

The following file contains two documents:

- A memorandum to the Joint Budget Committee members dated February 17, 2016, concerning the Judicial Department's Information Technology and Security request (JUD R1).
- A document dated February 17, 2016, titled "FY 2016-17 Staff Figure Setting: Judicial Department". This document includes staff recommendations related the Judicial Branch agencies' FY 2016-17 budget requests.

MEMORANDUM

TO: Joint Budget Committee Members

FROM: Carolyn Kampman, JBC Staff

SUBJECT: Judicial request concerning Information Technology and Security (JUD R1)

DATE: February 17, 2016

This morning, Representative Rankin requested more information about how the proposed IT disaster recovery site would relate to other state disaster recovery resources. Specifically, Representative Rankin asked whether the Office of Information Technology and/or the Joint Technology Committee have been involved in this project.

The Committee included the following questions in the December 2, 2015, hearing agenda for the Judicial Department concerning this budget request:

1. Please provide an overview of the Judicial Department Information Technology Fund, including:
 - a. Actual and projected annual revenues, by source; and
 - b. Actual and projected annual expenditures, by purpose (including all the various amounts requested for various purposes for FY 2016-17).
2. Please describe each of the four components of the IT and Security request (R1). Please include information concerning the following:
 - a. Describe the Department's existing and planned disaster recovery capabilities. Would the requested funds support a physical disaster recovery site or cloud-based technology for a distributed backup site?
 - b. How does the proposed disaster recovery site relate to eFort?
 - c. Are the components of the request consistent with standards established by the Chief Information Security Officer at the Governor's Office of Information Technology (OIT)?
 - d. Has the Department discussed with OIT its plan to replace two servers to determine if excess server capacity exists within the Executive Branch?
3. Does the Joint Technology Committee¹ review or receive information concerning Judicial Department IT projects or purchases?

On the next page, staff has highlighted those responses that directly relate to the questions raised this morning. The complete set of responses is attached.

¹ The Joint Technology Committee is established in Section 2-3-1701 *et seq.*, C.R.S.

- *Planned Changes to Department's Disaster Recovery Capabilities (Question #2a):* The Department's current IT infrastructure is spread out between three data center facilities: GGCC (General Government Computer Center), e-Fort, and Ralph Carr. Currently, GGCC is primarily used for the Department's production applications; e-Fort is used for backup and recovery capabilities; and Ralph Carr is being used for some Department production applications, as well as test and staging environments. The Department's future disaster recovery (DR) plan is to consolidate three data centers into two data centers. The Ralph Carr data center will become the Department's primary data center. Either GGCC, e-Fort, or a new DR facility, depending on the outcome of Governor's Office of Information Technology's (OIT)'s DR RFP process, will be used as the Department's physical DR site. The Department also plans to combine equipment currently located at e-Fort and GGCC, while also adding additional systems and equipment to create a one-for-one DR site
- *Relationship Between Planned Disaster Recovery Site and eFort (#2b):* The Department is following the outcome of the OIT data center RFP process and collaborating with OIT's Director of Infrastructure Services to determine the best location for the Department's disaster recovery site. Once the RFP process closes, which is projected to be before the end of this year (2015), the Department will evaluate the data center that is chosen, as well as consider the Department's and OIT's current production presence at GGCC, and evaluate the ability to leverage that presence into the Department's disaster recovery off-site location.

Updated Information: The Judicial Department's Chief Information Officer indicates that based on the outcome of OIT's RFP, the Judicial Department is very likely to use the GGCC as the physical disaster recovery site because it is the most cost-effective option. The Judicial Department's Chief Security Officer has been communicating regularly with OIT's security staff, and she will be attending regular monthly meetings with the OIT security team.

- *Comparison of Department's Proposal and OIT Disaster Recovery Standards (#2c):* The Department is collaborating with the Chief Information Security Officer (CISO) at OIT to align and comply with the same security standards and frameworks as the CISO's office. The Department follows the National Institute of Standards and Technology's (NIST) security standard 800-53r4, which consists of the same framework and IT security controls standards currently being used by OIT.
- *Joint Technology Committee Role in Reviewing this Project (#3):* The Joint Technology Committee (JTC) or its members do receive and review information from the Judicial Department concerning large IT projects and purchases. Representative Max Tyler, the Vice-chair of the Joint Technology Committee, has specifically reviewed the Department's Disaster Recovery (DR) plan and is very supportive of it. After the Department received its DR and iSeries server quotes from vendors in October 2015, a meeting was scheduled on October 23rd, 2015, with Representative Tyler. During this meeting, the Department provided Representative Tyler with the Department's technical DR plan, which included high-level design diagrams. Representative Tyler indicated support for the plan and suggested the Department schedule a time on the JTC's agenda. Because the next JTC

meetings are not scheduled until December 16, 2015, and January 11, 2016, the Department is unable to meet with the entire Committee prior to the Joint Budget Committee briefing and hearing.

Updated Information: *[The JTC oversight excludes the Judicial and Legislative Branches, the Departments of Law, State, and Treasury, and state-supported institutions of higher education. However, pursuant to Section 2-3-1704 (7), C.R.S., the Judicial Department and the Departments of Law, State, and Treasury are "encouraged to submit a written report to the committee that details all information technology that such department purchased or implemented". Further, Section 2-3-1704 (10), C.R.S., states that, "Upon request", the Judicial Department "shall make available to the committee such data, reports, or information as are necessary for the performance of the committee's duties."]*

The Judicial Department reached out to Representative Tyler last October to make him aware of the audit report and the Department's disaster recovery proposal (this meeting is described above). The Judicial Department did not receive clear direction about whether to take action to be included on a JTC hearing agenda. JTC staff indicate that they were not aware of the Judicial Department's disaster recovery project and have not been asked to include this project on a JTC meeting agenda. The Judicial Department is available to present information to the JTC or its staff if and when it is requested.

**COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE**



**FY 2016-17 STAFF FIGURE SETTING
JUDICIAL DEPARTMENT**

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

**Prepared By:
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February 17, 2016**

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B – Indirect Cost Assessment Methodology

How to Use this Document

The Department Overview contains a table summarizing the staff recommended incremental changes followed by brief explanations of each incremental change. A similar overview table is provided for each division, but the description of incremental changes is not repeated, since it is available under the Department Overview. More details about the incremental changes are provided in the sections following the Department Overview and the division summary tables.

Decision items, both department-requested items and staff-initiated items, are discussed either in the Decision Items Affecting Multiple Divisions or at the beginning of the most relevant division. Within a section, decision items are listed in the requested priority order, if applicable.

Judicial Branch Overview

One of three branches of Colorado state government, the Judicial Branch primarily interprets and administers the law and resolves disputes. The state court system consists of the Colorado Supreme Court, the Colorado Court of Appeals, district courts, the Denver probate and juvenile courts, and all county courts except the Denver county court. Municipal courts and Denver's county court are not part of the state court system, and they are funded by their respective local governments. The General Assembly has established 22 judicial districts within the state, and the General Assembly establishes the number of justices and judges at each level of the state court system. The Judicial Branch is also charged with supervising juvenile and adult offenders who are sentenced to probation. The Chief Justice of the Colorado Supreme Court, selected by the justices of the Court, is the executive head of the Branch. The justices also appoint a State Court Administrator to oversee the daily administration of the Branch and provide administrative and technical support to the courts and probation programs. Within this document, the "Judicial Department" generally refers to the state court system, probation programs, and the administrative functions performed by the Chief Justice and the State Court Administrator's Office.¹

The Judicial Branch also includes six independent agencies:

- The *Office of the State Public Defender* (OSPD) and the *Office of Alternate Defense Counsel* (OADC) provide legal representation for indigent criminal defendants. These cases are first assigned to the OSPD, and then referred to the OADC if the OSPD has an ethical conflict of interest.
- The *Office of the Child's Representative* provides legal services to children entitled to legal representation at state expense.
- The *Office of the Respondent Parents' Counsel* provides legal representation for respondent parents involved in dependency and neglect proceedings.
- The *Office of the Child Protection Ombudsman* receives, investigates, and seeks resolution of complaints concerning child protection services and recommends changes to improve such services.
- The *Independent Ethics Commission* hears complaints and issues findings and advisory opinions on ethics-related matters that arise concerning public officers, members of the General Assembly, local government officials, or government employees.

Each of the independent agencies submits a separate budget request which is not reviewed or approved by either the Chief Justice or the Governor's Office of State Planning and Budgeting. Thus, it is up to the General Assembly to evaluate the relative merits of the budget initiatives contained in the seven budget requests that are submitted by Judicial Branch agencies.

The Branch's FY 2015-16 appropriation represents 2.6 percent of statewide operating appropriations and 5.0 percent of statewide General Fund appropriations.

¹ Please note that Article VI of the Colorado Constitution refers to the judicial branch of government as the "Judicial Department". Thus, the annual Long Bill and documents published by legislative staff use this term to refer to the Branch as a whole.

SUMMARY OF STAFF RECOMMENDATIONS

Judicial Department						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2015-16 Appropriation						
SB 15-234 (Long Bill)	\$670,009,402	\$477,393,699	\$155,800,052	\$32,390,651	\$4,425,000	4,573.3
Other legislation	4,473,305	1,381,285	1,542,020	1,550,000	0	19.0
H.B. 16-1243 (Supplemental Bill)	(240,384)	313,140	(699,000)	145,476	0	0.0
Recommended Long Bill Supplemental	<u>(650,000)</u>	<u>(650,000)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$673,592,323	\$478,438,124	\$156,643,072	\$34,086,127	\$4,425,000	4,592.3
FY 2016-17 Recommended Appropriation						
FY 2015-16 Appropriation	\$673,592,323	\$478,438,124	\$156,643,072	\$34,086,127	\$4,425,000	4,592.3
JUD R1 Information Technology and Security	7,967,204	711,934	7,255,270	0	0	5.5
JUD R2/BA1 Courthouse Capital and Infrastructure Maintenance	4,572,473	2,256,122	2,316,351	0	0	0.0
JUD R3 Offender Treatment and Services Spending Authority	1,500,000	0	1,500,000	0	0	0.0
JUD BA2 Mandated Costs	746,107	746,107	0	0	0	0.0
JUD BA3 Technical Adjustments	64,215	(71,489)	(10,000)	145,704	0	0.0
JUD BA4 eDiscovery	1,831,914	1,761,914	70,000	0	0	0.0
OADC R1 Caseload Increase	1,513,302	1,513,302	0	0	0	0.0
OADC R2 Social Worker Coordinator	71,396	71,396	0	0	0	1.0
OCR R1 Court-appointed Counsel	(429,851)	(429,851)	0	0	0	0.0
OCR R2 Position Reclassification	11,054	11,054	0	0	0	0.0
OCR R3 FTE Increase	17,967	17,967	0	0	0	0.2
CDAC R1 District Attorney Mandated Costs	(400,000)	(400,000)	0	0	0	0.0
NPI Annual Fleet Vehicle Request	56,760	56,760	0	0	0	0.0
Employee Benefits and Common Changes	2,405,650	2,357,780	(100,543)	148,413	0	0.0
Annualize Prior Year Legislation	1,176,513	1,191,033	(14,520)	0	0	7.9
Annualize Prior Year Budget Actions	(4,095,992)	(2,055,352)	(2,040,640)	0	0	3.3
Reverse supplemental	890,384	336,860	699,000	(145,476)	0	0.0
Staff-initiated Increase in Grant Program Spending Authority	600,000	0	600,000	0	0	0.0
Staff-initiated Decrease in ADDS Fund Spending Authority	(2,000,000)	0	(2,000,000)	0	0	0.0
Other Changes	<u>(53,301)</u>	<u>10,777</u>	<u>(74,525)</u>	<u>10,447</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$690,038,118	\$486,524,438	\$164,843,465	\$34,245,215	\$4,425,000	4,610.2

JBC Staff Figure Setting: FY 2016-17
Staff Working Document – Does Not Represent Committee Decision

Judicial Department						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
Increase/(Decrease)	\$16,445,795	\$8,086,314	\$8,200,393	\$159,088	\$0	17.9
Percentage Change	2.4%	1.7%	5.2%	0.5%	0.0%	0.4%
FY 2016-17 Executive Request	\$695,371,787	\$490,622,957	\$166,098,481	\$34,225,349	\$4,425,000	4,611.7
Request Above/(Below) Recommendation	\$5,333,669	\$4,098,519	\$1,255,016	(\$19,866)	\$0	1.5

Description of Incremental Changes

FY 2015-16

Long Bill supplemental: The recommendation includes a reduction of \$650,000 General Fund to reflect updated projections of expenditures by the Office of the Child's Representative for court-appointed counsel.

FY 2016-17

Requests from Judicial Department (Courts/Probation)

JUD R1 Information Technology and Security: The recommendation includes a total of \$7,967,204 (including \$711,934 General Fund and \$7,255,270 cash funds from the Judicial Department Information Technology Cash Fund), for four purposes:

- \$4,063,026 cash funds to develop a disaster recovery site;
- \$3,184,864 cash funds to replace two iSeries servers;
- \$490,652 (primarily General Fund) to add 4.0 FTE to the information security team; and
- \$228,661 (primarily General Fund) to add 2.0 FTE IT Analyst Supervisors.

JUD R2/BA1 Courthouse Capital and Infrastructure Maintenance: The recommendation includes a total of \$4,692,351 (including \$2,376,000 General Fund and \$2,316,351 cash funds from the IT Cash Fund) to fulfill the State's responsibility for new, expanded, and remodeled courthouse and probation facilities. The recommendation also includes a reduction of \$119,878 General Fund to eliminate funding for a phone system lease purchase agreement that will be paid off in FY 2015-16.

JUD R3 Offender Treatment and Services Spending Authority: The recommendation includes an increase of \$1,500,000 cash funds spending authority from the Offender Services Fund to provide treatment and other support services for offenders on probation.

JUD BA2 Mandated Costs: The recommendation maintains a mid-year FY 2015-16 increase of \$746,107 General Fund for FY 2015-16 to cover three types of court-appointed counsel expenses:

- \$575,907 for respondent parent counsel in dependency and neglect cases;
- \$101,476 for non-attorney child and family investigator services in domestic relations cases; and
- \$68,724 for *guardian ad litem* representation of impaired adults in civil cases.

JUD BA3 Technical Adjustments: The recommendation includes several technical adjustments that result in a reduction in both General Fund (-\$71,489) and cash fund (-\$10,000) appropriations, offset by an increase in reappropriated funds (+\$145,704). With one exception, these same adjustments were recently approved for FY 2015-16 as well.

JUD BA4 eDiscovery: The recommendation includes a total of \$2,866,108, including \$2,796,108 General Fund and \$70,000 cash funds from the Statewide Discovery Sharing System Surcharge Fund for the Colorado District Attorneys' Council (CDAC) to continue the development and implementation of a statewide system that will enable the sharing and transfer of information electronically between law enforcement agencies, district attorneys' offices, and the defense. As this system is implemented in each judicial district, the defense will no longer be required to reimburse district attorneys for duplicating discoverable materials. The recommended appropriation for eDiscovery thus includes \$1,034,194 General Fund that has been redirected from existing appropriations for district attorney reimbursements.

Requests from Office of the Alternate Defense Counsel (OADC)

OADC R1 Caseload Increase: The recommendation maintains a mid-year FY 2015-16 increase of \$1,513,302 General Fund to cover expenses associated with an increase in the number of cases requiring an OADC contract attorney to provide legal representation for indigent criminal defendants and juveniles. These increases are primarily attributable to H.B. 13-1210 (Right to Legal Counsel in Plea Negotiations) and H.B. 14-1032 (Defense Counsel for Juvenile Offenders). While these bills included additional funding for projected caseload increases for the Office of the State Public Defender, it was assumed that any impact to the OADC would be addressed through the budget process.

OADC R2 Social Worker Coordinator: The recommendation includes \$71,396 General Fund for the OADC to add 1.0 FTE licensed clinical social worker to supervise and coordinate the use of contract social workers and social work interns who work with contract attorneys on juvenile cases and certain high-needs adult cases.

Requests from Office of the Child's Representative (OCR)

OCR R1 Court-appointed Counsel: The recommendation includes a decrease of \$429,851 General Fund (compared to the unadjusted FY 2015-16 appropriation) to reflect a lower overall projected caseload for court-appointed counsel.

OCR R2 Position Reclassification: The recommendation includes \$11,054 General Fund to reclassify a Program Administrator position to an Information Systems Manager position with a salary range that is consistent with the position's responsibilities.

OCR R3 FTE Increase: The recommendation includes \$17,967 General Fund to increase the Information Systems Manager position from 0.6 FTE to 0.8 FTE.

Request from Colorado District Attorneys' Council

CDAC R1 DA Mandated Costs: The recommendation includes a decrease of \$400,000 General Fund to eliminate funding that was made available to reimburse the District Attorney in the 18th judicial district for costs incurred in the *Holmes* case. The Committee recently approved a mid-year decrease of \$325,000 General Fund for this same purpose.

Other Changes

NPI Annual Fleet Vehicle Request: The recommendation includes \$56,760 General Fund for anticipated changes in annual payments to the Department of Personnel for fleet vehicles used by court, probation, and Office of the State Public Defender staff.

Employee Benefits and Common Changes: The recommendation includes \$2,405,650 total funds (including \$2,357,780 General Fund) related to employee benefits and other centrally appropriated line items. This total amount is primarily comprised of the following elements:

- An increase of \$1,172,311 total funds to increase salaries for 60 judicial employee classifications that are considered at least 3.0 percent below market based on a recent compensation study;
- An increase of \$2,663,922 total funds for supplemental PERA payments;
- An increase of \$436,040 total funds for health, life and dental and short-term disability;
- \$555,425 total funds for workers' compensation and risk management and property funds; and
- A decrease of \$2,237,547 General Fund for IT-related common policies.

Annualize prior year legislation: The recommendation includes a total of \$1,176,513, (including an increase of \$1,191,033 General Fund and a decrease of \$14,520 cash funds) and an increase of 7.9 FTE to reflect the FY 2016-17 impact of legislation that was passed in previous legislative sessions, including the following acts:

- S.B. 14-203 and H.B. 15-1149 Office of the Respondent Parents' Counsel (increase of \$1,178,327 General Fund, \$22,500 cash funds, and 3.3 FTE)
- S.B. 15-204 Office of the Child Protection Ombudsman (increase of \$152,790 General Fund and 2.1 FTE)
- H.B. 15-1034 Add One Judge (decrease of \$58,955 General Fund and \$7,020 cash funds; increase of 0.3 FTE)
- H.B. 15-1043 Felony Offense for Repeat DUI Offenders (decrease of \$53,549 General Fund and increase of 2.7 FTE)
- H.B. 15-1153 Child and Family Investigator Oversight (decrease of \$27,580 General Fund and 0.5 FTE)
- S.B. 08-054 Judicial performance evaluations (decrease of \$30,000 cash funds)

Annualize prior year budget actions: The recommendation includes a decrease of \$4,095,992, including decreases of \$2,055,352 General Fund and \$2,040,640 cash funds) and an increase of 3.3 FTE to reflect the FY 2016-17 impact of the following FY 2015-16 budget decisions:

- Adjustment for Senior Judge Program to reflect approved increases in salaries for sitting judges (increase of \$136,366 General Fund)
- JUD R5 Probation Supervisors and Staff (increase of \$109,010 General Fund and 2.1 FTE; decrease of \$30,750 cash funds)
- JUD R6 Self-represented Litigant Coordinators and Family Court Facilitators (increase of \$18,665 General Fund and 0.5 FTE; decrease of \$7,380 cash funds)
- JUD R7 Appellate Court FTE (increase of \$9,819 General Fund and 0.2 FTE; decrease of \$2,460 cash funds)
- JUD R9 Regional Trainers (increase of \$8,002 General Fund and 0.2 FTE; decrease of \$3,690 cash funds)
- JUD R12 Problem-solving Courts FTE (increase of \$5,675 General Fund and decrease of \$3,382 cash funds)
- JUD R10 Recruitment and Retention (increase of \$4,489 General Fund and 0.1 FTE; decrease of \$1,230 cash funds)
- OCR R2 FTE Increase (increase of \$3,410 General Fund)
- JUD R13 Language Access Administration (increase of \$3,294 General Fund and 0.1 FTE; decrease of \$1,230 cash funds)
- JUD R15 Restorative Justice Coordinator (increase of \$1,032 cash funds)
- JUD R11 Courthouse Capital and Infrastructure Maintenance (decrease of \$2,316,000 General Fund and \$1,991,550 cash funds)
- OADC R1 Staff Support (decrease of \$40,572 General Fund and increase of 0.1 FTE)

Reverse Supplemental: For purposes of this document, staff has reflected the reversal of all mid-year changes to the FY 2015-16 Judicial budget.

Staff-initiated Increase in Grant Program Spending Authority: The recommendation includes an increase of \$600,000 cash funds to allow the Department to access the full amount available in the Underfunded Courthouse Facility Cash Fund.

Staff-initiated Decrease in ADDS Fund Spending Authority: The recommendation includes a \$2.0 million decrease in cash funds appropriations from the Alcohol and Drug Driving Safety Program Fund for Probation Programs to more accurately reflect available revenues and likely expenditures.

Other changes: The recommendation includes several relatively small changes concerning:

- Indirect cost assessment adjustments;
- A lease purchase payment adjustment;
- Inflationary increase in payments to exonerated persons; and
- Fund source adjustments.

Major Differences from the Request

Staff has included a recommendation to reduce *FY 2015-16* appropriations to the Office of the Child's Representative by \$650,000 General Fund based on more recent caseload and expenditure projections.

Overall, staff's recommendations for *FY 2016-17* are \$5.3 million lower than the request, including the following significant differences:

- Staff's General Fund recommendations for the newly created Office of the Respondent Parents' Counsel are \$601,938 higher than the request based on more recent data concerning expenditures for court-appointed counsel and mandated costs;
- The recommendation includes an increase of \$600,000 cash funds to allow the Department to access the full amount available in the Underfunded Courthouse Facility Cash Fund;
- The recommendation does not include \$3,649,621 requested to increase salaries for judicial officers and for certain Judicial Department staff whose salaries are benchmarked to those of judicial officers (this recommendation also results in lower recommendation for the associated supplemental PERA payments and short-term disability);
- The recommendation includes a \$2.0 million decrease in cash funds appropriations from the Alcohol and Drug Driving Safety Program Fund for Probation Programs to more accurately reflect available revenues and likely expenditures;
- The recommendation does not include the requested \$224,400 General Fund increase for the Courthouse Security Grant program (JUD R4 Courthouse Security);
- The General Fund recommendation for the Office of the Child's Representative for court-appointed counsel expenses is \$110,000 lower than the request based on more recent caseload and expenditure projections;
- The recommendation does not include the \$89,309 General Fund requested by the Office of the Alternate Defense Counsel to add 1.0 FTE Communications Coordinator (OADC R3 Communications Coordinator).

Decision Items Affecting Multiple Divisions

➔ JUD BA3 Technical adjustments

Request: The Department requested, and the Committee approved, several technical adjustments for FY 2015-16 that result in a reduction in both General Fund (-\$71,489) and cash fund (-\$10,000) appropriations, offset by an increase in reappropriated funds (+\$145,476). The Department has requested continuation of these adjustments, with one minor change related to the Law Library, for FY 2016-17.

Recommendation: Staff recommends approving the request, which results in a \$228 increase in reappropriated funds for FY 2016-17 compared to the amended FY 2015-16 appropriation.

Analysis:

The Department requests several technical adjustments to appropriations and Long Bill letter notations, described below.

- *General Courts Administration.* The Department uses a portion of federal grant funding to cover both departmental and statewide indirect cost recoveries. These indirect cost recoveries are appropriated, in lieu of General Fund, to support a portion of the Department's administrative expenses. The Department indicates that in FY 2014-15, these federal indirect cost recoveries (\$274,821) exceeded the corresponding appropriation (\$142,000). The Department thus requests a \$133,000 reduction in the General Fund portion of this appropriation and a \$133,000 increase in the reappropriated funds portion of the appropriation for FY 2015-16 (and continuation in FY 2016-17).
- *Family Court Facilitator Training.* The General Assembly approved a request for funding to increase the number of Family Court Facilitators by 9.0 FTE, as well as funding to add 1.0 FTE to act as a statewide coordinator for Family Court Facilitators. The initial request included \$60,000 for "annual ongoing" statewide multidisciplinary team training for judicial officers and other key personnel who are involved with domestic relations cases. This amount was appropriated for FY 2014-15, but was eliminated for FY 2015-16 based on an erroneous underlying spreadsheet that reflected this funding for FY 2014-15 only. The Department requests restoration of the \$60,000 General Fund for this training (beginning in FY 2015-16), which is designed to ensure the development and sharing of best practices across jurisdictions and improve the management of domestic relations cases.
- *Water Adjudication Cash Fund.* This fund, created in H.B. 03-1334, consists of fees paid by parties that appeal a decision by the State Engineer concerning interruptible water supply agreements. The fees are intended to cover the costs of expediting such appeals. The Long Bill annually includes a \$10,000 cash funds appropriation from this fund to allow the Water Courts to collect and spend such fees. The Department requests that this appropriation be eliminated starting in FY 2015-16, as no revenues have been or are expected to be collected for deposit into this fund.

- *Law Library.* The Judicial Department and the Department of Law consolidated their law libraries when they moved into the Carr Center. The Department of Law provides funding to the Judicial Department to support 1.0 FTE library staff, so the Judicial Department's appropriation for the Law Library includes reappropriated funds to allow the receipt and expenditure of such funds. The Department requests an increase in this appropriation to reflect changes in employee salary and benefit expenses (\$9,548 reappropriated funds for FY 2015-16 and \$9,776 reappropriated funds for FY 2016-17).
- *Child Support Enforcement.* The Department contracts with the Department of Human Services (DHS) to provide certain child support enforcement services. The Department receives federal child support enforcement funds, transferred from DHS, and is required to provide the required 34.0 percent General Fund match. The Department requests a \$4,439 increase in this appropriation (including \$1,511 General Fund and \$2,928 reappropriated funds) to reflect the current contract, starting in FY 2015-16.
- *Long Bill Letter Notation Change.* The Department requests that the letter notation in the Long Bill that describes the various cash fund sources that are used to pay for employee-related benefits include the Restorative Justice Surcharge Fund.

➔ JUD BA4 eDiscovery

Request: Pursuant to S.B. 14-190 (a JBC bill), the Colorado District Attorneys' Council (CDAC) is required to develop and maintain a statewide system that will enable the sharing and transfer of information electronically between law enforcement agencies, district attorneys' offices, and the defense. This statewide discovery sharing system (often called the "eDiscovery" system) is to be integrated with CDAC's existing ACTION system, a case management system that is maintained and operated by CDAC for district attorneys. Once eDiscovery is fully implemented, the defense will no longer be required to reimburse district attorneys for duplicating discoverable materials. This will allow existing General Fund appropriations for such reimbursements to be repurposed to support the ongoing operations of the eDiscovery and ACTION systems.

The Judicial Department has submitted a request, on behalf of the CDAC, for \$2.9 million for both the eDiscovery and ACTION systems for FY 2016-17. Fund sources include General Fund and cash fund revenues from a new criminal surcharge for persons who are represented by private counsel or appear without legal representation. Specifically, the request includes the following fund sources:

\$1,761,906	General Fund
1,034,194	General Fund transferred from existing appropriations to various judicial agencies to reimburse district attorneys for duplicating discoverable materials (that portion that is anticipated to be available in FY 2016-17 based on the phased implementation plan)
<u>70,000</u>	Cash funds from the Statewide Discovery Sharing System Surcharge Fund
\$2,866,100	Total funds requested for the eDiscovery and ACTION systems for FY 2016-17

JBC Staff Figure Setting: FY 2016-17
Staff Working Document – Does Not Represent Committee Decision

Recommendation: Staff recommends approving the request, with one minor change. Current law requires the General Assembly to appropriate necessary moneys to fund the development, continuing enhancement, and maintenance of the eDiscovery system and the ACTION system. The Department's request is consistent with the contract and benchmarks that resulted from the procurement process, as well as the CDAC's current implementation time line. Due to some minor calculation differences, staff recommends appropriating a total of \$2,866,108 for the ACTION and eDiscovery systems (\$8 higher than the request), including \$2,796,108 General Fund and \$70,000 cash funds. Staff's calculations are detailed in the following three tables.

TABLE 1: Actual and Projected Expenditures for ACTION and eDiscovery Systems					
	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	Cumulative
ACTION: 1/					
Personnel	\$885,706	\$1,326,000	\$1,780,000	\$1,780,000	\$5,771,706
Supplies & Operating	88,239	129,000	170,000	170,000	557,239
Travel/Meetings	6,619	25,000	20,000	20,000	71,619
Equipment	143,544	262,000	330,000	330,000	1,065,544
Other Costs	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Subtotal	1,124,108	1,742,000	2,300,000	2,300,000	7,466,108
eDiscovery Consultants & Other Professional Services 2/	0	2,000,000	1,000,000	750,000	3,750,000
Total Expenditures	\$1,124,108	\$3,742,000	\$3,300,000	\$3,050,000	\$11,216,108

1/ Actual FY 2014-15 expenditures based on CDAC cost reports. Projected expenditures for FY 2015-16 and subsequent fiscal years provided by CDAC.

2/ FY 2017-18 figure reflects the maximum annual maintenance cost of the Xerox/PARC portion of the system; actual costs may be lower.

TABLE 2: Estimated General Fund Appropriations Required for ACTION and eDiscovery Systems					
	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	Cumulative
S.B. 14-190 General Fund appropriation	\$5,300,000				\$5,300,000
Funds available from prior year		\$4,175,892	\$433,892	\$0	
Statewide Discovery Sharing Surcharge Fund	0	0	70,000	70,000	140,000
Shift of existing appropriations for payments to reimburse prosecution	0	0	1,034,194	2,563,498	3,597,692
Less: CDAC expenditures	(1,124,108)	(3,742,000)	(3,300,000)	(3,050,000)	(11,216,108)
General Fund appropriations required			1,761,914	416,502	2,178,416
Funds remaining available	4,175,892	433,892	0	0	

TABLE 3: Appropriation for ACTION and eDiscovery Systems					
	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	Cumulative
General Fund	\$5,300,000	\$0	\$2,796,108	\$2,980,000	\$11,076,108
Statewide Discovery Sharing Surcharge Fund	<u>0</u>	<u>0</u>	<u>70,000</u>	<u>70,000</u>	<u>140,000</u>
Total	5,300,000	\$0	\$2,866,108	\$3,050,000	\$11,216,108

Analysis:

Senate Bill 14-190 appropriated \$5.3 million General Fund to the Judicial Department for the CDAC to develop the eDiscovery system and to support the ACTION case management system. The Department was authorized to spend these funds over a two year period, through June 30, 2016. This appropriation was based on the higher of two estimates that were included in the January 2014 Discovery Task Force final report. However, the Legislative Council Staff fiscal note and JBC staff bill summary that accompanied S.B. 14-190 indicated that actual project costs would be determined through the procurement process. Now that the procurement process is complete and system development has begun, the project time frame and project costs have been refined.

As detailed in Table 1, above, the CDAC anticipates making payments totaling \$4,866,108 through the end of the current fiscal year. The remainder of the \$5.3 million General Fund appropriation that was included in S.B. 14-190 (\$433,892) will be used to cover contractual obligations that are paid in FY 2016-17. For FY 2016-17, the CDAC anticipates expenditures totaling \$3,300,000. Thus, a new appropriation of \$2,866,108 is required for FY 2016-17.

As detailed in Table 2, above, the new funding required for FY 2016-17 will be comprised of three sources of funds. First, the Department requests \$70,000 cash funds from revenues from a new criminal surcharge for persons who are represented by private counsel or appear without legal representation. This request is reasonable based on collections to date.

The remaining \$2,796,108 will come from the General Fund. However, the Department estimates that \$1,034,194 of this amount can be redirected from existing appropriations for judicial agencies to reimburse the prosecution for duplicating discoverable materials. As detailed in Table 4, below, four agencies paid a total of \$2,563,498 to the prosecution in FY 2014-15. Once eDiscovery is operational statewide July 1, 2017, this General Fund can all be redirected to support the new system.

For FY 2016-17, the CDAC plans to implement the system in a phased manner beginning with the 18th judicial district in July 2016, and ending with the 2nd judicial district in June 2017. Based on this implementation schedule, it is anticipated that \$1,034,194 of these existing appropriations can be redirected to support eDiscovery in FY 2016-17. This requires the following reductions to appropriations for Mandated Costs:

- Trial Courts, Court Costs, Jury Costs, and Court-appointed Counsel : -\$3,474
- Office of the State Public Defender: -\$806,506
- Office of the Alternate Defense Counsel: -\$216,815
- Office of the Child's Representative: -\$7,399

JBC Staff Figure Setting: FY 2016-17
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TABLE 4: Discovery-related Payments to Judicial Districts and the Department of Law, FY 2014-15						
Description	Courts/ Probation	Office of the State Public Defender	Office of the Alternate Defense Counsel	Office of the Child's Representative	Total	Percent of Total
Payments to District Attorneys' Offices, by Judicial District:						
1 (Jefferson, Gilpin)	\$10,871	\$194,918	\$55,262	\$6,377	\$267,428	10.43%
2 (Denver)	3,021	536,661	155,393	1,800	696,875	27.18%
3 (Huerfano, Las Animas)	0	13,643	4,248	200	18,091	0.71%
4 (El Paso, Teller)	0	250,972	42,387	4,189	297,548	11.61%
5 (Clear Creek, Eagle, Lake, Summit)	0	14,697	2,482	10	17,189	0.67%
6 (Archuleta, La Plata, San Juan)	0	32,778	9,196	116	42,090	1.64%
7 (Delta, Gunnison, Hinsdale, Montrose, Ouray, San Miguel)	0	21,020	3,672	0	24,692	0.96%
8 (Jackson, Larimer)	0	126,887	12,711	1,646	141,244	5.51%
9 (Garfield, Pitkin, Rio Blanco)	0	26,983	18,869	0	45,852	1.79%
10 (Pueblo)	0	81,031	33,750	817	115,598	4.51%
11 (Chaffee, Custer, Fremont, Park)	0	64,875	42,539	66	107,480	4.19%
12 (Alamosa, Conejos, Costilla, Mineral, Rio Grande, Saguache)	0	24,378	6,925	0	31,302	1.22%
13 (Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Yuma)	0	27,531	18,096	32	45,658	1.78%
14 (Grand, Moffat, Routt)	0	21,897	825	15	22,737	0.89%
15 (Baca, Cheyenne, Kiowa, Prowers)	0	9,922	1,786	0	11,707	0.46%
16 (Bent, Crowley, Otero)	0	14,312	6,786	83	21,181	0.83%
17 (Adams, Broomfield)	0	137,511	20,995	845	159,351	6.22%
18 (Arapahoe, Douglas, Elbert, Lincoln)	2,802	229,118	65,647	1,348	298,915	11.66%
19 (Weld)	0	0	27,797	0	27,797	1.08%
20 (Boulder)	0	73,135	25,854	23	99,012	3.86%
21 (Mesa)	0	29,783	5,258	21	35,062	1.37%
22 (Dolores, Montezuma)	0	<u>17,762</u>	<u>3,217</u>	0	<u>20,979</u>	<u>0.82%</u>
Subtotal: District Attorneys	16,694	1,949,814	563,692	17,588	2,547,789	99.4%
Department of Law	0	11,678	4,031	0	15,709	0.6%
Total expenditures	\$16,694	\$1,961,492	\$567,723	\$17,588	\$2,563,498	100.0%
<i>Percent of Total</i>	<i>0.7%</i>	<i>76.5%</i>	<i>22.1%</i>	<i>0.7%</i>	<i>100.0%</i>	<i>0.0%</i>

Finally, staff recommends adding a new footnote that allows the Judicial Branch some flexibility to shift resources among agencies, if warranted based on changes to the implementation schedule.

N JUDICIAL DEPARTMENT, TRIAL COURTS, COURT COSTS, JURY COSTS, AND COURT-APPOINTED COUNSEL; TRIAL COURTS, ACTION AND STATEWIDE DISCOVERY SHARING SYSTEM; OFFICE OF THE STATE PUBLIC DEFENDER, MANDATED COSTS; OFFICE OF THE ALTERNATE DEFENSE COUNSEL, MANDATED COSTS; AND OFFICE OF THE CHILD'S REPRESENTATIVE, MANDATED COSTS -- IN ADDITION TO THE TRANSFER AUTHORITY PROVIDED IN SECTION 24-75-108 (5), C.R.S., UP TO \$1,000,000 MAY BE TRANSFERRED BETWEEN THE FOUR LINE ITEM APPROPRIATIONS SPECIFIED ABOVE IF NECESSARY BASED ON CHANGES TO THE STATEWIDE DISCOVERY SHARING SYSTEM SCHEDULE. ANY SUCH TRANSFERS MAY ONLY BE MADE UPON MUTUAL AGREEMENT BETWEEN THE STATE COURT ADMINISTRATOR'S OFFICE AND THE IMPACTED INDEPENDENT AGENCIES.

(1) Supreme Court/ Court of Appeals

This section provides funding for the Colorado Supreme Court and the Colorado Court of Appeals. The Supreme Court is the court of last resort, and its decisions are binding on the Court of Appeals and all county and district courts. Requests to review decisions of the Court of Appeals constitute the majority of the Supreme Court's filings. The Supreme Court also has direct appellate jurisdiction over cases in which a statute has been held to be unconstitutional, cases involving the Public Utilities Commission, *writs of habeas corpus*,² cases involving adjudication of water rights, summary proceedings initiated under the Elections Code, and prosecutorial appeals concerning search and seizure questions in pending criminal proceedings. The Supreme Court also oversees the regulation of attorneys and the practice of law. The Supreme Court is composed of seven justices who serve renewable 10-year terms. The Chief Justice, selected by the justices of the Court, is the executive head of the Department.³

Created by statute, the Court of Appeals is generally the first court to hear appeals of judgments and orders in criminal, juvenile, civil, domestic relations, and probate matters. The Court of Appeals also has initial jurisdiction to review actions and decisions of several state agencies, boards, and commissions. Its determination of an appeal is final unless the Colorado Supreme Court agrees to review the matter. The Court of Appeals is currently composed of 22 judges who serve renewable 8-year terms⁴.

Sources of cash funds include the Judicial Stabilization Cash Fund and various fees and cost recoveries.

Supreme Court/Court of Appeals						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2015-16 Appropriation						
SB 15-234 (Long Bill)	\$24,811,848	\$13,305,395	\$11,443,332	\$63,121	\$0	215.3
H.B. 16-1243 (Supplemental Bill)	<u>9,548</u>	<u>0</u>	<u>0</u>	<u>9,548</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$24,821,396	\$13,305,395	\$11,443,332	\$72,669	\$0	215.3
FY 2016-17 Recommended Appropriation						
FY 2015-16 Appropriation	\$24,821,396	\$13,305,395	\$11,443,332	\$72,669	\$0	215.3
JUD BA3 Technical Adjustments	9,776	0	0	9,776	0	0.0
Annualize Prior Year Budget Actions	866,288	866,288	0	0	0	0.2

² A *writ of habeas corpus* is a judicial mandate to a prison official ordering that an inmate be brought to the court so it can be determined whether or not that person is imprisoned lawfully and whether or not he or she should be released from custody.

³ See Article VI, Sections 2 through 8, Colorado Constitution; and Section 13-2-101 et seq., C.R.S.

⁴ See Section 13-4-101 et seq., C.R.S.

JBC Staff Figure Setting: FY 2016-17
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Supreme Court/Court of Appeals						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
Reverse supplemental	(9,548)	0	0	(9,548)	0	0.0
Other Changes	<u>75,359</u>	<u>0</u>	<u>75,359</u>	<u>0</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$25,763,271	\$14,171,683	\$11,518,691	\$72,897	\$0	215.5
Increase/(Decrease)	\$941,875	\$866,288	\$75,359	\$228	\$0	0.2
Percentage Change	3.8%	6.5%	0.7%	0.3%	n/a	0.1%
FY 2016-17 Executive Request:	\$25,763,271	\$14,171,683	\$11,518,691	\$72,897	\$0	215.5
Request Above/(Below) Recommendation	\$0	\$0	\$0	\$0	\$0	0.0

DECISION ITEMS – SUPREME COURT/ COURT OF APPEALS (NONE)

LINE ITEM DETAIL – SUPREME COURT/ COURT OF APPEALS

Appellate Court Programs

This line item includes funding for both personal services and operating expenses. This line item also includes funding to purchase volumes of the *Colorado Reporter*, the official publication of opinions of the Colorado Supreme Court and Court of Appeals, for distribution to various state offices, including district and county judges’ offices, county court law libraries, district attorneys’ offices, and state libraries. The following table details the types of employees that are supported by this line item.

JBC Staff Figure Setting: FY 2016-17
Staff Working Document – Does Not Represent Committee Decision

Staffing Summary	FY 14-15	FY 15-16	FY 16-17	FY 16-17
Appellate Court Programs	Actual	Approp.	Request	Recommend.
<u>Supreme Court</u>				
Chief Justice and Supreme Court Justices	7.0	7.0	7.0	7.0
Counsel to the Chief Justice	1.0	1.0	1.0	1.0
Law Clerks	20.0	20.0	20.0	20.0
Staff Attorneys (<i>annualize FY 15-16 JUD R7</i>)	2.7	2.5	2.6	2.6
Other Support Staff	<u>5.0</u>	<u>5.0</u>	<u>5.0</u>	<u>5.0</u>
Subtotal	35.7	35.5	35.6	35.6
<u>Court of Appeals</u>				
Chief Judge and Court of Appeals Judges	22.0	22.0	22.0	22.0
Law Clerks	40.9	35.0	35.0	35.0
Reporter of Decisions and Assistant Reporter of Decisions (<i>annualize FY 15-16 JUD R7</i>)	1.0	1.9	2.0	2.0
Staff Attorneys	22.9	22.0	22.0	22.0
Other Support Staff	<u>13.6</u>	<u>21.0</u>	<u>21.0</u>	<u>21.0</u>
Subtotal	100.4	101.9	102.0	102.0
<u>Staff That Support Both Appellate Courts</u>				
Clerk of Court	1.0	1.0	1.0	1.0
Library Staff	5.0	3.4	3.4	3.4
Self-representated Litigant Coordinator	<u>0.6</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>
Subtotal	6.6	5.4	5.4	5.4
Total	142.7	142.8	143.0	143.0

Statutory Authority: Article VI of the State Constitution [Vestment of judicial power]; Section 13-2-101 *et seq.*, C.R.S. [Supreme Court]; Section 13-2-125, C.R.S. [Colorado Reporter] Section 13-4-101 *et seq.*, C.R.S. [Court of Appeals]

Request: The Department requests a total of \$14,243,683, including \$14,171,683 General Fund and \$72,000 cash funds from various fees and cost recoveries, and 143.0 FTE.

