual Change in Fund Balance			1,568,196	(843,882)	0
<i>Fund Balance as Percent of Annual Expenditures</i>			n/a	10.3%	11.8%

Offender Identification Fund [Section 24-33.5-415.6 (1), C.R.S.] - This fund consists of payments for genetic testing received from adult and juvenile offenders, including: certain convicted adult offenders [as required by Section 16-11-102.4, C.R.S.]; certain juveniles who are

sentenced to the youthful offender system [as required by Section 18-1.3-407 (11.5, C.R.S.); and certain adjudicated offenders [as required by Section 19-2-925.6, C.R.S.]. The fee is currently \$128¹.

Pursuant to S.B. 09-241, beginning October 1, 2010, every individual who is arrested or charged for a felony must provide a DNA sample to the local law enforcement agency as part of the booking process (unless the CBI already has a sample). The act imposes a surcharge of \$2.50 on defendants for each criminal action resulting in a conviction or a deferred judgment and sentence for a felony, misdemeanor, misdemeanor traffic charges, and traffic infractions. These surcharges became effective July 1, 2009, and are credited to the Offender Identification Fund.

The Judicial Department is responsible for collecting biological substance samples from offenders who are sentenced to Probation. The Department of Corrections, the Department of Human Services (Division of Youth Corrections), county sheriffs, and community corrections programs are responsible for collecting biological substance samples from offenders in their custody. The Colorado Bureau of Investigation (within the Department of Public Safety) is responsible for conducting the chemical testing of the samples, storing and preserving the samples, filing and maintaining test results, and furnishing test results to law enforcement agencies upon request.

Pursuant to S.B. 09-241, the CBI will provide test kits to local law enforcement agencies throughout the state to begin collecting DNA samples from arrestees beginning October 1, 2010. Eventually, this will decrease the number of individuals for whom Judicial and Corrections will need to collect a sample.

Moneys in the Fund are subject to annual appropriation to the Judicial Department (the State Court Administrator) and the Department of Public Safety (the Executive Director) to pay for genetic testing of offenders. Per budget instructions issued by the Office of State Planning and Budgeting, the Judicial Department is the lead agency for reporting purposes.

Offender Identification Fund: Revenue and Expenditure Trends					
Description	FY 08-09 Actual	FY 09-10 Actual	FY 10-11 Proj.	FY 11-12 Proj.	FY 12-13 Proj.
Beginning Fund Balance	\$303,454	\$479,252	\$1,376,878	\$946,371	\$968,407
Revenue (including S.B. 09-241)	535,482	1,417,894	1,432,073	1,890,106	1,890,106

¹ This fee was established in 1996 when the DNA database for sex offenders was established. At that time, the fee was based on a cost of \$15 to \$25 for sample collection, with the remainder to cover CBI lab costs to develop the DNA profile. The Department indicates that collection costs have decreased by approximately \$5, but this decrease has likely been offset by increases in CBI lab costs.

Offender Identification Fund: Revenue and Expenditure Trends					
Description	FY 08-09 Actual	FY 09-10 Actual	FY 10-11 Proj.	FY 11-12 Proj.	FY 12-13 Proj.
Expenditures:					
Corrections	4,960	4,960	24,385	24,385	24,385
Judicial (incl. DI #8)	78,599	120,506	120,348	125,838	57,563
Public Safety	<u>276,125</u>	<u>394,802</u>	<u>1,717,847</u>	<u>1,717,847</u>	<u>1,717,847</u>
Total Expenditures	359,684	520,268	1,862,580	1,868,070	1,799,795
Ending Fund Balance	479,252	1,376,878	946,371	968,407	1,058,718
Annual Change in Fund Balance		897,626	(430,507)	22,036	90,311
<i>Fund Balance as Percent of Annual Expenditures</i>	<i>133.2%</i>	<i>264.6%</i>	<i>50.8%</i>	<i>51.8%</i>	<i>58.8%</i>

As detailed in the above table, departments are requesting appropriations totaling \$1,868,070 for FY 2011-12. Annual revenues are projected to exceed expenditures in FY 2011-12 and FY 2012-13, leaving a fund balance of about \$1.0 million.

Sex Offender Surcharge Fund [Section 18-21-103 (3), C.R.S.] - This fund consists of 95 percent of sex offender surcharge revenues. These surcharges range from \$75 to \$3,000 for each conviction or adjudication. Moneys in the Fund are subject to annual appropriation to the Judicial Department, the Department of Corrections, the Department of Public Safety's Division of Criminal Justice, and the Department of Human Services to cover the direct and indirect costs associated with the evaluation, identification, and treatment and the continued monitoring of sex offenders. Pursuant to Section 16-11.7-103 (4) (c), C.R.S., the Sex Offender Management Board (SOMB) is required to develop a plan for the allocation of moneys deposited in this fund, and submit the plan to the General Assembly.

The following table details the allocation plan approved by the SOMB on October 15, 2010. This plan mirrors the plans submitted for both FY 2009-10 and FY 2010-11.

Sex Offender Surcharge Fund Allocation Plan: FY 2011-12			
Department	Description	Amount	% of Total
Corrections	Management of sex offender data collection, including: entry of ViCAP; psychological and risk assessment test results; and demographics for use in treatment planning and research.	\$29,311	5.5%
Human Services	Training and technical assistance to county departments, the Division of Youth Corrections, and the Division of Child Welfare.	38,250	7.2%

Sex Offender Surcharge Fund Allocation Plan: FY 2011-12			
Department	Description	Amount	% of Total
Judicial, Probation and Related Services	Direct services, beginning with the funding for sex offender evaluations, assessments and polygraphs required by statute during the pre-sentence investigation.	302,029	56.6%
Public Safety, Division of Criminal Justice	Administration and implementation of standards. Of the total allocation, \$3,500 will be used to provide cross-system training	163,591	30.7%
TOTAL		533,181	100.0%

As detailed in the following table, the SOMB is requesting a continuation level of appropriations for FY 2011-12 (\$533,181). However, requested appropriations are anticipated to exceed projected fund revenues in FY 2011-12 by \$116,032. It is anticipated that the SOMB will again direct departments to restrict spending in FY 2011-12 (by a total of \$100,000, including \$55,000 for Judicial) in order to avoid exceeding available funds.

Sex Offender Surcharge Cash Fund: Revenue and Expenditure Trends					
Description	FY 08-09 Actual	FY 09-10 Actual	FY 10-11 Proj.	FY 11-12 Proj.	FY 12-13 Proj.
Beginning Fund Balance	\$81,178	\$42,469	\$61,874	\$77,061	\$61,029
Revenues	409,108	419,266	415,073	417,149	419,234
Expenditures:					
Judicial	258,272	226,522	302,029	302,029	302,029
Judicial Spending Restrictions			(75,507)	(55,000)	(55,000)
Corrections	24,035	21,983	29,311	29,311	29,311
Human Services	31,365	28,663	38,250	38,250	38,250
Public Safety	134,145	122,693	163,591	163,591	163,591
Other Spending Restrictions			(57,788)	(45,000)	(45,000)
Total Expenditures	447,817	399,861	399,886	433,181	433,181
Ending Fund Balance	42,469	61,874	77,061	61,029	47,082
Annual Change in Fund Balance		19,405	15,187	(16,032)	(13,947)
<i>Fund Balance as Percent of Annual Expenditures</i>	<i>9.5%</i>	<i>15.5%</i>	<i>19.3%</i>	<i>14.1%</i>	<i>10.9%</i>

Alcohol and Drug Driving Safety Program Fund [Section 42-4-1301.3 (4) (a), C.R.S.] - Section 42-4-1301.3, C.R.S., sets forth sentencing guidelines for persons convicted of Driving Under the

Influence (DUI), persons convicted of Driving While Ability Impaired (DWAI), and persons who are habitual users of a controlled substance who are convicted of driving a vehicle. The Judicial Department is required to administer an Alcohol and Drug Driving Safety (ADDS) Program in each judicial district. This program is to provide: (1) pre-sentence and post-sentence alcohol and drug evaluations of all persons convicted of driving violations related to alcohol or drugs; and (2) supervision and monitoring of those persons whose sentences or terms of probation require completion of a program of alcohol and drug driving safety education or treatment.

The ADDS Program Fund consists of assessments designed to ensure that the ADDS Program is self-supporting. Assessments include fees paid by individuals for alcohol and drug evaluations, as well as inspection fees paid by approved alcohol and drug treatment facilities. The evaluation fee was increased from \$181 to \$200 in FY 2007-08. Moneys in the Fund are subject to annual appropriation to the Judicial Department and the Department of Human Services' Division of Alcohol and Drug Abuse for the administration of the ADDS Program. These two departments are required to propose changes to these assessments as required to ensure that the ADDS Program is financially self-supporting. Any adjustment in the assessments approved by the General Assembly is to be "noted in the appropriation...as a footnote or line item related to this program in the general appropriations bill".

As detailed in the following table, departments are requesting appropriations totaling \$5,328,782 for FY 2011-12.