Recommendation: Staff recommends approving the request, which includes salary increases awarded in FY 2015-16 and a full 12 months of funding for 2.0 FTE added in FY 2015-16 (JUD R7 Appellate Court FTE). The calculation of the recommendation is detailed in the following table.

JBC Staff Figure Setting: FY 2016-17
Staff Working Document – Does Not Represent Committee Decision

Supreme Court/Court of Appeals, Appellate Court Programs				
	Total Funds	General Fund	Cash Funds	FTE
FY 2015-16 Appropriation				
SB 15-234 (Long Bill)	<u>\$13,377,395</u>	<u>\$13,305,395</u>	<u>\$72,000</u>	<u>142.8</u>
TOTAL	\$13,377,395	\$13,305,395	\$72,000	142.8
FY 2016-17 Recommended Appropriation				
FY 2015-16 Appropriation	\$13,377,395	\$13,305,395	\$72,000	142.8
Annualize Prior Year Budget Actions	<u>866,288</u>	<u>866,288</u>	<u>0</u>	<u>0.2</u>
TOTAL	\$14,243,683	\$14,171,683	\$72,000	143.0
Increase/(Decrease)	\$866,288	\$866,288	\$0	0.2
Percentage Change	6.5%	6.5%	0.0%	0.1%
FY 2016-17 Executive Request:	\$14,243,683	\$14,171,683	\$72,000	143.0
Request Above/(Below) Recommendation	\$0	\$0	\$0	0.0

Office of Attorney Regulation Counsel

This line item reflects anticipated expenditures related to the regulation of the practice of law. These activities are supported by attorney registration fees and law examination application fees. This line item is shown for informational purposes only, as these funds are continuously appropriated under the Judicial Branch’s constitutional authority to regulate and control the practice of law. This line item reflects expenditures related to three types of activities:

- The investigation of allegations of attorney misconduct by the Attorney Regulation Committee, the Attorney Regulation Counsel, the Presiding Disciplinary Judge, the Appellate Discipline Commission, the Advisory Committee, and the Colorado Supreme Court. A Client Protection Fund compensates persons who suffer certain monetary losses because of an attorney's dishonest conduct.
- The administration of mandatory continuing legal education for attorneys and judicial officers by the Board of Continuing Legal and Judicial Education.
- The administration of the Colorado bar exam by the State Board of Law Examiners administers the Colorado bar exam.

Statutory Authority: Section 1 of Article VI of the State Constitution [Vestment of judicial power]; Section 13-2-119, C.R.S. [Disposition of fees]

Request: The request reflects \$10,650,000 cash funds and 69.0 FTE.

Recommendation: Staff recommends reflecting the amounts requested, which is the same amount that is reflected for FY 2015-16.

Law Library

The Supreme Court Library is a public library located in the Ralph L. Carr Colorado Judicial Center. The library is supported by appellate filing and other fees deposited in the Supreme Court Library Fund. The cash funds in this line item are shown for informational purposes only, as these funds are continuously appropriated under the Judicial Branch’s constitutional authority. In addition, this line item includes reappropriated funds that are transferred from the Department of Law.

Statutory Authority: Section 13-2-120, C.R.S. [Supreme Court Library Fund]

Request: The Department requests a total of \$572,897, including \$500,000 cash funds from the Supreme Court Library Fund and 2.5 FTE, and \$72,897 reappropriated funds transferred from the Department of Law and 1.0 FTE. The request is impacted by JUD BA3 (Technical Adjustments).

Recommendation: Staff recommends approving the request.

Indirect Cost Assessment

Indirect cost assessments are charged to cash and federally-funded programs for departmental and statewide overhead costs, and then the assessments are used in the Courts Administration section to offset General Fund appropriations.

Statutory Authority: Colorado Fiscal Rules #8-3; Section 24-75-1401, C.R.S. [Indirect Costs Excess Recovery Fund]

Request: The Department requests \$296,691 cash funds.

Recommendation: Staff recommends approving the request. The amounts recommended for this line item and the other two Indirect Cost Assessment line items in this department are calculated based on the indirect cost assessment methodology that is described in detail in Appendix B.

(2) Courts Administration

The justices of the Supreme Court appoint a State Court Administrator to oversee the daily administration of the Department and provide technical and administrative support to the courts and probation.⁵ The Courts Administration section of the budget is comprised of four subsections:

- (A) “Administration and Technology” - funding and staff associated with central administration of the State’s Judicial system, including information technology systems
- (B) “Central Appropriations” - funding related to employee benefits, leased space, and services purchased from other agencies
- (C) “Centrally Administered Programs” - funding supporting specific functions, grant programs, and distributions that are administered by the Office of the State Court Administrator
- (D) "Ralph L. Carr Colorado Judicial Center" - spending authority to support operations of the new Judicial Center

Courts Administration						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2015-16 Appropriation						
SB 15-234 (Long Bill)	\$194,805,104	\$98,718,075	\$85,404,067	\$10,682,962	\$0	425.3
Other legislation	560,899	553,879	7,020	0	0	1.5
H.B. 16-1243 (Supplemental Bill)	<u>(2,246,912)</u>	<u>(1,693,840)</u>	<u>(689,000)</u>	<u>135,928</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$193,119,091	\$97,578,114	\$84,722,087	\$10,818,890	\$0	426.8
FY 2016-17 Recommended Appropriation						
FY 2015-16 Appropriation	\$193,119,091	\$97,578,114	\$84,722,087	\$10,818,890	\$0	426.8
JUD R1 Information Technology and Security	7,967,204	711,934	7,255,270	0	0	5.5
JUD R2/BA2 Courthouse Capital and Infrastructure Maintenance	4,572,473	2,256,122	2,316,351	0	0	0.0
JUD R4 Courthouse Security	0	0	0	0	0	0.0
JUD BA3 Technical Adjustments	4,439	(131,489)	0	135,928	0	0.0
NPI Annual Fleet Vehicle Request	56,415	56,415	0	0	0	0.0

⁵ See Article VI, Section 5 (3) of the Colorado Constitution; Section 13-3-101, C.R.S.
 17-Feb-2016

JBC Staff Figure Setting: FY 2016-17
Staff Working Document – Does Not Represent Committee Decision

Courts Administration						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
Employee Benefits and Common Changes	2,000,368	1,952,498	(100,543)	148,413	0	0.0
Annualize Prior Year Legislation	(592,303)	(555,283)	(37,020)	0	0	(1.4)
Annualize Prior Year Budget Actions	(14,726,607)	(12,359,214)	(2,367,393)	0	0	0.4
Reverse supplemental	2,246,912	1,693,840	689,000	(135,928)	0	0.0
Other Changes	75,322	10,777	54,098	10,447	0	0.0
Staff-initiated Increase in Spending Authority	<u>600,000</u>	<u>0</u>	<u>600,000</u>	<u>0</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$195,323,314	\$91,213,714	\$93,131,850	\$10,977,750	\$0	431.3
Increase/(Decrease)	\$2,204,223	(\$6,364,400)	\$8,409,763	\$158,860	\$0	4.5
Percentage Change	1.1%	(6.5%)	9.9%	1.5%	0.0%	1.1%
FY 2016-17 Executive Request:	\$198,835,981	\$95,491,231	\$92,386,866	\$10,957,884	\$0	431.8
Request Above/(Below) Recommendation	\$3,512,667	\$4,277,517	(\$744,984)	(\$19,866)	\$0	0.5

DECISION ITEMS – COURTS ADMINISTRATION

➔ JUD R1 Information Technology and Security

Request: The Judicial Department requests \$7,967,203 total funds (including \$711,933 General Fund and \$7,255,270 cash funds from the Information Technology Cash Fund) to establish an information security team, create two IT analyst supervisor positions, replace primary database servers, and develop a disaster recovery site. Specifically, the request includes the following:

- \$490,652 total funds (including \$485,732 General Fund and \$4,920 cash funds) and 4.0 FTE to establish an information security team;
- \$228,661 total funds (including \$226,201 General Fund and \$2,460 cash funds) and 2.0 FTE to add IT analyst supervisor positions;
- \$3,184,864 cash funds to replace two iSeries servers; and
- \$4,063,026 cash funds to develop a disaster recovery site.

Recommendation: Staff recommends approving the request. The Department’s IT systems provide the Department, the public, attorneys, collection agencies, and many other state and local agencies with increasingly sophisticated and user-friendly applications. These complex systems ensure the proper and secure storage and exchange of information between all Judicial Department employees, state agencies, vendors, and the public, and they must be continuously supported and maintained. The Department’s IT infrastructure and systems are critical to the ongoing operations of both the trial courts and the probation offices, and it is essential for the Department to provide adequate information security staff to protect and ensure the confidentiality, integrity, and availability of these IT systems.

The source of cash funding is fees paid by individuals who file court documents or access court and probation information systems. The Department's projections indicate that this source of revenue should be sufficient to support the FY 2016-17 request and the projected ongoing maintenance costs for the disaster recovery site.

Analysis:

Staffing Request

The information security staff that secure, strengthen, protect, and provide risk mitigation for the Department's IT systems are not currently sufficient to ensure the confidentiality, integrity, availability, and security of the Department's IT infrastructure. The Department seeks to create an information security team that will ensure the Department is able to meet current and future audit requirements, while also maintaining an appropriate level of information security risk mitigation to support the business initiatives of the Department.

The Department seeks to increase the number of IT security staff from 3.0 FTE to 7.0 FTE, adding the following positions:

- *Application Security Specialists (2.0 FTE):* These individuals would support existing application development teams, performing code reviews, static analysis, security testing, and threat modeling. This would ensure security is built into each project during the initiating phase, rather than after a product has been delivered.
- *Systems Security Engineer (1.0 FTE):* This individual would support all information security functions (*i.e.*, establish and audit server hardening standards, identity management, system penetration testing, vulnerability assessments, incident response, and incident mitigation) with a focus on user provisioning, asset management, and vulnerability remediation.
- *Information Security Analyst (1.0 FTE):* This individual would be the first point of contact for all information security related incidents, including investigation of such incidents. This individual would support the team in implementing the Security Incident Response Plan and in monitoring the IT Security Information and Event Management (SIEM) system and intrusion protection and detection systems. This individual would work with the Department's facilities and physical security staff to ensure effective risk mitigation controls are in place for all incidents, both logical (firewalls, encryption, malware prevention, etc.) and physical.

The request also includes the addition of 2.0 FTE IT Analyst Supervisors to better align the IT Analyst staff to supervisor ratio with industry standards of 8:1. The Department currently has two application development teams that contain a combined total of 19 IT Analysts who are responsible for working with customers to gather business requirements, designing and testing the application, and providing customer support once the product is deployed. The IT Analysts are currently supervised by two Managers of Application Development who are responsible for project management, product development, and staff development. These managers each have approximately 14 direct reports. The Department seeks to reduce the span of control for managers to improve their ability to provide guidance and support for the IT Analysts.

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The following table details the Department's staffing request for FY 2016-17 and anticipated ongoing funding for FY 2017-18.

Request for R1 Information Technology and Security							
		Application Security Specialist	Information Security Analyst	Systems Security Engineer	IIS Analyst IV	FY 2016-17 Total	FY 2017-18 Total
PERSONAL SERVICES							
Number of PERSONS per class title		2.0	1.0	1.0	2.0	5.5	6.0
Monthly base salary		\$9,771	\$8,155	\$7,424	\$8,155		
Number of months charged in FY15-16		11	11	11	11	11	12
Salary		\$214,962	\$89,705	\$81,664	\$179,410	\$565,741	\$617,172
PERA	10.15%	21,819	9,105	8,289	18,210	57,423	62,643
Medicare	1.45%	3,117	1,301	1,184	2,601	8,203	8,949
Subtotal		\$239,898	\$100,111	\$91,137	\$200,221	\$631,367	\$688,764
		2.0	1.0	1.0	2.0	5.5	6.0
OPERATING							
Supplies	\$ 500	\$1,000	\$500	\$500	\$1,000	\$3,000	\$3,000
Telephone Base	\$ 450	900	450	450	900	2,700	2,700
Subtotal		\$1,900	\$950	\$950	\$1,900	\$5,700	\$5,700
TOTAL PERSONAL SERVICES AND OPERATING EXPENSES		\$241,798	\$101,061	\$92,087	\$202,121	\$637,067	\$694,464
		2.0	1.0	1.0	2.0	5.5	6.0
CAPITAL OUTLAY							
Computer/Software	\$ 1,230	\$2,460	\$1,230	\$1,230	\$2,460	\$7,380	\$0
Office Furniture	\$ 3,473	6,946	3,473	3,473	6,946	20,838	0
Subtotal		\$ 4,703	\$9,406	\$4,703	\$9,406	\$28,218	\$0
Central Appropriations							
HLD	\$4,421					\$0	\$318,312
STD	0.19%					0	1,173
AED	4.80%	10,318	4,306	3,920	8,612	27,156	29,624
SAED	4.75%	10,211	4,261	3,879	8,522	26,873	29,316
Subtotal		\$20,529	\$8,567	\$7,799	\$17,134	\$54,028	\$378,425
GRAND TOTAL		\$271,733	\$114,331	\$104,589	\$228,661	\$719,313	\$1,072,889
		2.0	1.0	1.0	2.0	5.5	6.0

Staff's recommendation reflects two minor modifications to the request. First, staff reflects 5.5 FTE based on the paydate shift. Second, staff includes the supplemental PERA payments in the associated central line items (AED and SAED) rather than in the General Courts Administration line item. Finally, staff notes that the Department did not request funding for short-term disability (\$1,075), and staff has not included such funding in the recommendation.

Server Replacement

The Department requests a one-time cash funds appropriation of \$3,184,864 to replace two primary midrange iSeries servers, which serve as the foundation for the Department's IT infrastructure. The iSeries servers are the primary database servers that store information for all Judicial Department case management and e-filing systems, as well as the Colorado Integrated Criminal Justice Information System (CICJIS), public access system, and interagency data exchange systems. Without these servers, the Department's critical enterprise systems would not be able to function. One iSeries server will serve as the Department's primary production server and the secondary iSeries server will function as a disaster recovery system. The Department's

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current mid-range iSeries servers were purchased in 2011 with a five-year maintenance agreement and must be replaced in FY 2016-17. The following table identifies the components of the requested amount.

Consulting Services	\$ 171,124
Hardware	\$ 2,150,130
Licensing	\$ 143,321
Maintenance	\$ 605,396
Software	<u>\$ 114,893</u>
Total:	\$ 3,184,864

Disaster Recovery Site

The Department requests a cash funds appropriation of \$4,063,026 to equip, implement, and configure a fully functional disaster recovery site, which will support all critical Judicial Department IT systems. In FY 2014-15, the Office of the State Auditor conducted an information security assessment audit and recommended the Judicial Department: (1) develop a comprehensive disaster recovery plan for each IT critical system; (2) develop comprehensive disaster recovery testing strategies; (3) perform recovery testing on a regular basis; and (4) update the disaster recovery plan based on the analysis and feedback of the testing performed. This request is intended to allow the Department to address these recommendations by implementing and testing an IT disaster recovery plan by December 2017. The Department is requesting funding to replace the two servers in FY 2016-17 to avoid duplicative work and avoid extended downtime of IT critical systems. The following table identifies the components of the requested amount. Please note that the Department anticipates the need for ongoing funding of \$624,947 cash funds for maintenance of the disaster recovery site.

Network

Consulting	\$ 113,782
Hardware	\$ 1,009,414
Licensing	\$ 130,776
Software	<u>\$ 199,092</u>
Total:	\$ 1,453,064

Systems

Consulting	\$ 199,563
Hardware	\$ 1,080,014
Licensing	\$ 266,319
Software	<u>\$ 439,119</u>
Total:	\$ 1,985,015
Annual Maintenance:	<u>\$ 624,947</u>
Total with Maintenance:	\$ 4,063,026

Staff Recommendation

Staff recommends approving the request to allow the Department to establish an effective information security team that can better handle security incidents and address the audit recommendations. Staff also recommends approving the request to improve the ratio of supervisors to IT Analysts to improve the IT units' service and quality. Finally, staff recommends approving the funding requested for the development of a disaster recovery site, including the replacement of the iSeries servers. The requested funding should ensure that the Department can maintain the integrity and functionality of its information systems.

➔ JUD R2/BA1: Courthouse Capital and Infrastructure Maintenance

Request: The Department indicates that for FY 2016-17, it will require a total of \$4,692,351 for the state's share of the costs for new, expanded, and remodeled courthouse facilities (including probation facilities). The request includes two sets of projects. First, the Department requests \$2,823,351 for courthouse and probation facility furnishings and infrastructure in 15 of the state's 22 judicial districts. This request includes:

- \$1,006,000 General Fund for new furnishings and to replace or refurbish existing furniture that is no longer usable;
- \$1,254,751 cash funds for courtroom phone systems, court docketing systems, and courtroom information technology infrastructure; and
- \$562,600 cash funds for courtroom audiovisual equipment.

The following table details this request by judicial district. As noted at the bottom of the table, the request is offset by the elimination of a \$119,878 General Fund appropriation for the lease purchase of a phone system. The Department has historically purchased phone systems through a lease purchase agreement in most of its 83 locations, and in a few locations the Department pays the county for use of a county-owned and operated phone system. The Department has decided to purchase rather than lease new phone systems once the existing lease purchase agreement is paid off. Thus, this appropriation is no longer needed for FY 2016-17.

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<u>District</u>	<u>County</u>	<u>Project</u>	<u>General Fund</u>	<u>IT & Phone (CF)</u>	<u>A/V (CF)</u>
1	Jefferson	Providing additional space (14-15 offices) for Probation requiring furnishings	\$42,000	\$16,500	
4	El Paso	Upgrade courtroom sound system for 5 courtrooms			\$100,000
5	Eagle	Remodeling two courtrooms requiring furnishings	\$70,000	\$73,127	
5	Eagle	Video cart conference system			\$13,000
5	Summit	Video cart conference system			\$13,000
5	Clear Creek	Remodeling the courthouse requiring furnishings	\$170,000	\$44,114	
5	Clear Creek	Video cart conference system			\$13,000
5	Lake	Video cart conference system			\$13,000
6	La Plata	Remodeling courthouse with furnishings		\$92,636	\$25,000
7	Ouray	Courtroom furnishings		\$25,194	
7	Ouray	Sound system renovation plus video conference			\$38,000
7	Montrose	Replace 1 courtroom sound system			\$25,000
8	Larimer	Remodeling the file viewing/storage area of the clerk's office and ADA accessibility	\$25,000		
8	Larimer	Phone system for probation		\$50,806	
11	Chaffee	Phone system		\$48,473	
11	Park	Phone system		\$41,850	
11	Custer	Phone system		\$24,954	
12	Conejos	Phone system		\$33,076	
12	Costilla	Phone system		\$32,629	
12	Saguache	Phone system		\$32,814	
12	Mineral	Phone system		\$29,992	
14	Routt	Phone system		\$77,044	
14	Moffatt	Phone system		\$48,283	
14	Grand	Phone system		\$43,991	
17	Adams	Three courtrooms, hearing room, judge's chambers	\$500,000	\$372,240	\$79,000
18	Douglas	Two new courtrooms, chambers, staff area		\$7,920	
18	Arapahoe	Building a new facility for the Probation office		\$58,540	
19	Weld	Clerk's office is converting an existing file room to approximately six cubicles	\$24,000	\$3,744	
20	Boulder	Remodeling and expanding clerk's office	\$175,000		
21	Mesa	New ceiling speakers in 9 courtrooms			\$22,000
21	Mesa	Replace 8 courtroom jury rail mixers			\$3,600
22	Montezuma	New courthouse facility		\$96,824	\$218,000
		Discontinue phone lease	(\$119,878)		
TOTAL FURNISHINGS & INFRASTRUCTURE			\$886,122	\$1,254,751	\$562,600

In addition, through JUD BA2, the Department has requested that a portion of the FY 2015-16 appropriation (a total of \$1,869,000, including \$1,370,000 General Fund and \$499,000 cash funds) be shifted from FY 2015-16 to FY 2016-17 for five local courthouse facility projects that have been delayed by the counties involved. The following table, prepared by the Department, lists the five delayed projects.

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Projects Delayed from FY 2015-16 to FY 2016-17				
<u>District</u>	<u>County</u>	<u>Project</u>	<u>General Fund</u>	<u>Cash Funds</u>
4th	El Paso	El Paso County is moving court and probation staff to the Sheriff's annex building.	\$ 140,000	\$ 91,000
6th	La Plata	La Plata County is providing an additional courtroom and additional space for collections, pro se, and probation.	170,000	73,000
18th	Arapahoe	Arapahoe County is building a new facility for the probation office.	330,000	55,000
18th	Arapahoe	Arapahoe County is providing two additional courtrooms, chambers, and staff area.	180,000	
22nd	Montezuma	Montezuma County is remodeling the courthouse, including 4 courtrooms and associated court, probation, and public spaces.	550,000	280,000
TOTAL COURTHOUSE CAPITAL TO BE SHIFTED			\$1,370,000	\$ 499,000

Department indicates that in addition to meeting its statutory responsibility to furnish court facilities, this request will prevent infrastructure system failure, improve employee efficiency, enhance customer service, and achieve long-term savings for the State. The Department indicates that these outcomes will help it provide equal access to the legal system; treat all with dignity, respect, and concern for their rights and cultural backgrounds; and to cultivate public trust and confidence through the thoughtful stewardship of public resources (Principles 1, 2, and 5, respectively, of the Department's SMART Act plan).

Recommendation: Staff recommends approving the request.

➔ JUD R4 Courthouse Security

Request: The Department requests that the General Fund appropriation for the Courthouse Security Grant program be increased from \$500,000 to \$724,400, starting in FY 2016-17. The requested increase would be used for the following priorities:

- \$36,000 would be used to add a second security officer in Otero county;
- \$18,000 would be used to fund the equivalent of a half-time security officer to meet the need for back-up security staff in priority counties (*i.e.*, to fill in when the primary officer is out due to family and medical leave, an on-the-job injury, or other reasons for long-term absences); and
- \$170,400 would be used to fund the replacement of security equipment such as magnetometers and surveillance systems.

Recommendation: Staff recommends denying the request.

Analysis:

Established in 2007 (S.B. 07-118), the Courthouse Security Grant Program provides grant funds to counties for use in improving courthouse security efforts. Such efforts include security staffing, security equipment, training, and court security emergency needs. Grants for personnel are limited to those counties with:

- population below the state median;
- per capita income below the state median;
- tax revenues below the state median; and/or
- total population living below the federal poverty level greater than the state median.

A court security specialist (1.0 FTE) administers the grant program, and the Court Security Cash Fund Commission evaluates grant applications and makes recommendations to the State Court Administrator concerning grant awards.

The program is supported by the Court Security Cash Fund, which consists of a \$5 surcharge on: docket fees and jury fees for certain civil actions; docket fees for criminal convictions, special proceeding filings, and certain traffic infraction penalties; filing fees for certain probate filings; and fees for certain filings on water matters. Moneys in the Fund are to be used for grants and related administrative costs. County-level local security teams may apply to the State Court Administrator's Office for grants.

For FY 2015-16, the Department requested a \$1,250,000 General Fund appropriation and an equal decrease in cash fund appropriations from the Court Security Cash Fund for the Courthouse Security Program. That request included:

- \$700,000 to meet the need for duress alarms and other safety equipment and to take advantage of improved technologies as they become available;
- \$500,000 to provide additional fund balance support due to the continuing declining revenues and the increasing costs of grant-funded salaries and benefits; and
- \$50,000 for continuing education for court staff, county officials, and law enforcement.

The General Assembly partially approved the request, appropriating a total of \$2,471,940, including a new \$500,000 General Fund appropriation and a \$1,250,000 reduction in the cash fund appropriation. This action was designed to ensure that the Department is able to:

- continue providing supplemental funding for ongoing security staffing in the counties with the most limited financial resources (an estimated \$2.0 million in FY 2015-16 based on personnel grant awards in 2014 to "priority 1" counties);
- provide supplemental funding to counties for court security equipment (\$150,000 per year based on 2014 awards);
- provide continuing education for court staff, county officials, and law enforcement (\$50,000 per year as requested); and
- cover expenses associated with administering the program (including indirect costs).

From FY 2007-08 through FY 2013-14, this program provided a total of \$19.0 million to counties, including:

- \$10.4 million (55.0 percent of the total) for security personnel;
- \$8.1 million (42.9 percent) for equipment; and
- \$0.4 million for training.

More than 70 percent of this total funding (\$13.7 million) was allocated to the 38 counties identified as priority counties based on the statutory criteria; the remaining \$5.2 million was allocated to non-priority counties – primarily for the purchase of security equipment. Of the funding that has been allocated to non-priority counties, \$3.4 million was allocated to the following front range counties: Arapahoe; Boulder; Broomfield; Denver; Douglas; El Paso; Jefferson; Larimer; and Weld.

For FY 2014-15, this program provided a total of \$2,032,673 to counties, including:

- \$1,904,834 (93.7 percent of the total) for security personnel;
- \$127,839 (6.3 percent) for equipment; and
- \$0 for training.

Of the total awards in FY 2014-15, \$1,921,598 (94.5 percent) was allocated to 35 of the 39 priority counties, and the remainder (\$111,075) was allocated to nine non-priority counties. Of the funding allocated to priority counties, \$1,854,692 was for security personnel and \$66,906 was for equipment. For non-priority counties, most counties received funding to maintain and support video conferencing equipment. However, Denver also received \$13,322 funding for a duress alarm upgrade, and Chaffee county received \$50,142 for two part-time court security officers.

Staff Recommendation. Staff recommends denying this request. While the Department indicates that additional General Fund is needed to fund a second security officer in Otero county, provide funding for back-up security staff in priority counties, and replace security equipment in 11 counties with pressing needs, the Department does not provide evidence that the existing appropriation is not sufficient to meet these needs. Grant information for FY 2015-16 is not yet available. However, the existing appropriation should be sufficient to continue to fund the following:

- security personnel in priority counties (\$1,854,692 awarded in FY 2014-15);
- additional personnel for Otero county and back-up staff (\$54,000);
- the most pressing equipment needs (\$170,400);
- program administrative costs (projected to total \$194,459 in FY 2016-17); and
- the indirect cost assessment (\$84,919 in FY 2016-17).

Staff's recommendation for FY 2016-17 (\$2,474,099) would cover the above expenses with \$115,629 remaining available for other needs.

➔ Salary Increases for Judicial Officers

Request: The Department's request for Salary Survey includes a total of \$3,649,621 (including \$3,617,519 General Fund and \$32,102 cash funds) for two types of salary increases:

- \$3,236,518 to increase all judicial officer salaries by 5.0 percent in FY 2016-17; and
- \$413,103 to increase the salaries of certain Judicial Department staff whose salaries are benchmarked to judicial officer salaries.

The Department's requests for centrally appropriated line items include additional funding for the associated short-term disability and supplemental PERA payment expenses. The Department indicates that this request is phase III of a plan to close the gap between district court judge salaries and the salary range maximum for two positions within the Department of Law and the Office of the State Public Defender. The historical practice has been to apply the percentage increase approved for district court judges to all other judicial officers and to all staff in certain Department staff positions.

Recommendation: Staff recommends denying this request for two primary reasons.

First, staff is not comfortable recommending a salary increase of this magnitude in a budget year when the Committee has established a common policy of no cost-of-living or merit pay increases, and in a year when a reduction in community provider rates has been proposed. During the Judicial Department Budget hearing last December, Chief Justice Rice indicated that if the General Assembly needs to make a choice between salary range adjustments for Judicial Department staff and judicial officers, she would prioritize staff. The Committee has already approved the proposed salary range adjustments for certain Judicial Department classifications. As detailed in the table below, judicial officer salaries have been increased by 23.9 percent in the last three years, and staff believes it is reasonable to apply the common policy of no across-the-board increases to judicial officers for FY 2016-17.

Annual Increases in Judicial Officer Salaries	
Fiscal Year	Annual Percent Change
2007-08	5.07%
2008-09	8.09%
2009-10	0.00%
2010-11	0.00%
2011-12	0.00%
2012-13	0.00%
2013-14	3.60%
2014-15	9.00%
2015-16	9.71%
2016-17 Request	5.00%

In addition, staff notes that the most recent attorney compensation study that was conducted by a third party for the Department of Law, the Office of the State Public Defender, and the Office of Legislative Legal Services indicates that attorney salaries for these agencies are below those paid for attorneys in comparable positions in Colorado public sector attorney organizations. In light of the current revenue projections for FY 2016-17, neither the Department of Law or the Office of the State Public Defender have requested funding in FY 2016-17 to address this gap.

Second, staff does not agree with the proposal to benchmark the salary that is paid to all district judges to the range maximum salary for certain attorney positions in the Department of Law and the Office of the State Public Defender.

Analysis:

Last year, staff recommended approving the Department's request for judicial officer salary increases of 9.71 percent for the following stated reasons:

- All state court judicial officer salaries currently fall below Denver county court judge salaries, with the gap ranging from 2.8 percent for the Chief Justice to 19.3 percent for county court judges in all counties other than Denver.
- All judicial officer salaries (including the Chief Justice) currently fall below the *average* actual salary paid by the University of Colorado-Boulder for full professors (\$176,199), with gaps ranging from 9.3 percent for the Chief Justice to 26.8 percent for county court judges.
- All judicial officer salaries currently fall below the salary range maximum for the Department of Law's Deputy Attorneys General. The proposed judicial officer salaries for FY 2015-16 would all exceed the salary range midpoint for Deputy Attorneys General that was recently approved by the Committee for FY 2015-16 (\$145,694), and the Chief Justice and Supreme Court justice salaries would all exceed the range maximum for Deputy Attorneys General (\$172,939).

However, staff specifically did not make a recommendation to approve the proposal for a subsequent increase of 5.0 percent in FY 2016-17. The Department's proposal last year, and its request for FY 2016-17, is based on a proposal to increase all judge and justice salaries by a total of 14.71 percent over two fiscal years (9.71 percent in FY 2015-16 and 5.0 percent in FY 2016-17). The overall 14.71 percent increase was based on the gap between the salary for District Court Judges and the *maximum* of the pay ranges for attorney classifications in two other state agencies: Deputy Attorney General at the Department of Law (DOL) and the Office Heads at the Office of the State Public Defender (OSPD):

DOL - Deputy Attorney General (<i>range maximum</i>)	\$167,414
OSPD – Regional Office Head (<i>range maximum</i>)	\$165,756
Target: Average of two <i>range maximum</i> salaries	\$166,585
District Court Judge (<i>actual</i> salary for all judges)	\$145,219
Dollar difference	\$21,366
Percent increase required to reach target	14.71%

The challenge with this methodology is that all district court judges are paid the same salary, regardless of how long they have served on the bench (currently ranging from less than one month to more than 31 years), regardless of the types or complexity of the cases they hear, and regardless of whether they serve as the Chief Judge for a judicial district. The Department proposes paying all district court judges at the *maximum* of the salary ranges for two positions they deem comparable in two other state agencies. Staff does not have enough information to determine whether these are in fact comparable positions. Staff also does not have enough information to recommend using the maximum of such pay ranges – why not the range midpoint or the midpoint of actual salaries? Is it reasonable and appropriate to pay a newly appointed district court judge the same or more than what one of these agencies may pay an individual who has served as a Deputy or an Office Head for 25 or 30 years?

Other Salaries Benchmarked to Judicial Officer Salaries

Staff's annual recommendation concerning judicial officer salary increases is based solely on judicial officer salaries. However, pursuant to S.B. 15-288 (Compensation Paid to Elected Officials), the salaries of a number of state officials and state legislators will be benchmarked to judicial officer salaries beginning in January 2019. The following table details these benchmarks.

Change in Salaries for Selected State Officials Beginning January 2019				
State Official	Current Salary (established January 1999)	Benchmarks for Salaries Beginning January 2019		
		Colorado Judicial Officer	Percent of Judicial Officer Salary	Estimated Salaries as of January 2019 ^{1/}
Governor	\$90,000	Chief Justice, Colorado Supreme Court	66.0%	\$128,049
Lieutenant Governor	68,500	County Court Judges, Class B Counties	58.0%	97,040
Attorney General	80,000	Chief Judge, Colorado Court of Appeals	60.0%	111,916
State Legislators	30,000	County Court Judges, Class B Counties	25.0%	41,828
Secretary of State	68,500	County Court Judges, Class B Counties	58.0%	97,040
Treasurer	68,500	County Court Judges, Class B Counties	58.0%	97,040

^{1/} Estimates are based on judicial officer salaries established for FY 2015-16 through footnote 45 of the FY 2015-16 Long Bill (S.B. 15-234), increased by estimated inflation rates of 2.5 percent in FY 2016-17 and 2.3 percent each fiscal year thereafter.

In addition, please note that the Department's practice of benchmarking salaries for 12 judicial employee classifications to judicial officer salaries⁶ has resulted in these positions receiving the

⁶ These positions include: magistrates, water referees, the State Court Administrator, the Clerk of the appellate courts, judicial legal counsel, judicial district administrators, Chief Probation Officers, the Chief of Staff, the Director of Court Services, the Director of Financial Services, the Director of Human Resources, and the Director of Probation Services.

same percent salary increases as judicial officers, which has been significant over the last three years. Staff does not have enough information to determine if this practice is reasonable and appropriate.

Background Information – Judicial Personnel System. Judicial Department employees are not part of the State classified system. Pursuant to Section 13-3-105, C.R.S., the Supreme Court prescribes by rule a personnel classification plan for all courts that are funded by the State. This provision indicates that in order to treat all state employees in a similar manner, the Supreme Court is to "take into consideration the compensation and classification plans, vacation and sick leave provisions, and other conditions of employment applicable to employees of the executive and legislative departments". The Judicial Department's personnel system excludes employees of the following agencies or offices:

- Agencies involved in the regulation of the practice of law, including Attorney Regulation and Judicial Discipline, Continuing Legal and Judicial Education, and the State Board of Law Examiners;
- The Office of Judicial Performance Evaluation;
- The Office of the State Public Defender;
- The Office of the Alternate Defense Counsel;
- The Office of the Child's Representative;
- The Office of the Respondent Parents' Counsel;
- The Office of the Child Protection Ombudsman; and
- The Independent Ethics Commission.

➔ Staff-initiated Increase in Grant Program Spending Authority

Request: This is a staff-initiated change and was not requested by the Department. However, the Department is aware of and supports this recommendation.

Recommendation: Staff recommends appropriating \$2,600,000 from the Underfunded Courthouse Facility Cash Fund for FY 2016-17. This recommendation is \$600,000 higher than the Department's request, but it is based on more recent information about grant awards.

Analysis:

The Underfunded Courthouse Facilities Grant Program was established in 2014 (H.B. 14-1096) to provide supplemental funding for courthouse facility projects in certain counties. The Underfunded Courthouse Facility Cash Fund Commission evaluates grant applications and makes grant award recommendations to the State Court Administrator. Grant funds must be used for master planning services, matching funds, leveraging grant funding opportunities, or addressing emergency needs due to the imminent closure of a court facility. In order to be considered for a grant award, a county must meet specified financial and demographic factors. The act included an appropriation of \$700,000 General Fund to the newly created Underfunded Courthouse Facility Cash Fund for FY 2014-15, and also provided the authority for the Department to spend up to \$700,000 from the cash fund in FY 2014-15 to administer the program and provide grant awards. For FY 2015-16, the General Assembly appropriated \$2,000,000 General Fund to the Cash Fund, and provided an equal amount of spending authority from the Cash Fund.

In response to a staff request, the Department has provided information about the grants awarded to date. For the first grant cycle, the amount of funding available for grants was \$700,000. The Commission received 10 county applications totaling \$2.6 million by the close date of March 2, 2015. The applications were reviewed, and eight grants were awarded for a total of \$409,156 on May 1, 2015 (all grant contracts have been executed). The following table illustrates the grants awarded through this first round.

Fiscal Year 2015 Grant Cycle		
County	Type	Amount Awarded
Alamosa	Master planning services to construct a new courthouse facility	\$66,541
Archuleta	Master planning services to construct a new courthouse facility.	\$60,000
Dolores	Matching funds for labor and materials associated with the remodel of the clerk’s office.	\$7,615
Fremont	Master planning services to review and program second floor space for remodel.	\$25,000
Huerfano	Master planning services to construct a new courthouse facility.	\$60,000
Lake	Master planning services for the construction of a new courthouse facility.	\$40,000
Montezuma	Master planning services for the construction of a new courthouse facility.	\$75,000
Ouray	Master planning services to update and reevaluate the existing drawings and assessment of the courthouse.	\$75,000
Total		\$409,156
Remaining Balance from \$700,000 available		\$240,844

JBC Staff Figure Setting: FY 2016-17
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For the second grant cycle, a total of \$2,190,844 was available for grant awards. The Commission received applications totaling \$3.0 million. Ten grants were awarded for a total of \$2,187,400. The following table illustrates the grants awarded through this second round.

Fiscal Year 2016 Grant Cycle		
County	Type	Amount Awarded
Alamosa	Matching funds to construct a new courthouse facility	\$1,143,358
Custer	Master planning services for addition to courthouse facility	\$40,000
Huerfano	Matching funds to address site issues for a new courthouse facility	\$75,000
Lake	Master planning services for the construction of a new courthouse facility.	\$86,272
Montezuma	Matching funds to construct a new courthouse facility.	\$586,300
Otero	Matching funds to undertake remodel activities in the Clerk's Office.	\$17,000
Prowers	Matching funds to replace and improve curb, sidewalk, and parking lot around the courthouse.	\$100,250
Rio Grande #1	Master planning services to review the current courthouse facility complex for future planning.	\$40,000
Rio Grande #2	Matching funds to undertake remodel activities in the Clerk's Office to improve the jury room.	\$4,220
Saguache	Matching funds to design and install an elevator in the courthouse.	\$95,000
Total		\$2,187,400

The Department anticipates that a portion of the award to Alamosa County will be spent in FY 2016-17 rather than FY 2015-16 (this is dependent on the speed at which the county moves forward with construction). As a result, the Department anticipates spending approximately \$1.6 million in FY 2015-16. This means that \$600,000 of the amount awarded through the second round will likely be spent in FY 2016-17. Thus, to provide the Department with access to the full amount available for FY 2016-17, staff recommends an appropriation of \$2,600,000, including \$600,000 cash funds and \$2,000,000 in reappropriated funds (*i.e.*, that portion that is duplicated in the FY 2016-17 budget).

➔ Staff-initiated Fund Source Adjustment for Carr Center Appropriations

Request: This is a staff-initiated change and was not requested by the Department. However, the Department is aware of and supports staff's recommendation.

Recommendation: Staff recommends making the following changes to the format of the Long Bill subsection that includes appropriations for the Ralph L. Carr Colorado Judicial Center ("Carr Center"):

- Eliminate the existing "bottom-line" fund source structure, and instead reflect the fund sources for each of the four line item appropriations.
- Reflect all of the General Fund and reappropriated funds amounts in the Debt Service Payments line item. This results in the other three operational line item appropriations coming solely from cash funds appropriations from the Justice Center Cash Fund.
- Add information to the letter notation associated with the cash funds appropriation for Debt Service Payments to indicate that a portion of this appropriation originates as federal revenues.

Analysis:

The Carr Center Long Bill subsection includes four line item appropriations, and the fund sources are reflected at the subtotal level, rather than at the line item level. This Long Bill structure is called "bottom-line funding", and it provides an agency with more flexibility to manage within the appropriation and specified fund sources. Please note that while the Long Bill only reflects fund sources at the subtotal level, JBC staff and Department staff are still required to "book" the appropriation by assigning fund sources to each line item based on a reasonable allocation method. There are currently three source of funds reflected in this section:

- General Fund;
- Cash funds from the Justice Center Cash Fund (JCCF), which consists of docket fees, lease payments from entities that are not state agencies or for whom funds are continuously appropriated (*e.g.*, the Statewide Internet Portal Authority and attorney regulation), and parking fees paid by employees and members of the public who utilize the Carr Center parking garage; and
- Reappropriated funds from the JCCF that reflect appropriations to state agencies that lease space in the Carr Center (*i.e.*, Department of Law and to the Judicial Department).

The FY 2015-16 Long Bill reflected two changes to this subsection which complicated the allocation of fund sources. First, the Department requested a General Fund appropriation of \$5.0 million and an equal decrease in cash fund appropriations from the JCCF for operations of the Carr Center and related debt service payments. This request was in response to declining court filing fee revenues. This decline is primarily due to decreases in the number of civil, misdemeanor, and traffic-related cases filed in county and district courts. This request was approved and is reflected in FY 2015-16 appropriations. Second, the appropriation for debt service payments for the Carr Center was moved from the capital construction section of the budget to the operating section.

As a result of these two changes, there is now a General Fund appropriation for debt service payments that does not appear in the Long Bill, but needs to be identified to properly calculate the statutory 6.5 percent General Fund reserve. Staff thus recommends eliminating the bottom-line funding format for this subsection so that this General Fund amount is clearly identifiable in the Long Bill. In addition, in order to simplify the allocation of fund sources among line items, staff recommends reflecting all of the General Fund and reappropriated funds amounts in the

Debt Service Payments line item⁷. This results in the other three operational line item appropriations coming solely from cash funds appropriations from the Justice Center Cash Fund.

Finally, staff recently learned that a portion of the revenues that are reflected as cash funds originate as federal funds. For purposes of transparency, staff recommends modifying the letter notation associated with this cash funds appropriation to identify the estimated revenues that originate as federal funds. Without this information, the reader may conclude that the state appropriation for the Carr Center lease-purchase agreement exceeds the limits that were established in S.B. 08-206.

Background Information. In 2008 (S.B. 08-206) the General Assembly authorized the State to enter into lease-purchase agreements for the development and construction of a new history museum and a state justice center. The act established the following limits on these projects:

- Museum: Principal component of the lease-purchase agreements may not to exceed \$85 million. The annual rental and lease-purchase payments may not exceed \$4,998,000 and the associated term may not exceed 37 years.
- Justice Center: Principal component of the lease-purchase agreements may not exceed \$275 million. The annual rental and lease-purchase payments may not exceed \$19,000,000 and the associated term may not exceed 38 years.

In July 2009, project financing was secured through a single issuance for both projects totaling \$338.8 million. This issuance included two components: \$39.0 million in traditional tax-exempt certificates of participation (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 offered lower costs to public entities because the federal government subsidizes about a third of the interest paid on the project. This financing resulted in debt payments of less than \$19 million per year for 33 years (September 2012 through September 2045). Thus, total annual payments for both projects are more than \$5 million lower than the caps established in SB 08-206, and these payments will be made for 33 years rather than the 37 and 38 year terms allowed by SB 08-206.

With respect to the Justice Center project, the FY 2015-16 appropriation of \$21,543,903 for "debt service payments" includes both the state portion of the payment (\$16,076,198) and the portion that is covered by the federal subsidy (\$5,467,705). Apparently, for accounting purposes, the Department is required to reflect the federal subsidy as revenue to the state. Thus, the appropriation and the associated expenditures include the federal share of annual debt service payments.