Alcohol and Drug Driving Safety Cash Fund: Revenue and Expenditure Trends					
Description	FY 08-09 Actual	FY 09-10 Actual	FY 10-11 Proj.	FY 11-12 Proj.	FY 12-13 Proj.
Beginning Fund Balance	\$746,859	\$693,902	\$550,429	\$518,064	\$377,265
Revenues	5,171,402	5,177,623	5,182,801	5,187,983	5,193,171
Expenditures:					
Human Services (via transfer from Judicial)	440,993	440,062	501,304	501,304	501,304
Judicial (excluding portion transferred to DHS)	<u>4,783,366</u>	<u>4,881,034</u>	<u>4,713,862</u>	<u>4,827,478</u>	<u>4,827,478</u>
Total Expenditures	5,224,359	5,321,096	5,215,166	5,328,782	5,328,782
Ending Fund Balance	693,902	550,429	518,064	377,265	241,654
Annual Change in Fund Balance		(143,473)	(32,365)	(140,799)	(135,611)
<i>Fund Balance as Percent of Annual Expenditures</i>	<i>13.3%</i>	<i>10.3%</i>	<i>9.9%</i>	<i>7.1%</i>	<i>4.5%</i>

Persistent Drunk Driver Cash Fund [Section 42-3-303 (1), C.R.S.] - This fund consists of penalty surcharge fees paid by persons convicted of DUI, DUI per se, or DWAI, as well as a person who is a habitual user of a controlled substance who is convicted of a misdemeanor for driving a vehicle. Moneys in the Fund are subject to annual appropriation to:

- to pay the costs incurred by the Department of Revenue concerning persistent drunk drivers;
- to pay for costs incurred by the Department of Revenue for computer programming changes related to treatment compliance for persistent drunk drivers;
- to support programs that are intended to deter persistent drunk driving or intended to educate the public, with particular emphasis on the education of young drivers, regarding the dangers of persistent drunk driving;
- to pay a portion of the costs of intervention and treatment services for persistent drunk drivers who are unable to pay for such services (HB 10-1347);
- to assist in providing court-ordered alcohol treatment programs for indigent and incarcerated offenders (per HB 10-1347); and
- to assist in providing continuous monitoring technology or devices for indigent offenders (per HB 10-1347).

The Judicial Department does not administer this Fund, but it now receives appropriations from the Fund for the last three purposes listed above (\$249,750 for FY 2010-11). While fees are collected by the courts, budget instructions issued by the Office of State Planning and Budgeting identify the Department of Human Services as the lead agency for reporting purposes.

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

	<u>FY 2010-11</u>
	<u>Salary</u>
Chief Justice, Supreme Court	\$142,708
Associate Justice, Supreme Court	139,660
Chief Judge, Court of Appeals	137,201
Associate Judge, Court of Appeals	134,128
District Court Judge	128,598
County Court Judge	123,067

Comment: Sections 13-30-103 and 104, C.R.S., establish judicial salaries for various fiscal years during the 1990s. These provisions state that any salary increases above those set forth in statute "shall be determined by the general assembly as set forth in the annual general appropriations bill." The General Assembly annually establishes judicial salaries through a footnote in the Long Bill.

Please note that the footnote language approved by the Joint Budget Committee last year, consistent with previous years, included the following statement following the table:

"Funding is also provided in the Long Bill to maintain the salary of the Public Defender at the level of an associate judge of the Court Appeals, and to maintain the salaries of the Alternate Defense Counsel and the Executive Director of the Office of the Child's Representative at the level of a district court judge."

Staff omitted this language from the footnote that appears in the FY 2010-11 Long Bill. Staff will thus make a recommendation in January to correct this error through the Judicial supplemental bill.

27a **Judicial Department, Courts Administration, Administration and Technology** -- In the event that the Judicial Department determines that the in-house public access system is not operational on July 1, 2010, it is the intent of the General Assembly that the Department extend the existing contract for operation of a public access system for up to three months.

Comment: The Department implemented its in-house public access system on July 1, as originally scheduled. For more information, please see the issue brief that begins on page 20.

28 **Judicial Department, Public Defender**-- In addition to the transfer authority provided in Section 24-75-108 (5), C.R.S., up to 2.5 percent of the total Public Defender appropriation may be transferred between line items in the Public Defender's Office.

Comment: The Public Defender's Office (PDO) is in compliance with this footnote. This footnote provided the PDO with the authority to transfer up to 2.5 percent (\$1,298,908) of its total FY 2008-09 appropriation (\$51,956,300) between line items. In FY 2009-10, a total of \$414,029 (0.8 percent) was transferred between line items. The following table details the line items affected by such transfers.

Long Bill Line Item	Transfers In/ (Out)
Personal Services	(\$33,544)
Operating Expenses	(7,500)
Leased Space/ Utilities	(125,000)
Automation Plan	414,029
Mandated Costs	(247,985)
Net Transfers	0

- 29 Judicial Department, Alternate Defense Counsel** -- In addition to the transfer authority provided in Section 24-75-108 (5), C.R.S., up to 2.5 percent of the total Alternate Defense Counsel appropriation may be transferred between line items in the Alternate Defense Counsel's Office.

Comment: The Office of the Alternate Defense Counsel (OADC) is in compliance with this footnote. This footnote provided the OADC with the authority to transfer up to 2.5 percent (\$592,304) of its total FY 2009-10 appropriation (\$23,692,141) between line items. In FY 2009-10, a total of \$117,552 (0.5 percent) was transferred between line items. In addition, the OADC transferred \$449,385 to the Office of the Child's Representative as allowed pursuant to Section 24-75-110, C.R.S. The following table details the line items affected by such transfers.

Long Bill Line Item	Transfers In/ (Out)
Personal Services	(\$59)
Operating Expenses	(1,411)
Conflict of Interest Contracts	117,552
Conflict of Interest Contracts to OCR	(449,385)
Mandated Costs	(116,082)
Net Transfers	(449,385)

- 30 Judicial Department, Office of the Child's Representative** -- Judicial Department, Office of the Child's Representative -- In addition to the transfer authority provided in Section 24-75-108 (5), C.R.S., up to 2.5 percent of the total Office of the Child's Representative's appropriation may be transferred between line items in the Office of Child's Representative.

Comment: The Office of Child's Representative is in compliance with this footnote. This footnote provided the OCR with the authority to transfer up to 2.5 percent (\$459,511) of its total FY 2009-10 appropriation (\$18,380,440) between line items. In FY 2009-10, a total of \$35,999 (0.2 percent) was transferred between line items. In addition, the Office of the

Alternate Defense Counsel transferred \$449,385 to the OCR as allowed pursuant to Section 24-75-110, C.R.S. The following table details the line items affected by such transfers.

Long Bill Line Item	Transfers In/ (Out)
Personal Services	(\$28,561)
Operating Expenses	21,070
Capital Outlay	(481)
Leased Space	1,440
Training	(1,000)
Court Appointed Counsel	(5,957)
Court Appointed Counsel from OADC	449,385
Mandated Costs	13,489
Net Transfers	449,385

31 Judicial Department, Office of the Child's Representative, Court Appointed Counsel --

It is the intent of the General Assembly that the Office of the Child's Representative be authorized to utilize up to \$25,000 of this appropriation to fund a pilot program as authorized pursuant to Section 13-91-105 (1) (e), C.R.S., for the purpose of evaluating alternatives to the appointment of child and family investigators and child's legal representatives in domestic relations cases.

Comment:

Background Information. Under current law, the court may make two types of appointments in a domestic relations case that involves allocation of parental responsibilities:

- The court may appoint an attorney, a mental health professional, or any other individual with appropriate training and qualifications to serve as a child and family investigator (CFI). The CFI is required to investigate, report, and make recommendations in the form of a written report filed with the court; the CFI may be called to testify as a witness regarding his/her recommendations.
- The court may appoint an attorney to serve as a child's legal representative (CLR).

When the parties to the case are determined to be indigent, the Office of the Child's Representative (OCR) pays for attorney appointments. Expenditures by the OCR on appointments in domestic relations cases increased steadily from FY 2004-05 to FY 2008-09, from \$426,186 to \$801,945.

Long Bill Footnote. This footnote authorizes the OCR to utilize up to \$25,000 of the appropriation for Court Appointed Counsel to fund a pilot program for the purpose of evaluating alternatives to the appointment of CFIs and CLRs in domestic relations cases. The evaluation would determine whether the use of alternatives results in equal or better outcomes, and whether it reduces state expenditures.

Status of Pilot Program. The OCR is continuing to support a pilot program in the 17th judicial district (Adams/Broomfield) to offer Early Neutral Assessment (ENA) to parties in domestic relations cases (the OCR pilot began in FY 2009-10). ENA offers trained two-person teams to help parties understand the strengths and weaknesses of their positions, assisting them to come to an early resolution.

This pilot program was initiated in 2007 by Chief Judge Bockman to determine whether this approach would provide a cost effective and quality alternative for families and the courts. The 17th judicial district received a Colorado Judicial Institute grant to bring in experts from Minnesota to train judges, magistrates, family court facilitators, domestic attorneys, mental health experts, and others.

The district's ENA pilot program commenced in September 2008. The district engaged an agreement with two sets of well qualified evaluators and ensured they were thoroughly trained in ENA. Each team consists of one attorney and one mental health expert, one of whom is male and the other female. When parties attend their initial status conference they often request a CFI or request a hearing to determine parenting time. When this occurs, the Family Court Facilitator identifies cases that may be appropriate for a referral to the ENA pilot. ENA is a voluntary, free, confidential process. If the parties agree that they want to attend ENA, the session is scheduled within a month of the initial status conference.

The ENA session takes three to four hours, allowing each party to be heard (with their attorneys present if they have them). The evaluator team describes their impressions of a likely outcome and realistic parenting plan. If an agreement is reached during the ENA session, they are able to get that agreement to a judge and have it read into the record immediately.

The primary benefits of ENA, as described by one of the evaluator teams, are that it's voluntary, timely, and client-driven. The process allows each parent to feel heard and talk about what is important. ENA works well for cases where there is disagreement with parenting time schedules and decision making between parties. The approach the evaluators take is that it's not *if* decisions will be made about parenting time, it's *how*. In general, it's better for children for parents to make these decisions. Even when full agreement is not reached, the number of disagreements often narrowed and communication between the parties improved.

Since September 2008, there have been 61 cases referred to ENA, including 35 dissolution of marriage pre-decree cases and 26 child custody cases. Of the 61 cases referred to ENA, nine cases were post-decree parenting time cases. The ENA teams generally agreed on their assessments of the cases and the recommendations they made to parents. To date, 39 of 51 cases that completed ENA (76 percent) reached full agreements and seven cases (14 percent) reached partial agreement. There were 5 cases where no agreement was reached.

Adams County is conducting a longitudinal study on the cost effectiveness of the ENA model. This involves comparing cases from the ENA pilot to a control group to determine whether or not there has been any post decree activity subsequent to the ENA and whether a CFI was appointed after the ENA was completed.

Requests for Information

- 1. All Departments, Totals** -- Every department is requested to submit to the Joint Budget Committee, by November 1, 2010, information on the number of additional federal and cash funds FTE associated with any federal grants or private donations that were received in FY 2009-10. The Departments are also requested to identify the number of additional federal and cash funds FTE associated with any federal grants or private donations that are anticipated to be received during FY 2010-11.

Comment: The Judicial Department's budget request includes a list of federal and cash grants, the grantor, grant period, dollar amount, and associated FTE. This information has been included in Appendix I.

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

Comment: The Judicial Department's budget request includes information provided by the Colorado District Attorneys' Council (CDAC)², as requested.

² The CDAC is a quasi-government agency, supported by assessments charged to each member's office (through an intergovernmental agreement). The District Attorneys for the 2nd (Denver), 9th (Garfield/Pitkin/Rio Blanco), and 18th (Arapahoe/Douglas/Elbert/Lincoln) judicial districts are not currently members of the CDAC.

Background Information. Colorado's district attorneys' offices (DA's) are responsible for prosecuting all criminal and traffic cases filed in district and county courts. The State provides funding for DA's in four areas:

- The Department of Law's budget includes an appropriation for DA salaries (\$2,313,828 in the FY 2010-11 Long Bill).
- The District Attorney Mandated Costs line item in the Judicial Department's budget provides state funding for DA's "mandated costs", as more fully described below (\$2,130,324 in the FY 2010-11 Long Bill).
- The Department of Corrections' budget includes an appropriation for "Payments to District Attorneys" for costs associated with prosecuting a crime alleged to have been committed by a person in the custody of the Department (\$144,108 in FY 2010-11 Long Bill).
- The Department of Public Safety's budget includes an appropriation for "Witness Protection Fund Expenditures" to pay DAs for qualifying expenses related to security personnel, travel expenses, lodging, and other immediate needs (\$83,000 in the FY 2010-11 Long Bill).

The remainder of DA's budgets are set and provided by boards of county commissioners within each respective judicial district.

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

- witness fees and mileage
- fees for service of process or publications
- expert witness fees
- lodging and transportation expenses for witnesses required to travel more than 50 miles, as well as for parents of witnesses under age 18

³ This section states that the State "shall provide funds by annual appropriation for the operations, salaries, and other expenses of all courts of record within the state, except for county courts in the city and county of Denver and municipal courts".

- court reporter fees for transcripts (including transcripts of preliminary hearings)
- exemplification and copy fees
- deposition fees
- fees for interpreters required during depositions or during trials
- costs for obtaining a governor's warrant
- costs for photocopying reports, developing film, and purchasing videotape as necessary for use in the case
- any other cost specifically authorized by statute
- any other reasonable and necessary costs that are directly the result of the prosecution of the defendant upon motion and order of the court

Prior to FY 2000-01, funding for DA's Mandated Costs was included within the Mandated Costs line item appropriation to the Judicial Department. In 1999, an ad hoc committee on mandated costs released a report recommending that responsibility for managing court costs be transferred to the entities that incur them. Thus, beginning in FY 2000-01, the General Assembly has provided a separate appropriation for DA's Mandated Costs.

Allocation of Funds. The CDAC allocates funds among judicial districts based on historical spending (using a three-year average). However, the CDAC holds back \$300,000 of appropriation. District Attorneys submit monthly expenditure reports, as well as projections of annual expenditures. The CDAC has a special process for a DA to request additional funds above the allocated amount. In order to limit state expenditures, the CDAC has required DA's offices to continue to follow the old CJD 87-01, which limits expert witness fees. Fees paid in excess of the limits established in this Directive are only reimbursed if funds remain available at the end of the fiscal year.

The most significant cost increases in DA's mandated costs occurred in FY 2006-07 and FY 2007-08. These increases were largely due to rapidly increasing energy costs, which increased the mileage reimbursement rate. As a result, travel-related mandated costs increased by 40 percent from FY 2003-04 to FY 2006-07.

Other cost drivers include the number and nature of cases filed, and the number and nature of trials. Violent crimes and sex crimes take longer to resolve, are more likely to go to trial, and are more likely to involve expert witnesses, and thus tend to be more costly.

For FY 2010-11, the CDAC is requesting an increase of \$90,539 (4.3 percent) in the appropriation for this line item. The request is based on actual expenditures incurred in the last three fiscal years. The following table provides a history of appropriations and actual expenditures for this line item.

District Attorneys' Mandated Costs								
	Appropriation			Actual Expenditures				Over/ (Under) Budget
Fiscal Year	General Fund	Cash Funds	Total	General Fund	Cash Funds	Total	Annual % Change	
2000-01	\$1,938,724	\$0	\$1,938,724	\$1,889,687	\$0	\$1,889,687		(\$49,037)
2001-02	1,938,724	0	1,938,724	1,978,963	0	1,978,963	4.7%	40,239
2002-03	2,025,199	125,000	2,150,199	1,833,410	71,117	1,904,527	-3.8%	(245,672)
2003-04	2,025,199	125,000	2,150,199	1,847,369	59,334	1,906,703	0.1%	(243,496)
2004-05	1,911,899	0	1,911,899	1,911,970	0	1,911,970	0.3%	71
2005-06	1,911,899	0	1,911,899	1,772,849	106,325	1,879,174	-1.7%	(32,725)
2006-07	1,841,899	125,000	1,966,899	1,928,795	99,090	2,027,885	7.9%	60,986
2007-08	1,837,733	125,000	1,962,733	2,092,974	130,674	2,223,648	9.7%	260,915
2008-09	2,101,052	125,000	2,226,052	2,063,785	125,000	2,188,785	-1.6%	(37,267)
2009-10	2,101,052	125,000	2,226,052	2,101,050	125,000	2,226,050	1.7%	(2)
2010-11	2,005,324	125,000	2,130,324					
2011-12 Request	2,095,863	125,000	2,220,863					

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

Comment: The Department submitted the information, as requested. This report concerns recidivism among probationers terminated during FY 2008-09. On June 30, 2009, there were 61,549 offenders on probation in Colorado, including 54,162 adult and 7,387 juvenile probationers, including those under intensive supervision⁴. Key findings included in the report are summarized below.

⁴ Please note that an additional 27,939 DUI offenders were monitored or supervised by state or private probation that were not part of this study.

Pre-release Recidivism

- Pre-release recidivism rates (including revocations due to both technical violations and new crimes) decreased significantly for all adult categories: from 35.6 percent to 31.1 percent for adults on regular supervision; from 45.5 percent to 33.5 percent the Adult Intensive Supervision Program (AISP); and from 34.9 percent to 26.9 percent for the Female Offender Program (FOP). Pre-release recidivism rates remained relatively stable for juveniles.
- As expected based on their risk assessment, both juveniles and adults supervised at the most intensive level and those supervised by other agencies (e.g., county jail work release programs, detention centers, or residential placements) were most likely to fail while under supervision.
- Probation is more likely to be revoked for offenders committing technical violations rather than a new crime. However, the proportion of offenders who are terminated from probation due to technical violations continues to decline in all categories. The division has focused on this area in recent years, providing officers with training and tools to respond to technical violations with intermediate sanctions and avoiding revocation when possible.
- Both juvenile and adult offenders supervised on regular probation were most frequently placed in a detention facility or sentenced to a county jail for revocations based on technical violations. In contrast, juveniles and adults in intensive programs were most frequently incarcerated at the Division of Youth Corrections (DYC) or the Department of Corrections (DOC) when they violated their probation sentence, particularly if they committed a new crime.

Post-release Recidivism

- For juveniles who successfully completed regular probation supervision, 15.3 percent received a new filing within one year. For juveniles who successfully completed intensive probation supervision, 12.3 percent received a new filing.
- For adults who successfully completed regular probation supervision, only 6.7 percent received a new filing within one year. Post-release recidivism rates for the Adult Intensive Supervision Program (AISP) and the Female Offender Program (FOP) were 11.3 percent and 9.7 percent, respectively.

Overall Success Rate

- The overall success rate, defined as individuals who successfully completed probation and did not commit a new crime within one year of leaving probation supervision, increased for juveniles and adults at all levels of supervision.