⁷ Please note that this recommended change will reduce the required 6.5 percent statutory General Fund reserve for FY 2016-17 by \$61,928.

LINE ITEM DETAIL – COURTS ADMINISTRATION

(A) Administration and Technology

This subsection funds the activities of the Office of the State Court Administrator, including the following central administrative functions: accounting and budget; human resources; facilities management; procurement; information technology; public information; and legal services. Line items in this section are primarily supported by General Fund and the Judicial Department Information Technology Cash Fund.

General Courts Administration

This line item provides funding for personal services and operating expenses for the Office of the State Court Administrator's central administrative functions (*e.g.*, human resources, accounting and budget, courts and probation administration and technical assistance, etc.). This line item also supports staff that develop and maintain information technology systems used by court and probation staff in all 22 judicial districts, as well as systems used by other agencies and individuals to file information with the courts and access court information. These staff also provide training and technical assistance to system users. In addition, this line item provides funding for the costs of the Judicial Nominating Commission and the Jury Instruction Revision Committee, the printing of civil and criminal jury instructions, and the Branch's membership in the National Center for State Courts.

Sources of cash funds that support this line item include: the Judicial Department Information Technology Cash Fund; the Correctional Treatment Cash Fund; the Restorative Justice Surcharge Fund; and various sources of cash funds. Reappropriated funds that support this line item are from indirect cost recoveries.

The following table details the types of employees that are supported by this line item.

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Staffing Summary General Courts Administration	FY 14-15 Actual	FY 15-16 Approp.	FY 16-17 Request	FY 16-17 Recommend.
<u>General Courts Administration</u>				
Executive	13.0	12.0	12.0	12.0
Probation Services	22.7	22.0	22.0	22.0
Financial Services (<i>annualize S.B. 15-204</i>)	24.3	25.2	25.3	25.3
Court Services (<i>annualize FY 15-16 JUD R9, FY 15-16 JUD R14, and H.B. 15-1153</i>)	27.0	34.8	33.5	33.5
Human Resources (<i>annualize FY 15-16 JUD R10</i>)	<u>21.0</u>	<u>26.9</u>	<u>27.0</u>	<u>27.0</u>
Subtotal	108.0	120.9	119.8	119.8
<u>Information Technology Services</u>				
Administration/Management (<i>JUD R1</i>)	15.8	15.0	17.0	16.8
Computer Technical Support (<i>JUD R1</i>)	26.7	40.0	44.0	43.7
Support Center	7.6	9.0	9.0	9.0
Public Access/ Efile	17.0	17.0	17.0	17.0
Programming Services	<u>31.7</u>	<u>33.0</u>	<u>33.0</u>	<u>33.0</u>
Subtotal	98.8	114.0	120.0	119.5
Total	206.8	234.9	239.8	239.3

Statutory Authority: Section 13-3-101 *et seq.*, C.R.S. [Judicial Department]

Request: The Department requests a total of \$25,668,820, including \$17,652,147 General Fund, and 239.8 FTE. The request is impacted by JUD R1 (Information Technology and Security) and JUD BA3 (Technical Adjustments).

Recommendation: Staff recommends appropriating \$25,614,792, including \$17,598,119 General Fund, and 239.3 FTE. Staff's recommendation differs from the request due to JUD R1, for which staff recommends a lower number of FTE based on the payday shift and staff recommends includes the supplemental PERA payments in the associated central line items (AED and SAED) rather than in the General Courts Administration line item.

Courts Administration, Administration and Technology, General Courts Administration					
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	FTE
FY 2015-16 Appropriation					
SB 15-234 (Long Bill)	\$24,357,312	\$16,419,069	\$5,747,813	\$2,190,430	233.4
Other legislation	101,791	101,791	0	0	1.5
H.B. 16-1243 (Supplemental Bill)	<u>0</u>	<u>(133,000)</u>	<u>0</u>	<u>133,000</u>	<u>0.0</u>
TOTAL	\$24,459,103	\$16,387,860	\$5,747,813	\$2,323,430	234.9
FY 2016-17 Recommended Appropriation					
FY 2015-16 Appropriation	\$24,459,103	\$16,387,860	\$5,747,813	\$2,323,430	234.9

JBC Staff Figure Setting: FY 2016-17
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Courts Administration, Administration and Technology, General Courts Administration					
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	FTE
JUD R1 Information Technology and Security	637,067	637,067	0	0	5.5
Annualize Prior Year Budget Actions	621,817	621,817	0	0	0.3
Other Changes	0	54,570	0	(54,570)	0.0
JUD BA3 Technical Adjustments	0	(133,000)	0	133,000	0.0
Reverse supplemental	0	133,000	0	(133,000)	0.0
Annualize Prior Year Legislation	<u>(103,195)</u>	<u>(103,195)</u>	<u>0</u>	<u>0</u>	<u>(1.4)</u>
TOTAL	\$25,614,792	\$17,598,119	\$5,747,813	\$2,268,860	239.3
Increase/(Decrease)	\$1,155,689	\$1,210,259	\$0	(\$54,570)	4.4
Percentage Change	4.7%	7.4%	0.0%	(2.3%)	1.9%
FY 2016-17 Executive Request:	\$25,668,820	\$17,652,147	\$5,747,813	\$2,268,860	239.8
Request Above/(Below) Recommendation	\$54,028	\$54,028	\$0	\$0	0.5

Indirect cost assessment: The amount of reappropriated funds recommended equals the sum of the three Indirect Cost Assessment line items in this packet (\$1,993,860), plus \$275,000 from indirect cost recoveries from federal grants. [See Appendix B for a detailed description of the calculation of indirect cost assessments.]

Information Technology Infrastructure

This line item provides funding for the following information technology-related expenses:

- The majority of the Department's data line charges;
- Hardware replacement (personal computers, servers, routers, switches, etc.); and
- Software and hardware maintenance, including: licenses, updates and maintenance; hardware/software maintenance agreements related to the Department's voice/data network; anti-virus software; and the ongoing costs associated with the maintenance and upkeep of all of the Department's hardware (personal computers, terminals, printers, and remote controllers).

Statutory Authority: Section 13-3-101 *et seq.*, C.R.S. [Judicial Department]; Section 13-32-114, C.R.S. [Judicial Department Information Technology Cash Fund]

Request: The Department requests a total of \$15,879,211, including \$403,094 General Fund and \$15,476,117 cash funds from the Judicial Department Information Technology Cash Fund. The request is impacted by JUD R1 (Information Technology and Security).

Recommendation: Staff recommends approving the request, which includes an increase of \$7,247,890 cash funds for JUD R1. For more information about this request, please see the discussion at the beginning of this division.

Indirect Cost Assessment

Statewide indirect cost assessments are charged to cash and federal programs for statewide overhead costs (such as those generated by the Department of Personnel and Administration or DPA), and then the assessments are used in administrative divisions to offset General Fund appropriations. This department's share of statewide costs is primarily related to the DPA's archive services, DPA's Office of the State Controller, and the State Treasurer's Office.

Departmental indirect cost assessments are charged to cash and federally-funded programs for departmental overhead costs, and then the assessments are used in the Courts Administration section to offset General Fund appropriations.

Statutory Authority: Colorado Fiscal Rules #8-3; Section 24-75-1401, C.R.S. [Indirect Costs Excess Recovery Fund]

Request: The Department requests \$756,455, including \$747,363 cash funds and \$9,092 reappropriated funds.

Recommendation: Staff recommends approving the request, which is consistent with Committee policy.

(B) Central Appropriations

This Long Bill group includes various centrally appropriated line items. Unless otherwise noted, the sources of cash funds include: the Offender Services Fund, the Judicial Department Information Technology Cash Fund, the Fines Collection Cash Fund, the Judicial Collection Enhancement Fund, the Correctional Treatment Cash Fund, the Alcohol and Drug Driving Safety Program Fund, and the State Commission on Judicial Performance Cash Fund.

Health, Life and Dental

This is the first of several line items that provide funding for the employer's share of the cost of group benefit plans providing health, life, and dental insurance for state employees. Each of the independent agencies submits a separate budget request, and has the authority to employ and determine the compensation of their staff. Thus, each independent agency receives a separate appropriation to fund the salaries and the benefits for its employees. This line item provides funds for Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation staff.

Statutory Authority: Pursuant to Section 24-50-611, C.R.S., and defined in Section 24-50-603 (9), C.R.S.

Request: The Department requests a total of \$30,021,010, including \$27,738,068 General Fund and \$2,282,942 cash funds.

Recommendation: Staff recommends appropriating a total of \$30,022,779, consistent with Committee policy with respect to employer contribution rates.⁸ Staff's recommendation is higher than the request because the Department's request was based on a slightly smaller rate for life insurance. The following table summarizes all of staff's recommendations in this packet for Health, Life and Dental:

Summary of FY 2016-17 Recommendations for Health, Life, and Dental			
	General Fund	Cash Funds	Total
Courts Administration (for courts and probation)	\$27,739,706	\$2,283,063	\$30,022,769
Office of the State Public Defender	6,159,824	0	6,159,824
Office of the Alternate Defense Counsel	134,268	0	134,268
Office of the Child's Representative	218,190	0	218,190
Office of the Respondent Parents' Counsel	90,389	0	90,389
Office of the Child Protection Ombudsman	44,259	0	44,259
Independent Ethics Commission	15,613	0	15,613
Total	\$34,402,249	\$2,283,063	\$36,685,312

⁸ Employer contribution rates approved by the Committee include the following: \$465.62 (employee), \$872.60 (employee + spouse), \$866.78 (employee + children), and \$1,230.06 (employee + family) for health benefits; \$25.92 (employee), \$42.62 (employee + spouse), \$46.44 (employee + children), and \$62.22 (employee + family) for dental benefits; and \$8.84 for life benefits.

Short-term Disability

This is the first of several line items that provide funding for the employer's share of state employees' short-term disability insurance premiums. Each of the independent agencies submits a separate budget request, and has the authority to employ and determine the compensation of their staff. Thus, each independent agency receives a separate appropriation to fund the salaries and the benefits for its employees. This line item provides funds for Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation staff. Please note that the Department does not provide short-term disability for justices and judges, so the premium calculation excludes base salaries for judges and justices. It is staff's understanding that this is due to the constitutional prohibition on decreasing compensation for a judge or justice during their term of office.⁹ If a judge or justice becomes disabled, he or she is either paid a full salary while on short-term leave or is paid under long-term disability provisions.

Statutory Authority: Pursuant to Section 24-50-611, C.R.S., and defined in Section 24-50-603 (13), C.R.S.

Request: The Department requests a total of \$343,709, including \$316,306 General Fund and \$27,403 cash funds. This calculation is based on base salaries (excluding judicial officers), plus requested salary survey increases (excluding those for judicial officers).

Recommendation: Staff recommends appropriating \$343,006, which is consistent with the Committee's common policy of applying a rate of 0.19 percent. The recommendation includes funding associated with the salary range adjustments previously approved by the Committee, but it excludes funding associated with the salary increases for those staff whose salaries are benchmarked to judicial officer salaries.

Summary of FY 2016-17 Recommendations for Short-term Disability			
	General Fund	Cash Funds	Total
Courts Administration (for courts and probation)	\$315,636	\$27,370	\$343,006
Office of the State Public Defender	99,261	0	99,261
Office of the Alternate Defense Counsel	1,994	0	1,994
Office of the Child's Representative	4,111	0	4,111
Office of the Respondent Parents' Counsel	1,739	0	1,739
Office of the Child Protection Ombudsman	548	0	548
Independent Ethics Commission	<u>215</u>	<u>0</u>	<u>215</u>
Total	\$423,504	\$27,370	\$450,874

⁹ See Section 18 of Article VI of the State Constitution.

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

Pursuant to S.B. 04-257, this is the first of several line items that provide additional funding to increase the state contribution for Public Employees' Retirement Association (PERA). Each of the independent agencies submits a separate budget request, and has the authority to employ and determine the compensation of their staff. Thus, each independent agency receives a separate appropriation to fund the salaries and the benefits for its employees. This line item provides funds for Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation staff.

Statutory Authority: Pursuant to Section 24-51-411, C.R.S.

Request: The Department requests \$9,983,874, including \$9,286,257 General Fund and \$697,617 cash funds, based on applying a blended rate of 4.80 percent for most staff and a rate of 2.2 percent for judicial officers.

Recommendation: Staff recommends appropriating a total of \$9,880,982, based on the same blended rates described above and consistent with the Committee's common policy. The recommendation includes \$27,156 General Fund for JUD R1 (Information Technology and Security). The recommendation also includes funding associated with the salary range adjustments previously approved by the Committee, but it excludes funding associated with the salary increases for those staff whose salaries are benchmarked to judicial officer salaries. The following table summarizes all of staff's recommendations in this packet for AED:

Summary of FY 2016-17 Recommendations for S.B. 04-257 Amortization Equalization Disbursement (AED)			
	General Fund	Cash Funds	Total
Courts Administration (for courts and probation)	\$9,083,579	\$797,403	\$9,880,982
Office of the State Public Defender	2,507,649	0	2,507,649
Office of the Alternate Defense Counsel	50,378	0	50,378
Office of the Child's Representative	103,850	0	103,850
Office of the Respondent Parents' Counsel	43,930	0	43,930
Office of the Child Protection Ombudsman	13,848	0	13,848
Independent Ethics Commission	5,435	0	5,435
Total	\$11,808,669	\$797,403	\$12,606,072

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

Pursuant to S.B. 06-235, this is the first of several line items that provide additional funding to increase the state contribution for PERA. Each of the independent agencies submits a separate budget request, and has the authority to employ and determine the compensation of their staff. Thus, each independent agency receives a separate appropriation to fund the salaries and the benefits for its employees. This line item provides funds for Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation staff.

Statutory Authority: Pursuant to Section 24-51-411, C.R.S.

JBC Staff Figure Setting: FY 2016-17
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Request: The Department requests \$9,480,090, including \$8,791,315 General Fund and \$688,775 cash funds, based on applying a blended rate of 4.75 percent for most staff and a rate of 1.5 percent for judicial officers.

Recommendation: Staff recommends appropriating a total of \$9,397,308, based on the same blended rates described above and consistent with the Committee's common policy. The recommendation includes \$26,873 General Fund for JUD R1 (Information Technology and Security). The recommendation also includes funding associated with the salary range adjustments previously approved by the Committee, but it excludes funding associated with the salary increases for those staff whose salaries are benchmarked to judicial officer salaries. The following table summarizes all of staff's recommendations in this packet for SAED:

Summary of FY 2016-17 Recommendations for S.B. 06-235 Supplemental Amortization Equalization Disbursement (SAED)			
	General Fund	Cash Funds	Total
Courts Administration (for courts and probation)	\$8,611,455	\$785,853	\$9,397,308
Office of the State Public Defender	2,481,528	0	2,481,528
Office of the Alternate Defense Counsel	49,853	0	49,853
Office of the Child's Representative	102,767	0	102,767
Office of the Respondent Parents' Counsel	43,472	0	43,472
Office of the Child Protection Ombudsman	13,704	0	13,704
Independent Ethics Commission	5,378	0	5,378
Total	\$11,308,157	\$785,853	\$12,094,010

Salary Survey

The Department uses this line item to pay for annual salary increases. Each of the independent agencies submits a separate budget request, and has the authority to employ and determine the compensation of their staff. Thus, each independent agency receives a separate appropriation to fund the salaries and the benefits for its employees. This line item provides funds for Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation staff.

Statutory Authority: Pursuant to Section 24-50-104, C.R.S.

Request: The Department requests a total of \$4,821,932 total funds for salary increases to be awarded in FY 2016-17, including:

- \$3,236,518 for the Judicial Department to increase the salaries of all judges and justices by 5.0 percent;
- \$413,103 to increase salaries by 5.0 percent for 12 judicial employee classifications that are benchmarked to judicial officer salaries¹⁰; and

¹⁰ These positions include: magistrates, water referees, the State Court Administrator, the Clerk of the appellate courts, judicial legal counsel, judicial district administrators, Chief Probation Officers, the Chief of Staff, the Director of Court Services, the Director of Financial Services, the Director of Human Resources, and the Director of Probation Services.

JBC Staff Figure Setting: FY 2016-17
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- \$1,172,311 to increase salaries for another 60 judicial employee classifications that are considered at least 3.0 percent below market based on a recent compensation study. The request for this line item includes the associated PERA, Medicare.

Recommendation: Staff's recommendation reflects a total of \$1,172,311. This is the amount that the Committee approved on January 21, 2016, to cover the cost of salary range adjustments described in the third bullet point, above. The associated increases required for short-term disability, AED, and SAED are included in the recommendations for those respective line items. Staff's recommendation does not include any additional funding to increase judicial officer salaries or salaries for those Judicial Department staff whose salaries are benchmarked to judicial officer salaries. For more information, see the discussion of judicial officer salary increases at the beginning of this division. The following table summarizes all of staff's recommendations in this packet for Salary Survey:

Summary of FY 2016-17 Recommendations for Salary Survey			
	General Fund	Cash Funds	Total
Courts Administration (for courts and probation)			
Judicial officer salaries	\$0	\$0	\$0
Classifications that are tied to judicial officer salaries	0	0	0
Classifications <u>not</u> tied to judicial officer salaries (approved by JBC on 1/21/16)	<u>897,205</u>	<u>275,106</u>	<u>1,172,311</u>
Subtotal	4,514,724	307,208	4,821,932
Office of the State Public Defender	0	0	0
Office of the Alternate Defense Counsel	0	0	0
Office of the Child's Representative	0	0	0
Office of the Respondent Parents' Counsel	0	0	0
Office of the Child Protection Ombudsman	0	0	0
Independent Ethics Commission	<u>0</u>	<u>0</u>	<u>0</u>
Total	\$4,514,724	\$307,208	\$4,821,932

Merit Pay

The Department uses this line item to pay for performance-related pay increases. Each of the independent agencies submits a separate budget request, and has the authority to employ and determine the compensation of their staff. Thus, each independent agency receives a separate appropriation to fund the salaries and the benefits for its employees. This line item provides funds for Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation staff.

Statutory Authority: Pursuant to Section 24-50-104 (1) (c), C.R.S.

Request: The Department requests \$0 General Fund for merit pay increases for FY 2016-17.

Recommendation: Staff recommends approving the request, which is consistent with the Committee's common policy.

Workers' Compensation

This line item is used to pay the Branch's estimated share for inclusion in the state's workers' compensation program for state employees (including funding associated with the independent agencies). This program is administered by the Department of Personnel and Administration.

Statutory Authority: Pursuant to Section 24-30-1510.7, C.R.S.

Request: The Department requests \$1,484,610 General Fund.

Recommendation: The staff recommendation is pending the development of the Committee's common policy for workers' compensation.

Legal Services

This line item provides funding for the Department to purchase legal services from the Department of Law. The State Court Administrator's Office (SCAO) indicates that it primarily requires services from the Department of Law for litigation-related matters because SCAO attorneys cannot appear in front of judicial officers that they advise as clients. Some examples of the types of cases in which the Department of Law provides legal counsel are listed below:

- Representing the Judicial Department in procurement disputes;
- Represent the Judicial Department's interests as a creditor in bankruptcy matters;
- Performing contract review and other transactional matters for the Judicial Department (*e.g.*, the contracts for the Carr building);
- Obtaining temporary and permanent restraining orders for Judicial Department employees who are being harassed or threatened for performing their official duties;
- Representing the judicial employees when confidential records are subpoenaed;
- Representing judicial employees who are sued and injunctive relief is sought against them;
- Representing the Judicial Department in certain matters before the PERA board; and
- Representing judges who are subpoenaed into actions, by filing a motion to quash on their behalf.

Statutory Authority: Pursuant to 24-31-101 (1) (a), C.R.S., and defined in Section 24-75-112 (1) (i), C.R.S.

Request: The Department requests \$190,020 General Fund to purchase 2,000 hours of legal services. The Department requested, and the Committee approved, a request for a temporary increase in funding for legal services (\$57,000 for an additional 600 hours of services) for FY 2015-16 for two pending cases. The Department has not requested continuation of this funding, so the request for FY 2016-17 represents continuation of the base level of funding.

Recommendation: Staff recommends providing funding sufficient to purchase 2,000 hours of legal services. This appropriation has been decreased significantly in recent years, reducing the number of hours that can be purchased from 4,227 in FY 2007-08 to 2,000 in FY 2015-16. While the Department required a mid-year increase this year for two specific cases, it has not requested that this higher level of funding be sustained. The associated appropriation will be calculated

after the Committee sets the common policy for the legal services rate. The following table summarizes all of staff's recommendations in this packet for Legal Services:

Summary of FY 2016-17 Recommendations for Legal Services	
	Hours
Courts Administration (for courts and probation)	2,000.0
Office of the Respondent Parents' Counsel	20.0
Office of the Child Protection Ombudsman	240.0
Independent Ethics Commission	<u>1,800.0</u>
Total	4,060.0

Payment to Risk Management and Property Funds

This line item provides funding for the Branch's share of the statewide costs for two programs operated by the Department of Personnel and Administration: (1) the liability program, and (2) the property program. The state's liability program is used to pay liability claims and expenses brought against the State. The property program provides insurance coverage for state buildings and their contents. This line item includes funding for the independent agencies.

Statutory Authority: Pursuant to Section 24-30-1510 and 24-30-1510.5, C.R.S.

Request: The Department requests \$926,755 General Fund.

Recommendation: The staff recommendation is pending the development of the Committee's common policy for risk management and property funds.

Vehicle Lease Payments

This line item provides funding for annual payments to the Department of Personnel and Administration for the cost of administration, loan repayment, and lease-purchase payments for new and replacement motor vehicles [see Section 24-30-1117, C.R.S.]. The current appropriation covers costs associated with a total of 25 vehicles which are shared by probation and trial court staff within each judicial district. The Department indicates that these vehicles travel a little over 475,000 miles per year, which represents a fraction of the total miles driven by court and probation employees. Most of the miles driven for judicial business are in personal vehicles. State vehicles are primarily used by rural judges traveling to courthouses within their judicial district, computer technicians, and some probation officers performing home visits.

Statutory Authority: Pursuant to Section 24-30-1104 (2), C.R.S.

Request: The Department requests \$149,622 General Fund.

Recommendation: The staff recommendation is pending the development of the Committee's common policy for vehicle lease payments.

Ralph L. Carr Colorado Judicial Center Leased Space

This line item provides funding to cover the leased space expenses for the following Judicial Branch agencies that are located in the Carr Center:

- The Office of the State Court Administrator;
- The Office of the State Public Defender (central administrative and appellate offices only);
- The Office of the Alternate Defense Counsel;
- The Office of the Child's Representative (central administrative office only);
- The Office of the Respondent Parents' Counsel;
- The Office of the Child Protection Ombudsman; and
- The Independent Ethics Commission.

Statutory Authority: Section 13-32-101 (7), C.R.S. [State Justice Center]

Request: The Department requests \$2,536,816 General Fund.

Recommendation: Staff recommends approving the request. The amounts are based on the actual leased space occupied by each agency and the applicable leased space rates for FY 2016-17. Please note that these rates include amounts paid to the Colorado State Patrol for security services.

Payments to OIT

This new line item was first included in the FY 2014-15 Long Bill, consolidating funding that was previously included in four separate line items: Purchase of Services from Computer Center; Colorado State Network; Communication Services Payments; and Information Technology Security. This line item covers the Judicial Branch's share of funding for the various services provided by the Governor's Office of Information Technology.

Statutory Authority: Section 24-37.5-104, C.R.S.

Request: The Department requests a total of \$2,538,744, including \$2,464,769 General Fund and \$73,975 cash funds.

Recommendation: The staff recommendation is pending the development of the Committee's common policy for payments to OIT.

CORE Operations

This line item provides the Branch's share of funding the new CORE system that is used to record all state revenues and expenditures. This line item includes funding associated with the independent agencies.

Statutory Authority: Pursuant to Section 24-30-209, C.R.S.

Request: The Department requests \$874,207 General Fund.

Recommendation: The staff recommendation is pending the development of the Committee's common policy for CORE operations.

Lease Purchase

The Judicial Department manages phone systems across the state in most of its 83 locations (in a few locations, the county owns and operates the system and the court and/or probation office pay a monthly usage charge). This line item provides funding for the lease purchase of its telephone systems.

Statutory Authority: Section 13-3-106, C.R.S. [Judicial Department operating budget]; Section 24-82-801, C.R.S. [Lease-purchase agreements]

Request: Pursuant to JUD R2/BA1 (discussed at the beginning of this division), the Department requests elimination of this line item for FY 2016-17.

Recommendation: Staff recommends approving the request.

(C) Centrally Administered Programs

This Long Bill group includes various programs and distributions that are administered by the Office of the State Court Administrator for the benefit of the courts, probation, and administrative functions.

Victim Assistance and Victim Compensation

These line items represent funds that are collected by the courts from offenders and then transferred to local governments for compensation and assistance of victims. These amounts are included for informational purposes only, as they are continuously appropriated under the Judicial Branch's constitutional authority. The sources of cash funds are the Victims and Witnesses Assistance and Law Enforcement Funds (for Victim Assistance) and Crime Victim Compensation Funds (for Victim Compensation).

Statutory Authority: Articles 4.1 and 4.2 of Title 24, C.R.S.

Request: The Department requests a continuation level of funding, including \$16,375,000 cash funds for Victim Assistance and \$13,400,000 cash funds for Victim Compensation.

Recommendation: Staff recommends approving the requests for both line items.

Collections Investigators

Collection investigators located in each judicial district are responsible for maximizing the collection of court-imposed fines, fees, and restitution. Recoveries are credited to the General Fund, victim restitution, victims compensation and support programs, and various law enforcement, trial court, probation and other funds. Investigators are supported from cash funds (the Judicial Collection Enhancement Fund and the Fines Collection Cash Fund), as well as grants from local Victims and Witness Assistance Law Enforcement Boards.

Statutory Authority: Section 16-11-101.6, C.R.S. [Collection of fines and fees]; Section 16-18.5-104, C.R.S. [Initial collections investigation]; Section 18-1.3-401 (1) (a) (III) (C), C.R.S. [Investigators in each judicial district]; Section 18-1.3-602, C.R.S. [Restitution]

Request: The Department requests a total of \$6,757,202, including \$5,859,661 cash funds and \$897,541 reappropriated funds, and 104.2 FTE.

Recommendation: Staff recommends approving the request, which reflects the salary increases that were awarded in FY 2015-16.

Problem-solving Courts

This line item provides state funding for all adult drug treatment courts, mental health treatment courts, family dependency treatment courts, and veterans treatment courts that have been implemented by various judicial districts. This line item also provides funding for all DUI treatment courts except for the Denver County Sobriety Court. This line item appropriation is intended to encourage districts to implement and operate problem-solving courts in a manner that

has been proven effective in reducing the need for jail and prison beds, reducing crime rates, increasing treatment participation and effectiveness, and increasing employment among offenders.

Statutory Authority: Article VI of the State Constitution [Vestment of judicial power]; Section 13-5-101 et seq., C.R.S [District courts]; Section 13-6-101 et seq., C.R.S. [County courts]

Request: The Department requests a total of \$3,603,032, including \$398,446 General Fund and \$3,204,586 cash funds from the Judicial Stabilization Cash Fund, and 44.3 FTE.

Recommendation: Staff recommends approving the request, which reflects the salary increases that were awarded in FY 2015-16 and a full 12 months of funding for staff that were added in FY 2015-16 (JUD R12 Problem-solving courts FTE).

Language Interpreters and Translators

This is one of several line item appropriations for "mandated costs". These are costs associated with activities, events, and services that accompany court cases that are required in statute and/or the U.S. and Colorado Constitutions to ensure a fair and speedy trial, and to ensure the right to legal representation. This is one of two line items administered by the Office of the State Court Administrator that provides funding for mandated costs.

This line item provides funding for foreign language interpreter services, which are critical for a judge to understand a party's response, to hear a victim's concerns, and to be assured that the parties understand the terms and conditions of their sentence. Executive Order 13166 requires that all recipients of federal funding develop a plan for providing that access, and Colorado's plan for providing access to LEP persons is Chief Justice Directive 06-03.

This Chief Justice Directive indicates that the court shall pay for interpreter services for all parties in interest during or ancillary to a court proceeding, including:

- Facilitation of communication outside of a judicial officer's presence in order to allow a court proceeding to continue as scheduled, including pre-trial conferences between defendants and district attorneys in order to relay a plea offer immediately prior to a court appearance or to discuss a continuance;
- Facilitation of communication between client and state funded counsel;
- Facilitation of communication with parties of interest in court mandated programs (*e.g.*, family court facilitations and mediations); and
- Completion of evaluations and investigations ordered by and performed for the purpose of aiding the court in making a determination.

The court may provide and pay for language interpretation for limited English proficient persons other than parties in interest directly impacted by a court proceeding.

The court shall not arrange, provide, or pay for language interpretation during or ancillary to a court proceeding to facilitate communication with attorneys, prosecutors, or other parties related to a case involving LEP individuals for the purpose of gathering background information, investigation, trial preparation, witness interviews, or client representation at a future proceeding;

for communications relating to probation treatment services. Prosecutors and parties' attorneys are expected to arrange for language interpretation for case preparation and general communication with parties outside of court proceedings at their own expense.

This line item supports a total of 33.0 FTE, including: 2.0 FTE Court Programs Analyst that administer the program; 2.0 FTE Court Translators that provide direct translation of written text (*i.e.*, forms, instructional documentation, signage, and communications of the court) from Spanish to English and vice versa, and coordinate requests for translations in languages other than Spanish as needed; and the following 29.0 FTE in judicial districts who provide interpreter services:

- 14 Managing Interpreters (certified Spanish interpreters who provide interpretation services, perform administrative duties, and support their assigned district by providing subject matter expertise);
- One Interpreter Scheduler (provide many of the same services as Managing Interpreters but are currently in the process of achieving their certification); and
- 14 Court Interpreters (certified Spanish interpreters whose primary function is to interpret for their assigned district and, when their services are not required, provide administrative support for the local interpreter offices).

In addition, the 20th judicial district houses the Center for Telephone Interpreting, which provides on-demand over-the-phone Spanish interpretation for in-court proceedings and customer service needs of the courts and probation offices statewide. Interpreting assistance is both scheduled in advance and provided when the need arises. The Center also coordinates interpretation for languages other than Spanish upon request.

Finally, this line item also supports payments to certified language interpreters who provide contract services. The Department contracts with independent certified Spanish interpreters as well as interpreters of other languages. Certified Spanish interpreters are paid \$35 per hour, plus compensation for travel time (at half the hourly rate) and mileage. This rate was most recently increased from \$30 to \$35 in FY 2011-12. Certified interpreters working in languages other than Spanish are paid at \$45/hour.

Statutory Authority: Title VI of the federal Civil Rights Act of 1964 [prohibits recipients of federal financial assistance from discriminating based upon national origin by, among other things, failing to provide meaningful access to individuals who are limited English proficient (LEP)¹¹]; Sections 13-90-113 and 114, C.R.S. [Payment of language interpreters]

Request: The Department requests \$4,211,315, including \$4,161,315 General Fund and \$50,000 cash funds, and 33.0 FTE. The source of requested cash funds is fees and cost recoveries.

¹¹ Individuals who are LEP do not speak English as their primary language and have a limited ability to read, speak, write, or understand English.

Recommendation: Staff recommends approving the request, which reflects the salary increases that were awarded in FY 2015-16 and a full 12 months of funding for staff that were added in FY 2015-16 (JUD R13 Language access administration).

Courthouse Security

Established in 2007 (S.B. 07-118), the Courthouse Security Grant Program provides grant funds to counties for use in improving courthouse security efforts. Such efforts include security staffing, security equipment, training, and court security emergency needs. Grants for personnel are limited to those counties with:

- population below the state median;
- per capital income below the state median;
- tax revenues below the state median; and/or
- total population living below the federal poverty level greater than the state median.

A court security specialist (1.0 FTE) administers the grant program, and the Court Security Cash Fund Commission evaluates grant applications and makes recommendations to the State Court Administrator concerning grant awards.

The program is supported by the Court Security Cash Fund, which consists of a \$5 surcharge on: docket fees and jury fees for certain civil actions; docket fees for criminal convictions, special proceeding filings, and certain traffic infraction penalties; filing fees for certain probate filings; and fees for certain filings on water matters. Moneys in the Fund are to be used for grants and related administrative costs. County-level local security teams may apply to the State Court Administrator's Office for grants.

Statutory Authority: Section 13-1-201, *et seq.*, C.R.S.

Request: The Department requests a total of \$2,698,499, including \$724,400 General Fund and \$1,974,099 cash funds from the Court Security Cash Fund and 1.0 FTE. This line item is impacted by JUD R4 (Courthouse Security), and it reflects salary increases awarded in FY 2015-16.

Recommendation: Staff recommends appropriating a total of \$2,474,099, including \$500,000 General Fund and \$1,974,099 cash funds, and 1.0 FTE. Staff's recommendation includes an increase of \$2,159 cash funds for salary increases awarded in FY 2015-16, but it excludes the General Fund increase requested through JUD R4. For more information, see the discussion at the beginning of this division.

Appropriation to the Underfunded Courthouse Facility Cash Fund **Underfunded Courthouse Facilities Grant Program**

Established in 2014 (H.B. 14-1096), this program provides supplemental funding for courthouse facility projects in certain counties. The Underfunded Courthouse Facility Cash Fund Commission evaluates grant applications and makes grant award recommendations to the State Court Administrator. Grant funds must be used for master planning services, matching funds, leveraging grant funding opportunities, or addressing emergency needs due to the imminent

closure of a court facility. In order to be considered for a grant award, a county must meet specified financial and demographic factors. The act included an appropriation of \$700,000 General Fund to the newly created Underfunded Courthouse Facility Cash Fund, and also provided the authority for the Department to spend up to \$700,000 from the cash fund to administer the program and provide grant awards. The Legislative Council Staff fiscal note for the act anticipated annual appropriations of \$3.0 million General Fund to the cash fund to support the program. However, for FY 2015-16 the General Assembly appropriated \$2.0 million General Fund to the cash fund.

Statutory Authority: Section 13-1-301 et seq., C.R.S.

Request: The Department requests a \$2,000,000 General Fund appropriation to the Underfunded Courthouse Facility Cash Fund, and an equal amount of spending authority out of the cash fund and 1.0 FTE.

Recommendation: Staff recommends approving the Department's request for a \$2,000,000 General Fund appropriation to the cash fund. However, based on more recent information provided by the Department concerning grant awards, staff recommends an appropriation of \$2,600,000 out of the cash fund to allow the Department access to the full amount anticipated to be available for expenditure in FY 2016-17 (including \$600,000 cash funds and \$2,000,000 reappropriated funds). This recommendation is discussed more fully at the beginning of the "Courts Administration" section.

Courthouse Capital and Infrastructure Maintenance

Statute requires each county to provide and maintain adequate courtrooms and other court facilities. However, the State is statutorily required pay 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." Pursuant to the latter provision, the General Assembly annually appropriates funds for courthouse facilities, including the following types of expenditures:

- furnishings for new, expanded, and remodeled courthouse facilities (including probation facilities);
- costs associated with the temporary relocation of a court;
- shelving;
- phone and communication systems;
- audiovisual systems; and
- wireless access.

In addition, staff in the State Court Administrator's Office provide technical support and information for Judicial Department managers and county officials with regard to the planning, design, and construction of new or remodeled court and probation facilities. Staff is available to provide support throughout the design process including the selection of design professionals and contractors, space planning, conceptual design, schematic design, design development, and construction administration. Staff also offer technical assistance and consultation regarding courthouse security issues, courtroom technology, furnishings, fixtures, and associated

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equipment. The annual appropriation for courthouse capital/ infrastructure maintenance varies significantly depending on the number and size of county construction projects.

Statutory Authority: Section 13-3-104, C.R.S. [State shall fund state courts]; Section 13-3-108, C.R.S. [Maintenance of court facilities]

Request: The Department requests \$4,720,569, including \$2,376,000 General Fund and \$2,323,731 cash funds from the Judicial Department Information Technology Cash Fund. The request includes \$4,692,351 for JUD R2/BA1 (Courthouse capital and infrastructure maintenance) and \$28,218 for JUD R1 (Information technology and security). Both of these decisions items are discussed at the beginning of this division.

Recommendation: Staff recommends approving the request, as detailed in the following table.

Courts Administration, Centrally Administered Programs, Courthouse Capital/ Infrastructure Maintenance				
	Total Funds	General Fund	Cash Funds	FTE
FY 2015-16 Appropriation				
SB 15-234 (Long Bill)	\$4,501,549	\$2,457,525	\$2,044,024	0.0
Other legislation	459,108	452,088	7,020	0.0
H.B. 16-1243 (Supplemental Bill)	<u>(2,309,000)</u>	<u>(1,620,000)</u>	<u>(689,000)</u>	<u>0.0</u>
TOTAL	\$2,651,657	\$1,289,613	\$1,362,044	0.0
FY 2016-17 Recommended Appropriation				
FY 2015-16 Appropriation	\$2,651,657	\$1,289,613	\$1,362,044	0.0
JUD R2/BA2 Courthouse Capital and Infrastructure Maintenance	4,692,351	2,376,000	2,316,351	0.0
Reverse supplemental	2,309,000	1,620,000	689,000	0.0
JUD R1 Information Technology and Security	28,218	20,838	7,380	0.0
Annualize Prior Year Budget Actions	(4,501,549)	(2,457,525)	(2,044,024)	0.0
Annualize Prior Year Legislation	<u>(459,108)</u>	<u>(452,088)</u>	<u>(7,020)</u>	<u>0.0</u>
TOTAL	\$4,720,569	\$2,396,838	\$2,323,731	0.0
Increase/(Decrease)	\$2,068,912	\$1,107,225	\$961,687	0.0
Percentage Change	78.0%	85.9%	70.6%	0.0%
FY 2016-17 Executive Request:	\$4,720,569	\$2,396,838	\$2,323,731	0.0
Request Above/(Below) Recommendation	\$0	\$0	\$0	0.0

Senior Judge Program

Upon written agreement with the Chief Justice prior to retirement, a justice or judge may perform temporary judicial duties for between 60 and 90 days a year. These agreements may not exceed three years (most are currently one-year contracts), but a retiree may enter into subsequent agreements for a maximum of 12 years. These retired judges cover sitting judges in case of disqualifications, vacations, sick leave, over-scheduled dockets, judicial training and education, and conflicts of interest. Retired judges provide flexibility in coverage as they can fill a temporary need anywhere in the state. The State Court Administrator's Office or the Chief Justice may also call upon Senior Judges to perform special duties related to specific types of cases or needs, and the Court of Appeals may ask Senior Judges to handle overscheduled dockets, write opinions, and operate the court's pre-argument settlement program.

A retired judge receives reimbursement for travel expenses for out-of-town assignments, and is compensated by receiving a retirement benefit increase equal to 20 percent of the current monthly salary of individuals serving in the same position as that held by the retiree at the time of retirement. The Judicial Branch is required to reimburse the PERA Judicial Division Trust Fund for the payment of retired judges' additional benefits during the previous fiscal year (*i.e.*, costs incurred in FY 2014-15 will be reimbursed by the Branch in FY 2015-16). Travel expenditures are reimbursed in the fiscal year in which they are incurred.

Statutory Authority: Section 24-51-1105, C.R.S.

Request: The Department requests a total of \$1,640,750, including \$340,750 General Fund and \$1,300,000 cash funds from the Judicial Stabilization Cash Fund. The request includes an increase of \$136,366 General Fund to cover the cost of judicial officer salary increases that were approved for judges for FY 2015-16.

Recommendation: Staff recommends approving the request. This program is a cost-effective way of managing dockets and covering judges' leave time.

Judicial Education and Training

This line item supports the provision education and training for judicial officers. New judges attend a five-day orientation training which addresses the transition from lawyer to judge, followed by a 2 ½-day advanced orientation session which addresses some specific case type issues and topics such as jury management, court security, evidentiary issues, findings and conclusions of law, etc. For all judges, the Department's overall goal was to provide timely and structured learning experiences, operational training, and developmental activities that support judicial officers' continuing educational and professional needs in leadership, case management, and legal matter subject expertise.

This line item also supports training and technical assistance on procedural fairness to judges, district administrators, chief probation officers, and senior staff in the Office of the State Court Administrator. The four basic expectations that encompass procedural fairness include:

- Voice – the ability to participate in the case by expressing one's viewpoint;
- Neutrality – consistently applied legal principles, unbiased decision makers, and a "transparency" about how decisions are made;
- Respectful treatment – individuals are treated with dignity and their rights are obviously protected; and
- Trustworthy authorities – authorities are benevolent, caring, and sincerely trying to help the litigants – this trust is garnered by listening to individuals and by explaining or justifying decisions that address the litigants' needs.

According to the Department, substantial research suggests that public perception of procedural fairness is associated with higher levels of compliance with court orders and lower levels of recidivism.

This line item is supported by General Fund and the Judicial Stabilization Cash Fund.

Statutory Authority: Section 13-3-102, C.R.S.

Request: The Department requests a total of \$1,456,809, including \$4,812 General Fund and \$1,451,994 cash funds, and 2.0 FTE. The requested increase simply reflects salary increases awarded in FY 2015-16.

Recommendation: Staff recommends approving the request.

Office of Judicial Performance Evaluation

In January 1967, Colorado's Constitution was amended to repeal a provision providing for the election of judges, and to add a provision enacting a system of judicial nominating commissions, Governor-appointed judges, and retention elections for justices and judges. This line item provides funding for the State Commission on Judicial Performance, which is responsible for developing and administering the judicial performance evaluation system. Specifically, this office is responsible for:

- Staffing the state and district commissions, and training their members;
- Collecting and distributing data on judicial performance evaluations;
- Conducting public education efforts concerning the performance evaluation process;
- Measuring public awareness of the process through regular polling; and
- Other duties as assigned by the State Commission.

The Office is supported by the State Commission on Judicial Performance Cash Fund, which consists of revenues from a \$5 docket fee on certain criminal actions in district courts and a \$3 docket fee on certain traffic infractions.

Statutory Authority: Section 13-5.5-101 *et seq.*, C.R.S.

Request: The Department requests a total of \$771,641, including \$290,000 General Fund and \$481,641 cash funds, and 2.0 FTE. The request is essentially a continuation level of funding, including the amount appropriated in FY 2015-16, less \$30,000 for a contract with a market

research firm to conduct a bi-annual public awareness poll pursuant to S.B. 08-054, plus funding for salary increases awarded in FY 2015-16.

Recommendation: Staff recommends approving the request.

Family Violence Justice Grants

This line item provides funding for the State Court Administrator to award grants to qualifying organizations providing civil legal services to indigent Colorado residents. This program is the only state-funded grant program for civil legal services in Colorado. Grant funds may be used to provide legal advice, representation, and advocacy for and on behalf of indigent clients who are victims of family violence (*i.e.*, typically assistance with restraining orders, divorce proceedings, and custody matters). Colorado Legal Services, which provides legal services in almost every county, typically receives more than 80 to 90 percent of grant moneys each year.