- For juveniles under regular supervision, 62.4 percent were successful one year after release; for those under intensive supervision, 43.5 percent were successful.
- For adults under regular supervision, 64.3 percent were successful one year after release; for those under intensive supervision, overall success rates were 66.0 percent for AISP and 71.6 percent for FOP.

The following table summarizes recidivism data, by supervision level, for the last five fiscal years.

Probation Recidivism Rates Termination Cohorts for Fiscal Years 2004-05 Through 2008-09^a						
Supervision Level at Time of Termination	Fiscal Year	Successful Termination^b	Pre-release Recidivism^c		Post- Release Recidivism^d	Overall Success^e
			Technical Violation	New Crime		
Juvenile - Regular	2004-05	68.1%	25.7%	6.2%	16.6%	58.2%
	2005-06	69.6%	23.8%	6.6%	15.4%	58.9%
	2006-07	71.7%	21.5%	6.8%	16.2%	60.1%
	2007-08	72.5%	20.9%	6.6%	15.2%	61.4%
	2008-09	73.7%	19.3%	7.0%	15.3%	62.4%
4,729	<i>Individuals</i>	3,485	912	332	532	2,953
Juvenile Intensive Supervision Program (JISP)^f	2004-05	48.7%	39.1%	12.2%	10.0%	46.8%
	2005-06	44.6%	43.8%	11.6%	25.6%	40.0%
	2006-07	47.8%	40.7%	11.5%	24.5%	43.2%
	2007-08	41.1%	40.8%	18.1%	29.7%	37.3%
	2008-09	45.0%	37.7%	17.3%	12.3%	43.5%
544	<i>Individuals</i>	245	205	94	8	237
Adult - Regular	2004-05	61.3%	32.6%	6.1%	8.0%	56.4%
	2005-06	60.7%	33.0%	6.3%	8.2%	55.7%
	2006-07	61.1%	31.8%	7.1%	8.5%	55.9%
	2007-08	64.4%	29.3%	6.3%	7.3%	59.7%
	2008-09	68.9%	25.0%	6.1%	6.7%	64.3%
22,524	<i>Individuals</i>	15,515	5,633	1,376	1,040	14,475

Probation Recidivism Rates Termination Cohorts for Fiscal Years 2004-05 Through 2008-09 ^a						
Supervision Level at Time of Termination	Fiscal Year	Successful Termination ^b	Pre-release Recidivism ^c		Post- Release Recidivism ^d	Overall Success ^e
			Technical Violation	New Crime		
Adult Intensive Supervision Program (AISP)^f	2004-05	52.0%	34.4%	13.6%	1.4%	51.9%
	2005-06	53.9%	31.4%	14.7%	17.1%	52.9%
	2006-07	56.0%	33.1%	10.9%	2.7%	55.9%
	2007-08	54.5%	31.5%	14.0%	10.0%	54.1%
	2008-09	66.5%	22.7%	10.8%	11.3%	66.0%
1,219	<i>Individuals</i>	<i>810</i>	<i>277</i>	<i>132</i>	<i>6</i>	<i>804</i>
Adult - Female Offender Program (FOP)^f	2004-05	57.9%	31.6%	10.5%	0.0%	57.9%
	2005-06	56.7%	37.2%	6.2%	12.5%	54.9%
	2006-07	62.7%	28.0%	9.3%	8.3%	61.6%
	2007-08	65.1%	26.2%	8.7%	8.7%	63.9%
	2008-09	73.1%	19.9%	7.0%	9.7%	71.6%
201	<i>Individuals</i>	<i>147</i>	<i>40</i>	<i>14</i>	<i>3</i>	<i>144</i>

^a All data excludes DUI offenders. In addition, Denver County Court filing data was only made available to Judicial's ICON/Eclipse system (the Judicial Branch's management information system) for FY 2005-06 and FY 2006-07. Thus, post-release recidivism rates may be understated for fiscal years 2004-05, 2007-08, and 2008-09.

^b "Successful terminations" for intensive programs include offenders who were transferred to regular supervision.

^c "Pre-release Recidivism" includes an *adjudication or conviction* for a felony or a misdemeanor, or a technical violation relating to a criminal offense, while under supervision in a criminal justice program.

^d "Post-release Recidivism" reflects the percent of successfully terminated offenders for whom there was a *filing* for a felony or misdemeanor (whether or not it resulted in a conviction) within one year of termination from program placement for a criminal offense.

^e "Overall success" reflects those offenders who did not recidivate either prior to or for one year following release.

^f Please note that the relatively small number of individuals participating in the intensive programs for juveniles, adults, and females can cause recidivism rates to differ significantly from year to year - particularly with respect to post-release recidivism. For example, the FY 2008-09 post-release failure rates of 12.3 percent (JISP), 11.3 percent (AISP), and 9.7 percent (FOP) correspond to 8, 6, and 3 offenders, respectively.

Intensive Supervision Programs

The intensive supervision programs for juveniles (JISP), adults (AISP), and adult females (FOP) were designed as alternatives to incarceration. Offenders placed on these programs have higher risks related to the probability of program failure and the commission of a new crime, and they typically have higher levels of identified needs. The outcomes for these intensive programs in relation to regular supervision are summarized below:

- The overall success rate for JISP is significantly lower than for regular juvenile supervision – 43.5 percent compared to 62.4 percent. For juveniles who terminated probation for technical violations, 62.5 percent on JISP were sentenced to the Division of Youth Corrections (DYC) or the Department of Corrections (DOC), compared to 33.2 percent on regular probation. For juveniles who terminated probation for committing a new crime, 64.1 percent on JISP were sentenced to DYC or DOC, compared to 42.1 percent on regular probation.
- The overall success rate for AISP is slightly higher than for regular adult supervision – 66.0 percent compared to 64.3 percent. For adults who terminated probation for technical violations, 74.4 percent on AISP were sentenced to DOC, compared to 12.5 percent on regular probation. For adults who terminated probation for committing a new crime, 93.2 percent on AISP were sentenced to DOC, compared to 30.2 percent on regular probation.
- The overall success rate for FOP, 71.6 percent, continues to exceed that of any other probation program. For adults who terminated probation for technical violations, 60.0 percent on FOP were sentenced to DOC, compared to 12.5 percent on regular probation. For adults who terminated probation for committing a new crime, 71.4 percent on FOP were sentenced to DOC, compared to 30.2 percent on regular probation.

To the extent that these intensive programs divert high risk offenders who would otherwise be incarcerated, they are cost effective. Specifically, for FY 2008-09:

- JISP redirected as many as 237 juveniles from DYC, including 57 who left probation and did not recidivate within one year and 180 who succeeded and were transferred to regular probation. The annual cost to serve a juvenile in DYC in FY 2008-09 was \$84,596, compared to \$5,905 for JISP.
- AISP redirected as many as 804 offenders from DOC, including 47 who left probation and did not recidivate within one year and 757 who succeeded and were transferred to regular probation. The annual cost to serve an offender in DOC in FY 2008-09 was \$32,388, compared to \$3,909 for AISP.
- FOP redirected as many as 144 women from DOC, including 28 who left probation and did not recidivate within one year and 116 who succeeded and were transferred to regular probation. The annual cost to serve an offender in DOC was \$32,388 in FY 2008-09, compared to \$3,182 for FOP.

- 4. Judicial Department, Probation and Related Services, Offender Treatment and Services --** The Judicial Department is requested to provide by November 1 of each year a detailed report on how this appropriation is used, including the amount spent on testing, treatment, and assessments for offenders.

Comment: The Department provided the information requested. In FY 2006-07, the Joint Budget Committee approved a request to combine various appropriations from the General Fund,

Offender Services Cash Fund, Drug Offender Surcharge Fund, and the Sex Offender Surcharge Fund, to create a single line item entitled "Offender Treatment and Services". The purpose of this organizational change was to: (a) provide increased flexibility to local probation departments to allocate funds for treatment and services for indigent offenders or those otherwise unable to pay; and (b) reduce year-end reversions of unspent cash funds.

The Offender Treatment and Services appropriation is now divided among the 22 judicial districts as "block grants" based on the number of FTE and the number of probationers under supervision in each district. Each probation department then develops a local budget for each of the approved treatment and service areas. The local allocation of funds depends on the availability of treatment and services and the particular needs of the local offender population. A summary of allocations and expenditures for FY 2009-10, as well as allocations for FY 2010-11, is provided in the table on the following page.

Please note that for FY 2010-11, \$1,035,357 of the appropriation remains unallocated. The Department indicates that these funds have not been allocated due to recent revenue projections for both the Offender Services Fund and the Drug Offender Surcharge Fund.

Offender Treatment and Services Line Item: Budget and Expenditures					
Treatment or Service	FY 2009-10			FY 2010-11	
	Allocation	Expenditures	% of Total	Allocation	% of Total
Substance Abuse Treatment	\$2,495,588	\$1,856,833	21.4%	\$2,079,164	18.6%
Drug Testing	<u>1,176,242</u>	<u>1,157,063</u>	<u>13.4%</u>	<u>1,236,765</u>	<u>11.1%</u>
Subtotal: Substance Abuse Services	3,671,830	3,013,896	34.8%	3,315,929	29.7%
Adult Sex Offender Assessment	1,348,897	1,072,943	12.4%	1,273,066	11.4%
Adult Sex Offender Treatment	914,996	960,239	11.1%	974,908	8.7%
Adult Sex Offender Polygraphs	359,822	330,325	3.8%	363,732	3.3%
Juvenile Sex Offender Treatment & Assessment	256,443	206,464	2.4%	201,953	1.8%
Juvenile Sex Offender Polygraphs	<u>136,038</u>	<u>83,018</u>	<u>1.0%</u>	<u>93,269</u>	<u>0.8%</u>
Subtotal: Sex Offender Services	3,016,196	2,652,989	30.6%	2,906,928	26.0%
Alcohol treatment/ monitoring technology or devices (HB 10-1347)				249,750	2.2%
Mental Health Treatment	683,170	615,432	7.1%	665,665	6.0%
Domestic Violence Treatment	571,501	598,825	6.9%	648,581	5.8%
Transportation Assistance	229,458	261,575	3.0%	259,700	2.3%
Electronic Home Monitoring	249,614	175,343	3.6%	228,418	2.9%
Emergency Housing	239,865	270,831	3.1%	213,619	1.9%
Educational/Vocational Assistance	160,447	149,554	1.7%	176,176	1.6%
Restorative Justice	151,486	130,509	1.5%	164,851	1.5%
Global Positioning Satellite Tracking (GPS)	138,014	67,377	0.8%	112,173	1.0%
Incentives	128,892	95,959	1.1%	110,377	1.0%
Interpreter Services	150,245	82,579	1.0%	105,823	0.9%
General Medical Assistance	<u>95,746</u>	<u>58,936</u>	<u>0.7%</u>	<u>75,993</u>	<u>0.7%</u>
Subtotal: Funds Allocated to/Expended by Districts	9,486,464	8,173,805	94.4%	9,233,983	82.6%
Initiative to Build Capacity in Rural/Underserved Areas	350,000	89,430	1.0%	350,000	3.1%
Evidence-based Practices Research	250,000	210,721	2.4%	250,000	2.2%
Transfer from DHS-ADAD	312,733	185,024	2.1%	312,733	2.8%
Unallocated	<u>532,826</u>	<u>n/a</u>	<u>0.0%</u>	<u>1,035,057</u>	<u>9.3%</u>
Total	10,932,023	8,658,980	100.0%	11,181,773	100.0%

Revenues and Expenditures: Public Access System (PAS) and Integrated Colorado Courts E-filing System (ICCES)						
Description	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15
Public Access System (PAS)						
<u>Revenues</u>						
Vendors:						
Acxiom		\$1,920,000	\$2,098,036	\$2,160,977	\$2,225,806	\$2,292,580
Background Info. Services		<u>1,764,000</u>	<u>1,917,736</u>	<u>1,975,268</u>	<u>2,034,526</u>	<u>2,095,562</u>
Subtotal: Vendors		3,684,000	4,015,772	4,136,245	4,260,332	4,388,142
Private Probation Providers	718,545	696,000	718,545	718,545	718,545	718,545
Single search fees	0	0	0	0	0	0
Cost recovery fees	<u>1,068,853</u>	<u>2,500</u>	<u>2,500</u>	<u>2,500</u>	<u>2,500</u>	<u>2,500</u>
Total PAS Revenues	1,787,398	4,382,500	4,736,817	4,857,290	4,981,377	5,109,187
<u>Expenses</u>						
Staff salaries/Benefits	43,445	884,408	916,356	924,480	932,018	939,556
FTE	1.0	11.0	11.0	11.0	11.0	11.0
Hardware acquisition	0	0	0	479,202	70,413	0
Software acquisition		0	0	0	0	0
Networking	0	9,000	9,900	10,890	11,979	13,177
External consulting	24,350	10,000	0	0	0	0
Credit card fees	0	6,443	6,654	6,874	7,101	7,335
Maintenance:						
Hardware	0	4,068	4,068	4,068	0	4,068
Software	0	30,302	38,102	45,902	30,302	38,102
Operating:						
Travel	995	22,000	24,200	26,620	29,282	32,210
Training users	0	44,000	48,400	53,240	58,564	64,420
Leased space	0	0	0	0	0	0
Operating and phone service	0	30,206	33,227	36,549	40,204	44,224
Base budget expenses funded through cost recovery fees/ IT Cash Fund	<u>1,386,146</u>	<u>2,322,051</u>	<u>2,308,691</u>	<u>2,304,787</u>	<u>2,304,787</u>	<u>2,304,787</u>
Total PAS Expenses	1,454,936	3,362,478	3,389,598	3,892,612	3,484,650	3,447,879
Net PAS Revenues	332,462	1,020,022	1,347,219	964,678	1,496,727	1,661,308

Revenues and Expenditures: Public Access System (PAS) and Integrated Colorado Courts E-filing System (ICCES)						
Description	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15
Integrated Colorado Courts E-filing System (ICCES)						
<u>Revenues</u>						
District court filings				\$2,412,482	\$5,066,212	\$5,319,523
District court service				1,853,585	3,892,528	4,087,154
County court filings				855,644	1,796,852	1,886,695
County Court service				934	1,961	2,059
Court of Appeals filings				10,502	22,054	23,157
Court of Appeals service				9,364	19,665	20,648
Cost recovery fees	<u>1,265,911</u>	<u>1,323,600</u>	<u>1,350,268</u>	<u>708,890</u>	<u>0</u>	<u>0</u>
Total ICCES Revenues	1,265,911	1,323,600	1,350,268	5,851,401	10,799,272	11,339,236
<u>Expenses</u>						
Staff salaries/Benefits		697,059	772,943	1,205,290	1,350,024	1,586,882
FTE		8.0	9.0	17.0	17.0	20.0
Hardware acquisition		85,000	0	353,831	0	0
Software acquisition		0	0	23,400	0	0
External consulting		20,000	20,000	30,000	30,000	0
Maintenance:						
Hardware		30,450	30,450	30,450	0	30,450
Software		48,840	48,840	84,075	84,075	84,075
Operating:						
Furniture, phones, equipment		14,000	3,500	28,000	0	10,500
Travel		33,000	36,300	39,930	43,923	48,315
Training users		33,000	36,300	72,600	79,860	87,846
Operating		22,000	24,200	26,620	29,282	32,210
Base budget expenses funded through cost recovery fees/ IT Cash Fund	<u>1,265,911</u>	<u>1,323,600</u>	<u>1,350,268</u>	<u>1,353,605</u>	<u>1,353,605</u>	<u>1,353,605</u>
Total ICCES Expenses	1,265,911	2,306,949	2,322,801	3,247,801	2,970,769	3,233,883
Net ICCES Revenues	0	(983,349)	(972,533)	2,603,600	7,828,503	8,105,353
Total Revenues	3,053,309	5,706,100	6,087,085	10,708,691	15,780,649	16,448,423
Less: Total Expenses	<u>2,720,847</u>	<u>5,669,427</u>	<u>5,712,399</u>	<u>7,140,413</u>	<u>6,455,419</u>	<u>6,681,762</u>
Total Net Revenues	332,462	36,673	374,686	3,568,278	9,325,230	9,766,661

Appropriations Related to History Center Colorado and Ralph L. Carr Judicial Center

Description	Bill	History Center Colorado				Subtotal	Ralph L. Carr Judicial Center	TOTALS	General Fund Appropriation to Justice Center Cash
		State Museum Cash Fund	Capital Constr. Fund	Limited Gaming Revenues	State Historical Fund		Justice Center Cash Fund		
Capital Construction Budget							Capital Construction Budget		Operating Budget
Colorado Historical Society Capital Construction <i>New Colorado History Museum</i>									
FY 2007-08	HB 08-1303/ SB 09-280	\$0	\$372,479	\$0	\$0	\$372,479		\$372,479	
FY 2008-09	SB 08-206	18,000,000	0	0	0	18,000,000		18,000,000	
FY 2009-10	SB 09-259	12,000,000	0	0	0	12,000,000		12,000,000	
FY 2010-11	HB 10-1376	3,000,000	0	2,000,000	0	5,000,000		5,000,000	
FY 2011-12	Request	<u>10,000,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>10,000,000</u>		<u>10,000,000</u>	
Subtotal: Museum construction and relocation costs		43,000,000	372,479	2,000,000	0	45,372,479		45,372,479	
<i>Certificates of Participation (COPs)</i>									
FY 2011-12					2,920,546	2,920,546		2,920,546	
FY 2012-13					3,000,000	3,000,000	11,007,039	14,007,039	
FY 2013-14					3,000,000	3,000,000	15,654,579	18,654,579	
FY 2014-15					3,000,000	3,000,000	15,634,704	18,634,704	TBD
FY 2015-16					3,000,000	3,000,000	15,548,322	18,548,322	TBD
FY 2016-17					3,000,000	3,000,000	15,565,260	18,565,260	TBD
FY 2017-18					3,000,000	3,000,000	15,567,179	18,567,179	TBD
FY 2018-19					3,000,000	3,000,000	15,526,904	18,526,904	TBD
FY 2019-20					3,000,000	3,000,000	15,799,513	18,799,513	TBD
FY 2020-21					3,000,000	3,000,000	15,745,826	18,745,826	TBD
FY 2021-22					3,500,000	3,500,000	15,242,976	18,742,976	TBD

Appropriations Related to History Center Colorado and Ralph L. Carr Judicial Center