In addition to General Fund appropriations for this grant program, the State Court Administrator is authorized to receive gifts, grants, and donations for this program; such funds are credited to the Family Violence Justice Fund. Further, S.B. 09-068 increased the fees for petitions and responses in divorce proceedings by \$10 each (from \$220 and \$106, respectively); half of the resulting revenue is credited to the Family Violence Justice Fund (providing an estimated \$155,033 in new fund revenues).¹² The act directs the Judicial Department to use this fee revenue to award grants to qualifying organizations that provide services for or on behalf of indigent persons and their families who are married, separated, or divorced.

Statutory Authority: Section 14-4-107, C.R.S.

Request: The Department requests a total of \$2,670,000, including \$2,500,000 General Fund and \$170,000 cash funds from the Family Violence Justice Fund.

Recommendation: Staff recommends approving the request, which is the same amount appropriated for FY 2015-16. The following table provides a recent history of appropriations for this program.

¹² The other half of fee revenue is credited to the Colorado Domestic Abuse Program Fund, administered by the Department of Human Services.

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Recent History of State Appropriations for Family Violence Justice Grants			
Fiscal Year	General Fund	Cash Funds	Total
2002-03	\$500,000	\$0	\$500,000
2003-04	0	0	0
2004-05	0	0	0
2005-06	500,000	0	500,000
2006-07	500,000	0	500,000
2007-08	500,000	0	500,000
2008-09	750,000	0	750,000
2009-10	750,000	143,430	893,430
2010-11	750,000	143,430	893,430
2011-12	458,430	216,570	675,000
2012-13	458,430	170,000	628,439
2013-14	1,000,000	170,000	1,170,000
2014-15	2,000,000	170,000	2,170,000
2015-16	2,500,000	170,000	2,670,000
2016-17 Request	2,500,000	170,000	2,670,000

Restorative Justice Programs

This line item provides funding for a pilot program in four judicial districts to facilitate and encourage diversion of juveniles from the juvenile justice system to restorative justice practices. This line item also supports related research and data collection efforts by the Restorative Justice Coordinating Council (Council). This line item is supported by the Restorative Justice Surcharge Fund, which consists of revenues from a \$10 surcharge on each person convicted of a crime and each juvenile adjudicated of a crime (less five percent that is retained by the clerk of the court for administrative costs).

Statutory Authority: Section 18-25-101 (3) (a), C.R.S. [Restorative justice surcharge]; Section 19-2-213 [Restorative Justice Coordinating Council]

Request: The Department requests \$875,633 cash funds and 1.0 FTE.

Recommendation: Staff recommends approving the request, which reflects the salary increases that were awarded in FY 2015-16.

District Attorney Adult Pretrial Diversion Programs

This line item provides funding for district attorneys' adult pretrial diversion programs. A five-member Diversion Funding Committee¹³ is responsible for:

- developing funding guidelines and an application process for district attorneys to request state funds to support an adult pretrial diversion program;
- reviewing funding requests; and
- allocating state funding for adult pretrial diversion programs that meet the established statutory guidelines.

District attorneys that receive funding are required to collect data and provide a status report to the Judicial Department concerning its adult pretrial diversion program.

Statutory Authority: Section 18-1.3-101, C.R.S.

Request: The Department requests a continuation level of funding, consisting of \$400,000 General Fund and \$77,000 cash funds from the Correctional Treatment Cash Fund.

Recommendation: Staff recommends approving the request.

Family Friendly Court Program

The Family-friendly Court Program provides funding for courts to create facilities or services designed to meet the needs of families navigating the court system. The program is funded with a \$1.00 surcharge on traffic violations. The Judicial Department allocates money from the Family-friendly Court Program Cash Fund to judicial districts that apply for funding for the creation, operation, and enhancement of family-friendly court facilities. These programs primarily provide child care services for families attending court proceedings (either through on-site centers and waiting rooms located in courthouses or through vouchers for private child care services). Programs may also provide supervised parenting time and transfer of the physical custody of a child from one parent to another, as well as information and referral for relevant services (*e.g.*, youth mentoring, crime prevention, and dropout prevention; employment counseling and training; financial management; legal counseling; substance abuse programs; etc.).

Statutory Authority: Section 13-3-113, C.R.S.

Request. The Department requests \$225,943 cash funds and 0.5 FTE.

Recommendation. Staff recommends approving the request, which is the same amount that is appropriated for FY 2015-16.

¹³ The Diversion Funding Committee consists of: (a) the Attorney General or his or her designee; (b) the Executive Director of the statewide organization representing district attorneys or his or her designee; (c) the State Public Defender or his or her designee; (d) the Director of the Division of Criminal Justice in the Department of Public Safety; and (e) the State Court Administrator or his or her designee.

Compensation for Exonerated Persons

This line item provides funding to compensate persons who are found actually innocent of felony crimes after serving time in jail, prison, or juvenile placement. If found actually innocent, the exonerated person is eligible to receive the following benefits:

- monetary compensation in the amount of \$70,000 for each year incarcerated, plus an additional \$25,000 for each year he or she served on parole and \$50,000 for each year he or she was incarcerated and awaited execution;
- tuition waivers at state institutions of higher education, if the exonerated person was incarcerated for at least three years;
- compensation for child support payments and associated interest owed by the exonerated person that were incurred during his or her incarceration;
- reasonable attorney fees; and
- the amount of any fine, penalty, court costs, or restitution imposed as a result of the exonerated person's wrongful conviction.

The act requires the State Court Administrator to make an annual payment of \$100,000 to an exonerated person (this amount will be adjusted annually to account for inflation) until the total amount of compensation owed by the State is paid.

Statutory Authority: Sections 13-3-114 and 13-65-101, *et seq.*, C.R.S.

Request: The Department requests \$107,020 General Fund, which includes a 1.2 percent inflationary adjustment.

Recommendation: Staff recommends approving the request.

Child Support Enforcement

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

Statutory Authority: Section 13-5-140, C.R.S.

Request: The Department requests \$95,339 (including \$32,415 General Fund and \$62,924 federal funds) and 1.0 FTE. The request is impacted by JUD BA3 (Technical Adjustments).

Recommendation: Staff recommends approving the request.

(D) Ralph L. Carr Colorado Judicial Center

This Long Bill subsection includes appropriations related to the operations of the Ralph L. Carr Colorado Judicial Center. The line items in this section are supported by the Justice Center Cash Fund, which consists of docket fees, lease payments from Carr Center tenants, and parking fees paid by employees and members of the public who utilize the Carr Center parking garage. Reappropriated funds reflect transfers of appropriations to the Department of Law and to the State Court Administrator's Office for leased space in the Carr Center. The remainder of the moneys are reflected a cash funds.

Personal Services

This line item supports three types of expenditures, which are described below.

- *Colorado State Patrol Services.* The Department purchases security services from the Colorado State Patrol. The appropriation covers the costs of a total of 15.0 FTE (11.0 FTE security officers, 3.0 FTE troopers, and 1.0 FTE supervisor) that provide weapons screening at two public entrances during business hours, 24-hour roving coverage, and the staffing of an information/security desk.
- *Facility Staff.* Two state employees manage and oversee the operational and engineering aspects of the Carr Center. A Building Manager is responsible for handling all tenant inquiries, and coordinating maintenance work among building staff, vendors, and contractors. The Building Manager also oversees the shared services within the Center, such as a copy center, mail room, food services, fitness center, and conference/training facility. The Building Manager also monitors performance of all third party vendor contracts, and reviews price quotes for the procurement of parts, services, and labor for the building. A Building Engineer is responsible for the supervision of engineering operations, including mechanical, electrical, plumbing, and life/safety equipment and systems, as well as all inspections and licensing matters. The Building Engineer also directs the activities of contract engineering staff.
- *Contract Services Related to Facility Management*

Statutory Authority: Section 13-32-101 (7), C.R.S.

Request: The Department requests a total of \$1,465,519 and 2.0 FTE (including \$356,747 cash funds and \$1,108,772 reappropriated funds the Justice Center Cash Fund).

Recommendation: Staff recommends approving the total requested dollar amount and 2.0 FTE. The requested increase simply reflects the salary increases that were awarded in FY 2015-16. In addition, consistent with staff's recommendation at the beginning of the Courts Administration section, titled "Staff-initiated Fund Source Adjustment for Carr Center Appropriations", staff recommends a fund source adjustment that results in this line item being fully supported by cash funds.

Operating Expenses

This line item supports three types of expenditures, which are described below.

- *Various Contract Services.* The Department contracts with Cushman Wakefield to act as the management company, providing contract engineering staff, first floor reception services in

the office tower, and related administrative costs. The Department also contracts with Standard Parking to operate and maintain the parking garage, which is located between the ING building and the Colorado History Museum. Finally, the Department also contracts with a variety of other private vendors for various services, including custodial, maintenance contracts and supplies, grounds maintenance, and the copy center.

- *Utilities.* This line item covers electricity, gas, water, and sewer expenditures, which are monitored and managed by the Building Manager.
- *Operating Expenses for the 2.0 FTE Facility Staff.*

Statutory Authority: Section 13-32-101 (7), C.R.S.

Request: The Department requests a continuation level of funding totaling \$4,026,234, including \$952,887 General Fund and \$3,073,347 reappropriated funds the Justice Center Cash Fund. The request includes a fund source adjustment to reflect a \$148,413 increase in the Department of Law's Carr Center lease payment (based on an increase in the amount of space occupied by that Department), and a decrease of the same amount from the General Fund appropriation.

Recommendation: Staff recommends approving the total requested dollar amount, as well as the fund source adjustment. In addition, consistent with staff's recommendation at the beginning of the Courts Administration section, titled "Staff-initiated Fund Source Adjustment for Carr Center Appropriations", staff recommends a further fund source adjustment that results in this line item being fully supported by cash funds.

Controlled Maintenance

Senate Bill 08-206 envisioned that the ongoing maintenance costs for the Judicial Center would be covered by court fees, lease payments, and parking fees. This line item authorizes the Judicial Department to spend a portion of these revenues for controlled maintenance needs.

Statutory Authority: Section 13-32-101 (7), C.R.S.

Request: The Department requests a continuation level of funding totaling \$2,025,000, including \$487,652 cash funds and \$1,537,348 reappropriated funds the Justice Center Cash Fund.

Recommendation: Staff recommends approving the total requested dollar amount. In addition, consistent with staff's recommendation at the beginning of the Courts Administration section, titled "Staff-initiated Fund Source Adjustment for Carr Center Appropriations", staff recommends a fund source adjustment that results in this line item being fully supported by cash funds.

Debt Service Payments

This line item was added to this section of the budget in FY 2015-16, when appropriations for lease purchase payments (certificates of participation) were moved from the capital construction section of the Long Bill to the operating section. Senate Bill 08-206 authorized the State to enter into lease-purchase agreements for the development and construction of a new museum and a

state justice center. This line item appropriation covers the lease purchase payments that are due in September and March each fiscal year.

Statutory Authority: Section 13-32-101 (7), C.R.S.

Request: The Department requests an appropriation of \$21,577,604, including \$3,853,638 General Fund and \$17,723,966 cash funds from the Justice Center Cash Fund, to make the necessary lease purchase payments related to the construction of the Carr Center. This request includes a \$33,701 increase compared to the FY 2015-16 appropriation based on the amortization schedule.

Recommendation: Staff recommends approving the request. In addition, consistent with staff's recommendation at the beginning of the Courts Administration section, titled "Staff-initiated Fund Source Adjustment for Carr Center Appropriations", staff recommends reflecting all of the General Fund and reappropriated funds amounts in this line item, with the remainder coming from cash funds.

(3) Trial Courts

This section of the budget provides funding for operation of the State trial courts, which include 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. In addition, district courts handle appeals from municipal and county courts, and review decisions of administrative boards and agencies. The General Assembly establishes judicial districts and the number of judges for each district in statute; these judges serve renewable 6-year terms.¹⁴

The General Assembly established seven *water divisions* in the State based on the drainage patterns of major rivers in Colorado. Each water division is staffed by a division engineer, a district court judge who is designated as the water judge by the Colorado Supreme Court, a water referee appointed by the water judge, and a water clerk assigned by the district court. Water judges have exclusive jurisdiction over cases involving the determination of water rights and the use and administration of water.¹⁵

County courts have limited jurisdiction, handling civil actions involving no more than \$15,000, misdemeanor cases, civil and criminal traffic infractions, and felony complaints. County courts also issue search warrants and protection orders in cases involving domestic violence. In addition, county courts handle appeals from municipal courts. The General Assembly establishes the number of judges for each county in statute; these judges serve renewable 4-year terms.¹⁶

The following table summarizes the staff recommendations for the Trial Courts. The difference between staff's recommendation and the request primarily reflects a larger recommended transfer to the Office of the Respondent Parents' Counsel (\$515,907 General Fund) and a smaller recommendation for District Attorney Mandated Costs (a difference of \$172,803 General Fund).

Trial Courts						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2015-16 Appropriation						
SB 15-234 (Long Bill)	\$161,032,206	\$127,684,180	\$30,173,026	\$1,550,000	\$1,625,000	1,859.9
Other legislation	6,187,015	6,187,015	0	0	0	14.3
H.B. 16-1243 (Supplemental Bill)	<u>471,107</u>	<u>481,107</u>	<u>(10,000)</u>	<u>0</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$167,690,328	\$134,352,302	\$30,163,026	\$1,550,000	\$1,625,000	1,874.2

¹⁴ See Article VI, Sections 9 through 12 of the Colorado Constitution; and Section 13-5-101 et seq., C.R.S.

¹⁵ See Sections 37-92-203 and 204, C.R.S.

¹⁶ See Article VI, Sections 16 and 17 of the Colorado Constitution; Section 13-6-101 et seq., C.R.S.

JBC Staff Figure Setting: FY 2016-17
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	Trial Courts					FTE
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	
FY 2016-17 Recommended Appropriation						
FY 2015-16 Appropriation	\$167,690,328	\$134,352,302	\$30,163,026	\$1,550,000	\$1,625,000	1,874.2
JUD BA2 Mandated Costs	746,107	746,107	0	0	0	0.0
JUD BA3 Technical Adjustments	50,000	60,000	(10,000)	0	0	0.0
JUD BA4 eDiscovery	2,862,634	2,792,634	70,000	0	0	0.0
CDAC R1 District Attorney Mandated Costs	(400,000)	(400,000)	0	0	0	0.0
Annualize Prior Year Legislation	(10,335,854)	(10,335,854)	0	0	0	(1.1)
Annualize Prior Year Budget Actions	7,741,734	7,658,596	83,138	0	0	0.5
Reverse supplemental	<u>(471,107)</u>	<u>(481,107)</u>	<u>10,000</u>	<u>0</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$167,883,842	\$134,392,678	\$30,316,164	\$1,550,000	\$1,625,000	1,873.6
Increase/(Decrease)	\$193,514	\$40,376	\$153,138	\$0	\$0	(0.6)
Percentage Change	0.1%	0.0%	0.5%	0.0%	0.0%	(0.0%)
FY 2016-17 Executive Request:	\$168,572,544	\$135,081,380	\$30,316,164	\$1,550,000	\$1,625,000	1,873.6
Request Above/(Below) Recommendation	\$688,702	\$688,702	\$0	\$0	\$0	0.0

DECISION ITEMS – TRIAL COURTS

➔ JUD BA2 Mandated costs

Request: The Department requested, and the Committee approved, a mid-year increase of \$746,107 General Fund for FY 2015-16 to cover three types of court-appointed counsel expenses:

- \$575,907 for respondent parent counsel in dependency and neglect cases;
- \$101,476 for non-attorney child and family investigator services in domestic relations cases; and
- \$68,724 for *guardian ad litem* representation of impaired adults in civil cases.

The Department is requesting continuation of this increase in FY 2016-17.

Recommendation: Staff recommends approving the request to maintain the recently approved mid-year increase for FY 2016-17.

Analysis:

Respondent Parent Counsel Expenses. The Colorado Children's Code¹⁷ defines when a child is "dependent" or "neglected", under what circumstances a child can be removed from his or her home and placed in the temporary custody of a county department of social services, and under

¹⁷ See Title 19, Colorado Revised Statutes.

what circumstances the court may terminate a parent-child legal relationship. A parent or guardian who is a respondent in a dependency and neglect (also called "D&N") case has the right to be represented by counsel at every stage of the proceedings; a respondent parent or guardian who is indigent has the right to counsel at State expense. Respondent parents' counsel plays a critical role in protecting parents' constitutional and legal rights and providing complete, accurate, and balanced information to the courts.

Over the last four fiscal years, expenditures for respondent parents' counsel have increased annually, rising by a total of \$1.7 million (20.4 percent) from FY 2010-11 to FY 2014-15. In FY 2014-15 alone expenses increased by \$1.4 million. The Department indicates that the number of court appointments for these cases is the primary reason for these cost increases. The Department is requesting \$322,575 to cover the cost of 275 additional appointments¹⁸ in cases where the attorney is paid on an hourly basis ($275 \times \$1,173 = \$322,575$). The Department is also requesting \$253,332 to cover the cost of 186 additional appointments² in cases where the attorney is paid on a flat fee basis ($186 \times \$1,362 = \$253,332$). The Department is thus requesting a total of \$575,907 General Fund for respondent parent counsel appointments.

Non-attorney Child and Family Investigator (CFI) Expenses. The court may appoint an individual to serve as a "child and family investigator" (CFI) to investigate, report, and make recommendations to the court on issues that affect the best interests of children involved in a domestic relations case. Prior to January 1, 2016, the oversight of court-appointed CFIs was shared by two judicial agencies:

- the Office of the Child's Representative was responsible for overseeing state-paid CFIs who are attorneys; and
- the State Court Administrator's Office was responsible for overseeing state-paid CFIs who are not attorneys, as well as all privately-paid CFIs (both attorneys and non-attorneys).

Pursuant to H.B. 15-1153, the State Court Administrator's Office is now responsible for oversight of all court-appointed CFIs.

From FY 2010-11 to FY 2014-15, expenditures for non-attorney CFI appointments increased by \$110,895 (154.6 percent). The Department indicates that this increase is due to rises in both the number of court appointments for these cases and the average cost of such appointments. The Department is requesting \$101,476 General Fund to cover the cost of 92 additional state-paid CFI appointments² ($92 \times \$1,103 = \$101,476$).

Expenses for Guardians Ad Litem (GALs) for Impaired Adults. The court may appoint a GAL on behalf of an adult in dependency and neglect actions, probate cases, mental health cases, or any other civil case in which an adult party is impaired and GAL services are deemed necessary throughout the proceedings. The Department indicates that the number of GAL appointments for civil cases is continuing to rise. The Department is requesting \$68,724 General Fund to cover the cost of 69 additional GAL appointments² ($69 \times \$996 = \$68,724$).

¹⁸ The increased numbers of appointments are based on a comparison of the actual number of appointments in FY 2012-13 to the projected number of appointments for FY 2015-16.

Staff Recommendation. The Department does not seek annual adjustments to the "Court Costs, Jury Costs, and Court-appointed Counsel" line item because it generally manages to cover increasing costs for certain types of court appointments with reductions in other types of mandated costs or through fiscal year-end transfers from other line items. In FY 2014-15, the appropriation fell \$384,199 short of the total expenditures for this line item. The Department was able to cover the shortfall through a year-end transfer from the Trial Court Programs line item. The Department's request represents a reasonable estimate of the recent and ongoing cost increases for court-appointed counsel. Staff recommends approving the requested adjustments to ensure the Department has sufficient resources to provide appropriate legal assistance and services to indigent individuals, thereby ensuring that all parties' liberties are protected and rights upheld.

➔ CDAC R1 DA Mandated Costs

Request: The "District Attorney Mandated Costs" line item provides state funding to reimburse Colorado's district attorneys' offices (DAs) for costs incurred for prosecution of state matters, as required by state statute (e.g., expert witness fees and travel expenses, witness travel expenses, mailing subpoenas, service of process, and court reporter fees for transcripts). The Colorado District Attorneys' Council (CDAC) is responsible for allocating the available funding among DAs, and for submitting the budget request for this line item each year.

The CDAC requests \$2,590,153 for FY 2016-17, including \$2,420,153 General Fund and \$170,000 cash funds. The request eliminates the additional funding for the *Holmes* case (\$75,000, after the \$325,000 midyear reduction recently approved for FY 2015-16). When the appropriations for the *Holmes* case are excluded, the CDAC's request for FY 2016-17 represents a \$172,803 (7.1 percent) increase compared to the FY 2015-16 appropriation. The CDAC indicates that the request is based on actual FY 2014-15 expenditures (including those incurred for the *Holmes* case), plus about 3.0 percent.

Recommendation: Staff recommends appropriating \$2,417,350 (including \$2,247,350 General Fund and \$170,000 cash funds). The following table provides a comparison of the request and staff's recommendation.

District Attorneys' Mandated Costs Request and Recommendation									
Fiscal Year	Base Appropriation			Holmes Cases			Total Appropriation		
	General Fund	Cash Funds	Total	General Fund	Cash Funds	Total	General Fund	Cash Funds	Total
2015-16 Approp.	\$2,247,350	\$170,000	\$2,417,350	\$75,000	\$0	\$75,000	\$2,322,350	\$170,000	\$2,492,350
2016-17 Request	\$2,420,153	\$170,000	\$2,590,153	\$0	\$0	\$0	\$2,420,153	\$170,000	\$2,590,153
Annual \$ Change			\$172,803			(\$75,000)			\$97,803
Annual % Change			7.1%			-100.0%			3.9%
2016-17 Recommendation	\$2,247,350	\$170,000	\$2,417,350	\$0	\$0	\$0	\$2,247,350	\$170,000	\$2,417,350
Annual \$ Change			\$0			(\$75,000)			(\$75,000)
Annual % Change			0.0%			-100.0%			-3.0%

Staff's recommendation eliminates funding for the *Holmes* case (a reduction of \$75,000), as requested. Staff's recommendation maintains the existing base funding without any inflationary

adjustment. In each of the last four fiscal years, moneys have been reverted at the end of the fiscal year. Excluding moneys that were designated for specific cases, these reversions have grown from \$11,611 in FY 2011-12 to \$165,930 in FY 2014-15. The FY 2015-16 appropriation exceeds FY 2014-15 expenditures by \$186,127. The recommended appropriation should provide sufficient funding to cover DA mandated costs in FY 2016-17.

Finally, staff's recommendation continues to include \$170,000 from cost recoveries. If cost recoveries exceed the appropriation, the excess is credited to the General Fund.

LINE ITEM DETAIL – TRIAL COURTS

Trial Court Programs

This line item provides funding for personal services and operating expenses for judges, magistrates, court staff, and the Office of Dispute Resolution. Cash fund sources include the Judicial Stabilization Cash Fund, various court fees and cost recoveries, grants, and the sale of jury pattern instructions. Reappropriated funds reflect federal funds transferred from the Departments of Public Safety and Human Services. The following table details the types of employees that are supported by this line item.

Staffing Summary Trial Court Programs	FY 14-15 Actual	FY 15-16 Approp.	FY 16-17 Request	FY 16-17 Recommend.
District Court Judges	179.8	181.0	181.0	181.0
County Court Judges	84.6	90.4	90.4	90.4
Magistrates/ Water Referees (<i>annualize H.B. 15-1043</i>)	60.7	63.5	63.9	63.9
District Administrators	21.7	22.0	22.0	22.0
Clerks of Court (<i>annualize H.B. 15-1043</i>)	60.1	68.6	69.0	69.0
Law Clerks/ Legal Research Attorneys (<i>annualize H.B. 15-1034 and H.B. 15-1043</i>)	89.3	181.4	181.9	181.9
Jury Commissioners	12.4	12.5	12.5	12.5
Court Reporters (<i>annualize H.B. 15-1034 and H.B. 15-1043</i>)	99.8	183.9	184.4	184.4
Probate Examiners/ Protective Proceedings Monitor	16.2	19.0	19.0	19.0
Self-Represented Litigant Coordinators (<i>annualize FY 15-16 JUD R6</i>)	29.1	33.8	34.0	34.0
Family Court Facilitators (<i>annualize FY 15-16 JUD R6</i>)	29.0	34.7	35.0	35.0
Court Judicial Assistants	896.1	795.4	795.4	795.4
Specialists	52.0	56.8	56.8	56.8
Supervisors	61.3	66.8	66.8	66.8
Other Support Staff (<i>annualize FY 15-16 JUD R14 and H.B. 15-1034</i>)	<u>89.2</u>	<u>50.4</u>	<u>47.5</u>	<u>47.5</u>
Total	1,781.3	1,860.2	1,859.6	1,859.6

Statutory Authority: Article VI of the State Constitution [Vestment of judicial power]; Section 13-5-101 et seq., C.R.S [District courts]; Section 13-6-101 et seq., C.R.S. [County courts]

JBC Staff Figure Setting: FY 2016-17
Staff Working Document – Does Not Represent Committee Decision

Request: The Department requests \$151,430,646, including \$121,244,731 General Fund, \$28,935,915 cash funds, and \$1,250,000 reappropriated funds, and 1,859.6 FTE. The request is impacted by JUD BA3 (Technical Adjustments).

Recommendation: Staff recommends approving the request, as detailed in the following table.

Trial Courts, Trial Court Programs					
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	FTE
FY 2015-16 Appropriation					
SB 15-234 (Long Bill)	\$142,548,019	\$112,435,242	\$28,862,777	\$1,250,000	1,845.9
Other legislation	1,068,933	1,068,933	0	0	14.3
H.B. 16-1243 (Supplemental Bill)	<u>50,000</u>	<u>60,000</u>	<u>(10,000)</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$143,666,952	\$113,564,175	\$28,852,777	\$1,250,000	1,860.2
FY 2016-17 Recommended Appropriation					
FY 2015-16 Appropriation	\$143,666,952	\$113,564,175	\$28,852,777	\$1,250,000	1,860.2
Annualize Prior Year Budget Actions	7,741,734	7,658,596	83,138	0	0.5
JUD BA3 Technical Adjustments	50,000	60,000	(10,000)	0	0.0
Annualize Prior Year Legislation	21,960	21,960	0	0	(1.1)
Reverse supplemental	<u>(50,000)</u>	<u>(60,000)</u>	<u>10,000</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$151,430,646	\$121,244,731	\$28,935,915	\$1,250,000	1,859.6
Increase/(Decrease)	\$7,763,694	\$7,680,556	\$83,138	\$0	(0.6)
Percentage Change	5.4%	6.8%	0.3%	0.0%	(0.0%)
FY 2016-17 Executive Request:	\$151,430,646	\$121,244,731	\$28,935,915	\$1,250,000	1,859.6
Request Above/(Below) Recommendation	\$0	\$0	\$0	\$0	0.0

Court Costs, Jury Costs, and Court-appointed Counsel

This is currently the largest of several line item appropriations for "mandated costs", and one of two that are administered by the State Court Administrator's Office. Mandated costs are associated with activities, events, and services that accompany court cases that are required in statute and the U.S. and Colorado Constitutions to ensure a fair and speedy trial, and to ensure the right to legal representation.

Background Information – Mandated Costs Appropriations. Prior to January of 2000, funding for mandated costs was appropriated through a single line item to the Judicial Department. A judge presiding over a case had the responsibility to approve expenditures by the defense and the prosecution, and to give both sides a fair hearing. There was a concern that this created an

inherent conflict in which the judge, by his or her decision about expenditures, could compromise a case.

An ad hoc committee on mandated costs established by Chief Justice Vollack issued a report recommending that the responsibility for managing these costs of prosecution and defense be transferred to the entities responsible for incurring the costs. Thus, since FY 1999-00¹⁹, the General Assembly has provided multiple appropriations for mandated costs. Currently, the Long Bill includes six appropriations for mandated costs, including three to the Judicial Department, and individual appropriations to the Office of the State Public Defender, the Office of the Alternate Defense Counsel, and the Office of the Child's Representative. Staff recommends adding a new Mandated Costs line item for FY 2016-17 for the Office of the Respondent Parents' Counsel. The following table provides a summary of actual expenditures for all mandated costs, by line item.

Mandated Costs: Actual Expenditures for Judicial Branch						
	FY 09-10	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15
Courts Administration, Centrally Administered Programs - Language Interpreters	\$3,347,499	\$3,456,745	\$3,924,198	\$4,112,276	\$4,457,715	\$4,665,905
Trial Courts - Court Costs, Jury Costs, and Court-appointed Counsel	15,841,967	15,472,347	15,181,494	15,521,672	15,814,487	18,011,639
Trial Courts - District Attorney Mandated Costs (excluding CDAC administrative fee)	2,068,755	2,026,627	2,050,295	2,181,277	2,122,760	2,323,857
Office of the State Public Defender	3,092,601	3,516,379	3,758,631	4,126,488	4,777,888	5,177,716
Office of the Alternate Defense Counsel	1,513,582	1,429,874	1,469,945	1,764,603	1,938,282	2,238,702
Office of the Child's Representative	39,717	29,290	40,405	43,607	54,486	35,997
Total	25,904,121	25,931,262	26,424,968	27,749,922	29,165,618	32,453,816
<i>Annual Percent Change</i>	<i>0.6%</i>	<i>0.1%</i>	<i>1.9%</i>	<i>5.0%</i>	<i>5.1%</i>	<i>11.3%</i>

This line item provides funding for three types of costs, described below.

Court Costs. Similar to mandated costs incurred by other agencies, this line item provides funding for transcripts, expert and other witness fees and expenses, interpreters, psychological evaluations, sheriffs' fees, subpoenas, and other costs mandated by statute. For the Judicial Department, these expenses are primarily related to expert witness/evaluation fees, and transcripts.

Jury Costs. This line item also covers fees and expenses for jurors. Statutorily, jurors must be compensated \$50 daily,²⁰ beginning on their fourth day of service. These provisions also allow self-employed jurors to be compensated for their lost wages and unemployed jurors to be reimbursed for their travel, child care, and other necessary out-of-pocket expenses for the first three days of service; such compensation is limited to \$50 per day. In addition, this line item provides funding for printing, preparing, and mailing summons.

¹⁹ This budget format change was implemented through mid-year adjustments in H.B. 00-1403.

²⁰ This dollar amount has not changed since at least 1989.

Court-appointed Counsel. Currently, three independent agencies within the Judicial Branch provide or pay for court-appointed counsel in certain circumstances:

- (1) The Office of the State Public Defender (OSPD) provides legal representation for indigent defendants who are facing incarceration;
- (2) The Office of the Alternate Defense Counsel (OADC) pays for private attorneys to provide legal representation for indigent defendants in criminal and juvenile delinquency cases in which the OSPD is precluded from doing so because of an ethical conflict of interest; and
- (3) The Office of the Child's Representative (OCR) provides or pays for private attorneys to provide legal representation for children involved in the court system due to abuse or neglect, delinquency, truancy, high conflict divorce, alcohol or drug abuse, mental health issues, and probate matters.

The State Court Administrator's Office pays for court-appointed counsel in all other circumstances. This line item covers the costs of providing representation for indigent parties who:

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

Beginning July 1, 2016, the newly created Office of the Respondent Parents' Counsel will oversee respondent parents' counsel.

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

The table on the following page details recent actual expenditures for this line item.

JBC Staff Figure Setting: FY 2016-17
Staff Working Document – Does Not Represent Committee Decision

Trial Courts - Court Costs, Jury Costs, and Court-appointed Counsel						
	FY 09-10	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15
Court-appointed Counsel:						
Respondent Parent Counsel Attorney	\$8,588,777	\$8,344,476	\$8,374,063	\$8,410,578	\$8,630,020	\$10,048,669
Mental Health Attorney	1,175,473	1,377,864	1,593,328	1,600,474	1,761,992	2,042,279
Other Counsel/Investigators a/	2,024,857	2,053,164	1,291,976	1,177,495	1,142,786	1,440,362
Attorney Guardian Ad Litem	577,568	397,510	482,784	590,240	609,507	691,542
Parental Refusal (FMV) a/	0	0	402,033	338,341	363,158	292,771
Truancy Attorney a/	54,294	56,502	124,792	165,968	145,030	228,051
Non-Attorney Child and Family Investigator	79,161	71,725	64,012	72,737	113,101	0
Other Appointments b/	60,189	51,493	52,926	63,808	74,985	182,620
Court-appointed Counsel Programming				22,730	30,942	98,122
Attorney Fee Collection Costs	29,865	22,312	22,483	18,321	18,713	4,399
Other Counsel per S.B. 06-061	1,772	1,101	1,635	206	0	14,742
Interpreter	0	0	0	0	0	0
Subtotal: Court-appointed Counsel	12,591,956	12,376,147	12,410,032	12,460,898	12,890,236	15,043,557
<i>Annual Percent Change</i>	<i>3.3%</i>	<i>-1.7%</i>	<i>0.3%</i>	<i>0.4%</i>	<i>3.4%</i>	<i>16.7%</i>
Court Costs:						
Evaluations/Expert Witness Fees	1,023,207	935,168	830,071	1,017,257	919,049	1,065,289
Transcripts	178,817	180,452	137,760	150,970	180,803	172,253
Discovery & Process Fees	36,737	25,549	35,458	35,515	36,072	65,638
Forms	13,520	22,500	12,175	9,542	11,087	9,986
Advertising	8,666	7,189	9,084	8,115	7,109	6,810
Interpreters	195	335	1,933	2,928	56	110
Experts/Witness Travel	3,628	992	1,550	1,558	1,760	916
Postage (moved to TC Operating)	1,547	198	209	494	265	0
Investigators	1,000	2,488	0	4,796	3,469	0
Death Penalty Costs	96	795	0	7,196	2,454	26,579
Misc.	56,852	43,538	28,686	43,088	52,105	19,274
Subtotal: Court Costs	1,324,266	1,219,203	1,056,925	1,281,459	1,214,228	1,366,854
<i>Annual Percent Change</i>	<i>-0.8%</i>	<i>-7.9%</i>	<i>-13.3%</i>	<i>21.2%</i>	<i>-5.2%</i>	<i>12.6%</i>
Jury Costs	1,925,745	1,876,998	1,714,537	1,779,315	1,710,023	1,601,228
<i>Annual Percent Change</i>	<i>6.3%</i>	<i>-2.5%</i>	<i>-8.7%</i>	<i>3.8%</i>	<i>-3.9%</i>	<i>-6.4%</i>
Total	15,841,967	15,472,347	15,181,494	15,521,672	15,814,487	18,011,639

a/ Prior to FY 2011-12, expenditures for counsel in parent refusal and certain truancy cases were included in the "Other Counsel/ Investigators" category.

b/ "Other Appointments" includes: *Guardian ad litem*s for adults, court visitors, investigators, and associated mileage, copies, and postage.

Statutory Authority: Several provisions concerning court-appointed counsel, including: Titles 13 [Court procedures], 14 [Domestic relations], 15 [Probate], 19 [Children's Code], 22 [Education], 25 [Health], and 27 [Behavioral health]; Section 13-3-104, C.R.S. [State funding for courts]; Sections 13-71-125 through 13-71-131, C.R.S. [Juror compensation]; Section 16-18-101, C.R.S. [Costs in criminal cases paid by the State]; Section 18-1.3-701 (2), C.R.S. [Judgement for costs and fines]

Request: The Department requests a total of \$8,785,645, including \$8,620,396 General Fund and \$165,249 cash funds from various fees, cost recoveries, and grants. This line item is impacted by JUD BA2 (Mandated Costs), JUD BA4 (eDiscovery), as well as the implementation of H.B. 15-1153 (Child and Family Investigator Oversight) and S.B. 14-203 and H.B. 15-1149 (Office of the Respondent Parents Counsel).

Recommendation: Staff recommends appropriating a total of \$8,269,738, including \$8,104,489 General Fund and \$165,249 cash funds from cost recoveries, as detailed in the following table. Staff's recommendation is \$515,907 General Fund lower than the request because staff recommends transferring a larger amount to the new Office of the Respondent Parents' Counsel (ORPC). Specifically, staff recommends transferring the portion of the mid-year increase that was provided for respondent parents' counsel costs (\$575,907 per JUD BA 2), less \$60,000 for certain court-appointed counsel cases that will not be transferred to the ORPC. For a detailed calculation of the amount transferred from this line item to the ORPC, see the description for the ORPC's Court-appointed Counsel line item appropriation. For more information about JUD BA4, see the discussion at the beginning of this packet.

Trial Courts, Court Costs, Jury Costs, and Court-appointed Counsel				
	Total Funds	General Fund	Cash Funds	FTE
FY 2015-16 Appropriation				
SB 15-234 (Long Bill)	\$12,766,837	\$12,601,588	\$165,249	0.0
Other legislation	5,118,082	5,118,082	0	0.0
H.B. 16-1243 (Supplemental Bill)	<u>746,107</u>	<u>746,107</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$18,631,026	\$18,465,777	\$165,249	0.0
FY 2016-17 Recommended Appropriation				
FY 2015-16 Appropriation	\$18,631,026	\$18,465,777	\$165,249	0.0
JUD BA2 Mandated Costs	746,107	746,107	0	0.0
Annualize Prior Year Legislation	(10,357,814)	(10,357,814)	0	0.0
Reverse supplemental	(746,107)	(746,107)	0	0.0
JUD BA4 eDiscovery	<u>(3,474)</u>	<u>(3,474)</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$8,269,738	\$8,104,489	\$165,249	0.0
Increase/(Decrease)	(\$10,361,288)	(\$10,361,288)	\$0	0.0
Percentage Change	(55.6%)	(56.1%)	0.0%	0.0%

Trial Courts, Court Costs, Jury Costs, and Court-appointed Counsel				
	Total Funds	General Fund	Cash Funds	FTE
FY 2016-17 Executive Request:	\$8,785,645	\$8,620,396	\$165,249	0.0
Request Above/(Below) Recommendation	\$515,907	\$515,907	\$0	0.0

District Attorney Mandated Costs

This is one of several line item appropriations for "mandated costs". This line item provides state funding to reimburse Colorado's district attorneys' offices (DAs) for costs incurred for prosecution of state matters, as required by state statute.

Based on FY 2014-15 expenditure data provided by the Colorado District Attorneys' Council (CDAC),²¹ DAs' mandated costs consist of the following:

- Expert witness fees and travel expenses (\$743,242 or 32.0 percent of reimbursed expenditures);
- Witness travel expenses (\$583,487 or 25.1 percent);
- Mailing subpoenas²² (\$459,777 or 19.8 percent);
- Service of process²³ (\$355,912 or 15.3 percent); and
- Court reporter fees for transcripts (\$181,439 or 7.8 percent).

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

²¹ The CDAC is a quasi-government agency, supported by assessments charged to each member's office (through an intergovernmental agreement).

²² A subpoena is a writ by a government agency, most often a court, which has authority to compel testimony by a witness or production of evidence under a penalty for failure.

²³ Service of process is the general term for the legal document (usually a summons) by which a lawsuit is started and the court asserts its jurisdiction over the parties and the controversy.

JBC Staff Figure Setting: FY 2016-17
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District Attorneys' Mandated Costs								
Fiscal Year	Appropriation			Actual Expenditures				Over/ (Under) Budget
	General Fund	Cash Funds	Total	General Fund	Cash Funds	Total	Annual % Change	
2000-01	\$1,938,724	\$0	\$1,938,724	\$1,889,687	\$0	\$1,889,687		(\$49,037)
2001-02	1,938,724	0	1,938,724	1,978,963	0	1,978,963	4.7%	40,239
2002-03	2,025,199	125,000	2,150,199	1,833,410	71,117	1,904,527	-3.8%	(245,672)
2003-04	2,025,199	125,000	2,150,199	1,847,369	59,334	1,906,703	0.1%	(243,496)
2004-05	1,911,899	0	1,911,899	1,911,970	0	1,911,970	0.3%	71
2005-06	1,911,899	0	1,911,899	1,772,849	106,325	1,879,174	-1.7%	(32,725)
2006-07	1,841,899	125,000	1,966,899	1,928,795	99,090	2,027,885	7.9%	60,986
2007-08	1,837,733	125,000	1,962,733	2,092,974	130,674	2,223,648	9.7%	260,915
2008-09	2,101,052	125,000	2,226,052	2,063,785	125,000	2,188,785	-1.6%	(37,267)
2009-10	2,101,052	125,000	2,226,052	2,101,050	125,000	2,226,050	1.7%	(2)
2010-11 a/	2,005,324	125,000	2,130,324	2,005,507	125,000	2,130,507	-4.3%	183
2011-12	2,073,494	125,000	2,198,494	2,061,883	125,000	2,186,883	2.6%	(11,611)
2012-13 b/	2,389,549	140,000	2,529,549	2,164,497	140,000	2,304,497	5.4%	(225,052)
2013-14 c/	2,491,916	160,000	2,651,916	2,152,067	160,000	2,312,067	0.3%	(339,849)
2014-15 d/	2,527,153	170,000	2,697,153	2,374,178	160,865	2,535,043	9.6%	(162,110)
2015-16 (amended) e/	2,322,350	170,000	2,492,350					
2016-17 Request f/	2,420,153	170,000	2,590,153					

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

b/ The FY 2012-13 appropriation included \$265,100 to reimburse costs in the *Holmes* and *Sigg* cases; a total of \$111,993 was used to reimburse costs in these two cases and \$153,107 reverted to the General Fund.

c/ The FY 2013-14 appropriation included \$353,500 specifically for the *Holmes* and *Sigg* cases; a total of \$146,660 was used to reimburse costs in these two cases and \$206,840 reverted to the General Fund.

d/ The FY 2014-15 appropriation included \$300,000 specifically for the *Holmes* case; a total of \$303,820 was used to reimburse costs in this case (with \$0 reverting to the General Fund from this portion of the appropriation).

e/ The FY 2015-16 appropriation, as amended, includes \$75,000 specifically for the *Holmes* case.

f/ The FY 2016-17 request does not include any funds for one or more extraordinary cases.

Background Information CDAC's Role. Since FY 1999-00, the General Assembly has provided a separate appropriation for DAs' mandated costs. This line item has been accompanied by a footnote or a request for information (e.g., RFI #4 for FY 2015-16) indicating that DAs in each judicial district are responsible for allocations made by an oversight committee (currently the CDAC). Any increases in the line item are to be requested and justified in writing by the CDAC, rather than the Judicial Department.

Two statutory provisions appear to provide statutory authority for CDAC to play this role. First, Section 20-1-110, C.R.S., authorizes DAs to participate in an intergovernmental cooperative relationship concerning criminal prosecution and to enter into contracts on behalf of his or her judicial district for cooperation with other DAs concerning such prosecution and prosecution-related services. Second, Section 20-1-111, C.R.S., authorizes DAs to cooperate or contract with one another to provide any function or service lawfully authorized to each of the cooperating or contracting DAs, "including the sharing of costs and the administration and distribution of moneys received for mandated costs." This provision also authorizes DAs to "allocate up to five percent of the moneys received for mandated costs authorized by the general assembly for

administrative expenses." Consistent with this provision, the CDAC annually receives 5.0 percent of the appropriation (\$134,858 in FY 2014-15) to cover the administrative costs associated with allocating and managing this appropriation.