Description	Bill	History Center Colorado				Subtotal	Ralph L. Carr Judicial Center	TOTALS	General Fund Appropriation to Justice Center Cash
		State Museum Cash Fund	Capital Constr. Fund	Limited Gaming Revenues	State Historical Fund		Justice Center Cash Fund		
FY 2022-23					3,500,000	3,500,000	15,243,524	18,743,524	TBD
FY 2023-24					3,500,000	3,500,000	15,244,223	18,744,223	TBD
FY 2024-25					3,500,000	3,500,000	15,244,141	18,744,141	TBD
FY 2025-26					3,500,000	3,500,000	15,244,337	18,744,337	TBD
FY 2026-27					3,800,000	3,800,000	14,947,579	18,747,579	TBD
FY 2027-28					3,800,000	3,800,000	14,946,602	18,746,602	TBD
FY 2028-29					3,800,000	3,800,000	14,945,899	18,745,899	TBD
FY 2029-30					3,800,000	3,800,000	14,944,860	18,744,860	TBD
FY 2030-31					3,800,000	3,800,000	14,946,104	18,746,104	TBD
FY 2031-32					4,000,000	4,000,000	14,743,438	18,743,438	TBD
FY 2032-33					4,000,000	4,000,000	14,742,325	18,742,325	TBD
FY 2033-34					4,000,000	4,000,000	14,746,822	18,746,822	TBD
FY 2034-35					4,000,000	4,000,000	14,746,090	18,746,090	TBD
FY 2035-36					4,000,000	4,000,000	14,744,395	18,744,395	TBD
FY 2036-37					4,500,000	4,500,000	14,245,795	18,745,795	TBD
FY 2037-38					4,500,000	4,500,000	14,244,345	18,744,345	TBD
FY 2038-39					4,500,000	4,500,000	14,244,103	18,744,103	TBD
FY 2039-40					4,998,000	4,998,000	13,746,021	18,744,021	TBD
FY 2040-41					4,998,000	4,998,000	13,744,846	18,742,846	TBD
FY 2041-42					4,998,000	4,998,000	13,745,565	18,743,565	TBD
FY 2042-43					4,998,000	4,998,000	13,746,243	18,744,243	TBD
FY 2043-44					4,998,000	4,998,000	13,745,582	18,743,582	TBD
FY 2044-45					4,998,000	4,998,000	13,747,179	18,745,179	TBD
FY 2045-46					0	0	280,051	280,051	TBD
Subtotal: COPs					129,908,546	129,908,546	486,212,371	616,120,917	TBD
Totals		43,000,000	372,479	2,000,000	129,908,546	175,281,025	486,212,371	661,493,396	TBD

STATE OF COLORADO

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February 18, 2010

Mr. Ted C. Tow
Executive Director
Colorado District Attorneys' Council
1580 Logan Street, Suite 420
Denver, CO 80203

Dear Mr. Tow:

SUBJECT: Reimbursements to District Attorneys for Duplicating Discoverable Materials

On December 15, 2009, the Joint Budget Committee (the Committee) invited representatives from the Colorado District Attorneys' Council (CDAC) to attend a meeting to discuss, among other topics, reimbursements to district attorneys for duplicating discoverable materials pursuant to Colorado Supreme Court Rule 16. We appreciate the written comments you provided, along with the comments provided by the District Attorneys from the 1st, 2nd, 4th, 18th, and 20th judicial districts who also attended the meeting.

The Committee recently learned that the State Court Administrator's Office (SCAO) has agreed to make a recommendation to the Supreme Court Criminal Rules Committee to amend Rule 16 to clarify what the "cost of duplicating" and "actual cost of copying" discoverable materials mean. The SCAO also intends to update the rule to reflect technological and procedural changes that have occurred since the inception of Rule 16. The SCAO has indicated that it will seek input from the Colorado State Public Defender, the Director of the Office of the Alternate Defense Counsel, and the CDAC prior to making its recommendation. In addition, through the rule making process, all of these groups, as well as district attorneys who are not members of the CDAC and the private defense bar, will have an opportunity to provide input to the Rules Committee.

There are still three issues that have been brought to the Committee's attention that remain to be addressed. First, not all district attorneys submit invoices that clearly indicate the basis for the charge (i.e., the quantity and nature of the materials provided and the applicable rates). Second, not all district attorneys submit information about periodic rate changes that adequately describe the basis for the rates and the reason for the rate changes. Third, district attorneys currently

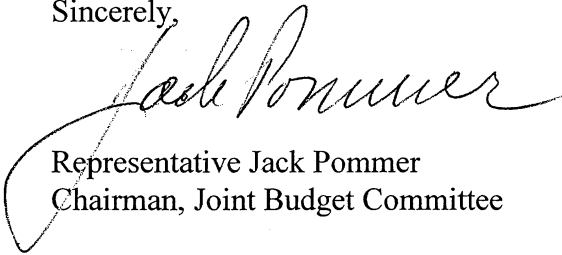
change rates at various times throughout the year, making it difficult if not impossible for state agencies to plan for and manage their annual appropriations. **The Committee requests that the CDAC take the following actions to address these issues within the next 90 days:**

1. Identify best practices and develop a standardized statement(s) for district attorneys to use in recovering costs from public agencies pursuant to Rule 16.
2. Identify best practices and develop a standardized letter(s) for district attorneys to use when notifying state agencies when rates charged for duplicating discoverable materials change.
3. Adopt a standard practice with respect to the timing of rate changes to ensure that state agencies have rate information in time to submit budget requests to the General Assembly. This practice should be designed to provide predictability and stability for both state agencies and district attorneys.

Finally, in order to keep the General Assembly apprised of rate changes imposed by district attorneys for the purpose of recovering costs pursuant to Rule 16, **we request that each district attorney copy the Committee when notifying a state agency about rate changes related to Rule 16.**

We appreciate your prompt attention to these issues. If you have any questions or comments, please contact Ms. Carolyn Kampman of our staff at 303-866-4959.

Sincerely,



Representative Jack Pommer
Chairman, Joint Budget Committee

- cc: Hon. Carol Chambers, District Attorney, 18th Judicial District
Ms. Lindy Frolich, Director, Office of the Alternate Defense Counsel, Judicial Department
Mr. Gerald A. Marroney, State Court Administrator, Judicial Department
Hon. Mitchell R. Morrissey, District Attorney, 2nd Judicial District
Mr. Douglas K. Wilson, Colorado State Public Defender, Judicial Department
Mr. John Ziegler, Staff Director, Joint Budget Committee

**FY 2010-11 Joint Budget Committee Staff Budget Briefing
Judicial Department**

BRIEFING ISSUE (*Prepared November 2008*)

ISSUE: U.S. Supreme Court *Rothgery* Decision

The State Public Defender has expressed concern that a recent U.S. Supreme Court decision calls into question the constitutionality of two existing Colorado statutory provisions.

SUMMARY:

- ❑ The U.S. Supreme Court has previously held that under the Sixth Amendment to the U.S. Constitution the indigent accused must be provided counsel by the government in any prosecution where incarceration is being sought. In a recently issued opinion, the Court further held that the right to counsel attaches at the time a criminal defendant first appears before a judicial officer.
- ❑ The State Public Defender has expressed concern that this recent Court decision calls into question the constitutionality of two existing Colorado statutory provisions.
- ❑ The State Public Defender indicates that if the State is successfully sued under this recent decision, his office' misdemeanor caseload -- and the associated staffing need -- will increase significantly. However, estimates of the potential magnitude of such a caseload increase are not currently available.

RECOMMENDATION:

Staff recommends that the Joint Budget Committee discuss this issue with the House and Senate Judiciary Committees. If it appears that statutory changes are warranted, the Joint Budget Committee should coordinate with the Judiciary Committees and plan for any necessary budget changes.

DISCUSSION:

U.S. Supreme Court Decision

The U.S. Supreme Court has previously held that under the Sixth Amendment to the U.S. Constitution the indigent accused must be provided counsel by the government in any state or federal prosecution where incarceration is being sought¹. On June 23, 2008, the U.S. Supreme Court issued an opinion in *Rothgery v. Gillespie County*, holding that the right to counsel attaches at the time a

¹ The following citations were provided by the Public Defender's Office: *Gideon v. Wainwright*, 372 U.S. 335 (1963) and *Alabama v. Shelton*, 535 U.S. 654 (2002)

criminal defendant first appears before a judicial officer where he is informed of the criminal charges and restrictions are imposed on his freedom.

State Public Defender's Concerns Related to Rothgery Decision

The State Public Defender has prepared a memorandum to the Joint Budget Committee [see Appendix E] expressing concern that the *Rothgery* decision calls into question the constitutionality of two existing provisions of the Colorado Revised Statutes.

First, Section 16-7-301, C.R.S., authorizes a district attorney to engage in plea discussions with a defendant "only through or in the presence of defense counsel", with the following exceptions:

1. Where the defendant is not eligible for appointment of counsel.
2. Where the defendant refuses appointment of counsel and has not retained counsel.
3. In the case of a misdemeanor, petty offense, or traffic offense, a defendant's application for appointment of counsel is deferred until after the prosecuting attorney has spoken to the defendant. If a plea agreement is reached, and the court determines that the proposed plea agreement is acceptable, the court is required to advise the defendant of the right to a court-appointed attorney prior to the acceptance of the defendant's plea. If a plea agreement has not been reached, the court is required to appoint counsel (if the defendant is indigent) and "all discussions with the defendant outside the presence of counsel shall cease".