Please note, however, that the Judicial Department (not the CDAC) actually pays out the reimbursements to DAs and makes the related accounting entries in the state accounting system. Individual DAs make payments related to any mandated costs, and submit a list of such payments to the local district court administrator each month in order to receive reimbursement.

Statutory Authority: Section 13-3-104, C.R.S. [State funding for courts]; Section 16-18-101, C.R.S. [Costs in criminal cases paid by the State]; Section 18-1.3-701 (2), C.R.S. [Judgement for costs and fines].

Request: The CDAC requests \$2,590,153, including \$2,420,153 General Fund and \$170,000 cash funds. The request eliminates the additional funding for the *Holmes* case (\$75,000). When the appropriations for the *Holmes* case are excluded, the CDAC's request for FY 2016-17 represents a \$172,803 (7.1 percent) increase compared to the FY 2015-16 appropriation. The CDAC indicates that the request is based on actual FY 2014-15 expenditures (including those incurred for the *Holmes* case), plus about 3.0 percent.

Recommendation: Staff recommends appropriating \$2,417,350 (including \$2,247,350 General Fund and \$170,000 cash funds). For more information, see the narrative for CDAC R1, above.

Action and Statewide Discovery Sharing Systems

Pursuant to S.B. 14-190 (a JBC bill), the Colorado District Attorneys' Council (CDAC) is required to develop and maintain a statewide system that would enable the sharing and transfer of information electronically between law enforcement agencies, district attorneys' offices, and the defense. This statewide discovery sharing system (often called the "eDiscovery" system) is to be integrated with CDAC's existing ACTION system, a case management system that is maintained and operated by CDAC for district attorneys. Once eDiscovery is fully implemented, the defense will no longer be required to reimburse district attorneys for duplicating discoverable materials. This will allow existing General Fund appropriations for such reimbursements to be repurposed to support the ongoing operations of the eDiscovery and ACTION systems.

This line item provides funding for both the eDiscovery and ACTION systems. Fund sources include General Fund and cash fund revenues from a new criminal surcharge for persons who are represented by private counsel or appear without legal representation.

Statutory Authority: Section 16-9-701 *et seq.*, C.R.S.

Request: The Judicial Department has submitted a request for \$2.9 million for this line item, including the following fund sources:

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\$1,761,906	General Fund
1,034,194	General Fund transferred from existing appropriations to various judicial agencies to reimburse district attorneys for duplicating discoverable materials (that portion that is anticipated to be available in FY 2016-17 based on the phased implementation plan)
<u>70,000</u>	Cash funds from the Statewide Discovery Sharing Surcharge Fund
\$2,866,100	Total funds requested for the eDiscovery and ACTION systems for FY 2016-17

Recommendation: Staff recommends appropriating a total of \$2,866,108 for FY 2016-17, including \$2,796,108 General Fund and \$70,000 cash funds from the Statewide Discovery Sharing Surcharge Fund. For more information, see the narrative for JUD BA4, above.

Federal Funds and Other Grants

This line item reflects miscellaneous grants and federal funds associated with the trial courts. The FTE shown in the Long Bill are not permanent employees of the Department, but instead represent the Department's estimates of the full-time equivalent employees who are working under the various grants.

Statutory Authority: Section 13-3-101 (9), C.R.S.

Request: The Department requests a continuation level of spending authority (\$2,900,000 and 14.0 FTE), including \$975,000 cash funds, \$300,000 reappropriated funds, and \$1,625,000 federal funds. The source of reappropriated funds is federal funds transferred from the Departments of Human Services and Public Safety.

Recommendation: Staff recommends approving the request. Please note that the FTE that are shown with this line item are actually contract staff (in some cases these may be long-term contracts), and are not reflected as FTE within the Department's payroll system. For purposes of providing actual FTE data, the Department uses its payroll system to determine the number of hours worked by these contract staff and calculate an equivalent number of FTE.

(4) Probation and Related Services

This section provides funding for probation officers and staff, as well as services that are provided to offenders on probation or related to the probation function. Cash fund sources include: the Offender Services Fund, the Alcohol and Drug Driving Safety Program Fund, the Correctional Treatment Cash Fund, the Sex Offender Surcharge Fund, the Offender Identification Fund, and various fees, cost recoveries, and grants. Sources of reappropriated funds include transfers from the Education, Human Services, and Public Safety Departments.

Persons convicted of certain offenses are eligible to apply to the court for probation. If the court determines that "the ends of justice and the best interests of the public, as well as the defendant, will be served thereby," the court may grant the defendant probation²⁴. The offender serves a sentence in the community under the supervision of a probation officer, subject to conditions imposed by the court. The length of probation is at the discretion of the court and it may exceed the maximum period of incarceration authorized for the offense of which the defendant is convicted, but it cannot exceed five years for any misdemeanor or petty offense. The conditions of probation should ensure that the defendant will lead a law-abiding life and assist the defendant in doing so. These conditions always include requirements that the defendant:

- will not commit another offense;
- will make full restitution;
- will comply with any court orders regarding substance abuse testing and treatment and/or the treatment of sex offenders; and
- will not harass, molest, intimidate, retaliate against, or tamper with the victim.

Managed by the Chief Probation Officer in each judicial district, 1,180 employees prepare assessments and provide pre-sentence investigation services to the courts, supervise offenders sentenced to community programs, and provide notification and support services to victims. The Chief Probation Officer is supervised by the Chief Judge in each district. Investigation and supervision services are provided based on priorities established by the Chief Justice and each offender's risk of re-offending. Adult and juvenile offenders are supervised in accordance with conditions imposed by the courts. A breach of any imposed condition may result in revocation or modification of probation, or incarceration of the offender.

The following table summarizes the staff recommendations for the Probation and Related Services. The only difference between staff's recommendation and the request is a \$2.0 million staff-initiated cash funds reduction, described below.

²⁴ See Section 18-1.3-202 (1), C.R.S.

JBC Staff Figure Setting: FY 2016-17
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Probation and Related Services						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2015-16 Appropriation						
SB 15-234 (Long Bill)	\$140,886,231	\$89,433,926	\$28,567,127	\$20,085,178	\$2,800,000	1,242.9
Other legislation	<u>3,252,261</u>	<u>152,261</u>	<u>1,550,000</u>	<u>1,550,000</u>	<u>0</u>	<u>2.3</u>
TOTAL	\$144,138,492	\$89,586,187	\$30,117,127	\$21,635,178	\$2,800,000	1,245.2
FY 2016-17 Recommended Appropriation						
FY 2015-16 Appropriation	\$144,138,492	\$89,586,187	\$30,117,127	\$21,635,178	\$2,800,000	1,245.2
JUD R3 Offender Treatment and Services CF Spending Authority	1,500,000	0	1,500,000	0	0	0.0
Annualize Prior Year Legislation	34,404	34,404	0	0	0	0.5
Annualize Prior Year Budget Actions	2,057,265	1,813,650	243,615	0	0	2.1
Staff-initiated Decrease in ADDS Fund Spending Authority	(2,000,000)	0	(2,000,000)	0	0	0.0
Other Changes	<u>(203,982)</u>	<u>0</u>	<u>(203,982)</u>	<u>0</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$145,526,179	\$91,434,241	\$29,656,760	\$21,635,178	\$2,800,000	1,247.8
Increase/(Decrease)	\$1,387,687	\$1,848,054	(\$460,367)	\$0	\$0	2.6
Percentage Change	1.0%	2.1%	(1.5%)	0.0%	0.0%	0.2%
FY 2016-17 Executive Request:	\$147,526,179	\$91,434,241	\$31,656,760	\$21,635,178	\$2,800,000	1,247.8
Request Above/(Below) Recommendation	\$2,000,000	\$0	\$2,000,000	\$0	\$0	0.0

DECISION ITEMS – PROBATION AND RELATED SERVICES

➔ JUD R3 Offender Treatment and Services Cash Fund Spending Authority

Request: The Department requests \$1,500,000 in cash funds spending authority from the Offender Services Fund to provide additional treatment and other services for offenders on probation. The Offender Services Fund receives revenue from the \$50 per month supervision fee paid by on adult offenders pursuant to Section 16-11-214, C.R.S.

Recommendation: Staff recommends approving the request.

Analysis:

The Department currently uses \$2,180,000 of the Probation allocation from the Correctional Treatment Cash Fund (CTCF) for offenders on probation who are involved in problem-solving courts, and the remaining \$3,175,080 from the CTCF plus the \$9,749,284 appropriated from the Offender Services Fund, Sex Offender Surcharge Fund and cost recoveries to provide treatment and services for offenders on probation who are not involved in problem-solving courts. The

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need for treatment and other services for both groups of probationers exceeds available funding. This request is intended to increase the funding for treatment and other services as follows:

- \$700,000 to address the existing need for probationers involved in problem-solving courts;
- \$300,000 to address the need for probationers who will be involved in the 11 new problem-solving courts that will be operational by FY 2016-17; and
- \$500,000 to address the existing need for probationers who are not involved in problem-solving courts.

Please note that the Department plans to continue to use only funding from the CTCF for problem-solving courts. Thus, the Department plans to shift \$1.0 million of the CTCF allocation currently used for other probationers for use in problem-solving courts, and using the full \$1.5 million requested from the Offender Services Fund to allocate among judicial districts for services for other probationers.

The Department indicates that research has repeatedly shown that problem-solving courts are effective in reducing recidivism, decreasing future substance use, and increasing public safety. There is also a large body of research that shows that offenders who receive treatment and supportive services are more likely to complete their sentences successfully, remain crime-free longer after completing their sentences, and contribute more to their community in the future (e.g., securing employment and paying child support). This request is intended to ensure that offenders on probation will receive needed treatment and supportive services.

Approval of this request would cause the appropriation to exceed annual fund revenues by an estimated \$1.9 million in FY 2016-17. However, due to projected steady increases in fund revenues, this gap will decrease annually and is projected to be eliminated by FY 2019-20. Approval of the request is thus projected to reduce the fund balance of the Offender Services Fund by \$3.3 million over three years, from \$7.9 million as of July 2015 to \$4.6 million as of July 2018.

Offender Services Fund: Projected Cash Flow					
Description	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18
Beginning Balance	\$11,326,671	\$7,856,496	\$7,898,074	\$7,704,532	\$5,841,883
Total Revenues	14,668,970	15,306,586	15,944,202	16,581,819	17,219,435
Direct Expenditures	(17,541,865)	(14,614,104)	(15,467,553)	(16,394,880)	(16,394,880)
JUD R3 Spending Authority				(1,500,000)	(1,500,000)
Indirect Costs	(597,280)	(650,904)	(670,191)	(549,588)	(549,588)
Subtotal	(18,139,145)	(15,265,008)	(16,137,744)	(18,444,468)	(18,444,468)
Ending Balance	7,856,496	7,898,074	7,704,532	5,841,883	4,616,850

➔ Staff-initiated Decrease in ADDS Spending Authority

Request: This is a staff-initiated change and was not requested by the Department. However, the Department is aware of and supports staff's recommendation.

Recommendation: Staff recommends reducing the cash funds appropriation from the Alcohol and Drug Driving Safety Program Fund for Probation Programs by \$2,000,000 cash funds to more accurately reflect available revenues and likely expenditures.

Analysis:

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 Alcohol and Drug Driving Safety 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' Office of Behavioral Health 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".

The Judicial Department receives a direct appropriation from the Fund to support probation programs (\$6,504,320 for FY 2015-16), and a portion of this funding is transferred to the Department of Human Services for the administration of alcohol and drug abuse services (\$458,257 for FY 2015-16). However, fund revenues are not currently sufficient to support these appropriations, so a program restriction of \$3,000,000 has been put in place for the Judicial Department for FY 2015-16.

Based on discussions with the Department, staff recommends reducing the spending authority from this fund by \$2.0 million starting in FY 2016-17 to better reflect available revenues and likely expenditures. Staff recommends that this reduction be reflected in the Probation Programs line item, where a restriction has been in place for several years due to inadequate fund revenues. The Department provided data indicating that total expenditures from the Fund have declined from \$5,224,359 in FY 2008-09 to \$4,179,164 in FY 2014-15. Over this same time period, the number of presentence and post sentence alcohol and drug driving evaluations declined from 26,340 to 18,597 and the number of new probationers requiring DUI/DWAI supervision or

monitoring declined from 26,626 to 21,765. Thus, as Fund revenues have declined, so has the Judicial Department's workload. The Department indicates that the existing revenues appear to be sufficient to sustain the work associated with the ADDS Program statutory requirements, and thus the Department does not recommend any fee increases to increase fund revenues.

➔ Correctional Treatment Cash Fund Allocation

Request: The Department does not request any changes in appropriations related to the Correctional Treatment Cash Fund (CTCF). Specifically, the Department requests a \$15,200,000 General Fund appropriation to the CTCF, a \$1,550,000 cash funds appropriation from the Marijuana Tax Cash Fund (MCTF) to the CTCF, and a total of \$21,737,292 in spending authority from the CTCF to allow the Department to use these moneys to provide treatment services to offenders on probation, and to transfer a portion of the moneys to other state agencies for the provision of services to offenders in other settings.

The Correctional Treatment Board's recommended allocation includes one adjustment to shift funding between to programs administered by the Department of Human Services (DHS). Specifically, the Board recommends reducing the allocation for Jail-based Behavioral Health Services by \$95,000, and increasing the allocation for the Short-term Intensive Residential Remediation and Treatment (STIRRT) Program by \$95,000. STIRRT is a nine-month treatment program with two weeks of in-patient treatment followed by eight-plus months of continuing outpatient treatment. The STIRRT Advisory Committee requested the increase to implement program changes that will bring operations in line with current research and best practices and positively impact outcomes. The Advisory Committee is committed to this substantial undertaking, which includes the following:

- Expanding some of the residential treatment from 2 weeks to 3 weeks in length;
- Having all three residential facilities provide psychiatric evaluations and cover psychotropic medications;
- Increasing the focus on transition planning and case management capability;
- Implementing better coordination with referral sources;
- Providing detox services and/or respite bed capability;
- Ensuring Medicaid funding is being maximized; and
- Implementing on-going training for clinicians and case managers/supervisors.

The Board recommends shifting \$95,000 from the Jail-based Behavioral Health Services program to support the above STIRRT programming changes. While the Board strongly supports continuing its current level of funding for treatment in jails, it also strongly supports the proposed changes to the STIRRT program because they are based on current research and best practices, which support the principles of "Risk-Need-Responsivity"²⁵ and should improve client outcomes.

²⁵ These principles include the following:

Risk Principle: Supervision and treatment levels should match the client's level of criminal risk. This is precipitated on the consistent use of validated risk and needs assessment tools to inform the case planning and decision making process.

Needs Principle: Treatment services should target a client's criminogenic needs-dynamic risk factors that most drive criminal behavior.

Recommendation: Staff recommends approving the Judicial Department request and the Board's proposed allocation plan, with one minor change. Staff recommends decreasing the proposed reduction to the Department of Human Services' Jail-based Behavioral Health Services program from \$95,000 to \$45,000. Primarily due to the change in the Judicial Department's indirect cost assessment, an additional \$50,000 can be retained for this program while still increasing the allocation for the STIRRT program by \$95,000.

With respect to appropriations to the CTCF, the requested General Fund amount is consistent with current law, which requires the General Assembly to appropriate at least \$15,200,000 General Fund annually to the CTCF. The appropriation requested from the MTCF maintains existing funding levels. This amount is transferred to the Department of Human Services for the Jail-based Behavioral Health Services Program. This source of funding was originally authorized through S.B. 14-215 with a \$2,000,000 appropriation. This amount was reduced mid-year in FY 2014-15 to reflect actual allocations to sheriffs' offices. The FY 2015-16 Long Bill included a continuation level of funding (\$1,550,000) in the Department of Human Services' budget. House Bill 15-1367 modified the format of this appropriation, requiring that the funding from the MTCF be appropriated to the CTCF.

Second, as detailed in the following table, staff recommends appropriations from the CFCF totaling \$21,787,292 to provide the spending authority recommended by the Correctional Treatment Board (plus \$50,000 for Jail-based Behavioral Health Services), and to cover the estimated salary and benefits for state employees that are currently supported by the CTCF. **Staff requests permission to make adjustments between line items within the Judicial Department and the Department of Public Safety as necessary to cover the full cost of state employees that are currently supported by the CTCF.**

Third, consistent with the following table, staff recommends appropriating the following amounts (from reappropriated funds transferred from the Judicial Department's Offender Treatment and Services line item appropriation) to allow other state agencies to receive and spend moneys transferred from this line item:

- DOC: \$3,457,227
- DHS: \$6,671,156
- Public Safety: \$5,299,574

Responsivity Principle: Treatment interventions should employ the use of cognitive social learning strategies and be targeted toward the client's specific learning style, motivation and strengths.

JBC Staff Figure Setting: FY 2016-17
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Appropriations from the Correctional Treatment Cash Fund						
Department/ Line Item	FY 2015-16			FY 2016-17		
	CTCF	Transfer from Judicial	Total	CTCF	Transfer from Judicial	Total
JUDICIAL						
<u>Courts Administration</u>						
<i>Administration and Technology</i>						
General Courts Administration	\$96,156		\$96,156	\$97,116		\$97,116
Indirect Cost Assessment	224,109		224,109	181,125		181,125
<i>Central Appropriations</i>						
Various line items	16,590		16,590	13,826		13,826
<i>Centrally Administered Programs</i>						
District Attorney Adult Pretrial Diversion Programs	77,000		77,000	77,000		77,000
<u>Probation and Related Services</u>						
Offender Treatment and Services	5,990,268		5,990,268	5,990,268		5,990,268
Total: Judicial	\$6,404,123	\$0	\$6,404,123	\$6,359,335	\$0	\$6,359,335
						(\$44,788)
						-0.7%
<i>Annual \$ Change</i>						
<i>Annual % Change</i>						
CORRECTIONS						
<u>Inmate Programs</u>						
<i>Drug and Alcohol Treatment Subprogram</i>						
Services for Substance Abuse and Co-occurring Disorders		995,127	995,127	995,127		995,127
Contract Services		350,000	350,000	350,000		350,000
<u>Community Services</u>						
<i>Parole Subprogram</i>						
Contract Services		2,112,100	2,112,100	2,112,100		2,112,100
Total: Corrections	\$0	\$3,457,227	\$3,457,227	\$0	\$3,457,227	\$3,457,227
						\$0
						0.0%
<i>Annual \$ Change</i>						
<i>Annual % Change</i>						
HUMAN SERVICES:						
<u>Behavioral Health Services</u>						
<i>Substance Abuse Treatment and Prevention</i>						
Treatment and Detoxification Contracts		1,064,688	1,064,688	1,064,688		1,064,688
Strategies for Self-improvement and Change (SSC)						
SSC Training						
The Haven						
Short-term Intensive Residential Remediation and Treatment (STIRRT)		427,946	427,946	522,946		522,946
<i>Integrated Behavioral Health Services</i>						
Jail-based Behavioral Health Services		5,128,522	5,128,522	5,083,522		5,083,522
Total: Human Services	\$0	\$6,621,156	\$6,621,156	\$0	\$6,671,156	\$6,671,156
						\$50,000
						0.8%
<i>Annual \$ Change</i>						
<i>Annual % Change</i>						
PUBLIC SAFETY						
<u>Executive Director's Office</u>						
Various line items		19,463	19,463	12,196		12,196
<u>Division of Criminal Justice</u>						
<i>Administration</i>		87,852	87,852	89,609		89,609
DCJ Administrative Services						
<i>Community Corrections</i>						
Community Corrections Placements		2,643,869	2,643,869	2,643,869		2,643,869
Services for Substance Abuse and Co-occurring Disorders		2,553,900	2,553,900	2,553,900		2,553,900
Total: Public Safety	\$0	\$5,305,084	\$5,305,084	\$0	\$5,299,574	\$5,299,574
						(\$5,510)
						-0.1%
<i>Annual \$ Change</i>						
<i>Annual % Change</i>						
GRAND TOTAL	\$6,404,123	\$15,383,467	\$21,787,590	\$6,359,335	\$15,427,957	\$21,787,292
						(\$298)
						0.0%
<i>Annual \$ Change</i>						
<i>Annual % Change</i>						

Analysis:

Background Information - State Funding for Substance Abuse Treatment for Offenders

Over the past decade, the General Assembly has made changes to offenses related to the use and possession of controlled substances. To the extent that these changes reduce the number of offenders who are incarcerated, or the length of time that offenders are incarcerated, these statutory changes have reduced state expenditures. The General Assembly has reinvested the estimated General Fund savings to increase the availability of substance abuse treatment for offenders.

Through H.B. 12-1310, the General Assembly consolidated the major sources of state funding for offender substance abuse treatment, and consolidated the associated oversight boards into a single Correctional Treatment Board. Specifically, H.B. 12-1310 continued to require the General Assembly to annually appropriate a minimum amount of General Fund related to the estimated savings that resulted from the enactment of S.B. 03-318 (\$2.2 million) and H.B. 10-1352 (\$9.5 million). These amounts are to be credited to the newly created Correctional Treatment Cash Fund (CTCF). For FY 2013-14, the General Assembly was required to appropriate at least \$11.7 million General Fund to the CTCF. Pursuant to S.B. 13-250, the General Assembly is required to appropriate an additional \$3.5 million General Fund related to the estimated savings from S.B. 13-250. Thus, the General Assembly is required to appropriate at least \$15.2 million General Fund annually to the CTCF²⁶.

In addition, the budget now includes an appropriation from the Marijuana Tax Cash Fund (MTCF) to the CTCF (\$1,550,000 for FY 2015-16) pursuant to S.B. 14-215 and H.B. 15-1367.

The Judicial Branch budget thus includes a General Fund appropriation to the CTCF, along with a corresponding amount of spending authority from the CTCF to allow the Department to use these moneys to provide treatment services to offenders on probation, and to transfer a portion of the moneys to other state agencies for the provision of services to offenders in other settings. Moneys transferred to other state agencies are reflected a third time in the other three agencies' budgets (as reappropriated funds). While this structure is transparent and allows one to easily identify the total amount of funding devoted to offender substance abuse treatment, it does tend to overstate annual funding increases within the Judicial Branch and the state as a whole if one does not exclude reappropriated amounts.

The CTCF consists of annual appropriations from the General Fund and the MTCF to the CTCF, drug offender surcharge revenues, and interest income. Moneys from the CTCF may be used for the following purposes:

- Alcohol and drug screening, assessment, and evaluation;
- Alcohol and drug testing;
- Substance abuse education and training;
- An annual statewide conference regarding substance abuse treatment;
- Treatment for assessed substance abuse and co-occurring disorders;

²⁶ See Sections 19-19-103 (3.5) (b) and (c) and (4) (a), C.R.S.

- Recovery support services; and
- Administrative support to the Correctional Treatment Board.

Moneys from the CTCF may be used to serve adults and juveniles who are:

- serving a diversion sentence;
- serving a probation sentence (including Denver county);
- on parole;
- sentenced or transitioned to a community corrections program; or
- serving a sentence in a county jail, on a work-release program supervised by the county jail, or receiving after-care treatment following release from jail if the offender participated in a jail treatment program.

The Correctional Treatment Board is charged with assessing the availability and effectiveness of adult and juvenile offender substance abuse services statewide. The Board is required to prepare an annual treatment funding plan that the Judicial Department will include in its annual presentation to the Joint Budget Committee.

Correctional Treatment Board

The Correctional Treatment Board consists of the seven members representing: the Department of Corrections, the Division of Probation and the Office of the State Public Defender within the Judicial Branch, the Department of Public Safety, the Department of Human Services, district attorneys, and county sheriffs²⁷. The Board's responsibilities include:

- Working with local drug treatment boards to identify judicial district-specific treatment and programmatic needs;
- Reviewing existing treatment services and their effectiveness;
- Identifying funding and programmatic barriers to effective treatment; and
- Developing a comprehensive annual funding plan that meets the identified statewide needs and effectively treats substance abuse offenders in Colorado.

Allocations from the Correctional Treatment Cash Fund

Currently, CTCF moneys are allocated among four state agencies.

- The *Judicial Branch* uses funds to provide substance use testing, and mental health and substance use treatment for offenders on probation and those participating in problem-solving courts. In addition, funding is used to support adult pre-trial diversion programs administered by district attorneys' offices.
- The *Department of Public Safety (DPS)* allocates funds to local community corrections boards for intensive residential treatment (IRT), therapeutic community programs, and outpatient treatment vouchers. The DPS also uses funds to support 1.0 FTE in the Division of Criminal Justice responsible for research and training related to substance abuse and risk/need assessments.

²⁷ See Section 18-19-103 (5) (b), C.R.S.

- The *Department of Human Services* uses these funds for three purposes. First, the Department allocates funds to county sheriffs for the jail-based behavioral health services (JBBS) program. These programs screen for and provide care for adult inmates with a substance use disorder – both while in jail and following the inmate's release from jail. Second, funds are allocated to managed service organizations (MSOs) so support community-based outpatient substance abuse treatment services. Third, funds are used to support the Short-term Intensive Residential Remediation Treatment (STIRRT) program, which serves adult offenders who have been unsuccessful in community treatment for drug and alcohol abuse and continue to commit offenses.
- The *Department of Corrections* uses funds to support case management, substance use testing, and outpatient treatment for parole clients.

LINE ITEM DETAIL – PROBATION AND RELATED SERVICES

Probation Programs

This line item provides funding for both personal services and operating expenses for probation programs in all judicial districts. Cash funds sources include: the Offender Services Fund, the Alcohol and Drug Driving Safety Program Fund, the Correctional Treatment Cash Fund (drug offender surcharge fee revenues), various fees and cost recoveries, and the Offender Identification Fund. The following table details the types of employees that are supported by this line item.

Staffing Summary Probation Programs	FY 14-15 Actual	FY 15-16 Approp.	FY 16-17 Request	FY 16-17 Recommend.
Chief Probation Officers/ Deputy Chief Probation Officers	29.1	28.0	28.0	28.0
Probation Supervisors (<i>annualize FY 15-16 JUD R5 and H.B. 15-1043</i>)	119.0	134.2	136.0	136.0
Probation Officers	805.9	849.9	850.2	850.2
Administrative/ Support Staff (<i>annualize FY 15-16 JUD R5 and H.B. 15-1043</i>)	<u>157.0</u>	<u>169.1</u>	<u>169.6</u>	<u>169.6</u>
Total	1,111.0	1,181.2	1,183.8	1,183.8

Statutory Authority: Section 18-1.3-201 *et seq.*, C.R.S.

Request: The Department requests \$86,464,891, including \$75,309,364 General Fund and \$11,155,527 cash funds, and 1,183.8 FTE.

Recommendation: Staff recommends approving the request. In addition, staff's recommendation includes a \$2.0 million reduction in the cash funds appropriation from the ADDS Fund. For more information about this staff-initiated reduction, see the description at the beginning of this division. The calculation of the recommendation is detailed in the following table.

JBC Staff Figure Setting: FY 2016-17
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Probation and Related Services, Probation Programs						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2015-16 Appropriation						
SB 15-234 (Long Bill)	\$84,220,961	\$73,309,049	\$10,911,912	\$0	\$0	1,178.9
Other legislation	<u>152,261</u>	<u>152,261</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>2.3</u>
TOTAL	\$84,373,222	\$73,461,310	\$10,911,912	\$0	\$0	1,181.2
FY 2016-17 Recommended Appropriation						
FY 2015-16 Appropriation	\$84,373,222	\$73,461,310	\$10,911,912	\$0	\$0	1,181.2
Annualize Prior Year Budget Actions	2,057,265	1,813,650	243,615	0	0	2.1
Annualize Prior Year Legislation	34,404	34,404	0	0	0	0.5
Staff-initiated Decrease in ADDS Fund Spending Authority	<u>(2,000,000)</u>	<u>0</u>	<u>(2,000,000)</u>	<u>0</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$84,464,891	\$75,309,364	\$9,155,527	\$0	\$0	1,183.8
Increase/(Decrease)	\$91,669	\$1,848,054	(\$1,756,385)	\$0	\$0	2.6
Percentage Change	0.1%	2.5%	(16.1%)	n/a	n/a	0.2%
FY 2016-17 Executive Request:	\$86,464,891	\$75,309,364	\$11,155,527	\$0	\$0	1,183.8
Request Above/(Below) Recommendation	\$2,000,000	\$0	\$2,000,000	\$0	\$0	0.0

Offender Treatment and Services

This line item provides funding for the purchase of treatment and services for offenders on probation, as well as funding that is transferred to other state agencies to provide treatment for substance abuse and co-occurring disorders for adult and juvenile offenders who are: on diversion; on parole; sentenced or transitioned to a community corrections program; or serving a sentence in a county jail.

The portion of funding that is spent by the Judicial Department for offenders on probation is generally allocated among judicial districts based on each district's relative share of FTE and probationers under supervision. Each probation department then develops a local budget to provide treatment and services, including the following:

- Substance abuse treatment and testing;
- Sex offender assessment, treatment, and polygraphs;
- Domestic violence treatment;
- Mental health services;
- Electronic home monitoring;
- Emergency housing;
- Transportation assistance;

- Day reporting²⁸;
- Educational/vocational assistance;
- Global positioning satellite (GPS) tracking;
- Incentives;
- General medical assistance;
- Restorative justice; and
- Interpreter services.

The local allocation of funds depends on the availability of treatment and services and the particular needs of the local offender population. The Department annually reports on allocations and expenditures, by treatment and type of services [see pages 102 through 104 in the FY 2016-17 JBC Staff Budget Briefing for the Judicial Branch, dated November 18, 2015]. The Department is also using some existing funding for state-level initiatives, including researching evidence-based practices and building capacity in rural/under-served parts of the state.

The General Assembly has also included appropriations for two specific purposes. First, the appropriation includes \$624,877 General Fund for the purpose of providing treatment and services for offenders participating in veterans trauma courts (and this intent was expressed through Long Bill footnote #51). Second, the appropriation includes \$300,000 General Fund for day reporting services; however, if these funds are not required for day reporting services they may be used for other types of offender treatment and services.

Cash fund sources that support this line item include the following:

- Offender Services Fund (\$9,097,255);
- Correctional Treatment Cash Fund (\$4,623,735 from drug offender surcharge fee revenues),
- Sex Offender Surcharge Fund (\$302,029); and
- various fees and cost recoveries (\$350,000).

Reappropriated funds include General Fund moneys that are appropriated to the Correctional Treatment Cash Fund (\$15,200,000), cash fund moneys from the Marijuana Tax Cash Fund that are appropriated to the CTCF (\$1,550,000), and moneys transferred from the Department of Human Services out of the Persistent Drunk Driver Cash Fund to pay a portion of the costs for intervention and treatment services for persistent drunk drivers who are unable to pay (\$888,341).

Statutory Authority: Sections 16-11-214 [Offender Services Fund]; Section 18-19-103, C.R.S. [Drug offender surcharge]; Section 18-21-103, C.R.S. [Sex offender surcharge]

Request: The Department requests an appropriation of \$34,436,237, including \$924,877 General Fund, \$15,873,019 cash funds, and \$17,638,341 reappropriated funds.

²⁸ Day reporting centers provide intensive, individualized support and treatment services (*e.g.*, employment assistance, substance abuse monitoring, and substance abuse treatment) for offenders who are at risk of violating terms of community placement.

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Recommendation: Staff recommends approving the request. The following table details the components of this appropriation.

Calculation of Offender Treatment and Services Appropriation: FY 2016-17				
Description	GF	CF	RF	Total
Appropriation from General Fund credited to the Correctional Treatment Cash Fund (CTCF)			\$15,200,000	\$15,200,000
Appropriation from the Offender Services Fund (JUD R3)		10,597,255		10,597,255
Appropriation from drug offender surcharge revenues credited to the CTCF		4,623,735		4,623,735
Appropriation from Marijuana Tax Cash Fund credited to the CTCF			1,550,000	1,550,000
Appropriation from moneys transferred from the Department of Human Services' Persistent Drunk Driver Programs line item			888,341	888,341
Funding for treatment and services for offenders participating in veterans treatment courts	624,877			624,877
Appropriation from various fees and cost recoveries		350,000		350,000
Appropriation from the Sex Offender Surcharge Fund		302,029		302,029
Appropriation for day reporting services	<u>300,000</u>			<u>300,000</u>
Total	\$924,877	\$15,873,019	\$17,638,341	\$34,436,237

Staff also recommends continuing to appropriate \$25,000 reappropriated funds to the DOC to allow it to receive and spend \$25,000 from the Judicial Department's Offender Treatment and Services line item for the provision of day reporting services to parolees.

Finally, at the end of this packet, staff has recommended continuation of the Long Bill footnote that expresses the General Assembly's intent that \$624,877 of the appropriation be used to provide treatment and services for offenders in veterans treatment courts.

Appropriation to the Correctional Treatment Cash Fund

This line item provides an annual General Fund appropriation to be credited to the Correctional Treatment Cash Fund (CTCF). Moneys in the CTCF are used to fund the treatment of substance abuse or co-occurring disorders of adult and juvenile offenders. The Offender Treatment and Services line item in this budget provides the Judicial Department with a corresponding appropriation of reappropriated funds to spend a portion of these moneys for the provision of services to offenders on probation, and to transfer the remainder of these moneys to the DOC, DHS, and the Department of Public Safety to provide services to offenders in other settings.

Statutory Authority: Sections 19-19-103 (3.5) (b) and (c) and (4) (a), C.R.S.

Request: The Department requests a continuation level of funding, including \$15,200,000 General Fund and \$1,550,000 cash funds from the Marijuana Tax Cash Fund.

Recommendation: Staff recommends approving the request. For more information, see the discussion of the CTCF allocation recommendation at the beginning of this division.

S.B. 91-094 Juvenile Services

The General Assembly annually appropriates General Fund moneys to the Department of Human Services' Division of Youth Corrections (DYC) for the provision of service alternatives to placing juveniles in the physical custody of the DYC. Generally, the types of services provided include individual and family therapy, substance abuse treatment, mental health treatment, education, vocational and life skills training, mentoring, electronic monitoring, community service programs, gang intervention, mediation services, and anger management classes.

The DYC annually contracts with the Judicial Department to provide some of these services, and this line item authorizes the Judicial Department to receive and spend these moneys. For example, for FY 2015-16, this line item authorizes the Department to receive and spend up to \$2,496,837 (16.9 percent) of the \$14,792,805 that was appropriated to DYC. The total amount of S.B. 91-094 funding that the Judicial Department receives depends on a number of factors including: the number of available treatment providers, the structural organization of the districts' programs, and the level and types of treatment services required per district each year. When the amount of funding need is determined, each district submits its request directly to DHS. Once all district requests have been received, the Judicial Department and DYC execute the annual contract.

Statutory Authority: Section 19-2-310, C.R.S.

Request: The Department requests a continuation level of funding (\$2,496,837 reappropriated funds and 25.0 FTE).

Recommendation: Staff recommends approving the request. Please note that the FTE that are shown with this line item are actually contract staff (in some cases these may be long-term contracts), and are not reflected as FTE within the Department's payroll system. For purposes of providing actual FTE data, the Department uses its payroll system to determine the number of hours worked by these contract staff and calculate an equivalent number of FTE.

Reimbursements to Law Enforcement Agencies for the Costs of Returning a Probationer

This line item, which was added in FY 2012-13 through H.B. 12-1310, provides funding for the Judicial Department to reimburse law enforcement agencies for the costs of returning a probationer to Colorado. The source of funding is the Interstate Compact Probation Transfer Cash Fund, a new fund that consists of revenue from a new \$100 filing fee paid by an estimated 2,500 offenders who apply for out-of-state probation supervision (it is assumed that approximately 25 percent of these offenders will be indigent and have their fee waived).

Statutory Authority: Section 18-1.3-204 (4) (b), C.R.S.

Request: The Department requests a continuation level of funding (\$187,500 cash funds).

Recommendation: Staff recommends approving the request.

Victims Grants

These grants are used to provide program development, training, grant management, and technical assistance to probation departments in each judicial district as they continue to improve their victim services programs and provide direct services and notification to victims of crime. The source of funding is victim assistance surcharges collected from offenders and administered by the State Victim Assistance and Law Enforcement (VALE) Board, grants from local VALE boards, and a federal Victims of Crime Act (VOCA) grant that are received by the Division of Criminal Justice and transferred to the Judicial Department.

Statutory Authority: Section 24-4.2-105 (2.5), C.R.S.

Request: The Department requests a continuation level of spending authority (\$650,000 reappropriated funds and 6.0 FTE).

Recommendation: Staff recommends approving the request.

Federal Funds and Other Grants

This line item reflects miscellaneous grants and federal funds associated with probation programs and services. The FTE shown in the Long Bill are not permanent employees of the Department, but represent the Department's estimates of the full-time equivalent employees who are working under the various grants (often in judicial districts).

Statutory Authority: Section 18-1.3-202, C.R.S.

Request: The Department requests a continuation level of spending authority (\$5,600,000 and 33.0 FTE), including \$1,950,000 cash funds, \$850,000 reappropriated funds (funds transferred from other state agencies), and \$2,800,000 federal funds.

Recommendation: Staff recommends approving the request.

Indirect Cost Assessment

Indirect cost assessments are charged to cash and federally-funded programs for departmental and statewide overhead costs, and then the assessments are used in the Courts Administration section to offset General Fund appropriations.

Statutory Authority: Colorado Fiscal Rules #8-3; Section 24-75-1401, C.R.S. [Indirect Costs Excess Recovery Fund]

Request: Department requests \$940,714 cash funds.

Recommendation: Staff recommends approving the request, which is consistent with Committee policy.

(5) Office of the State Public Defender

The federal²⁹ and state³⁰ constitutions provide that an accused person has the right to be represented by counsel in criminal prosecutions. This constitutional right has been interpreted to mean that counsel will be provided at state expense for indigent persons in all cases in which actual incarceration is a likely penalty. The Office of the State Public Defender (OSPD) is established by Section 21-1-101, *et seq.*, C.R.S., as an independent agency within the Judicial Branch for the purpose of providing legal representation for indigent defendants who are facing incarceration. This provision requires the OSPD to provide legal representation to indigent defendants "commensurate with those available to nonindigents, and conduct the office in accordance with the Colorado rules of professional conduct and with the American bar association standards relating to the administration of criminal justice, the defense function." The OSPD provides representation through employees located around the state.

The OSPD is governed by the five-member Public Defender Commission, whose members are appointed by the Supreme Court. The Commission appoints an individual to serve as the State Public Defender. The State Public Defender's compensation is fixed by the General Assembly (through a Long Bill footnote) and may not be reduced during his or her five-year term of appointment. The State Public Defender employs and fixes the compensation for deputy public defenders, investigators, and other necessary support staff. However, all salaries are to be reviewed and approved by the Colorado Supreme Court.

With the exception of a small amount of cash funds from training registration fees and grants, the OSPD is supported by General Fund appropriations.

Office of the State Public Defender						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2015-16 Appropriation						
SB 15-234 (Long Bill)	\$86,639,883	\$86,489,883	\$150,000	\$0	\$0	782.2
Other legislation	188,352	188,352	0	0	0	3.1
H.B. 16-1243 (Supplemental Bill)	<u>(8,996)</u>	<u>(8,996)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$86,819,239	\$86,669,239	\$150,000	\$0	\$0	785.3
FY 2016-17 Recommended Appropriation						
FY 2015-16 Appropriation	\$86,819,239	\$86,669,239	\$150,000	\$0	\$0	785.3
JUD BA4 eDiscovery	(806,506)	(806,506)	0	0	0	0.0
NPI Annual Fleet Vehicle Request	9,341	9,341	0	0	0	0.0
Employee Benefits and Common Changes	388,596	388,596	0	0	0	0.0

²⁹ See Amendment VI of the U.S. Constitution (Rights of accused).

³⁰ See Article II, Section 16 of the Colorado Constitution (Criminal prosecutions - rights of defendant).

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Office of the State Public Defender						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
Annualize Prior Year Legislation	15,831	15,831	0	0	0	0.6
TOTAL	\$86,426,501	\$86,276,501	\$150,000	\$0	\$0	785.9
Increase/(Decrease)	(\$392,738)	(\$392,738)	\$0	\$0	\$0	0.6
Percentage Change	(0.5%)	(0.5%)	0.0%	n/a	n/a	0.1%
FY 2016-17 Executive Request:	\$86,426,501	\$86,276,501	\$150,000	\$0	\$0	785.9
Request Above/(Below) Recommendation	\$0	\$0	\$0	\$0	\$0	0.0

**DECISION ITEMS – OFFICE OF THE STATE PUBLIC DEFENDER
(NONE)**

LINE ITEM DETAIL – OFFICE OF THE STATE PUBLIC DEFENDER

Personal Services

This line item provides funding to support staff in the central administrative and appellate offices in Denver, as well as the 21 regional trial offices. The following table details the staffing composition of these offices.

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Staffing Summary	FY 14-15	FY 15-16	FY 16-17	FY 16-17
Office of the State Public Defender	Actual	Approp.	Request	Recommend.
State Public Defender, General Counsel and Chief				
Deputies	2.9	3.4	3.4	3.4
Statewide Complex Case Management	9.0	10.0	10.0	10.0
Finance/ Operations	5.7	6.0	6.0	6.0
Human Resources	3.4	4.0	4.0	4.0
Information Technology	9.5	10.0	10.0	10.0
Training	3.0	3.0	3.0	3.0
Administrative and Executive Assistants	<u>3.0</u>	<u>4.1</u>	<u>4.1</u>	<u>4.1</u>
Total - Central Office	36.5	40.5	40.5	40.5
Appellate Attorneys	40.5	46.3	46.3	46.3
Office Head	1.0	1.0	1.0	1.0
Investigators/ Legal Assistants (<i>annualize FY 14-15 OSPD RI</i>)	5.3	6.9	6.9	6.9
Administrative Support Staff (<i>annualize FY 14-15 OSPD RI</i>)	5.7	7.0	7.0	7.0
Office Manager	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>
Subtotal - Support Staff	12.0	14.9	14.9	14.9
<i>Ratio of Support Staff to Attorneys</i>	28.9%	31.5%	31.5%	31.5%
Total - Appellate Office	53.5	62.2	62.2	62.2
Trial Attorneys (<i>annualize H.B. 15-1043</i>)	399.8	416.8	417.2	417.2
Office Heads	21.0	21.0	21.0	21.0
Investigators/ Legal Assistants (<i>annualize H.B. 15-1043</i>)	126.9	130.9	131.0	131.0
Social Workers	8.0	8.0	8.0	8.0
Administrative Support Staff (<i>annualize H.B. 15-1043</i>)	78.5	82.9	83.0	83.0
Office Managers	<u>20.8</u>	<u>21.0</u>	<u>21.0</u>	<u>21.0</u>
Subtotal - Support Staff	234.2	242.8	243.0	243.0
<i>Ratio of Support Staff to Attorneys</i>	55.7%	55.5%	55.5%	55.5%
Total - Regional Trial Offices	655.0	680.6	681.2	681.2
Total	745.0	783.3	783.9	783.9

Statutory Authority: Section 21-1-101 *et seq.*, C.R.S.