The third exception, above, was added through H.B. 92-1060 (Grampsas/Bird), a bill that was sponsored by the Joint Budget Committee (JBC) [see Section 16-7-301 (4) (a), C.R.S.]. This bill was introduced in response to a request from the State Public Defender for additional staff due to an increase in the number of misdemeanor cases (primarily domestic violence and drug cases).

The provision concerning this exception was subsequently modified, adding language stating that the defendant is under no obligation to talk to the prosecuting attorney, and requiring the prosecuting attorney to advise the defendant that he has the right to retain counsel or seek appointment of counsel [see S.B. 93-81, another JBC-sponsored bill].

Second, Section 16-2-207, C.R.S., requires the judge, at a defendant's first appearance in court or first arraignment (whichever was first), to inform the defendant that he: (a) need not make a statement, and any statement made can and may be used against him; (b) has a right to counsel; and (c) if indigent, the defendant may apply for a court-appointed attorney and one will be appointed. House Bill 92-1060 added language to this provision creating an exception. Specifically, if the defendant is charged with a misdemeanor, petty offense, or traffic offense, and if the prosecuting attorney files a written statement that incarceration is not being sought, counsel shall not be provided to the defendant.

The State Public Defender indicates that in the *amicus* briefs and the *Rothgery* decision, Colorado is openly criticized for its practice requiring indigent, *pro se* defendants to meet with the prosecution prior to the appointment of counsel.

The State Public Defender and State Court Administrator sent a letter to Attorney General Suthers requesting a legal opinion concerning the constitutionality and viability of Sections 16-7-301 (4) (a) and 16-7-207 (1) (c), C.R.S., in light of the *Rothgery* decision. As the Attorney General had submitted a brief in the *Rothgery* case (contrary to the ultimate ruling), he declined to issue a formal opinion.

Potential Impact of Rothgery Decision

The State Public Defender indicates that *pro se* misdemeanants are informed that they must first meet with the prosecution without counsel. The Public Defender's Office currently handles an estimated 37.5 percent of misdemeanor cases statewide, excluding traffic cases. The State Public Defender indicates that if the State is successfully sued under the *Rothgery* decision, the Public Defender's misdemeanor caseload (and the associated staffing needs) will increase significantly. The Public Defender's Office does not know the number of *pro se* defendants that meet with the prosecution, so it is unable to calculate the magnitude of the likely increase.

OFFICE OF THE STATE PUBLIC DEFENDER

MEMORANDUM

Date: October 31, 2008
To: Joint Budget Committee of the Colorado General Assembly
From: Douglas K. Wilson
Subject: United States Supreme Court *Rothgery* Decision

The Office of the Colorado State Public Defender was established in 1970 as a separate and independent agency of the Colorado Judicial Branch as a result of a Federal Constitution mandate to provide counsel to the poor. *Gideon v. Wainwright*, 372 U.S. 335 (1963). See also, *Alabama v. Shelton*, 535 U.S. 654 (2002). In *Gideon* and now *Shelton*, the United States Supreme Court held that in any state or federal prosecution where incarceration is being sought, the indigent accused must be provided counsel by the government. This holding under the Sixth Amendment to the United States Constitution applies to the States via the Fourteenth Amendment to the United States Constitution.

In 1993, the Colorado Legislature amended CRS 16-7-301 to require indigents accused of misdemeanors, petty offenses and traffic cases, to meet with the prosecuting attorney to attempt to resolve the case before applying for a public defender. Additionally, CRS 16-5-501 states that if the prosecution is not seeking incarceration for any criminal offenses that are charged as class 2 or 3 misdemeanors, petty offenses and class 1 or 2 traffic offenses, then court appointed counsel and supporting services need not be provided at state expense.

As explained below, the continued constitutionality of these procedures is now in question.

On June 23, 2008, the United States Supreme Court issued an opinion in *Rothgery v. Gillespie County*, 554 U.S. ____ (6/23/08). The *Rothgery* Court held that the Sixth Amendment's right to counsel attaches at the time a criminal defendant first appears before a judicial officer where he is informed of the criminal charges and restrictions are imposed upon his freedom. CRS 16-7-301(4) (a) requires an indigent defendant in misdemeanors, petty offenses and traffic offenses to pre-try his case with the prosecutor before he is entitled to apply for a public defender. CRS 16-7-207(1)(c) references the same procedure, but goes further by denying counsel to indigent defendants if the prosecution stipulates that they will not seek jail.

In the *amicus* briefs and the opinion, Colorado is openly criticized for its practice of requiring indigent, *pro se* defendant's to meet with the prosecution prior to the appointment of counsel. The Court indicates that Colorado is in the minority with

the current practice of appointing counsel for the poor in criminal misdemeanor cases. (See *Rothgery* at pages 10-13).

Presently, if a *pro se* misdemeanant goes to court or comes to one of our offices to apply for counsel on a misdemeanor, the court or our staff will inform them that they must first meet with the prosecution without counsel. At this time, our office handles approximately 37.5% of the misdemeanor cases statewide, not including traffic court cases. If the State is successfully sued under the constitutional mandate of *Rothgery*, the misdemeanor caseload of the Public Defender, and thus our staffing needs, will increase significantly as a result of a Federal mandate.

Since we do not know the number of *pro se* defendants that meet with the prosecution each year, the increase is impossible to determine. Ultimately, once the mandate reaches the Colorado Court, the Public Defender will be at significant odds to meet an unstaffed mandate, especially considering the current deficit of staffing resources the Public Defender currently maintains. The results of a Colorado *Rothgery* mandate would supplement the Public Defender's already great resource need.

Request for Information Response #1

All Departments- Every department is requested to submit to the Joint Budget Committee information on the number of additional federal and cash funded FTE associated with any federal grants or private donations that were received in FY2009-10. The Departments are also requested to identify the number of additional federal and cash funds FTE associated with any federal grants or private donations that are anticipated to be received during FY2010-11.

Long Bill Line	Grant Name	Revenue Code	Grantor	Grant Period	Amount	FTE
PB - Fed Funds & Other Grants	1st Probation Adult Literacy Grant	FED	Literacy	7/1/07 7/31/09	5,034.77	6.6
	1st Probation Adult Literacy Grant	FED	Literacy	7/1/09 6/30/11	74,624.00	
	SCAO Bullet Proof Vest Federal Grant Program	FED	CO DPS	5/1/10 6/30/10	901.50	
	SCAO MacArthur Equipment Grant	CASH	CO DPS	7/1/09 8/1/09	4,900.00	1.0
	SCAO Restorative Justice Council	FED	CO DCJ	10/1/09 9/30/10	70,942.00	0.3
	28th Probation PRI (Prison Re-Entry Initiative) Grant	FED	Denver Cty & Cnty	9/29/09 6/30/10	234,000.00	1.7
	20th Probation Integrated Treatment Court Grant (County)	CASH	Boulder County	1/1/10 12/31/10	239,544.00	
	25th Probation SAMHSA Safe Families Treatment and Recovery Project	FED	US Dept HHS	9/30/09 9/29/10	657,227.00	1.0
	25th Probation SAMHSA Safe Families Treatment and Recovery Project	FED	US Dept HHS	9/30/08 9/29/09	119,970.71	4.4
	25th Probation SOAR (Success Opportunity Advancement and Renew) Project	FED	US Dept Justice	9/1/08 8/31/10	125,805.94	1.0
	25th Probation Project HOPE Grant (SAMHSA)	FED	US Dept HHS	9/30/08 9/29/09	222,143.85	2.5
	25th Probation Project HOPE Grant (SAMHSA)	FED	US Dept HHS	9/30/09 9/29/10	569,590.00	
	25th Probation Juvenile Offender Reduction Probation Project (JAIBG)	FED	CO DCJ	10/1/08 9/30/09	30,855.45	2.4
	25th Probation DAISI (Denver At-Home Intervention Service Initiative) Grant - Yr	FED	US Dept HHS	9/30/08 9/29/09	143,932.26	1.8
	14th Probation HB04-1451 ISST Facilitator Grant	CASH	Routt County	7/1/09 6/30/10	12,480.00	0.1
	25th Probation DAISI (Denver At-Home Intervention Service Initiative) Grant - Yr	FED	US Dept HHS	9/30/09 9/29/10	799,130.00	
	Denver Juvenile Probation JABG Computer Grant	FED	CO DCJ	3/5/10 4/30/10	2,440.00	
	20th Probation Integrated Treatment Court Grant (County)	CASH	Boulder County	1/1/09 12/31/09	118,239.95	2.8
	20th Probation PACE Grant	CASH	Boulder Co. et al.	1/1/09 12/31/10	98,042.13	
	25th Probation Juvenile Offender Reduction Probation Project (JAIBG)	FED	CO DCJ	10/1/09 9/30/10	153,768.00	
	25th Probation Denver Youth Development Court (SAMHSA)	FED	US Dept HHS	9/30/09 9/30/10	199,915.00	
	25th Probation Denver Youth Development Court TRAVEL	CASH	Portland Univ	9/30/09 9/30/10	5,000.00	
	28th Probation Denver Drug Court Enhancement Program	FED	Denver Cty & Cnty	4/15/10 8/31/10	19,795.00	
	SCAO Bullet Proof Vest Federal Grant Program - 2009	FED	CO DPS	5/1/10 6/30/10	3,300.00	
	25th Probation Denver MAT Project (SAMHSA)	FED	US Dept HHS	9/30/09 9/30/10	299,694.00	
	25th Probation Pro Dad Program Grant	CASH	CO DPH&E	4/19/10 4/18/11	24,900.00	
	SCAO CJRA Pilot Project	FED	CO DCJ	5/3/10 7/30/10	4,900.00	
	18th Probation JABG Computer Grant	FED	CO DCJ	3/5/10 4/30/10	4,410.00	
	20th PB Gang Intervention Specialist	CASH	Boulder County	7/1/09 6/30/10	54,765.00	4.3
	20th PB School Liaison Specialist	CASH	Boulder County	7/1/09 6/30/10	33,370.00	
	20th PB ISIS Grant	CASH	Boulder County	7/1/09 6/30/10	20,441.06	
	20th Probation CBT Grant	CASH	Boulder County	7/1/09 6/30/10	38,400.00	
	20th Probation Impact Grant	CASH	CO DYC	7/1/09 6/30/10	152,724.00	
	25th Probation SAMHSA Trauma Project Grant	FED	US Dept HHS	9/30/09 9/29/10	394,816.00	
	6th Courts/Probation Encourage Arrest Grant (VAWA)	FED	US Dept Justice	9/1/04 6/30/10	76,346.33	5.0
	20th Probation Gang Intervention Program	FED	CO DCJ	10/1/09 9/30/10	52,737.00	
	20th Probation Juvenile ITC	FED	US Dept Justice	10/1/09 9/30/11	199,755.00	
	1st Probation Domestic Violence Services Grant (VAWA)	FED	CO DCJ	4/1/08 12/31/09	8,521.33	1.4
	6th Probation Minority Over Representation Program	FED	CO DCJ	10/1/08 6/30/10	7,321.75	0.5
	SCAO Developing a Classification Tool/ Juv Offenders	FED	CO DCJ	12/1/08 8/31/10	7,128.96	
	25th Probation Denver EFFECT Grant (DHHS to Denver to 25th)	FED	Denver Cty & Cnty	9/30/07 9/29/10	78,589.63	1.7
	Denver Juvenile Probation SUCCESS Program	FED	CO DCJ	10/1/09 9/30/11	274,468.00	
	Denver Juvenile Probation Denver Gang Project	FED	CO DCJ	10/1/09 9/30/10	57,365.00	
	25th Probation Denver Youth Development Court	FED	US Dept Justice	10/1/09 9/30/13	424,835.00	
	3rd PB Intervention for Positive Outcomes	FED	CO DCJ	10/1/09 9/30/10	39,454.00	
	SCAO Technical Violation Response Project	FED	CO DCJ	10/1/09 9/30/10	122,256.00	
	25th Probation Offender Services Grant (TASC Substance Abuse)	CASH	Denver Cty & Cnty	7/1/06 12/31/10	129,890.40	2.0
	25th Probation SAMHSA Meth Prevention Grant	FED	US Dept HHS	9/30/08 9/29/10	156,569.58	5.6
	Transportation Safety Grant	FED	CO DOT	11/26/08 9/30/09	143,595.71	3.2
	19th Probation JAIBG Grant (Federal to DCJ to Weld County to 19th Prob)	FED	Weld County	12/1/08 9/30/09	7,243.00	2.4
	Transportation Safety Grant	FED	CO DOT	10/19/09 9/30/10	250,000.00	
	28th Probation Drug Court Grant	CASH	Denver Cty & Cnty	12/1/06 12/31/10	173,865.78	7.1