Request: The OSPD requests \$61,123,385 General Fund and 783.9 FTE. The request includes an increase of \$33,099 General Fund and 0.6 FTE to annualize the funding provided through H.B. 15-1043.

Recommendation: Staff recommends approving the request, which is calculated consistent with the Committee's common policy. Please note that the recommendation maintains the alignment of the salary for the State Public Defender with that of an associate judge of the Court of Appeals.

Health, Life, and Dental

This line item provides funding for the employer's share of the cost of group benefit plans providing health, life, and dental insurance for OSPD employees.

Statutory Authority: Pursuant to Section 24-50-611, C.R.S., and defined in Section 24-50-603 (9), C.R.S.

Request: The OSPD requests \$6,159,824 General Fund.

Recommendation: Staff recommends approving the request, which is consistent with Committee policy with respect to employer contribution rates. Please note that staff has included funding for employee benefits for five positions that were authorized by H.B. 15-1043, as well as for 22 currently authorized attorney positions. These positions were not filled at the time position-by-position detail was collected for purposes of calculating employee benefits. The cost of providing health, life, and dental insurance benefits for positions that were filled when the position-by-position detail was collected (an average of \$677 per month) is used to estimate the cost of providing benefits for these positions.

The OSPD's hiring time line for attorneys is unique, and it results in a significant number of staff being hired after the first month of the fiscal year. The OSPD interviews law school students between their second and third years of law school. Offer letters are provided to those students the OSPD is interested in hiring in December and January. These letters make the offer of employment contingent on the individual passing the bar exam. Once these individuals take the bar exam in August, they can begin working for the OSPD as a temporary employee. Bar exam results are received in October, and those individuals who pass the bar exam are hired as permanent employees; those who fail the bar exam are no longer employed by the OSPD.

The method used to estimate employee benefit expenses excludes costs associated with the newly hired attorneys because they are not hired in July. This causes the OSPD to spend in excess of their annual appropriation. For example, in FY 2014-15, the OSPD spent \$233,360 more than the amounts appropriated for employee benefits. Staff's recommendation is intended to eliminate the shortfall that is caused by the hiring time frame for attorneys. This portion of the recommendation for this line item adds \$178,781 General Fund for FY 2016-17. Please note that this recommendation only makes an adjustment for 22 existing attorney positions that will be filled after July 2016. The recommendation still reflects a general vacancy rate of about 3.3 percent.

Short-term Disability

This line item provides funding for the employer's share of OSPD employees' short-term disability insurance premiums.

Statutory Authority: Pursuant to Section 24-50-611, C.R.S., and defined in Section 24-50-603 (13), C.R.S.

Request: The OSPD requests \$99,261 General Fund based on applying a rate of 0.19 percent to base salaries.

Recommendation: Staff recommends approving the request, which is consistent with the Committee's common policy. Please note that staff has included funding for employee benefits for five positions that were authorized by H.B. 15-1043, as well as for 22 currently authorized attorney positions. [See the staff recommendation for the Health, Life, and Dental line item, above, for further details.]

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

Pursuant to S.B. 04-257, this line item provides additional funding to increase the state contribution for Public Employees' Retirement Association (PERA) for OSPD staff.

Statutory Authority: Pursuant to Section 24-51-411, C.R.S.

Request: The OSPD requests \$2,507,649 General Fund based on applying a blended rate of 4.80 percent.

Recommendation: Staff recommends approving the request, which is consistent with the Committee's common policy. Please note that staff has included funding for employee benefits for five positions that were authorized by H.B. 15-1043, as well as for 22 currently authorized attorney positions. [See the staff recommendation for the Health, Life, and Dental line item, above, for further details.]

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

Pursuant to S.B. 06-235, this line item provides additional funding to increase the state contribution for PERA for OSPD staff.

Statutory Authority: Pursuant to Section 24-51-411, C.R.S.

Request: The OSPD requests \$2,481,528 General Fund based on applying a blended rate of 4.75 percent.

Recommendation: Staff recommends approving the request, which is consistent with the Committee's common policy. Please note that staff has included funding for employee benefits for five positions that were authorized by H.B. 15-1043, as well as for 22 currently authorized attorney positions. [See the staff recommendation for the Health, Life, and Dental line item, above, for further details.]

Salary Survey

The OSPD uses this line item to pay for annual salary increases.

Statutory Authority: Pursuant to Section 24-50-104, C.R.S.

Request: The OSPD requests \$0 General Fund for salary increases for FY 2016-17.

Recommendation: Staff recommends approving the request, which is consistent with the Committee's common policy.

Background Information – Attorney Salaries. OSPD employees are not part of the State classified system, nor are they part of the Judicial Department's classified system (which covers court and probation personnel). Pursuant to Section 21-1-102 (3), C.R.S., the State Public Defender employs and fixes the compensation of a Chief Deputy, deputy state public defenders, investigators, and any other employees necessary to discharge the functions of the OSPD. All salaries are to be reviewed and approved the Colorado Supreme Court.

It is staff's understanding that similar to the other independent agencies within the Judicial Branch, the OSPD periodically reviews salaries paid by the Executive Branch and the Judicial Department in order to evaluate the salary ranges for OSPD staff who are not attorneys. For attorneys, the OSPD follows a process similar to the Department of Law.

The Department of Personnel's "Annual Compensation Survey Report" does not include compensation data related to attorneys. In order to evaluate the compensation for its attorneys, the OSPD periodically contracts with an independent compensation research and consulting firm to assess market compensation practices for attorneys in comparable positions in Colorado public sector attorney organizations. For the 2015 survey, the Department of Law, the OSPD, and the Office of Legislative Legal Services contracted to conduct a joint salary survey.

The latest survey, prepared by the Gallagher Benefit Services, Inc., was published in September 2015. This study utilized data reported as of July 1, 2015 for a "primary market" that includes:

- Front Range City Attorney Offices (participants included the cities of: Arvada, Aurora, Boulder, Broomfield, Colorado Springs, Denver, Greeley, Lakewood, Littleton, and Westminster);
- Front Range County Attorney Offices (participants included the counties of: Arapahoe, Boulder, Douglas, and Jefferson); and
- The United States Office of the Attorney General.

This study also utilized data for a "supplementary market" that includes:

- Judicial Districts (participants included the following districts: 1st (Jefferson and Gilpin counties); 4th (El Paso and Teller); 8th (Larimer and Jackson); 9th (Garfield, Pitkin, and Rio Blanco); 10th (Pueblo); 17th (Adams and Broomfield); 18th (Arapahoe and Douglas); and 20th (Boulder);
- Public Defender's Offices for the City of Aurora and the City and County of Denver.

This study recommends a 3.2 percent increase in OSPD's attorney salaries. The OSPD indicates that such an increase would require a \$1,187,202 increase in base salaries. However, based on the Executive Branch common policy for classified employees, the OSPD did not include any funding for attorney pay increases.

Merit Pay

The OSPD uses this line item to pay for performance-related pay increases.

Statutory Authority: Pursuant to Section 24-50-104 (1) (c), C.R.S.

Request: The OSPD requests \$0 General Fund for merit pay increases for FY 2016-17.

Recommendation: Staff recommends approving the request, which is consistent with the Committee's common policy.

Operating Expenses

This line item provides funding for basic office operational expenses, including:

- Travel and motor pool expenses;
- Equipment lifecycle replacement, rental, and maintenance;
- Office and printing supplies, postage, cleaning supplies, and other general operating expenses;
- Telephone; and
- Employee training expenses.

Statutory Authority: Section 21-1-101 *et seq.*, C.R.S.

Request: The OSPD requests a total of \$1,745,212, including \$1,715,212 General Fund and \$30,000 cash funds from training fees. The request includes an increase of \$570 to annualize the funding provided through H.B. 15-1043.

Recommendation: Staff recommends approving the request.

Vehicle Lease Payments

This line item provides funding for annual payments to the Department of Personnel and Administration for the cost of administration, loan repayment, and lease-purchase payments for new and replacement motor vehicles. The current appropriation covers costs associated with a total of 26 vehicles; the OSPD reimburses employees for mileage when using their own vehicles to conduct official business. These vehicles are used: by regional office staff for daily business (*e.g.*, driving to a courthouse, visiting clients in jail, interviewing witnesses, etc.); by an investigator who does not have a physical office and whose responsibilities require him to drive statewide throughout the year; and by staff in the central administrative office for statewide support functions (*e.g.*, information technology, audit, facility review, inventory).

Statutory Authority: Pursuant to Section 24-30-1104 (2), C.R.S.

Request: The OSPD requests \$114,910 General Fund, which represents an increase of \$9,341 relative to the amended FY 2015-16 appropriation.

Recommendation: The staff recommendation is pending the development of the Committee's common policy for vehicle lease payments.

Capital Outlay

This line item provides funding for the one-time costs associated with new employees (office furniture, a computer and software, etc.).

Statutory Authority: Section 21-1-101 *et seq.*, C.R.S.

Request: The OSPD requests \$0 General Fund. The request eliminates the one-time appropriation of \$17,401 that was included in H.B. 15-1043.

Recommendation: Staff recommends approving the request.

Leased Space/ Utilities

This line item currently funds a full 12 months of lease payments for leased space in 22 locations statewide. This line item covers all OSPD leases except those associated with the OSPD's central administrative and appellate offices that are located at the Ralph L. Carr Colorado Judicial Center. All Carr Center leased space costs for judicial agencies are included in the line item appropriation in the Courts Administration section of the budget.

Typically, the OSPD negotiates leases for ten years. The OSPD estimates future space needs for each office. For offices that are anticipated to grow, the intent is generally to fill the space in approximately seven years, and then expand into common spaces in the final three years of the lease agreement. The OSPD utilizes the State's lease consultant (a vendor selected by the Department of Personnel and Administration) to conduct market surveys and analysis concerning available space and to negotiate lease contracts.

Statutory Authority: Section 21-1-101 *et seq.*, C.R.S.

Request: The OSPD requests \$6,456,972 General Fund, which is the amount appropriated for FY 2015-16.

Recommendation: Staff recommends approving the request.

Automation Plan

This line item funds the maintenance and lifecycle replacement of the following types of equipment for all 23 OSPD offices:

- Phone systems;
- Data circuits for electronic data transmission;
- Multifunction scanner/copier/fax/printers;
- Desktop computers, laptop/tablet computers, docking stations, and screens;
- Software licenses (includes Adobe Professional and specialized courtroom and case analysis software);
- Servers and network equipment (routers, switches, racks, etc.); and

- Presentation, analysis, and recording equipment (cameras, projectors, digital voice recorders, etc.).

In addition, this line item funds technology-related supplies and contractual expenses for online legal research resources.

Statutory Authority: Section 21-1-101 *et seq.*, C.R.S.

Request: The OSPD requests a continuation level of funding (\$1,416,920 General Fund).

Recommendation: Staff recommends approving the request.

Attorney Registration

This line item covers the cost of annual attorney registration fees for OSPD staff.

Statutory Authority: Section 21-1-101 *et seq.*, C.R.S.

Request: The OSPD requests \$140,085 General Fund. The request reflects the elimination of a \$437 General Fund appropriation that was included in H.B. 15-1043. The request is consistent with the Legislative Council Staff Fiscal Note for the bill, which indicated that these expenses would be one-time.

Recommendation: Staff recommends approving the request. Based on actual expenditures in FY 2014-15, it appears that the requested amount should be adequate to cover attorney registration fees for FY 2016-17.

Contract Services

This line item allows the OSPD to hire attorneys to represent the Public Defender's attorneys in grievance claims filed by former clients.

Statutory Authority: Section 21-1-101 *et seq.*, C.R.S.

Request: The OSPD requests a continuation level of funding (\$49,395 General Fund).

Recommendation: Staff recommends approving the request.

Mandated Costs

This is one of several line item appropriations for "mandated costs". These costs are associated with activities, events, and services that accompany court cases that are required in statute and/or the U.S. and Colorado Constitutions to ensure a fair and speedy trial, and to ensure the right to legal representation. For the OSPD, these costs primarily include reimbursing district attorney offices for duplicating discoverable materials and obtaining transcripts. The OSPD also incurs costs for expert witnesses, interpreter services (for activities outside the courtroom), and travel (both for witnesses and for public defender staff to conduct out-of-state investigations). The following table provides a history of OSPD mandated cost expenditures since FY 2007-08.

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OSPD Mandated Costs								
Description	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15
Transcripts	\$1,186,376	\$1,238,740	\$1,267,820	\$1,343,846	\$1,408,864	\$1,320,864	\$1,416,697	\$1,556,613
Discovery	886,112	969,306	1,125,966	1,514,957	1,623,452	1,751,829	1,932,652	2,103,438
Experts	817,186	504,530	516,403	474,661	485,145	785,941	1,054,820	1,209,391
Travel	150,005	109,567	58,254	74,700	65,471	119,749	214,709	142,972
Interpreters	85,301	109,563	106,661	93,239	117,828	126,459	128,349	147,371
Misc.	18,279	22,461	17,497	14,976	57,871	21,646	30,660	17,931
Total	3,143,259	2,954,167	3,092,601	3,516,379	3,758,631	4,126,488	4,777,888	5,177,716
<i>Annual % change</i>	23.7%	-6.0%	4.7%	13.7%	6.9%	9.8%	15.8%	8.4%
Active cases	114,103	117,472	120,816	122,949	120,498	125,606	142,907	159,814
Average cost per case	\$28	\$25	\$26	\$29	\$31	\$33	\$33	\$32
<i>Annual % change</i>	21.8%	-8.7%	1.8%	11.7%	9.1%	5.3%	1.8%	-3.1%

As detailed in the above table, OSPD mandated costs have increased by more than \$2.0 million (64.7 percent) over the last seven years. A portion of this increase is due to caseload growth; the number of active cases increased by 40.1 percent over the same time period. The average cost per active case has increased from \$28 to \$32 (17.6 percent). This increase is primarily driven by a 69.5 percent increase in the average cost per case of discovery (from \$8 to \$13).

Statutory Authority: Section 21-1-101 *et seq.*, C.R.S.

Request: The OSPD request, as modified by JUD BA4 (eDiscovery), is for \$4,011,360. This amount represents a reduction of \$806,506 General Fund compared to the FY 2015-16 appropriation.

Recommendation: Staff recommends approving the request, which is consistent with staff's recommendation on JUD BA4. For more information about this request, see the discussion at the beginning of this packet.

Grants

This line item authorizes the OSPD to receive and expend various grants.

Statutory Authority: Section 21-1-101 *et seq.*, C.R.S.

Request: The OSPD's request for a continuation level of funding (\$120,000 cash funds and 2.0 FTE).

Recommendation: Staff recommends approving the request to allow the OSPD to continue to receive and spend grants made available from local organizations and problem-solving courts.

(6) Office of the Alternate Defense Counsel

The Office of the Alternate Defense Counsel (OADC) provides legal representation for indigent defendants in criminal and juvenile delinquency cases in which the Office of the State Public Defender (OSPD) is precluded from doing so because of an ethical conflict of interest³¹. Common types of conflicts include cases in which the OSPD represents co-defendants or represents both a witness and a defendant in the same case. Section 21-2-103, C.R.S., specifically states that case overload, lack of resources, and other similar circumstances shall not constitute a conflict of interest.

The OADC provides legal representation by contracting with licensed attorneys and investigators. Such contracts must provide for reasonable compensation (based on either a fixed fee or hourly rates) and reimbursement for expenses necessarily incurred (*e.g.*, expert witnesses, investigators, legal assistants, and interpreters). The OADC is to establish a list of qualified attorneys for use by the court in making appointments in conflict cases³².

The OADC is governed by the nine-member Alternate Defense Counsel Commission, whose members are appointed by the Supreme Court. Commission members serve on a voluntary basis and receive no compensation for their time. The Commission appoints an individual to serve as the Alternate Defense Counsel, who manages the Office. The compensation for this individual is fixed by the General Assembly (through a Long Bill footnote) and may not be reduced during his or her five-year term of appointment. The Alternate Defense Counsel employs and fixes the compensation for any employees necessary to carry out his or her duties, which include: selecting and assigning attorneys, executing contracts, examining attorney case assignments to evaluate nature of conflict of interest, reviewing attorney invoices for appropriateness, and approving payments.

With the exception of a small amount of cash funds from training registration fees and DVD sales, the OADC is supported by General Fund appropriations.

Office of the Alternate Defense Counsel						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2015-16 Appropriation						
SB 15-234 (Long Bill)	\$30,062,991	\$30,022,991	\$40,000	\$0	\$0	10.9
H.B. 16-1243 (Supplemental Bill)	<u>1,513,302</u>	<u>1,513,302</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$31,576,293	\$31,536,293	\$40,000	\$0	\$0	10.9

³¹ See Section 21-2-101 *et seq.*, C.R.S.

³² Please note that the court also has judicial discretion to appoint a private attorney who is not on the approved OADC list. However, the OADC is not required to pay for such representation.

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Office of the Alternate Defense Counsel						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2016-17 Recommended Appropriation						
FY 2015-16 Appropriation	\$31,576,293	\$31,536,293	\$40,000	\$0	\$0	10.9
JUD BA4 eDiscovery	(216,815)	(216,815)	0	0	0	0.0
OADC R1 Caseload Increase	1,513,302	1,513,302	0	0	0	0.0
OADC R2 Social Worker Coordinator	71,396	71,396	0	0	0	1.0
OADC R3 Communications Coordinator	0	0	0	0	0	0.0
Employee Benefits and Common Changes	12,871	12,871	0	0	0	0.0
Annualize Prior Year Budget Actions	(40,572)	(40,572)	0	0	0	0.1
Reverse supplemental	<u>(1,513,302)</u>	<u>(1,513,302)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$31,403,173	\$31,363,173	\$40,000	\$0	\$0	12.0
Increase/(Decrease)	(\$173,120)	(\$173,120)	\$0	\$0	\$0	1.1
Percentage Change	(0.5%)	(0.5%)	0.0%	n/a	n/a	10.1%
FY 2016-17 Executive Request:	\$31,541,540	\$31,501,540	\$40,000	\$0	\$0	13.0
Request Above/(Below) Recommendation	\$138,367	\$138,367	\$0	\$0	\$0	1.0

DECISION ITEMS – OFFICE OF THE ALTERNATE DEFENSE COUNSEL

➔ OADC R1 Caseload Increase

Request: The Office of the Alternate Defense Counsel (OADC) included a request for an increase of \$1,513,302 General Fund for FY 2016-17 to cover the costs of a growing number of cases requiring OADC contract attorneys to provide legal representation for indigent criminal defendants and juveniles. Last November, staff indicated to the Committee that the OADC planned to submit the same request for FY 2015-16. The Committee recently approved this supplemental request.

Recommendation: Staff recommends approving the request for FY 2016-17, which maintains the additional spending authority that was recently approved for FY 2015-16 without any additional increases for FY 2016-17. The following two tables provide: (a) a recent history of the number of cases handled by OADC contract attorneys, by case type, along with estimates for FY 2015-16; and (b) a recent history of annual expenditures along with estimates for FY 2015-16.

JBC Staff Figure Setting: FY 2016-17
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OADC: Conflict of Interest Contracts: Caseload (Annual number of cases paid)									
Case Type	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15	FY 15-16 (updated projections)
Trial Case Types:									
Felony:									
Felony 1 - Death Penalty	4	4	4	3	2	2	3	3	3
Felony 1 - Other	150	145	145	126	111	104	123	110	110
Felony 2 and 3	2,642	2,532	2,604	2,409	2,323	2,533	2,731	2,075	2,075
Felony 4, 5, and 6	4,372	4,028	3,894	3,754	4,064	4,512	4,870	5,830	6,341
Subtotal: Felony	7,168	6,709	6,647	6,292	6,500	7,151	7,727	8,018	8,529
annual percent change	-12.2%	-6.4%	-0.9%	-5.3%	3.3%	10.0%	8.1%	3.8%	6.4%
Juvenile	1,528	1,803	1,808	1,542	1,496	1,235	1,437	1,773	1,871
Misdemeanor/ DUI/ Traffic	1,257	1,654	1,884	1,934	2,406	2,512	3,053	3,905	4,100
Other	2	2	2	1	1	0	0	0	0
Subtotal: Trial Cases	9,955	10,168	10,341	9,769	10,403	10,898	12,217	13,696	14,500
annual percent change	-10.0%	2.1%	1.7%	-5.5%	6.5%	4.8%	12.1%	12.1%	5.9%
Appeals	708	765	725	717	691	697	762	806	814
Post-Conviction	523	492	489	429	471	461	558	562	568
Special Proceedings/ Other	896	1,049	1,040	963	1,020	1,234	1,548	1,616	1,632
Total Cases	12,082	12,474	12,595	11,878	12,585	13,290	15,085	16,680	17,514
annual percent change	-7.7%	3.2%	1.0%	-5.7%	6.0%	5.6%	13.5%	10.6%	5.0%

OADC Conflict of Interest Contracts: Expenditures									
Description	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15	FY 15-16 (updated projections)
Total Cases Paid	12,082	12,474	12,595	11,878	12,585	13,290	15,085	16,680	17,514
annual percent change	-7.7%	3.2%	1.0%	-5.7%	6.0%	5.6%	13.5%	10.6%	5.0%
Average Cost/Case*	\$1,484	\$1,659	\$1,648	\$1,527	\$1,571	\$1,496	\$1,528	\$1,610	\$1,599
annual percent change	19.9%	11.8%	-0.6%	-7.4%	2.9%	-4.8%	2.2%	5.4%	-0.7%
Total	\$17,925,541	\$20,692,161	\$20,760,634	\$18,132,047	\$19,767,979	\$19,882,661	\$23,055,774	\$26,861,292	\$28,007,998
annual percent change	10.6%	15.4%	0.3%	-12.7%	9.0%	0.6%	16.0%	16.5%	4.3%

* Please note that the average costs per case in FY 2007-08, FY 2008-09, and FY 2014-15 reflect approved increases in hourly rates.

➔ OADC R2 Social Worker Coordinator

Request: The OADC requests a total of \$120,455 General Fund to hire 1.0 FTE Social Worker Coordinator.

Recommendation: Staff recommends approving the request, with some modifications. Specifically, staff's recommendation utilizes a minimum monthly salary of \$4,515 (based on the Executive Branch classification "Social Work/ Counselor IV") rather than the requested monthly salary of \$7,046 (based on the Executive Branch classification "General Professional VII"). Staff's recommendation also excludes health, life, and dental benefits funding for FY 2016-17, consistent with Committee policy. The following table details staff's recommendation.

JBC Staff Figure Setting: FY 2016-17
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Staff Recommendation for OADC R2 (Social Worker Coordinator)			
	Assumptions	FY 2016-17 Total	FY 2017-18 Total
PERSONAL SERVICES			
Social Work/Counselor IV (Executive Branch)		1.0	1.0
Monthly base salary	\$ 4,515	\$4,515	
Salary		\$54,180	\$54,180
PERA	10.15%	5,499	5,499
Medicare	1.45%	786	786
<i>Subtotal</i>		60,465	60,465
OTHER BENEFITS			
Health, Life, and Dental	\$7,927		7,927
Short-term Disability	0.19%	103	103
AED	4.80%	2,601	2,601
SAED	4.75%	2,574	2,574
OPERATING			
Phone (staff)	\$450	450	450
Supplies (staff)	\$500	500	500
<i>Subtotal</i>		950	950
CAPITAL OUTLAY			
Office Furniture (staff)	\$ 3,473	3,473	0
Computer/Software (staff)	\$ 1,230	1,230	0
<i>Subtotal</i>		4,703	0
TOTAL		\$71,395	\$74,619

Analysis:

Recent Legislation Concerning Juvenile Defense

In 2014, the General Assembly passed two bills that enhanced legal representation for juvenile defendants. First, H.B. 14-1032 (Defense Counsel for Juvenile Offenders) made procedural changes concerning the appointment of legal counsel for juveniles, including:

- Requiring that certain information about the right to counsel and the process for obtaining counsel be provided on a promise to appear or summons;
- When a juvenile is placed in a detention facility, requiring the screening team to promptly notify the district attorney and the local Office of the State Public Defender (OSPD);
- Requiring the court to hold a detention hearing within 24 hours (rather than 48 hours) for a juvenile being held in detention on a warrant for violating a court order concerning a status offense;
- Requiring the court to appoint counsel from the OSPD (or the OADC in case of a conflict) to represent a juvenile at a detention hearing if a juvenile has not retained counsel;
- Limiting the circumstances under which the court may accept a juvenile's waiver of counsel; and
- Requiring the court to appoint counsel from the OSPD (or the OADC in the case of a conflict) if the juvenile is eligible for appointed counsel and has not waived or obtained other counsel, is in the custody of the state Department of Human Services or a county department

of social services, or if the court determines it is necessary to protect the interests of the juvenile or other parties.

The bill included an appropriation of \$737,875 General Fund for the OSPD to hire additional attorneys, investigators, and support staff to address the projected increase in cases requiring OSPD representation. This bill also included an appropriation of \$75,116 General Fund for the OADC to hire a Juvenile Law Coordinator to train and support contract attorneys in the complex and specialized field of juvenile defense. Due to the difficulty in projecting the caseload impact for the OADC, this bill did not include any additional funding for OADC's court-appointed counsel expenses and assumed that any such impact would be addressed through the annual budget process.

Second, H.B. 14-1023 (Social Workers for Juveniles) required the OSPD to hire social workers to assist in juvenile defense cases. This bill included an appropriation of \$455,983 General Fund for the OSPD to hire 8.0 FTE social workers. This bill did not address or provide any additional funding for the OADC.

OADC Request

The OADC requests funding to hire 1.0 FTE Licensed Clinical Social Worker to supervise and coordinate the use of contract social workers and social work interns. The OADC's intent is to expand the use of social workers in juvenile cases. This individual would be qualified to provide training and effective supervision for contract social workers (MSW). This individual would also determine which OADC cases warrant involvement of a contract social worker.

The goal of involving contract social workers in juvenile defense cases is to assist defense attorneys by developing:

- an awareness of the strengths and needs of their client, client's family, community and other social structures;
- an understanding of child and adolescent development to be able to effectively communicate with clients and evaluate clients' maturity and competency;
- knowledge of and contacts at community-based programs to compose individualized disposition plans;
- familiarity with mental health, education, special education, and immigration laws and services;
- the ability to enlist the child's parent or guardian as an ally without compromising the attorney-client relationship; and
- the ability to help clients understand the direct and collateral consequences of their decisions.

The inclusion of social workers on defense teams improves services for juveniles by promoting interdisciplinary team communication, mitigation investigation, research-driven assessment, and client-centered advocacy. It can also reduce incarceration and delinquency for youth in the system. Specifically, social workers are equipped to recognize and advocate for services to meet the needs of juveniles with special needs, such as mental health or substance abuse issues, or physical, cognitive, or social-emotional disabilities. Social workers also have specialized knowledge about a wide variety of evidenced-based programming to meet those needs. The

incorporation of forensic social workers into defense practice can reduce overall system costs and increase community safety, by expanding upon and advocating for safe, appropriate alternatives to incarceration.

The OADC is not requesting additional funding for its Conflict of Interest Contracts line item for the contract social workers because it anticipates that the use of social workers will be offset by a reduction in attorney hours in particular cases.

Recommendation

Staff recommends approving the request, with some modifications. Staff supports this request because it is consistent with the two bills passed by the General Assembly in 2014, it should enhance the legal representation of juvenile defendants, and it may reduce overall State expenses associated with juvenile cases.

Staff's recommendation is significantly lower than the request for two reasons. First, staff's recommendation utilizes a minimum monthly salary of \$4,515 (based on the Executive Branch classification "Social Work/ Counselor IV") rather than the requested monthly salary of \$7,046 (based on the Executive Branch classification "General Professional VII"). The salary selected by the OADC is well above the minimum salary for a fully licensed Psychologist (with a doctoral degree in Psychology) within the Executive Branch personnel system. The requested salary range is also disproportionate to other similar positions within the Judicial Branch. The OSPD monthly salary range for social workers is \$3,892 to \$6,149; the OSPD typically starts a social worker with an LCSW at \$4,040. Staff's recommendation has utilized the Social Work/ Counselor classification within the Executive Branch because this is the series that requires a valid LCSW license. Staff utilized the minimum salary for level IV because it requires at least two years of practice experience as a LCSW and it is the equivalent of a unit supervisor, which appears to involve a level of supervision, management, judgement, and authority that is commensurate with the proposed position.

Second, staff's recommendation also excludes health, life, and dental benefits funding for FY 2016-17, consistent with Committee policy.

➔ OADC R3 Communications Coordinator

Request: The OADC requests a total of \$89,309 General Fund to add 1.0 FTE Communications Coordinator to:

- serve as a central point of communication for the OADC, including coordinating office emails to contractors;
- handle the high volume of client and inmate mail and email;
- work with the Department of Corrections (DOC) and its facilities to implement video conferencing in a confidential setting so that appointed attorneys can meet with their clients rather than traveling long distances for such purpose;
- serve as an initial point of contact for public record access requests; and
- monitor and manage online resources to ensure that a consistent message and accurate information is published.

Recommendation: Staff recommends denying the request.

Analysis:

OADC Request

The OADC contracts with approximately 600 attorneys, investigators, and paralegals, plus numerous expert witnesses, social workers, research assistants, and interns. Communication with these contractors includes:

- training opportunities;
- information about current trends in the law;
- technological resources that improve contractor efficiency;
- important notices about billing and appointments;
- requests from contractor attorneys for research and drafting support;
- negotiated discounts for practice materials; and
- general inquiries for information and referrals.

The OADC also has contact with various court personnel, defendants, defendants' family members and friends, community members interested in specific cases, and the general public. These communications include:

- requests for information about obtaining a court-appointed attorney;
- requests by potential contractors about being added to the OADC's lists;
- complaints and compliments about the OADC's contractors;
- requests for information about cases or individual defendants that an OADC contractor represents; and
- general inquiries, and requests for information under CJD 15-01.

Currently these communications are handled by various employees within OADC by telephone, hard copy mail, web-based communications and posting, individual email notices, and group email announcements.

The OADC indicates that the current communication processes are cumbersome and inefficient. The OADC plans to improve the processes in order to reduce duplication of OADC staff time and effort and to increase contractor efficiencies and reduce the hours billed per case. The OADC also notes that the proposed position would facilitate the implementation of a recent Chief Justice Directive (CJD 15-01) concerning public record access.

The OADC requests funding to add a new position to manage communications internally, externally, and across governmental departments. This individual's duties would include the following:

- Working across agencies, especially with the DOC and its facilities, to implement video conferencing in a confidential setting so that OADC contract attorneys can meet with their clients without traveling to each facility (this technology could also be used by some of the other independent agencies that represent incarcerated clients);
- Managing all CJD 15-01 requests and fulfill the OADC policies and procedures related to public access;

- Managing and maintaining the informational website of the OADC, including programming and testing of links, creating and posting content, and assisting users with website-related issues;
- Exploring the viability of social media accounts for the OADC, including monitoring of public contacts, creating, curating, and posting content, and acting as administrator for closed groups comprised of OADC contractors;
- Developing a comprehensive strategy for communication with the public and contractors and creating and maintaining a "best practices" manual for OADC staff to use in relation to the internet, technology, and social media;
- Monitoring new technologies as they become available and making recommendations to the Director regarding these new technologies;
- Working closely with the Training Director, Juvenile Defense Coordinator, Budget Analyst, and Coordinator for Legal Research and Technology to disseminate information about training opportunities, agency systems, and contractor resources;
- Managing communications between the public and the agency;
- Working with vendors to secure discounted rates for OADC contractors for resources such as software and reference materials and managing access to agency-provided resources such as Data Access and Westlaw; and
- Creating an agency newsletter.

Staff Recommendation

Staff supports the OADC's proposal to improve its communications processes and continue work to implement technology to reduce contract attorney travel time. However, it is not clear to staff that an additional position is necessary to achieve the stated goals.

Over the last three years the OADC staff has grown from 7.5 FTE to 11.0 FTE. The positions that have been added include:

- 1.0 FTE Legal Resource and Technology Coordinator (FY 2013-14);
- 1.0 FTE Juvenile Law Coordinator (FY 2014-15);
- 1.0 FTE Accountant (FY 2015-16); and
- 0.5 FTE Administrative Assistant (FY 2015-16).

The OADC also utilizes contract staff for various types of training and technology-related support. For FY 2016-17, the OADC proposes adding another 2.0 FTE, for a total overall increase of 5.5 FTE (73 percent) over four years. Staff supports the previous request to add 1.0 FTE (OADC R2) as it is consistent with legislation and General Assembly investments in legal representation for juveniles. Staff cannot recommend this request because staff is not convinced that the OADC has fully explored the use of existing OADC staff and contract resources to improve the agency's communication processes.

LINE ITEM DETAIL – OFFICE OF THE ALTERNATE DEFENSE COUNSEL

Personal Services

This line item provides funding to support a central administrative office in Denver. The following table details the types of employees that are supported by this line item.

Staffing Summary	FY 14-15	FY 15-16	FY 16-17	FY 16-17
Office of the Alternate Defense Counsel	Actual	Approp.	Request	Recommend.
Alternate Defense Counsel (Director of Office)	1.0	1.0	1.0	1.0
Deputy Director	1.0	1.0	1.0	1.0
Attorney Oversight/ Training	1.0	1.0	1.0	1.0
Legal Resource and Technology Coordinator	1.0	1.0	1.0	1.0
Juvenile Law Coordinator	0.6	1.0	1.0	1.0
Budget Manager/ Controller/ Accountant	1.0	2.0	2.0	2.0
Social Worker Coordinator (OADC R2)	0.0	0.0	1.0	1.0
Appellate Post-conviction Coordinator	1.0	1.0	1.0	1.0
Communications Coordinator (OADC R3)	0.0	0.0	1.0	0.0
Billing/ Administrative Support (Annualize FY 15-16 OADC R1)	<u>2.5</u>	<u>2.9</u>	<u>3.0</u>	<u>3.0</u>
Total	9.1	10.9	13.0	12.0

Statutory Authority: Section 21-2-101 *et seq.*, C.R.S.

Request: The OADC requests \$1,286,372 General Fund and 13.0 FTE. The request is impacted by OADC R2 (Social Worker Coordinator) and OADC R3 (Communications Coordinator).

Recommendation: Staff recommends appropriating \$1,186,762 General Fund and 12.0 FTE, as detailed in the following table. Please note that the recommendation maintains the alignment of the salary for the Alternate Defense Counsel with that of district court judges.

JBC Staff Figure Setting: FY 2016-17
Staff Working Document – Does Not Represent Committee Decision

Office of the Alternate Defense Counsel, Personal Services			
	Total Funds	General Fund	FTE
FY 2015-16 Appropriation			
SB 15-234 (Long Bill)	<u>\$1,093,458</u>	<u>\$1,093,458</u>	<u>10.9</u>
TOTAL	\$1,093,458	\$1,093,458	10.9
FY 2016-17 Recommended Appropriatio			
FY 2015-16 Appropriation	\$1,093,458	\$1,093,458	10.9
OADC R2 Social Worker Coordinator	60,465	60,465	1.0
Annualize Prior Year Budget Actions	32,839	32,839	0.1
OADC R3 Communications Coordinator	<u>0</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$1,186,762	\$1,186,762	12.0
Increase/(Decrease)	\$93,304	\$93,304	1.1
Percentage Change	8.5%	8.5%	10.1%
FY 2016-17 Executive Request:	\$1,286,372	\$1,286,372	13.0
Request Above/(Below) Recommendation	\$99,610	\$99,610	1.0

Staff's recommendation is consistent with Committee policy. Staff's recommendation is lower than the request due to the recommendations on OADC R2 and R3, discussed above.

Health, Life, and Dental

This line item provides funding for the employer's share of the cost of group benefit plans providing health, life, and dental insurance for OADC staff.

Statutory Authority: Pursuant to Section 24-50-611, C.R.S., and defined in Section 24-50-603 (9), C.R.S.

Request: The OADC requests \$158,680 General Fund. The request is impacted by OADC R2 (Social worker coordinator) and OADC R3 (Communications coordinator).

Recommendation: Staff recommends appropriating \$134,268 General Fund, consistent with Committee policy with respect to employer contribution rates. Staff's recommendation does not include any funding for OADC R2 or R3.

Short-term Disability

This line item provides funding for the employer's share of OADC employees' short-term disability insurance premiums.

Statutory Authority: Pursuant to Section 24-50-611, C.R.S., and defined in Section 24-50-603 (13), C.R.S.

Request: The OADC requests \$2,164 General Fund based on applying a rate of 0.19 percent to base salaries. The request is impacted by OADC R2 (Social worker coordinator) and OADC R3 (Communications coordinator)

Recommendation: Staff recommends approving the base request for \$1,891 General Fund, which is consistent with the Committee's common policy. The recommendation also includes \$103 for OADC R2 and \$0 for OADC R3.

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

Pursuant to S.B. 04-257, this line item provides additional funding to increase the state contribution for Public Employees' Retirement Association (PERA) for OADC staff.

Statutory Authority: Pursuant to Section 24-51-411, C.R.S.

Request: The OADC requests \$54,661 General Fund based on applying a blended rate of 4.80 percent. The request is impacted by OADC R2 (Social worker coordinator) and OADC R3 (Communications coordinator)

Recommendation: Staff recommends approving the base request for \$47,777 General Fund, which is consistent with the Committee's common policy. The recommendation also includes \$2,601 for OADC R2 and \$0 for OADC R3.

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

Pursuant to S.B. 06-235, this line item provides additional funding to increase the state contribution for PERA for OADC staff.

Statutory Authority: Pursuant to Section 24-51-411, C.R.S.

Request: The OADC requests \$54,092 General Fund based on applying a blended rate of 4.75 percent. The request is impacted by OADC R2 (Social worker coordinator) and OADC R3 (Communications coordinator)

Recommendation: Staff recommends approving the base request for \$47,279 General Fund, which is consistent with the Committee's common policy. The recommendation also includes \$2,574 for OADC R2 and \$0 for OADC R3.

Salary Survey

The OADC uses this line item to pay for annual salary increases.

Statutory Authority: Pursuant to Section 24-50-104, C.R.S.

Request: The OADC requests \$0 General Fund for salary increases for FY 2016-17.

Recommendation: Staff recommends approving the request, which is consistent with the Committee's common policy.

Merit Pay

The OADC uses this line item to pay for longevity or performance-related pay increases.

Statutory Authority: Pursuant to Section 24-50-104 (1) (c), C.R.S.

Request: The OADC requests \$0 General Fund for merit pay increases for FY 2016-17.

Recommendation: Staff recommends approving the request, which is consistent with the Committee's common policy.

Operating Expenses

This line item provides funding for the operating expenses and information technology asset maintenance for the OADC, and for reimbursement of actual and necessary expenses incurred by Alternate Defense Counsel Commission members.

Statutory Authority: Section 21-2-101 *et seq.*, C.R.S.

Request: The OADC requests \$79,765 General Fund. The request is impacted by OADC R2 (Social worker coordinator) and OADC R3 (Communications coordinator)

Recommendation: Staff recommends appropriating \$76,355 General Fund, including \$75,405 in base funding plus \$950 for OADC R2.

Capital Outlay

This line item provides funding for the one-time costs associated with new employees (office furniture, a computer and software, etc.).

Statutory Authority: Section 21-2-101 *et seq.*, C.R.S.

Request: The OADC requests \$6,946 General Fund. The request is impacted by OADC R2 (Social worker coordinator) and OADC R3 (Communications coordinator)

Recommendation: Staff recommends appropriating \$4,703 General Fund for OADC R2 and \$0 for OADC R3.

Training and Conferences

This line item is used to provide training opportunities for contract lawyers, investigators, and legal assistants. Training sessions are also open to attorneys from the Office of the Public Defender, as well as the private bar. The OADC conducts live training sessions, which are recorded and made available statewide via webcast and DVD reproductions for those who are unable to attend in person.

Statutory Authority: Section 21-2-101 *et seq.*, C.R.S.

Request: The OADC requests a total of \$60,000, including \$20,000 General Fund and \$40,000 cash funds. The source of cash funds is registration fees and DVD sales.

Recommendation: Staff recommends approving the request to allow the OADC to meet the training needs for contractors.

Conflict of Interest Contracts

This line item provides funding for contract attorneys and investigators who are appointed to represent indigent defendants. Payments cover hourly rates and any associated PERA contributions for PERA retirees, as well as reimbursement for costs such as mileage, copying, postage, and travel expenses.

Statutory Authority: Section 21-2-101 *et seq.*, C.R.S.

Request: The OADC requests \$28,007,998 General Fund, which is the same as the amended FY 2015-16 appropriation.

Recommendation: Staff recommends approving the request, which assumes that total expenditures will remain flat through FY 2016-17. For more information, see the discussion for OADC R1 at the beginning of this division.

Mandated Costs

This is one of several line item appropriations for "mandated costs". These costs are associated with activities, events, and services that accompany court cases that are required in statute and/or the U.S. and Colorado Constitutions to ensure a fair and speedy trial, and to ensure the right to legal representation. For the OADC, these costs primarily include the following:

- expert witnesses (\$978,372 or 43.7 percent of mandated costs in FY 2014-15)
- reimbursement of district attorney offices for discovery costs/ electronic replication grand jury proceedings (\$778,445 or 34.8 percent);
- transcripts (\$424,992 or 19.0 percent);
- interpreters - out of court (\$23,339 or 1.0 percent);
- PERA contributions for contractors with PERA benefits (\$23,036 or 1.0 percent); and
- expert witness travel reimbursement (\$10,518 or 0.5 percent).

Statutory Authority: Section 21-2-101 *et seq.*, C.R.S.

Request: The OADC request, as modified by JUD BA4 (eDiscovery), is for \$1,830,862. This amount represents a reduction of \$216,815 General Fund compared to the FY 2015-16 appropriation (JUD BA4 eDiscovery).

Recommendation: Staff recommends approving the request, which is consistent with staff's recommendation on JUD BA4. For more information about this request, see the discussion at the beginning of this packet. The following table provides a history of OADC mandated cost expenditures since FY 2007-08.

JBC Staff Figure Setting: FY 2016-17
Staff Working Document – Does Not Represent Committee Decision

OADC Mandated Costs								
Description	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15
Discovery	\$470,098	\$567,917	\$635,061	\$599,872	\$626,180	\$648,392	\$729,605	\$778,445
Experts	654,018	482,103	415,134	443,237	476,272	691,889	757,738	978,372
Transcripts	336,756	431,067	377,435	307,472	290,268	305,227	343,090	424,992
Travel	55,290	56,198	28,488	39,618	37,927	67,216	68,969	10,518
Interpreters	24,987	42,765	42,219	24,842	29,364	21,058	25,886	23,339
Misc.	<u>8,692</u>	<u>9,798</u>	<u>15,245</u>	<u>14,833</u>	<u>9,934</u>	<u>30,820</u>	<u>12,994</u>	<u>23,036</u>
Total	1,549,841	1,589,848	1,513,582	1,429,874	1,469,945	1,764,602	1,938,282	2,238,702
<i>annual percent change</i>	24.9%	2.6%	-4.8%	-5.5%	2.8%	20.0%	9.8%	15.5%
Total cases paid	12,082	12,474	12,595	11,878	12,585	13,290	15,085	16,680
Average cost per case	\$128	\$127	\$120	\$120	\$117	\$133	\$128	\$134
<i>annual percent change</i>	35.3%	-0.6%	-5.7%	0.2%	-3.0%	13.7%	-3.2%	4.5%

(7) Office of the Child's Representative

The Office of the Child's Representative (OCR) is responsible for "ensuring the provision of uniform, high-quality legal representation and non-legal advocacy to children involved in judicial proceedings in Colorado". The OCR's responsibility to enhance the legal representation of children includes:

- enhancing the provision of services by attorneys who are appointed by the court to act in the best interests of the child involved in certain proceedings (known as *guardians ad-litem* or GALs);
- enhancing the provision of services by attorneys appointed to serve as a *child's legal representative* in matters involving parental responsibility when the parties are found to be indigent; and
- enhancing the *court-appointed special advocate* (CASA) program in Colorado.

The OCR 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 matters³³. The OCR was established as an agency of the Judicial Department by the General Assembly, effective July 1, 2000. Previously, these services were provided by the Judicial Department and supported by appropriations for trial courts and mandated costs.

In most judicial districts, OCR provides legal representation through contract attorneys. The OCR is required to maintain and provide to the courts, on an ongoing basis, a list of qualified attorneys to whom appointments may be given. In the 4th Judicial District (El Paso county only), the OCR employs attorneys and other staff to provide services through a centralized office rather than through contracted services. This office was established in response to S.B. 99-215, which directed the Judicial Department to pilot alternative methods of providing GAL services.

In addition, since January 2011 the OCR has contracted with three multi-disciplinary law offices in Denver and Arapahoe counties. These offices were awarded contracts following a request for proposal process. Two of these offices provide GAL services in new dependency and neglect (D&N) cases in all three divisions of Denver's Juvenile Court, and the remaining office provides GAL services in new D&N cases and juvenile delinquency cases in Arapahoe County. The OCR keeps a limited number of independent contractors in Denver and Arapahoe counties (as they do in El Paso) to handle any conflict cases and cases as necessary when the primary attorneys reach their caseload maximums.

³³ Pursuant to Section 19-1-111, C.R.S., the court is required to appoint a GAL for a child in all dependency and neglect cases (including a child who is a victim of abuse or neglect, or who is affected by an adoption proceeding or paternity action), and the court may appoint a GAL for a child involved in: (a) a delinquency proceeding (if no parent appears at hearings, the court finds a conflict of interest exists between the child and the parent, or the court finds it in the best interests of the child); and (b) truancy proceedings. The court may appoint a GAL for a minor involved in certain probate or trust matters, mental health proceedings, or an involuntary commitment due to alcohol or drug abuse, or for a pregnant minor who elects not to allow parental notification concerning an abortion (see Chief Justice Directive 04-06). Finally, the court may appoint an attorney to serve as a child's legal representative or a child and family investigator in a parental responsibility case [Section 14-10-116 (1), C.R.S.].

JBC Staff Figure Setting: FY 2016-17
Staff Working Document – Does Not Represent Committee Decision

The OCR is governed by the Child's Representative Board, which is comprised of nine members appointed by the Colorado Supreme Court. Board members serve on a voluntary basis and receive no compensation for their time. The Board appoints the OCR Director, provides fiscal oversight, participates in funding decisions related to the provision of OCR services, and assists with OCR training for GALs and court-appointed special advocates (CASAs). The Board currently meets every other month. The Director's compensation is fixed by the General Assembly (through a Long Bill footnote) and may not be reduced during his or her five-year term of appointment. The OCR is supported entirely by General Fund appropriations.

Office of the Child's Representative						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2015-16 Appropriation						
SB 15-234 (Long Bill)	\$24,686,861	\$24,677,471	\$0	\$9,390	\$0	28.9
Other legislation	(143,919)	(143,919)	0	0	0	0.0
Recommended Long Bill Supplemental	<u>(650,000)</u>	<u>(650,000)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$23,892,942	\$23,883,552	\$0	\$9,390	\$0	28.9
FY 2016-17 Recommended Appropriation						
FY 2015-16 Appropriation	\$23,892,942	\$23,883,552	\$0	\$9,390	\$0	28.9
JUD BA4 eDiscovery	(7,399)	(7,399)	0	0	0	0.0
OCR R1 Court-appointed Counsel	(429,851)	(429,851)	0	0	0	0.0
OCR R2 Position Reclassification	11,054	11,054	0	0	0	0.0
OCR R3 FTE Increase	17,967	17,967	0	0	0	0.2
Employee Benefits and Common Changes	(4,738)	(4,738)	0	0	0	0.0
Annualize Prior Year Legislation	(143,919)	(143,919)	0	0	0	0.0
Annualize Prior Year Budget Actions	3,410	3,410	0	0	0	0.0
Reverse supplemental	<u>650,000</u>	<u>650,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$23,989,466	\$23,980,076	\$0	\$9,390	\$0	29.1
Increase/(Decrease)	\$96,524	\$96,524	\$0	\$0	\$0	0.2
Percentage Change	0.4%	0.4%	n/a	0.0%	n/a	0.7%
FY 2016-17 Executive Request:	\$24,112,561	\$24,103,171	\$0	\$9,390	\$0	29.1
Request Above/(Below) Recommendation	\$123,095	\$123,095	\$0	\$0	\$0	0.0

DECISION ITEMS – OFFICE OF THE CHILD'S REPRESENTATIVE

➔ **OCR R1 Court-appointed Counsel**

Request: The OCR requests a decrease of \$319,851 General Fund for FY 2016-17 to reflect a lower overall projected caseload for state-paid court-appointed counsel.

Recommendation: Based on updated information provided by OCR staff, staff recommends an appropriation for FY 2016-17 that is lower than the amount requested by OCR, and staff recommends reducing the existing FY 2015-16 appropriation as well. Specifically, staff recommends:

- Reducing the FY 2015-16 appropriation by \$650,000 General Fund (3.2 percent); and
- Appropriating an amount for FY 2016-17 that is \$110,000 lower than the amount requested by OCR.

Staff's recommendation is based on updated information provided by the OCR. The OCR is aware of and supports staff's recommendations for both fiscal years.

Analysis:

Similar to the OADC, the overall caseload and the mix of cases for which the court appoints counsel can vary significantly for the OCR. The OCR continually monitors its own caseload and expenditures, as well as overall case filings for those types of cases that are relevant to the OCR's budget). The OCR uses this information to project annual expenditures, and submits budget requests based on this information.

In each of the last two budget cycles the OCR submitted mid-year requests for funding increases based on unanticipated caseload and expenditure increases. In FY 2013-14 the mid-year correction was too small and OCR expenditures exceeded the appropriation by more than \$700,000; in FY 2014-15 the mid-year correction was too large and OCR expenditures were more than \$1.4 million below the appropriation. These over and under expenditures are addressed through the Judicial Branch's authority to make fiscal year-end transfers of up to \$1.0 million. Table 1, below, provides a history of appropriations and expenditures for this line item.

OCR TABLE 1: Court Appointed Counsel - Appropriations vs. Actual Expenditures						
	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15	FY 15-16
Initial appropriation	\$16,273,656	\$16,531,560	\$16,021,900	\$16,011,128	\$18,912,675	\$20,277,534
Mid-year adjustment	0	(1,000,662)	0	887,013	1,508,778	(650,000)
Final appropriaton	16,273,656	15,530,898	16,021,900	16,898,141	20,421,453	19,627,534
Expenditures	16,021,900	14,783,066	16,015,956	17,625,017	19,003,466	
Fiscal year-end (reversion/transfer)/ shortfall	(251,756)	(747,832)	(5,944)	726,876	(1,417,987)	

The OCR has provided updated caseload and expenditure information indicating that overall expenditures are declining and it will likely revert money again this year. Table 2 provides a comparison of the initial and most recent projected expenditures by case type for FY 2015-16.

The OCR's current projections indicate that a reversion of \$795,366 could occur. Staff recommends reducing the FY 2015-16 appropriation by \$650,000 General Fund, allowing a contingency of about \$150,000 for unexpected fluctuations in the last quarter.

OCR TABLE 2: OCR Expenditures by Case Type for FY 2015-16			
Case Type	FY 2015-16 (initial projections)	FY 2015-16 (updated projections)	Change
Dependency & Neglect	\$16,237,800	\$15,651,218	(\$586,582)
Juvenile Delinquency	2,952,000	2,799,153	(152,847)
Domestic Relations	319,581	345,902	26,321
Truancy	357,750	248,187	(109,563)
Paternity	169,454	169,143	(311)
Probate	49,433	67,568	18,135
All Other Case Types	<u>191,516</u>	<u>200,997</u>	<u>9,481</u>
All cases	\$20,277,534	\$19,482,168	(\$795,366)

Similarly, Table 3 provides a comparison of the initial and most recent projected expenditures by case type for FY 2016-17. Based on this updated information, staff recommends appropriating \$110,000 less than requested by the OCR. The OCR's most recent projections assume an overall 1.0 percent increase in expenditures (an increase of \$194,822) in FY 2016-17. The recommendation is based on this projection plus a contingency of about \$25,000.

OCR TABLE 3: OCR Expenditures by Case Type for FY 2016-17			
Case Type	FY 2016-17 (initial projections)	FY 2016-17 (updated projections)	Change
Dependency & Neglect	\$15,031,962	\$15,807,730	\$775,768
Juvenile Delinquency	3,639,375	2,827,145	(812,230)
Domestic Relations	211,750	349,361	137,611
Truancy	424,099	250,669	(173,430)
Paternity	174,685	170,834	(3,851)
Probate	53,253	68,244	14,991
All Other Case Types	<u>278,640</u>	<u>203,007</u>	<u>(75,633)</u>
All cases	\$19,813,764	\$19,676,990	(\$136,774)

Table 4 provides a recent history of expenditures by case type to provide a framework for the most recent projections. Overall, expenditure growth in recent years is largely attributed to increased expenditures for dependency and neglect cases, and increasing numbers of court appointments in juvenile delinquency and truancy cases. It appears that the expenditure growth for dependency and neglect cases is slowing, and the number of appointments in delinquency and truancy cases are declining.

JBC Staff Figure Setting: FY 2016-17
Staff Working Document – Does Not Represent Committee Decision

OCR TABLE 4: History of Court-appointed Counsel Expenditures by Case Type							FY 15-16	FY 16-17
Case Type	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15	(updated projection)	(updated projection)	
Dependency & Neglect	\$13,448,501	\$12,003,497	\$12,836,142	\$14,038,393	\$14,751,647	\$15,651,218	\$15,807,730	
<i>annual percent change</i>	4.9%	-10.7%	6.9%	9.4%	5.1%	6.1%	1.0%	
Juvenile Delinquency	\$1,851,671	\$1,931,335	\$2,192,888	\$2,557,264	\$3,051,975	\$2,799,153	\$2,827,145	
<i>annual percent change</i>	-15.9%	4.3%	13.5%	16.6%	19.3%	-8.3%	1.0%	
Domestic Relations	\$352,768	\$408,037	\$478,766	\$385,422	\$472,495	\$345,902	\$349,361	
<i>annual percent change</i>	-12.3%	15.7%	17.3%	-19.5%	22.6%	-26.8%	1.0%	
Truancy	\$154,930	\$133,341	\$220,342	\$293,163	\$321,818	\$248,187	\$250,669	
<i>annual percent change</i>	-12.7%	-13.9%	65.2%	33.0%	9.8%	-22.9%	1.0%	
Paternity	\$108,132	\$145,989	\$125,998	\$139,028	\$141,799	\$169,143	\$170,834	
<i>annual percent change</i>	-17.1%	35.0%	-13.7%	10.3%	2.0%	19.3%	1.0%	
Probate	\$49,601	\$29,653	\$30,730	\$39,272	\$65,472	\$67,568	\$68,244	
<i>annual percent change</i>	21.7%	-40.2%	3.6%	27.8%	66.7%	3.2%	1.0%	
All Other Case Types	\$56,297	\$131,214	\$131,090	\$172,475	\$198,260	\$200,997	\$203,007	
All cases	\$16,021,900	\$14,783,066	\$16,015,956	\$17,625,017	\$19,003,466	\$19,482,168	\$19,676,990	
<i>annual percent change</i>	1.1%	-7.7%	8.3%	10.0%	7.8%	2.5%	1.0%	

➔ OCR R2 Position Reclassification

Request: The OCR requests \$11,054 General Fund to reclassify a Program Administrator position to an Information Systems Manager position with a salary range that is consistent with the position's responsibilities.

Recommendation: Staff recommends approving the request.

Analysis:

The OCR proposes reclassifying an existing Program Administrator position to better reflect actual duties and responsibilities. The OCR proposes to reclassify this position as an Information Systems Manager, and to utilize a salary range that is equivalent to the Judicial Department's ITS Analyst II position. The OCR requests a total of \$11,054 General Fund to align the salary with the new proposed salary range.

The OCR indicates that the Information Systems Manager employs expertise in innovative information systems, including relational database and user experience design, to streamline and automate numerous administrative functions that are essential to the OCR's key performance goals and activities. The OCR describes several projects that created administrative efficiencies, including the following:

- **Attorney Database:** The Information Systems Manager developed a sophisticated and evolving database which makes extensive current and historical district and contractor information available to staff in a user-friendly interface. This model eliminates redundant data entry, maintains consistency and data integrity, and prevents distribution errors.
- **Evaluation Processes:** The Information Systems Manager enhanced the Attorneys Database to collect contractor applications and evaluation information in a format that allows those who make contracting decisions to display, sort, and filter information quickly.
- **Data collection:** The Information Systems Manager has created user-friendly data collection tools that promote data integrity, automatically initiate any follow-up processes, and populate databases programmed to generate reports. Examples include: fully customizable training

registration and feedback forms; court observation forms; stakeholder and judicial officer feedback surveys; contractor satisfaction surveys; youth, parent, and caregiver interview forms; and fees and expert request online tools.

- Time-Tracking: A database enables staff and interns to live-track time spent on projects and to click a button for detailed summary reports.
- C.A.R.E.S. Case Management Data: The Information Systems Manager created SQL queries to summarize raw data exported from the OCR's online case management system. This allows staff to analyze contractors' compliance with practice standards, identify outliers, and compare attorneys and districts.
- Financial Data: The Information Systems Manager created SQL queries to streamline the analysis of contractor activities and billings by day, week, year, and district.

Additionally, the Information Systems Manager has developed systems to improve efficiencies for contract attorneys, such as: simplifying and modernizing the on-line application process; and developing a new listserv that archives emails by topic and consolidates training announcements into periodic archived and graphic-designed e-mail bulletins with quick links to registration pages and resources.

The OCR has recognized the value added by employing someone in this position with the skill set necessary to develop, maintain, and optimize the OCR's information systems. These duties are more closely aligned with those of the Judicial Department's ITS Analyst II position. Approval of the request will assist the OCR in retaining the existing employee or, if necessary, filling the vacancy with an individual with the same programming skills.

➔ OCR R3 FTE Increase

Request: The OCR requests \$17,967 General Fund to align the salary for the Information Systems Manager position with the actual scope of work performed. Specifically, the OCR indicates that the actual workload for this position is 0.8 FTE rather than 0.6 FTE.

Recommendation: Staff recommends approving the request to allow the OCR to continue to benefit from the administrative efficiencies created by their Information Systems Manager.

LINE ITEM DETAIL – OFFICE OF THE CHILD'S REPRESENTATIVE

Personal Services

This line item provides funding to support a central administrative office in Denver, as well as the El Paso county office. The following table details the types of employees that are supported by this line item.

Staffing Summary	FY 14-15	FY 15-16	FY 16-17	FY 16-17
Office of the Child's Representative	Actual	Approp.	Request	Recommend.
Executive Director	1.0	1.0	1.0	1.0
Deputy Director	0.8	0.8	0.8	0.8
Staff Attorneys	1.6	1.6	1.6	1.6
Budget/ Billing/ Office Administration (OCR R3)	3.6	4.1	4.3	4.3
Training Coordinator/ Staff Attorney	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>
Subtotal - Administrative Office	8.0	8.5	8.7	8.7
Attorneys	11.9	12.0	12.0	12.0
Social Workers/ Case Coordinators	4.5	5.0	5.0	5.0
Administrative Support Staff	<u>2.4</u>	<u>3.4</u>	<u>3.4</u>	<u>3.4</u>
Subtotal - El Paso County Office	18.8	20.4	20.4	20.4
Total	26.8	28.9	29.1	29.1

Statutory Authority: Section 13-91-101 *et seq.*, C.R.S.

Request: The OCR requests \$2,442,114 General Fund and 29.1 FTE. The request is impacted by OCR R2 (Position reclassification) and OCR R3 (FTE increase).

Recommendation: Staff recommends approving the request. This amount includes OCR's base request of \$2,415,424 General Fund and 28.9 FTE, which is calculated consistent with the Committee's common policy, as well as the funding requested for both OCR R2 and OCR R3. Finally, please note that the recommendation maintains the alignment of the salary for the OCR Executive Director with that of district court judges. The calculation of the recommendation is detailed in the following table.

JBC Staff Figure Setting: FY 2016-17
Staff Working Document – Does Not Represent Committee Decision

Office of the Child's Representative, Personal Services			
	Total Funds	General Fund	FTE
FY 2015-16 Appropriation			
SB 15-234 (Long Bill)	<u>\$2,295,026</u>	<u>\$2,295,026</u>	<u>28.9</u>
TOTAL	\$2,295,026	\$2,295,026	28.9
FY 2016-17 Recommended Appropriation			
FY 2015-16 Appropriation	\$2,295,026	\$2,295,026	28.9
Annualize Prior Year Budget Actions	120,398	120,398	0.0
OCR R2 Position Reclassification	10,165	10,165	0.0
OCR R3 FTE Increase	<u>16,525</u>	<u>16,525</u>	<u>0.2</u>
TOTAL	\$2,442,114	\$2,442,114	29.1
Increase/(Decrease)	\$147,088	\$147,088	0.2
Percentage Change	6.4%	6.4%	0.7%
FY 2016-17 Executive Request:	\$2,442,114	\$2,442,114	29.1
Request Above/(Below) Recommendation	\$0	\$0	0.0

Health Life and Dental

This line item provides funding for the employer's share of the cost of group benefit plans providing health, life, and dental insurance for OCR staff.

Statutory Authority: Pursuant to Section 24-50-611, C.R.S., and defined in Section 24-50-603 (9), C.R.S.

Request: The OCR requests \$218,190 General Fund.

Recommendation: Staff recommends approving the request, which is consistent with Committee policy with respect to employer contribution rates.

Short-term Disability

This line item provides funding for the employer's share of OCR employees' short-term disability insurance premiums.

Statutory Authority: Pursuant to Section 24-50-611, C.R.S., and defined in Section 24-50-603 (13), C.R.S.

Request: The OCR requests \$4,111 General Fund based on applying a rate of 0.19 percent to base salaries. The request is impacted by OCR R2 (Position reclassification) and OCR R3 (FTE increase).

Recommendation: Staff recommends approving the base request for \$4,065 General Fund, which is consistent with the Committee's common policy. The recommendation also includes \$18 for OCR R2 and \$28 for OCR R3.

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

Pursuant to S.B. 04-257, this line item provides additional funding to increase the state contribution for Public Employees' Retirement Association (PERA) for OCR staff.

Statutory Authority: Pursuant to Section 24-51-411, C.R.S.

Request: The OCR requests \$103,850 General Fund based on applying a blended rate of 4.80 percent.

Recommendation: Staff recommends approving the base request for \$102,701 General Fund, which is consistent with the Committee's common policy. The recommendation also includes \$438 for OCR R2 and \$711 for OCR R3.

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

Pursuant to S.B. 06-235, this line item provides additional funding to increase the state contribution for PERA for OCR staff.

Statutory Authority: Pursuant to Section 24-51-411, C.R.S.

Request: The OCR requests \$102,767 General Fund based on applying a blended rate of 4.75 percent.

Recommendation: Staff recommends approving the base request for \$101,631 General Fund, which is consistent with the Committee's common policy. The recommendation also includes \$433 for OCR R2 and \$703 for OCR R3.

Salary Survey

The OCR uses this line item to pay for annual salary increases.

Statutory Authority: Pursuant to Section 24-50-104, C.R.S.

Request: The OCR requests \$13,095 General Fund for salary increases for FY 2016-17. This funding is requested to move the salary paid to the Training Coordinator up within the pay range. This movement is based on the experience and expertise gained by this individual over the last four years, and the fact that this individual has become an attorney licensed to practice law in Colorado.

Recommendation: Staff recommends appropriating \$0 for this line item, consistent with the Committee's common policy. It is within the OCR's authority to increase an employee's pay within the existing pay range. Staff believes that this specific adjustment can be accomplished within existing appropriations, and no additional funding is required.

Merit Pay

The OCR uses this line item to pay for performance-related pay increases.

Statutory Authority: Pursuant to Section 24-50-104 (1) (c), C.R.S.

Request: The OCR requests \$0 General Fund for merit pay increases for FY 2016-17.

Recommendation: Staff recommends approving the request, which is consistent with the Committee's common policy.

Operating Expenses

This line item provides funding for operating expenses and information technology asset maintenance in both the Denver and El Paso offices, and for reimbursement of actual and necessary expenses incurred by Child's Representative Board members.

Statutory Authority: Section 13-91-101 *et seq.*, C.R.S.

Request: The OCR requests \$193,354 General Fund, which is the same amount that is appropriated for FY 2015-16.

Recommendation: Staff recommends approving the request.

Leased Space

This line item currently funds a full 12 months of lease payments for 8,375 square feet in Colorado Springs.

Statutory Authority: Section 13-91-101 *et seq.*, C.R.S.

Request: The OCR requests \$106,680 General Fund. The request reflects an increase of \$1,543 to reflect lease rates for the Colorado Springs location.

Recommendation: Staff recommends approving the request. The requested amount will cover scheduled lease payments for the Colorado Springs location (8,375 square feet at \$12.74 per square foot).

CASA Contracts

This line item provides funding for grants to Colorado CASA, the nonprofit organization of court-appointed special advocate (CASA) volunteers. This funding is used to pay both personnel and operating costs. Prior to FY 2008-09, the General Assembly appropriated \$20,000 General Fund annually for this line item; this funding was distributed to Colorado CASA. The Joint Budget Committee initiated increases of \$500,000 in FY 2008-09 and another \$500,000 in FY 2013-14. Since FY 2008-09, Colorado CASA has continued to retain a portion of the funding for general operating costs, but the remainder has been allocated to local CASA Programs.

Background Information. Court-appointed special advocates (CASA) are trained volunteers who may be appointed to enhance the quality of representation for children³⁴. Pursuant to Section 19-1-202, C.R.S., CASA programs may be established in each judicial district pursuant to a memorandum of understanding between the district's chief judge and a community-based CASA program. A CASA volunteer may: conduct an independent investigation regarding the best interests of the child; and determine if an appropriate treatment plan has been created for the child, whether appropriate services are being provided to the child and family, and whether the treatment plan is progressing in a timely manner. A CASA volunteer may also make recommendations consistent with the best interests of the child regarding placement, visitation, and appropriate services. The Judicial Department may contract with a nonprofit entity for the coordination and support of CASA activities in Colorado.

The OCR is charged with enhancing the CASA program in Colorado by cooperating with and serving as a resource to the contract entity to:

- ensure the development of local programs statewide;
- seek to enhance existing funding sources and developing private-public partnership funding for the provision of high-quality, volunteer local CASA programs;
- study the availability of or developing new funding sources for CASA programs;
- allocate moneys appropriated for CASA programs to local CASA programs based upon recommendations made by the contract entity;
- work cooperatively with the contract entity to ensure the provision and availability of high-quality, accessible training for CASA volunteers and for judges and magistrates; and
- accept grants, gifts, donations, and other governmental contributions to be used to fund the work of the OCR relating to CASA programs³⁵.

Statutory Authority: Section 13-91-105, C.R.S.

Request: The OCR requests a continuation level of funding (\$1,020,000 General Fund).

Recommendation: Staff recommends approving the request. The following two tables provide additional data concerning: (1) the allocation of state funding by CASA; and (2) the number of D&N cases and the number of children served by CASA, as well as the number of CASA volunteers and volunteer hours. As indicated in the second table below, this appropriation helps to support nearly 1,700 volunteers who provide services to children in nearly one-third of dependency and neglect cases.

³⁴ Pursuant to Section 19-1-206 (1), C.R.S., a judge or magistrate may appoint a CASA volunteer in any domestic, probate, or truancy matter when a child affected by the matter may require services that a CASA volunteer can provide.

³⁵ Such funds are to be credited to the Court-appointed Special Advocate (CASA) Fund. This fund is subject to annual appropriation to the OCR for purposes of funding local CASA programs and the work of the OCR relating to the enhancement of CASA programs.

JBC Staff Figure Setting: FY 2016-17
Staff Working Document – Does Not Represent Committee Decision

OCR: Distribution of General Fund Appropriation for CASA Programs								
	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15
Colorado CASA - General Operating	\$20,000	\$120,000	\$100,000	\$100,000	\$91,200	\$70,000	\$105,000	\$130,001
Public Relations Activities		25,000						
Outcomes Development for Programs							25,000	0
Allocations to Local CASA Programs (currently 16)		375,000	420,000	420,000	383,800	450,000	890,000	889,999
Total Appropriation	\$20,000	\$520,000	\$520,000	\$520,000	\$475,000	\$520,000	\$1,020,000	\$1,020,000

OCR: Statewide Data Related to Local CASA Programs							
	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13	FY 13-14
Dependency & Neglect Cases Filed	3,883	3,851	3,568	3,276	3,265	3,223	2,971
	2008	2009	2010	2011	2012	2013	2014
New Cases Served by CASA	627	896	883	834	908	1,020	921
<i>New Cases Served/ Cases Filed</i>	<i>16.1%</i>	<i>23.3%</i>	<i>24.7%</i>	<i>25.5%</i>	<i>27.8%</i>	<i>31.6%</i>	<i>31.0%</i>
Total Number of Children Served	2,935	3,273	3,608	3,791	3,770	3,748	3,858
Total Volunteers	1,174	1,411	1,637	1,608	1,603	1,670	1,694
Volunteer Hours	77,481	158,820	140,618	120,640	137,834	125,067	132,351

Source: Case filing data provided by State Court Administrator's Office. Remaining data provided by Colorado CASA.

Training

The OCR is charged with "ensuring the provision and availability of high-quality, accessible training" for GALs, judges and magistrates who regularly hear matters involving children and families, CASA volunteers, and attorneys who are appointed to serve as a child's legal representative or a child and family investigator. The OCR is also charged with making recommendations to the Chief Justice concerning minimum practice standards for GALs and overseeing the practice of GALs to ensure compliance with all relevant statutes, orders, rules, directives, policies, and procedures. In addition to the individuals noted above, the OCR invites respondent parent counsel, county attorneys and social workers, foster parents, and law enforcement to their training programs.

Statutory Authority: Section 13-91-101 *et seq.*, C.R.S.

Request: The OCR requests a continuation level of funding (\$38,000 General Fund).

Recommendation: Staff recommends approving the request.

Court-appointed Counsel

This line item pays for contract attorneys appointed by the court to serve as GALs and child legal representatives in abuse or neglect, delinquency, truancy, high conflict divorce, alcohol or drug abuse, mental health issues, and probate matters. The OCR is charged with enhancing the provision of GAL services by "establishing fair and realistic state rates by which to compensate state-appointed guardians ad litem, which will take into consideration the caseload limitations place on guardians ad litem and which will be sufficient to attract and retain high-quality, experienced attorneys to serve as guardians ad litem".

Statutory Authority: Section 13-91-101 *et seq.*, C.R.S.

Request: The OCR requests \$19,813,764 General Fund for FY 2016-17. The request includes:

- a reduction of \$143,919 General Fund to reflect a full year impact of H.B. 15-1153, which consolidated oversight of all Child and Family Investigators (including those who are attorneys) under the State Court Administrators Office; and
- a reduction of \$319,851 General Fund per OCR R1 (Court-appointed counsel).

FY 2015-16 Recommendation: Staff recommends reducing the appropriation for FY 2015-16 by \$650,000 General Fund, resulting in an appropriation of \$19,627,534 General Fund. For more information, see the discussion of OCR R1, above.

FY 2016-17 Recommendation: Staff recommends appropriating \$19,703,764 General Fund for FY 2016-17. For more information, see the discussion of OCR R1, above.

Mandated Costs

This is one of several line item appropriations for "mandated costs". These costs are associated with activities, events, and services that accompany court cases that are required in statute and/or the U.S. and Colorado Constitutions to ensure a fair and speedy trial, and to ensure the right to legal representation. For the OCR, these costs include the following:

- discovery/ reproduction services (\$23,250 or 64.6 percent of mandated costs in FY 2014-15)
- expert witnesses (\$9,622 or 26.7 percent)
- interpreters - out of court (\$926 or 2.6 percent)
- transcripts (\$494 or 1.4 percent)
- process servers and other miscellaneous expenses (\$1,705 or 4.7 percent)

Statutory Authority: Section 13-91-101 *et seq.*, C.R.S.

Request: The OCR request, as modified by JUD BA4 (eDiscovery), is for \$47,246. This amount represents a reduction of \$7,399 General Fund compared to the FY 2015-16 appropriation.

Recommendation: Staff recommends approving the request, which is consistent with staff's recommendation on JUD BA4. For more information about this request, see the discussion at the beginning of this packet.

Title IV-E Training Grant

This line item reflects anticipated expenditures from a federal Title IV-E training grant. This line item is included in the Long Bill for informational purposes only and is not intended to limit the OCR's expenditures of these federal funds. While these moneys originate as federal funds, they are transferred to the OCR from the Department of Human Services.

Statutory Authority: Section 13-91-101 *et seq.*, C.R.S.

Request: The OCR request includes a continuation of \$9,390 reappropriated funds.

Recommendation: Staff recommends continuing to reflect \$9,390 reappropriated funds.

(8) Office of the Respondent Parents' Counsel Office

Senate Bill 14-203 and H.B. 15-1149 established the Office of Respondent Parents' Counsel (ORPC) as a new independent agency within the Judicial Branch, as of January 1, 2016. The ORPC is charged with ensuring the provision and availability of high-quality legal representation for respondent parents involved in dependency and neglect proceedings. All existing and new state paid respondent parent counsel appointments will be transferred from the State Court Administrator's Office (SCAO) to the ORPC by July 1, 2016.

The ORPC is governed by the nine-member Respondent Parents' Counsel Governing Commission, whose members are appointed by the Supreme Court. Commission members serve on a voluntary basis and receive no compensation for their time. The Commission appoints an individual to serve as the Executive Director of the Office. The compensation for this individual is fixed by the General Assembly (through a Long Bill footnote) and may not be reduced during his or her five-year term of appointment.

With the exception of a small amount of cash funds from training-related fees, the ORPC is supported by General Fund appropriations.

NOTE: As the ORPC was not established until January 1, 2016, the budget request for the ORPC for FY 2016-17 was included as part of the Judicial Department's November 1, 2015, budget request. This request is consistent with the assumptions that were used when developing the FY 2015-16 budget. Based on discussions with the Executive Director of the ORPC and her staff, the recommendations in this packet reflect more recent information concerning anticipated staffing patterns and expenses.

Office of the Respondent Parents' Counsel						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2015-16 Appropriation						
SB 15-234 (Long Bill)	\$6,736,570	\$6,714,070	\$22,500	\$0	\$0	6.9
Other legislation	<u>(5,778,577)</u>	<u>(5,763,577)</u>	<u>(15,000)</u>	<u>0</u>	<u>0</u>	<u>(4.2)</u>
TOTAL	\$957,993	\$950,493	\$7,500	\$0	\$0	2.7
FY 2016-17 Recommended Appropriation						
FY 2015-16 Appropriation	\$957,993	\$950,493	\$7,500	\$0	\$0	2.7
Employee Benefits and Common Changes	(274)	(274)	0	0	0	0.0
Annualize Prior Year Legislation	<u>11,921,752</u>	<u>11,899,252</u>	<u>22,500</u>	<u>0</u>	<u>0</u>	<u>7.3</u>
TOTAL	\$12,879,471	\$12,849,471	\$30,000	\$0	\$0	10.0

JBC Staff Figure Setting: FY 2016-17
Staff Working Document – Does Not Represent Committee Decision

Office of the Respondent Parents' Counsel						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
Increase/(Decrease)	\$11,921,478	\$11,898,978	\$22,500	\$0	\$0	7.3
Percentage Change	1,244.4%	1,251.9%	300.0%	n/a	n/a	270.4%
FY 2016-17 Executive Request:	\$11,761,626	\$11,731,626	\$30,000	\$0	\$0	10.0
Request Above/(Below) Recommendation	(\$1,117,845)	(\$1,117,845)	\$0	\$0	\$0	0.0

DECISION ITEMS – OFFICE OF THE RESPONDENT PARENTS' COUNSEL (NONE)

LINE ITEM DETAIL – OFFICE OF THE RESPONDENT PARENTS' COUNSEL

Personal Services

This line item provides funding to support a central administrative office in Denver. The following table details the types of employees that are supported by this line item.

Staffing Summary	FY 15-16	FY 16-17	FY 16-17
Office of the Respondent Parents' Counsel	Approp.	Request	Recommend.
Executive Director	0.4	1.0	1.0
Deputy Director	0.3	1.0	1.0
Chief Financial Officer	0.3	1.0	1.0
Staff Attorneys	0.5	2.0	2.0
Executive Assistant	0.3	1.0	1.0
Attorney Reimbursement Specialist	0.3	1.0	1.0
Paralegal	0.3	1.0	1.0
Staff Assistant	0.3	1.0	1.0
IT Specialist	<u>0.3</u>	<u>1.0</u>	<u>1.0</u>
Total	2.7	10.0	10.0

Statutory Authority: Section 13-92-101 *et seq.*, C.R.S.

Request: The request includes \$1,177,365 General Fund and 10.0 FTE. This amount is based on the Judicial Department's budget request for the ORPC that was submitted in November 2014, as modified by H.B. 15-1149. This amount includes \$915,202 in base salaries for 10.0 FTE plus the associated PERA and Medicare contributions, and \$156,000 for contractual information technology services.

Recommendation: Staff recommends approving the request. The ORPC Executive Director has filled five of the nine ORPC positions, and plans to fill the remaining positions based on the FY 2016-17 personal services funding estimate that accompanied the budget request last year. Please

note that the recommendation maintains the alignment of the salary for the ORPC Executive Director with that of district court judges.

Finally, please note that staff's recommendations for the FY 2016-17 Long Bill include reductions totaling \$231,692 General Fund and 4.0 FTE based on the Department's estimates of the workload impact of transferring oversight of RPC. This amount includes a reduction of \$85,615 and 1.0 FTE in the General Courts Administration line item, and a reduction of \$146,077 and 3.0 FTE in the Trial Court Programs line item.

Health Life and Dental

This line item provides funding for the employer's share of the cost of group benefit plans providing health, life, and dental insurance for ORPC staff.

Statutory Authority: Pursuant to Section 24-50-611, C.R.S., and defined in Section 24-50-603 (9), C.R.S.

Request: The request includes \$44,210 General Fund.

Recommendation: Staff recommends appropriating \$90,389 General Fund, consistent with Committee policy with respect to employer contribution rates. This amount is based on the actual insurance selections by employees hired to date, and the application of an average employer contribution of \$10,000/year for the remaining positions. This amount is intended to cover a mix of employees selecting different types of coverage (*i.e.*, employee only, employee plus spouse, employee plus children, and family). The estimate that was provided last year assumed an average employer contribution of \$4,421/year, which would not be sufficient unless at least two of the employees who have not yet been hired decline coverage.

Short-term Disability

This line item provides funding for the employer's share of ORPC employees' short-term disability insurance premiums.

Statutory Authority: Pursuant to Section 24-50-611, C.R.S., and defined in Section 24-50-603 (9), C.R.S.

Request: The request includes \$2,013 General Fund, based on applying a rate of 0.22 percent.

Recommendation: Staff recommends appropriating \$1,739 General Fund, consistent with Committee policy of applying a rate of 0.19 percent.

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

Pursuant to S.B. 04-257, this line item provides additional funding to increase the state contribution for Public Employees' Retirement Association (PERA) for ORPC staff.

Statutory Authority: Pursuant to Section 24-51-411, C.R.S.

Request: The request includes \$43,930 General Fund, based on applying a blended rate of 4.80 percent.

Recommendation: Staff recommends approving the request, which is consistent with Committee policy.

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

Pursuant to S.B. 06-235, this line item provides additional funding to increase the state contribution for PERA for ORPC staff.

Statutory Authority: Pursuant to Section 24-51-411, C.R.S.

Request: The request includes \$43,472 General Fund, based on applying a blended rate of 4.75 percent.

Recommendation: Staff recommends approving the request, which is consistent with Committee policy.

Salary Survey

The ORPC uses this line item to pay for annual salary increases.

Statutory Authority: Pursuant to Section 24-50-104, C.R.S.

Request: The request includes \$0 General Fund.

Recommendation: Staff recommends approving the request, which is consistent with Committee policy. Please note that should the Committee choose to increase salaries for judicial officers, this line item would need to include funding sufficient to maintain the salary of the ORPC's Executive Director at the same level as a district court judge (including the associated PERA and Medicare contributions), and the associated increases required for AED, SAED, and Short-term Disability would need to be included in those respective line items.

Merit Pay

The ORPC uses this line item to pay for performance-related pay increases.

Statutory Authority: Pursuant to Section 24-50-104 (1) (c), C.R.S.

Request: The request includes \$0 General Fund.

Recommendation: Staff recommends approving the request, which is consistent with Committee policy.

Operating Expenses

This line item provides funding for operating and travel expenses, and for reimbursement of actual and necessary expenses incurred by members of the Respondent Parents' Counsel Governing Commission.

Statutory Authority: Section 13-92-101 *et seq.*, C.R.S.

Request: The request includes \$60,800 General Fund.

Recommendation: Staff recommends approving the request, which is consistent with funding estimate that accompanied the budget request last year. This estimate was largely based on actual expenditures incurred by the OCR and OADC.

Capital Outlay

This line item provides funding for the one-time costs associated with establishing the ORPC office space, including the cost to finish space in the Carr Center and to purchase office furniture and information technology equipment.

Statutory Authority: Section 13-92-101 *et seq.*, C.R.S.

Request: The request includes \$0 General Fund.

Recommendation: Staff recommends approving the request, which is consistent with funding estimate that accompanied the budget request last year.

Legal Services

This line item provides funding for the Department to purchase legal services from the Department of Law.

Statutory Authority: Pursuant to 24-31-101 (1) (a), C.R.S., and defined in Section 24-75-112 (1) (i), C.R.S.

Request: The request includes \$19,010 General Fund to purchase 192.0 hours of legal services (based on a rate of \$99.01).

Recommendation: Based on updated information from the ORPC staff, staff's recommendation reflects an appropriation of \$1,900 for the purchase of 20 hours of legal services based on the existing hourly rate of \$95.01. However, the actual dollar amount of the appropriation will be calculated after the Committee sets the common policy for the legal services rate.

Case Management System

This line item provides funding for the development and implementation of an information system that allows the ORPC to manage cases and billing functions.

Statutory Authority: Section 13-92-101 *et seq.*, C.R.S.

Request: The request includes \$337,500 General Fund, based on the initial estimated costs of \$375,000 for system development and implementation.

Recommendation: Staff recommends approving the request, which is consistent with funding estimate that accompanied the budget request last year.

Training

This line item provides funding for the ORPC to offer training opportunities for contract attorneys and other individuals as appropriate to ensure the provision and availability of high-quality legal representation for parents involved in dependency and neglect proceedings.

Statutory Authority: Section 13-92-101 *et seq.*, C.R.S.

Request: The request includes \$60,000 total funds, including \$30,000 General Fund and \$30,000 cash funds from training fees.

Recommendation: Staff recommends approving the request, which is consistent with funding estimate that accompanied the budget request last year.

Court-appointed Counsel

This line item provides funding for contract attorneys who are appointed to represent respondent parents. Payments cover flat payments or hourly rates, as well as reimbursement for costs such as mileage, copying, postage, and travel expenses.

Statutory Authority: Section 13-92-101 *et seq.*, C.R.S.

Request: The request includes \$9,973,326 General Fund.

Recommendation: Staff recommends appropriating \$10,768,254 General Fund for court-appointed counsel. This amount is calculated based on actual FY 2014-15 expenditures for respondent parents' counsel, with adjustments to cover likely increases in the number of appointments and the cost per appointment in both FY 2015-16 and FY 2016-17. Staff elected to use the most recent projections provided by the Office of the Child's Representative for expenditures for court-appointed *guardians ad litem* in dependency and neglect cases as a proxy (expenditure increases of 6.1 percent in FY 2015-16 and 1.0 percent in FY 2016-17).

In addition, staff's recommendation separately identifies funding for attorney costs and mandated costs. This format mirrors the appropriation structure in the other independent agencies that provide legal counsel.

Finally, please note that staff has used a different methodology to calculate the amount of existing appropriations that should be transferred from the Trial Courts section of the budget. Staff's recommendation for the ORPC for FY 2016-17 includes an additional \$573,143 General Fund that is not offset by the transfer from the Trial Courts section. The following table details each of these three calculations.

JBC Staff Figure Setting: FY 2016-17
Staff Working Document – Does Not Represent Committee Decision

Staff Recommendation for ORPC Court-appointed Counsel and Mandated Costs			
	Court- appointed Counsel	Mandated Costs	Total
Calculation of Transfer from Judicial Department to ORPC:			
Estimate developed by Judicial Department for FY 2015-16 budget request (11/14): Amounts based on the average of actual expenditures in FY 2011-12, FY 2012-13, and projected expenditures for FY 2013-14, plus the estimated cost of implementing attorney rate increases implemented in FY 2014-15.	\$9,730,822	\$242,504	\$9,973,326
Judicial Department supplemental for FY 2015-16 and budget amendment for FY 2016-17 (S2/BA2): Portion of request to increase funding for court-appointed respondent parents' counsel. Amount based on the actual and projected caseload increases from FY 2012-13 to FY 2015-16 for both hourly appointments and flat fee appointments). Request did not include additional funding for mandated costs.	575,907	0	575,907
Adjustment for court-appointed counsel for special respondents in dependency and neglect cases. The Judicial Department's initial estimates included expenditures for these cases, but these cases will not be transferred to the new ORPC. Dollar amount of adjustment calculated by Judicial Department.	(60,000)	0	(60,000)
Subtotal: Transfer from Judicial Department to ORPC	10,246,729	242,504	10,489,233
New Calculations for ORPC for FY 2016-17:			
Actual FY 2014-15 expenditures incurred by Judicial Department for respondent parent counsel cases	10,048,669	274,467	10,323,136
Increase to cover expenditure increase from FY 2014-15 to FY 2015-16, based on most recent projections from the Office of the Child's Representative (OCR) for OCR court appointments in dependency and neglect cases (6.1 percent)	612,969	16,742	629,711
Increase to cover expenditure increase from FY 2015-16 to FY 2016-17, based on most recent projections from the OCR for OCR court appointments in dependency and neglect cases (1.0 percent)	106,616	2,912	109,528
Total Recommendation for ORPC for FY 2016-17	\$10,768,254	\$294,122	\$11,062,376
Difference Between Transfers and Recommendation for ORPC (new funding)	\$521,525	\$51,618	\$573,143

Mandated Costs

This is one of several line item appropriations for "mandated costs". These costs are associated with activities, events, and services that accompany court cases that are required in statute and/or the U.S. and Colorado Constitutions to ensure a fair and speedy trial, and to ensure the right to legal representation. For the ORPC, these costs are anticipated to include the following:

- expert witnesses and expert witness travel reimbursement;
- transcripts; and
- interpreters - out of court.