#1 Grant Funds and FTE Footnote Report

	25th Probation Drug Court Grant	CASH	Denver Cty & Cnty	12/1/06	12/31/10	126,070.27	6.0
	14th PB HB04-1451 ISST Facilitator Grant - Moffat	CASH	Moffat County	5/1/10	6/30/11	5,200.00	

Sub-Total: PB/Fed/Funds/Other Grants 7,280,214

PB - Victims Grants	Statewide VOCA Grant	FED	CO DCJ	1/1/09	12/31/09	83,497.92	6.0
	Statewide VOCA Grant	FED	CO DCJ	1/1/10	12/31/10	154,757.00	
	SCAO VAWA Training and Program Assistance Grant	FED	CO DCJ	4/1/08	12/31/09	5,354.35	0.2
	State VALE Grant	CFE	CO DCJ	7/1/09	6/30/10	44,393.00	4.7

Sub-Total: PB/Victims Grants 288,002

Total: All Probation Grants 7,568,217

TC - Fed Funds & Other Grants	Child Support Liaison	FED	CO DHS	7/1/09	6/30/10	144,513.00	0.5
	Court Improvement Grant	FED	US Dept HHS	9/16/08	9/30/10	156,775.00	
	Court Improvement - Training Grant	FED	US Dept HHS	9/16/08	9/30/10	125,265.00	
	Court Improvement - Data Sharing Grant	FED	US Dept HHS	9/16/08	9/30/10	174,481.00	
	Denver District Court Grant for Magistrate/Jury Salaries	CASH	Denver Cty & Cnty	7/1/09	6/30/10	143,587.00	
	17th District SAMHSA FASD Grant	FED	Northrop	2/1/2008	7/31/10	337,526.66	9.6
	SCAO E-Learning Grant	FED	CO DCJ	4/1/09	12/31/09	38,686.44	0.7
	4th District Mediation Services for El Paso County's Dept. of Human Services	CASH	El Paso County	6/1/07	5/31/10	65,700.00	
	SCAO Rural Initiative Education Programs	FED	CO DCJ	9/1/09	2/28/11	103,798.00	
	18th TC Mental Health Court Treatment Program	FED	CO DCJ	10/1/09	9/30/11	250,584.00	2.1
	SCAO E-Learning Training Materials Grant	FED	CO DCJ	1/1/10	12/31/10	80,064.00	
	SCAO JAG Recovery EBP Grant	FED	CO DPS	1/5/10	9/30/11	217,892.00	
	Court Improvement Grant	FED	US Dept HHS	9/21/07	9/30/09	55,147.42	1.4
	Court Improvement - Training Grant	FED	US Dept HHS	9/21/07	9/30/09	13,880.28	1.1
	Court Improvement - Data Sharing Grant	FED	US Dept HHS	9/21/07	9/30/09	62,068.21	0.9
	Weld County Model Traffic Code Grant	CASH	Weld County	1/1/06	NA	37,059.00	
	Court Improvement Grant	FED	US Dept HHS	7/1/09	9/30/11	208,508.00	
	Court Improvement - Training Grant	FED	US Dept HHS	7/1/09	9/30/11	172,898.00	0.8
	Court Improvement - Data Sharing Grant	FED	US Dept HHS	7/1/09	9/30/11	172,611.00	1.3
	Denver County DHS Liaison - Child Welfare	FED	Denver Cty & Cnty	7/1/07	6/30/11	66,290.03	1.0
	Denver County DHS Liaison - Child Welfare	CASH	Denver Cty & Cnty	7/1/07	6/30/11	92,146.95	1.0
	SCAO Child Support Enforcement Electronic Filing Project (DISH)	FED	CO DHS	4/30/07	8/31/10	165,190.79	2.8
	Morgan County Model Traffic Code Grant	CASH	Morgan County	1/8/08	NA	1,742.10	
	19th TC Family Treatment Court (Federal to North Range to 19th Trial Court)	FED	N Range Behavioral Hll	10/1/09	12/31/09	37,098.00	
	Court Improvement Grant	FED	US Dept HHS	10/30/09	9/30/11	209,761.00	
	Court Improvement - Training Grant	FED	US Dept HHS	10/30/09	9/30/11	176,485.00	
	Court Improvement - Data Sharing Grant	FED	US Dept HHS	10/30/09	9/30/11	179,560.00	
	6th Courts/Probation Encourage Arrest Grant (VAWA)	FED	US Dept Justice	10/1/09	9/30/11	307,042.00	
	SCAO Adult Drug Court & DUI Court Statewide Expansion Project	FED	US Dept Justice	8/1/09	7/31/11	2,701,012.00	5.8
	4th District Mediation Services for El Paso County's DHS	CASH	El Paso County	6/1/10	5/31/11	65,700.00	

Sub-Total: TC/Fed/Funds/Other Grants 6,583,072

Trial Courts Personal Services	18th District Child Support Grant	FED	CO DHS	7/1/09	6/30/10	177,090.81	3.8
	2nd District Child Support Grant	FED	CO DHS	7/1/09	6/30/10	312,532.83	5.8
	7th District Child Support Grant	FED	CO DHS	7/1/09	6/30/10	41,661.55	0.3
	8th District Child Support Grant	FED	CO DHS	7/1/09	6/30/10	66,080.31	1.4
	9th District Child Support Grant	FED	CO DHS	7/1/09	6/30/10	12,148.81	0.3
	19th District Child Support Grant	FED	CO DHS	7/1/09	6/30/10	100,019.82	1.9
	17th District Child Support Grant	FED	CO DHS	7/1/09	6/30/10	62,048.92	2.2
	20th District Child Support Grant	FED	CO DHS	7/1/09	6/30/10	80,891.69	1.7
	1st District Child Support Grant	FED	CO DHS	7/1/09	6/30/10	102,427.53	2.2
	4th District Child Support Grant	FED	CO DHS	7/1/09	6/30/10	81,607.04	2.9

Sub-Total: Trial Courts Personal Services 1,036,509

Total: All Trial Court Grants 7,599,581