Statutory Authority: Section 13-92-101 *et seq.*, C.R.S.

Request: The request does not include a separate line item for mandated costs. These expenditures are included within the request for the previous line item.

Recommendation: Staff recommends including a separate line item appropriation of \$294,122 General Fund for mandated costs for FY 2016-17. The calculations for this amount are described in the narrative for the above line item.

(9) Office of the Child Protection Ombudsman

The Office of the Child Protection Ombudsman was created in 2010 to serve as an independent and neutral organization to investigate complaints and grievances about child protection services, make recommendations about system improvements, and serve as a resource for persons involved in the child welfare system. The Office operated as a non-profit organization under contract with the Department of Human Services. Most recently, the Ombudsman's Office was located within the National Association of Counsel for Children, a national nonprofit organization based in Denver.

Senate Bill 15-204 established the Office of the Child Protection Ombudsman (OCPO) in the Judicial Department as an independent agency, and it established the Child Protection Ombudsman Board to oversee personnel decisions, operating policies and procedures, and budget. The act required the OCPO, by November 1, 2015, to sign an administrative memorandum of understanding with the Judicial Department with an effective date of no later than January 1, 2016. The act modified the powers and duties of the existing Child Protection Ombudsman Program in the Department of Human Services, and authorized the Executive Director of the Department of Human Services to extend the existing program contract through December 31, 2015.

The act reduced the General Fund appropriation to the Department of Human Services for FY 2015-16 for the Child Protection Ombudsman by \$270,372 (from \$512,822 to \$242,450), and appropriated \$351,086 General Fund and 2.2 FTE to the Judicial Department for FY 2015-16. The FY 2015-16 appropriation to the Judicial Department included the following components:

- \$166,374 and 2.0 FTE for OCPO personal services and employee benefits;
- \$40,900 for OCPO travel, training, office equipment, printing, and operating expenses;
- \$133,812 for office space build out, furnishings, and computer equipment; and
- \$10,000 and 0.2 FTE for the State Court Administrator's Office to provide administrative support.

For FY 2016-17, the Legislative Council Staff Fiscal Note for the bill anticipated appropriations totaling \$503,876 to the Judicial Department for the following purposes:

- \$402,076 and 4.0 FTE for OCPO personal services and employee benefits;
- \$81,800 for OCPO travel, training, office equipment, printing, and operating expenses; and
- \$20,000 and 0.3 FTE for the State Court Administrator's Office to provide administrative support.

As the new OCPO was still in the process of being established last November, the budget request for the OCPO for FY 2016-17 was included as part of the Judicial Department's November 1, 2015, budget request. This request is consistent with the Legislative Council Staff Fiscal Note.

JBC Staff Figure Setting: FY 2016-17
Staff Working Document – Does Not Represent Committee Decision

Office of the Child Protection Ombudsman						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2015-16 Appropriation						
SB 15-234 (Long Bill)	\$0	\$0	\$0	\$0	\$0	0.0
Other legislation	<u>207,274</u>	<u>207,274</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>2.0</u>
TOTAL	\$207,274	\$207,274	\$0	\$0	\$0	2.0
FY 2016-17 Recommended Appropriation						
FY 2015-16 Appropriation	\$207,274	\$207,274	\$0	\$0	\$0	2.0
Annualize Prior Year Legislation	<u>276,602</u>	<u>276,602</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>2.0</u>
TOTAL	\$483,876	\$483,876	\$0	\$0	\$0	4.0
Increase/(Decrease)	\$276,602	\$276,602	\$0	\$0	\$0	0.0
Percentage Change	3.3%	133.4%	n/a	n/a	n/a	0.0%
FY 2016-17 Executive Request:	\$483,876	\$483,876	\$0	\$0	\$0	1.0
Request Above/(Below) Recommendation	\$0	\$0	\$0	\$0	\$0	0.0

DECISION ITEMS – OFFICE OF THE CHILD PROTECTION OMBUDSMAN (NONE)

LINE ITEM DETAIL – OFFICE OF THE CHILD PROTECTION OMBUDSMAN

Program Costs

Staff recommends including a consolidated line item in the FY 2016-17 Long Bill that includes funding for OCPO operations, including personal services, employee benefits, and operating expenses.

Statutory Authority: Section 19-3.3-101 *et seq.*, C.R.S.

Request: The request includes a total of \$483,876 General Fund and 4.0 FTE.

Recommendation: Staff recommends approving the request, which is consistent with the Legislative Council Staff Fiscal Note for S.B. 15-204. Staff has prepared the following table to illustrate how these funds may be allocated, based on the Committee's common policies for employee benefits. Salary-related employee benefits are calculated using base salaries totaling \$288,500 (per the request) and applying rates consistent with Committee common policies. For purposes of estimating employees' health, life, and dental benefits, staff utilized the employer

contribution rate for employee plus children (\$11,065/year). These calculations allow \$7,751 for other professional services.

Illustration of Allocation of Recommended Appropriation to the Office of the Child Protection Ombudsman for Program Costs	
Description	Amount
Personal Services	\$329,717
Health, Life, and Dental	44,259
Short-term Disability	548
S.B. 04-257 Amortization Equalization Disbursement	13,848
S.B. 06-235 Supplemental Amortization Equalization Disbursement	13,704
Salary Survey	0
Merit Pay	0
Operating Travel and Training Expenses	<u>81,800</u>
TOTAL	\$483,876

Legal Services

Staff recommends including a line item to provide funding for the OCPO to purchase legal services from the Department of Law.

Statutory Authority: Pursuant to 24-31-101 (1) (a), C.R.S., and defined in Section 24-75-112 (1) (i), C.R.S.

Request: The request does not include funding specifically for legal services.

Recommendation: Staff recommends appropriating funding sufficient to allow the OCPO to purchase 240 hours of legal services in FY 2016-17. The Committee recently approved a request for FY 2015-16 for \$21,567 General Fund to cover the cost of legal services provided by the Department of Law to the newly created Child Protection Ombudsman Board (through November), and to provide funding for an additional 40 hours of legal services required in FY 2015-16 to facilitate the continuity of program operations as the program transitions from the Department of Human Services to the Judicial Branch.

Staff's recommendation for FY 2016-17 is based on discussions with the new Ombudsman, who indicated that there will be additional legal costs in FY 2016-17 associated with the development of this new independent office including:

- Finalizing personnel rules;
- Developing internal policies to comply with CORA;
- Developing an operations manual to guide Ombudsman investigations;
- Developing document retention policies; and
- Responding to operations issues such a subpoena requests for Ombudsman documents and questions by board members regarding their fiscal and fiduciary responsibilities.

Based on discussions between the Ombudsman and the Colorado Attorney’s General Office, the above tasks are anticipated to require 20 hours of legal time per month in FY 16-17. The Ombudsman does not anticipate the need for ongoing legal services in FY 2017-18.

Finally, staff recommends adding the following **new** footnote:

N JUDICIAL DEPARTMENT, OFFICE OF THE CHILD PROTECTION OMBUDSMAN -- IN ADDITION TO THE TRANSFER AUTHORITY PROVIDED IN SECTION 24-75-108 (5), C.R.S., UP TO 10.0 PERCENT OF THE TOTAL OFFICE OF THE CHILD PROTECTION OMBUDSMAN APPROPRIATION MAY BE TRANSFERRED BETWEEN LINE ITEMS IN THE OFFICE OF THE CHILD PROTECTION OMBUDSMAN.

This footnote would provide the OCPO with the authority to transfer up to 10.0 percent of its total annual appropriation between line items. The structure and size of the OCPO budget is similar to the Independent Ethics Commission, so staff recommends providing the same type of transfer authority.

(10) Independent Ethics Commission

The Independent Ethics Commission (IEC) is a five-member body established through a constitutional amendment that was approved by voters in 2006³⁶. The purpose of the IEC is to give advice and guidance on ethics-related matters arising under the Colorado Constitution and any other standards of conduct or reporting requirements provided by law concerning public officers, members of the General Assembly, local government officials, or government employees. The IEC hears complaints, issues findings, assesses penalties and sanctions where appropriate, and issues advisory opinions. The members of the IEC are appointed by the Governor, the Chief Justice of the Supreme Court, the Senate, the House of Representatives, and the IEC itself. Commission members serve without compensation but are reimbursed for actual and necessary expenses incurred.

The IEC is an independent agency within the Judicial Branch, and it is currently supported by one employee. The Office of the State Court Administrator provides free administrative support to the IEC, including payroll, leave keeping, budget preparation, accounting services, and computer support. The IEC is supported entirely by General Fund appropriations.

Independent Ethics Commission						
	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
FY 2015-16 Appropriation						
SB 15-234 (Long Bill)	<u>\$347,708</u>	<u>\$347,708</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>1.0</u>
TOTAL	\$347,708	\$347,708	\$0	\$0	\$0	1.0
FY 2016-17 Recommended Appropriation						
FY 2015-16 Appropriation	\$347,708	\$347,708	\$0	\$0	\$0	1.0
Employee Benefits and Common Changes	8,827	8,827	0	0	0	0.0
Annualize Prior Year Budget Actions	<u>2,490</u>	<u>2,490</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$359,025	\$359,025	\$0	\$0	\$0	1.0
Increase/(Decrease)	\$11,317	\$11,317	\$0	\$0	\$0	0.0
Percentage Change	3.3%	3.3%	n/a	n/a	n/a	0.0%
FY 2016-17 Executive Request:	\$347,708	\$347,708	\$0	\$0	\$0	1.0
Request Above/(Below) Recommendation	(\$11,317)	(\$11,317)	\$0	\$0	\$0	0.0

DECISION ITEMS – INDEPENDENT ETHICS COMMISSION (NONE)

³⁶ See Article XXIX of the Colorado Constitution and Section 24-18.5-101, C.R.S.

LINE ITEM DETAIL – INDEPENDENT ETHICS COMMISSION

Program Costs

This is a consolidated line item that includes funding for the 1.0 FTE that supports the Commission, including personal services, employee benefits, and operating expenses.

Statutory Authority: Article XXIX of the State Constitution and Section 24-18.5-101 *et seq.*, C.R.S.

Request: The IEC requests a total of \$176,690 General Fund and 1.0 FTE, which matches the FY 2015-16 appropriation.

Recommendation: The following table details the staff recommendation for this consolidated line item. Staff's recommendation maintains funding for 1.0 FTE Director, plus \$10,000 for contractual services. Overall, staff's recommendation is \$11,317 higher than the request. Staff's recommendation applies Committee policy for all employee benefits, but staff has included funding sufficient to cover the family rate for Health, Life, and Dental benefits based on discussions with the recently hired IEC Director.

Recommended Appropriations to the Independent Ethics Commission - Program Costs			
Description	Current Appropriation	Adjustments	Recommended Appropriation
Personal Services	\$133,876	\$2,490	\$136,366
Health, Life, and Dental	5,479	10,134	15,613
Short-term Disability	244	(29)	215
S.B. 04-257 Amortization Equalization Disbursement	4,884	551	5,435
S.B. 06-235 Supplemental Amortization Equalization Disbursement	4,717	661	5,378
Salary Survey	1,239	(1,239)	0
Merit Pay	1,251	(1,251)	0
Operating Expenses	<u>25,000</u>		<u>25,000</u>
TOTAL	\$176,690	\$11,318	\$188,008

Legal Services

This line item provides funding for the IEC to purchase legal services from the Department of Law.

Statutory Authority: Pursuant to 24-31-101 (1) (a), C.R.S., and defined in Section 24-75-112 (1) (i), C.R.S.

Request: The IEC requests funding sufficient to purchase 1,800 hours of legal services.

Recommendation: Staff recommends approving the request, which maintains the existing level of legal services and is the equivalent of 1.0 FTE at the Department of Law. The following table provides a recent history of appropriations and expenditures for IEC legal services.

JBC Staff Figure Setting: FY 2016-17
Staff Working Document – Does Not Represent Committee Decision

Independent Ethics Commission: Legal Services					
Fiscal Year	Appropriation		Actual Expenditures	Estimated Number of Hours Purchased	(Reversion)/ Shortfall
	Dollars	Hours			
2010-11	\$67,842	900	\$34,217	466	(\$33,625)
2011-12	68,139	900	54,315	717	(13,824)
2012-13	69,525	900	75,945	983	6,420
2013-14	81,972	900	150,252	1,650	68,280
2014-15	176,931	1,787	144,182	1,456	(32,749)
2015-16	171,018	1,800			
2016-17					
Recommendation	Pending	1,800			

Long Bill Footnotes and Requests for Information

The following Long Bill Footnotes (LBF) and Requests for Information (RFI) relate to the Judicial Branch and are included in this section:

Applicable to Multiple Agencies Within Judicial Branch

LBF #45 – Compensation for justices, judges, the State Public Defender, the Alternate Defense Counsel, the Executive Director of the Office of the Child's Representative, and the Director of the Office of the Respondent Parents' Counsel

Judicial RFI #1 – State Court Administrator's Office report concerning state expenditures for compensation of expert witnesses and professionals who conduct mental health examinations or evaluations of juveniles or adults concerning either sanity or competency

Statewide RFI #6 – Inventory of state-owned buildings or structures

Probation

LBF #47 – State funding for veterans treatment courts

Statewide RFI #1 – Cash funds that are utilized by multiple state agencies

Judicial RFI #3 – Recidivism rates

Judicial RFI #5 – Expenditures for testing, treatment, and assessments for offenders

Office of the State Public Defender

LBF #48 – Authority to transfer funds between line item appropriations

Judicial RFI #2 – Appellate case backlog

Office of the Alternate Defense Counsel

LBF #49 – Authority to transfer funds between line item appropriations

Office of the Child's Representative

LBF #50 – Authority to transfer funds between line item appropriations

LBF #51 – Authority to utilize \$25,000 to fund pilot program for domestic relations cases

Office of the Respondent Parents' Counsel

LBF #52 – Authority to transfer funds between line item appropriations

Independent Ethics Commission

LBF #53 – Authority to transfer funds between line item appropriations

District Attorneys

LBF #46 – Portion of state funding for District Attorney mandated costs provided for one or more specific cases

Judicial RFI #4 – State funding for District Attorney mandated costs

LONG BILL FOOTNOTES

Staff recommends the following **new** footnotes:

- N JUDICIAL DEPARTMENT, TRIAL COURTS, COURT COSTS, JURY COSTS, AND COURT-APPOINTED COUNSEL; TRIAL COURTS, ACTION AND STATEWIDE DISCOVERY SHARING SYSTEM; OFFICE OF THE STATE PUBLIC DEFENDER, MANDATED COSTS; OFFICE OF THE ALTERNATE DEFENSE COUNSEL, MANDATED COSTS; AND OFFICE OF THE CHILD'S REPRESENTATIVE, MANDATED COSTS -- IN ADDITION TO THE TRANSFER AUTHORITY PROVIDED IN SECTION 24-75-108 (5), C.R.S., UP TO \$1,000,000 MAY BE TRANSFERRED BETWEEN THE FOUR LINE ITEM APPROPRIATIONS SPECIFIED ABOVE IF NECESSARY BASED ON CHANGES TO THE STATEWIDE DISCOVERY SHARING SYSTEM SCHEDULE. ANY SUCH TRANSFERS MAY ONLY BE MADE UPON MUTUAL AGREEMENT BETWEEN THE STATE COURT ADMINISTRATOR'S OFFICE AND THE IMPACTED INDEPENDENT AGENCIES.
- N JUDICIAL DEPARTMENT, OFFICE OF THE CHILD PROTECTION OMBUDSMAN -- IN ADDITION TO THE TRANSFER AUTHORITY PROVIDED IN SECTION 24-75-108 (5), C.R.S., UP TO 10.0 PERCENT OF THE TOTAL OFFICE OF THE CHILD PROTECTION OMBUDSMAN APPROPRIATION MAY BE TRANSFERRED BETWEEN LINE ITEMS IN THE OFFICE OF THE CHILD PROTECTION OMBUDSMAN.

Comment: This footnote would provide the OCPO with the authority to transfer up to 10.0 percent of its total annual appropriation between line items. The structure and size of the OCPO budget is similar to the Independent Ethics Commission, so staff recommends providing the same type of transfer authority.

Staff recommends **continuing** the following footnotes, with modifications in struck type and small caps:

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

	<u>FY 2014-15</u>	<u>FY 2015-16</u>	<u>2016-17</u>
	<u>Salary</u>	<u>Increase</u>	<u>Salary</u>
Chief Justice, Supreme Court	\$161,151	\$15,648	\$176,799
Associate Justice, Supreme Court	157,710	15,314	173,024
Chief Judge, Court of Appeals	154,933	15,044	169,977
Associate Judge, Court of Appeals	151,463	14,707	166,170
District Court Judge, Denver Juvenile Court Judge, and Denver Probate Court Judge	145,219	14,101	159,320
County Court Judge	138,972	13,494	152,466

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

Comment: This footnote first appeared in the FY 1999-2000 Long Bill. Sections 13-30-103 and 104, C.R.S., established judicial salaries for various fiscal years during the 1990s [through H.B. 98-1238]. 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 this footnote in the Long Bill. The footnote also establishes the salaries for the individuals who head four of the independent judicial agencies by tying them to specific judicial salaries.

Please note that pursuant to S.B. 15-288, the salaries listed in statute for certain state officials and state legislators will also be benchmarked to certain judicial officers' salaries beginning in January 2019. Appendix B provides a more detailed description of this bill, including a table detailing each affected state official and the corresponding judicial officer salary.

The recommended revisions to the footnote for FY 2016-17 are based on maintaining judicial officer salaries at the FY 2015-16 level. For further information about the recommendation, see the discussion at the beginning of the Courts Administration division.

- 47 Judicial Department, Probation and Related Services, Offender Treatment and Services -- It is the intent of the General Assembly that \$624,877 of the General Fund appropriation for Offender Treatment and Services be used to provide treatment and services for offenders participating in veterans treatment courts, including peer mentoring services.

Comment: This footnote identifies the amount of funding within the Offender Treatment and Services line item appropriation that is intended to support treatment and services for offenders participating in veterans treatment courts. The Department has requested continuation of the full \$624,877 for FY 2016-17.

- 48 Judicial Department, Office of the State 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 Office of the State Public Defender appropriation may be transferred between line items in the Office of the State Public Defender.

Comment: This is the first of several footnotes that authorize the independent agencies to transfer a limited amount of funding among line item appropriations, over and above transfers that are statutorily authorized. Section 24-75-108 (5), C.R.S., allows the Chief Justice of the Colorado Supreme Court to authorize transfers between items of appropriation made to the Judicial Branch, subject to certain limitations. One of these

limitations is expressed in Section 24-75-110, C.R.S., which limits the total amount of over expenditures and moneys transferred within the Judicial Branch to \$1.0 million per fiscal year. This footnote provides the OSPD with the authority to transfer up to 2.5 percent of its total annual appropriation between line items.

- 49 Judicial Department, Office of the 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 Office of the Alternate Defense Counsel appropriation may be transferred between line items in the Office of the Alternate Defense Counsel.

Comment: This footnote provides the OADC with the authority to transfer up to 2.5 percent of its total annual appropriation between line items.

- 50 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 the Child's Representative.

Comment: This footnote provides the OCR with the authority to transfer up to 2.5 percent of its total annual appropriation between line items.

- 52 Judicial Department, Office of the Respondent Parents' 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 Office of the Respondent Parents' Counsel's appropriation may be transferred between line items in the Office of the Respondent Parents' Counsel.

Comment: This footnote provides the ORPC with the authority to transfer up to 2.5 percent of its total annual appropriation between line items.

- 53 Judicial Department, Independent Ethics Commission -- In addition to the transfer authority provided in Section 24-75-108 (5), C.R.S., up to 10.0 percent of the total Independent Ethics Commission appropriation may be transferred between line items in the Independent Ethics Commission.

Comment: This footnote provides the Commission with the authority to transfer up to 10.0 percent of its total annual appropriation between line items.

Staff recommends **discontinuing** the following footnotes:

- ~~46 — Judicial Department, Trial Courts, District Attorney Mandated Costs — It is the intent of the General Assembly that \$75,000 of the amount appropriated for District Attorney Mandated Costs be used only to reimburse mandated costs associated with one case: The People of the State of Colorado v. James Holmes (12CR1522). Should reimbursable mandated costs incurred in FY 2015-16 for this case total less than \$75,000, it is the intent of the General Assembly that the unexpended funds revert to the General Fund.~~

Comment: This footnote was first included in S.B 13-092, the supplemental bill for FY 2012-13. The footnote expresses the intent of the General Assembly that a portion of the amount appropriated for this line item be used only to reimburse mandated costs associated with one or more specific, extraordinary cases. The 18th judicial district attorney's office does not anticipate any further expenses for the Holmes case, and the CDAC has not submitted a request for funding for any other specific cases.

~~51 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: 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 child and family investigators (CFIs) and child's legal representatives (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.

The OCR has historically used this flexibility to support a pilot programs in the 2nd (Denver) and 17th (Adams/Broomfield) judicial districts to offer Early Neutral Assessment (ENA) to parties in domestic relations cases. 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. 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.

Pursuant to H.B. 15-1153, as of January 1, 2016, the State Court Administrator's Office is now responsible for the oversight of all court-appointed CFIs as well as the ENA pilot program. The \$25,000 that has been available to the Office of the Child's Representative for ENA has been transferred to the Trial Court Programs line item to continue to support ENA services. This footnote is no longer necessary.

REQUESTS FOR INFORMATION

Staff recommends **continuing** the following requests for information, with modifications in struck type and small caps:

Requests Applicable to Multiple Departments, Including Judicial Branch

- 1 Department of Corrections; Department of Human Services; Judicial Department; Department of Public Safety; and Department of Transportation -- 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 Alcohol and Drug Driving Safety Program Fund, the Law Enforcement Assistance Fund, the Offender Identification Fund, the Persistent Drunk Driver Cash Fund, and the Sex Offender Surcharge Fund, among other programs.

Comment: This RFI is intended to ensure that state agencies coordinate requests that draw on the same cash fund. The RFI is also intended to ensure that for each fund listed, one department includes a comprehensive annual budget request for that fund.

Requests Applicable to the Judicial Branch Only

2. Judicial Department, Office of the State Public Defender – The State Public Defender is requested to provide by November 1, ~~2015~~, 2016, a report concerning the Appellate Division's progress in reducing its case backlog, including the following data for FY ~~2014-15~~; 2015-16: the number of new cases; the number of opening briefs filed by the Office of the State Public Defender; the number of cases resolved in other ways; the number of cases closed; and the number of cases awaiting an opening brief as of June 30, ~~2015~~. 2016.

Comment: In the Fall of 2013, the Office of the State Public Defender (OSPD) submitted a request to add 16.0 FTE to reduce a growing backlog of appellate cases. This funding request was submitted in response to a request for information from the General Assembly. The General Assembly approved the request and appropriated \$839,684 General Fund for FY 2014-15. The above request for information was included to allow the General Assembly to monitor the OSPD's progress in reducing the backlog. The Committee sends a similar request for information to the Department of Law to monitor that agency's progress in reducing the backlog of criminal appellate cases.

3. Judicial Department, Probation and Related Services – The State Court Administrator's Office 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 Office 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 offenders return to probation as the result of violations.

Comment: This report provides useful information on the success of the various probation programs.

4. Judicial Department, Trial Courts, District Attorney Mandated Costs – District Attorneys in each judicial district shall be responsible for allocations made by the Colorado District Attorneys' Council's Mandated Cost Committee. Any increases in this line item shall be requested and justified in writing by the Colorado District Attorneys' Council, rather than the Judicial Department, through the regular appropriation and supplemental appropriation processes. The Colorado District Attorneys' Council is requested to submit an annual report by November 1 detailing how the District Attorney Mandated Costs appropriation is spent, how it is distributed, and the steps taken to control these costs.

Comment: This request indicates that the Colorado District Attorneys' Council (CDAC) is responsible for submitting the budget request related to the District Attorney Mandated Costs line item, and asks that the CDAC provide information annually concerning actual expenditures and steps taken to control costs.

Section 20-1-110, C.R.S., authorizes District Attorneys (DAs) to participate in an intergovernmental cooperative relationship concerning criminal prosecution (*e.g.*, the CDAC), and to enter into contracts on behalf of his or her judicial district for cooperation with other DAs concerning such prosecution and prosecution-related services. Further, Section 20-1-111, C.R.S., authorizes DAs to cooperate or contract with one another to provide any function or service lawfully authorized to each of the cooperating or contracting DAs, "including the sharing of costs and the administration and distribution of moneys received for mandated costs." This provision also authorizes DAs to "allocate up to five percent of the moneys received for mandated costs authorized by the general assembly for administrative expenses".

5. Judicial Department, Probation and Related Services, Offender Treatment and Services – The State Court Administrator's Office 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: This consolidated line item was created in FY 2006-07. The purpose of this format 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. This request ensures that the General Assembly is informed of the actual allocation and expenditure of these funds.

Staff recommends **discontinuing** the following requests for information:

1. ~~Judicial Department, Trial Courts, Court Costs, Jury Costs, and Court-appointed Counsel; Trial Courts, District Attorney Mandated Costs; Office of the State Public Defender, Mandated Costs; and Office of the Alternate Defense Counsel, Mandated Costs—The State Court Administrator's Office (SCAO) is requested to provide by November 1, 2015, a report concerning state expenditures for compensation of expert witnesses and professionals who conduct mental health examinations or evaluations of juveniles or adults concerning either sanity (pursuant to Article 8 of Title 16, C.R.S.) or competency (pursuant to sections 16-8.5-101, et seq. or 19-2-1302, C.R.S.), including the following information: (1) An explanation of the circumstances under which the court pays for such services and when such services must be paid by district attorneys' offices, the Office of the Public Defender (OSPD), or the Office of the Alternate Defense Counsel (OADC); (2) Total expenditures of state funds appropriated to the Judicial Branch for FY 2014-15 for such services; (3) the range of hourly rates paid with state funds in FY 2014-15 for such services; (4) whether the existing limitation on the hourly fee paid for such services in Chief Justice Directive 12-03 is high enough to attract a reasonable number of qualified professionals to perform such services; (5) whether the existing maximum fee per case limitation in Chief Justice Directive 12-03 is high enough to allow a qualified professional to spend a sufficient number of hours to complete a required evaluation, prepare a report, or testify as an expert witness at a court hearing; and (6) whether Chief Justice Directive 12-03 should be modified to increase the maximum hourly fee or the maximum fee per case for certain types of professionals or certain types of services and the fiscal impact of any such modifications on each affected judicial agency. The SCAO is requested to prepare the report with input from the OSPD, OADC, and the Colorado District Attorneys' Council, and those agencies are requested to cooperate with the SCAO as necessary to prepare the requested report.~~

Comment: This request was for a one-time report concerning rates paid for certain types of expert witnesses. The Department submitted a response as requested. Please see the issue brief titled, "Rates Paid for Mental Health Evaluations", for more information about the response and related policy issues.

JBC Staff Staff Figure Setting - FY 2016-17
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Appendix A: Number Pages

	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
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JUDICIAL DEPARTMENT
Nancy Rice, Chief Justice

(1) SUPREME COURT/COURT OF APPEALS

This section provides funding for the Colorado Supreme Court and the Colorado 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; rule-making for the state court system; and overseeing the regulation of attorneys and the practice of law. The Court of Appeals is generally the first court to hear appeals of judgments and orders in criminal, juvenile, civil, domestic relations, and probate matters. The Court of Appeals also has initial jurisdiction to review actions and decisions of several state agencies, boards, and commissions. Cash fund sources primarily include annual attorney registration fees, law examination application fees, appellate court filing fees, and various docket fees that are credited to the Judicial Stabilization Cash Fund. Reappropriated funds are transferred from the Department of Law.

Appellate Court Programs	<u>11,580,999</u>	<u>12,529,949</u>	<u>13,377,395</u>	<u>14,243,683</u>	<u>14,243,683</u>
FTE	140.0	142.7	142.8	143.0	143.0
General Fund	10,248,847	12,459,286	13,305,395	14,171,683	14,171,683
Cash Funds	1,332,152	70,663	72,000	72,000	72,000
Office of Attorney Regulation Counsel	<u>0</u>	<u>10,232,231</u>	<u>10,650,000</u>	<u>10,650,000</u>	<u>10,650,000</u>
FTE	0.0	67.0	69.0	69.0	69.0
Cash Funds	0	10,232,231	10,650,000	10,650,000	10,650,000
Attorney Regulation	<u>8,646,975</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
FTE	56.0	0.0	0.0	0.0	0.0
Cash Funds	8,646,975	0	0	0	0
Continuing Legal Education	<u>1,059,947</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
FTE	4.0	0.0	0.0	0.0	0.0
Cash Funds	1,059,947	0	0	0	0

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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
State Board of Law Examiners	<u>3,117,917</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
FTE	7.0	0.0	0.0	0.0	0.0
Cash Funds	3,117,917	0	0	0	0
Law Library	<u>528,735</u>	<u>652,254</u>	<u>572,669</u>	<u>572,897</u>	<u>572,897</u> *
FTE	3.5	3.5	3.5	3.5	3.5
Cash Funds	466,284	589,133	500,000	500,000	500,000
Reappropriated Funds	62,451	63,121	72,669	72,897	72,897
Indirect Cost Assessment	<u>0</u>	<u>177,001</u>	<u>221,332</u>	<u>296,691</u>	<u>296,691</u>
Cash Funds	0	177,001	221,332	296,691	296,691
TOTAL - (1) Supreme Court/Court of Appeals	24,934,573	23,591,435	24,821,396	25,763,271	25,763,271
FTE	<u>210.5</u>	<u>213.2</u>	<u>215.3</u>	<u>215.5</u>	<u>215.5</u>
General Fund	10,248,847	12,459,286	13,305,395	14,171,683	14,171,683
Cash Funds	14,623,275	11,069,028	11,443,332	11,518,691	11,518,691
Reappropriated Funds	62,451	63,121	72,669	72,897	72,897

JBC Staff Staff Figure Setting - FY 2016-17
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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
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(2) COURTS ADMINISTRATION

The Justices of the Supreme Court appoint a State Court Administrator to oversee administrative functions of the Branch. The State Court Administrator and his staff provide leadership and technical and administrative support for judicial district staff. This section includes funding for: the State Court Administrator and his staff; information technology staff and infrastructure for courts and probation programs; employee benefits for all court and probation staff; multiple programs that are administrated centrally rather than at the judicial district level; and operations of the Ralph L. Carr Colorado Judicial Center.

(A) Administration and Technology

This subsection 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, the Judicial Stabilization 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	<u>19,965,915</u>	<u>22,270,391</u>	<u>24,459,103</u>	<u>25,668,820</u>	<u>25,614,792</u> *
FTE	191.9	206.8	234.9	239.8	239.3
General Fund	12,277,636	14,616,260	16,387,860	17,652,147	17,598,119
Cash Funds	5,783,300	5,591,151	5,747,813	5,747,813	5,747,813
Reappropriated Funds	1,904,979	2,062,980	2,323,430	2,268,860	2,268,860
Information Technology Infrastructure	<u>4,637,670</u>	<u>5,331,833</u>	<u>8,631,321</u>	<u>15,879,211</u>	<u>15,879,211</u> *
General Fund	403,094	403,094	403,094	403,094	403,094
Cash Funds	4,234,576	4,928,739	8,228,227	15,476,117	15,476,117
Indirect Cost Assessment	<u>581,957</u>	<u>640,139</u>	<u>682,402</u>	<u>756,455</u>	<u>756,455</u>
Cash Funds	581,957	640,139	673,399	747,363	747,363
Reappropriated Funds	0	0	9,003	9,092	9,092

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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
SUBTOTAL - (A) Administration and Technology	25,185,542	28,242,363	33,772,826	42,304,486	42,250,458
<i>FTE</i>	<u>191.9</u>	<u>206.8</u>	<u>234.9</u>	<u>239.8</u>	<u>239.3</u>
General Fund	12,680,730	15,019,354	16,790,954	18,055,241	18,001,213
Cash Funds	10,599,833	11,160,029	14,649,439	21,971,293	21,971,293
Reappropriated Funds	1,904,979	2,062,980	2,332,433	2,277,952	2,277,952

(B) Central Appropriations

This subsection includes centrally appropriated line items. While most of these line items cover expenses for the entire Judicial Branch, the following line items exclude funding associated with the six independent agencies: salary-related line items; appropriations for health, life, and dental, and short-term disability insurance; and vehicle lease payments. 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 Correctional Treatment Cash Fund, and the Alcohol and Drug Driving Safety Program Fund.

Health, Life, and Dental	<u>24,360,420</u>	<u>24,238,342</u>	<u>29,574,072</u>	<u>30,021,010</u>	<u>30,022,769</u>
General Fund	22,860,367	22,579,160	26,723,070	27,738,068	27,739,706
Cash Funds	1,500,053	1,659,182	2,851,002	2,282,942	2,283,063
Short-term Disability	<u>296,287</u>	<u>383,709</u>	<u>384,414</u>	<u>343,709</u>	<u>343,006</u>
General Fund	247,005	369,464	347,073	316,306	315,636
Cash Funds	49,282	14,245	37,341	27,403	27,370
S.B. 04-257 Amortization Equalization					
Disbursement	<u>6,394,913</u>	<u>7,869,827</u>	<u>8,928,410</u>	<u>9,983,874</u>	<u>9,880,982</u>
General Fund	5,397,337	7,677,392	8,168,699	9,286,257	9,083,579
Cash Funds	997,576	192,435	759,711	697,617	797,403

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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
S.B. 06-235 Supplemental Amortization					
Equalization Disbursement	<u>5,574,610</u>	<u>7,145,068</u>	<u>8,271,723</u>	<u>9,480,090</u>	<u>9,397,308</u>
General Fund	4,689,972	6,958,118	7,542,763	8,791,315	8,611,455
Cash Funds	884,638	186,950	728,960	688,775	785,853
Salary Survey	<u>5,284,336</u>	<u>12,003,152</u>	<u>8,711,251</u>	<u>4,821,932</u>	<u>1,172,311</u>
General Fund	4,676,224	11,786,542	8,395,379	4,514,724	897,205
Cash Funds	608,112	216,610	315,872	307,208	275,106
Reappropriated Funds	0	0	0	0	0
Merit Pay	<u>3,370,314</u>	<u>1,907,291</u>	<u>2,556,586</u>	<u>0</u>	<u>0</u>
General Fund	2,788,409	1,841,214	2,360,879	0	0
Cash Funds	581,905	66,077	195,707	0	0
Workers' Compensation	<u>1,337,492</u>	<u>1,210,253</u>	<u>1,126,921</u>	<u>1,484,610</u>	<u>1,484,610</u> *
General Fund	1,337,492	1,210,253	1,126,921	1,484,610	1,484,610
Legal Services	<u>134,260</u>	<u>171,825</u>	<u>247,026</u>	<u>190,020</u>	<u>190,020</u>
General Fund	134,260	171,825	247,026	190,020	190,020
Payment to Risk Management and Property Funds	<u>607,112</u>	<u>685,664</u>	<u>729,019</u>	<u>926,755</u>	<u>926,755</u>
General Fund	607,112	685,664	729,019	926,755	926,755
Vehicle Lease Payments	<u>76,374</u>	<u>75,258</u>	<u>93,850</u>	<u>149,622</u>	<u>149,622</u> *
General Fund	76,374	75,258	93,850	149,622	149,622

JBC Staff Staff Figure Setting - FY 2016-17
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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
Ralph L. Carr Colorado Judicial Center Leased					
Space	<u>2,063,194</u>	<u>2,384,393</u>	<u>2,491,754</u>	<u>2,536,816</u>	<u>2,536,816</u>
General Fund	2,063,194	2,384,393	2,491,754	2,536,816	2,536,816
Cash Funds	0	0	0	0	0
Payments to OIT	<u>0</u>	<u>2,622,667</u>	<u>4,031,075</u>	<u>2,538,744</u>	<u>2,538,744</u> *
General Fund	0	2,622,667	4,031,075	2,464,769	2,464,769
Cash Funds	0	0	0	73,975	73,975
CORE Operations	<u>1,056,857</u>	<u>2,101,598</u>	<u>1,619,424</u>	<u>874,207</u>	<u>874,207</u>
General Fund	1,056,857	2,101,598	1,619,424	874,207	874,207
Lease Purchase	<u>119,878</u>	<u>119,878</u>	<u>119,878</u>	<u>0</u>	<u>0</u> *
General Fund	119,878	119,878	119,878	0	0
Cash Funds	0	0	0	0	0
Purchase of Services from Computer Center	<u>699,378</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	699,378	0	0	0	0
Colorado State Network	<u>1,666,209</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	1,666,209	0	0	0	0
Information Technology Security	<u>24,047</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	24,047	0	0	0	0
SUBTOTAL - (B) Central Appropriations	53,065,681	62,918,925	68,885,403	63,351,389	59,517,150
FTE	0.0	0.0	0.0	0.0	0.0
General Fund	48,444,115	60,583,426	63,996,810	59,273,469	55,274,380
Cash Funds	4,621,566	2,335,499	4,888,593	4,077,920	4,242,770
Reappropriated Funds	0	0	0	0	0

JBC Staff Staff Figure Setting - FY 2016-17
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	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
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(C) Centrally Administered Programs

This subsection includes funding and staff associated with specific functions, grant programs, and distributions that are administered by the Office of the State Court Administrator. 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	<u>16,075,801</u>	<u>15,592,516</u>	<u>16,375,000</u>	<u>16,375,000</u>	<u>16,375,000</u>
Cash Funds	16,075,801	15,592,516	16,375,000	16,375,000	16,375,000
Victim Compensation	<u>13,315,657</u>	<u>13,252,814</u>	<u>13,400,000</u>	<u>13,400,000</u>	<u>13,400,000</u>
Cash Funds	13,315,657	13,252,814	13,400,000	13,400,000	13,400,000
Collections Investigators	<u>4,984,001</u>	<u>6,225,420</u>	<u>6,670,821</u>	<u>6,757,202</u>	<u>6,757,202</u>
FTE	80.1	95.9	104.2	104.2	104.2
Cash Funds	4,259,771	5,599,143	5,773,280	5,859,661	5,859,661
Reappropriated Funds	724,230	626,277	897,541	897,541	897,541
Problem-solving Courts	<u>3,097,316</u>	<u>3,112,859</u>	<u>3,509,361</u>	<u>3,603,032</u>	<u>3,603,032</u>
FTE	37.9	32.5	44.3	44.3	44.3
General Fund	(3,900)	0	375,376	398,446	398,446
Cash Funds	3,101,216	3,112,859	3,133,985	3,204,586	3,204,586
Federal Funds	0	0	0	0	0
Language Interpreters and Translators	<u>3,639,982</u>	<u>3,894,614</u>	<u>4,137,999</u>	<u>4,211,315</u>	<u>4,211,315</u>
FTE	24.9	25.5	32.9	33.0	33.0
General Fund	3,376,232	3,863,738	4,087,999	4,161,315	4,161,315
Cash Funds	263,750	30,876	50,000	50,000	50,000

JBC Staff Staff Figure Setting - FY 2016-17
Staff Working Document - Does Not Represent Committee Decision

	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
Courthouse Security	<u>2,606,889</u>	<u>2,071,661</u>	<u>2,471,940</u>	<u>2,698,499</u>	<u>2,474,099</u> *
FTE	1.0	1.0	1.0	1.0	1.0
General Fund	0	0	500,000	724,400	500,000
Cash Funds	2,606,889	2,071,661	1,971,940	1,974,099	1,974,099
Appropriation to Underfunded Courthouse Facility					
Cash Fund	<u>0</u>	<u>700,000</u>	<u>2,000,000</u>	<u>2,000,000</u>	<u>2,000,000</u>
General Fund	0	700,000	2,000,000	2,000,000	2,000,000
Underfunded Courthouse Facilities Grant Program	<u>0</u>	<u>50,604</u>	<u>2,000,000</u>	<u>2,000,000</u>	<u>2,600,000</u>
FTE	0.0	1.0	1.0	1.0	1.0
Cash Funds	0	0	0	0	600,000
Reappropriated Funds	0	50,604	2,000,000	2,000,000	2,000,000
Courthouse Capital/ Infrastructure Maintenance	<u>3,590,121</u>	<u>2,218,813</u>	<u>2,651,657</u>	<u>4,720,569</u>	<u>4,720,569</u> *
General Fund	172,550	2,194,601	1,289,613	2,396,838	2,396,838
Cash Funds	3,417,571	24,212	1,362,044	2,323,731	2,323,731
Senior Judge Program	<u>1,256,444</u>	<u>1,317,418</u>	<u>1,504,384</u>	<u>1,640,750</u>	<u>1,640,750</u>
General Fund	0	17,418	204,384	340,750	340,750
Cash Funds	1,256,444	1,300,000	1,300,000	1,300,000	1,300,000
Judicial Education and Training	<u>1,462,036</u>	<u>1,435,223</u>	<u>1,453,718</u>	<u>1,456,806</u>	<u>1,456,806</u>
FTE	1.8	2.0	2.0	2.0	2.0
General Fund	0	0	4,812	4,812	4,812
Cash Funds	1,462,036	1,435,223	1,448,906	1,451,994	1,451,994

JBC Staff Staff Figure Setting - FY 2016-17
Staff Working Document - Does Not Represent Committee Decision

	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
Office of Judicial Performance Evaluation	<u>673,973</u>	<u>617,248</u>	<u>784,084</u>	<u>771,641</u>	<u>771,641</u>
FTE	2.0	1.8	2.0	2.0	2.0
General Fund	0	290,000	290,000	290,000	290,000
Cash Funds	673,973	327,248	494,084	481,641	481,641
Family Violence Justice Grants	<u>1,148,230</u>	<u>2,150,063</u>	<u>2,670,000</u>	<u>2,670,000</u>	<u>2,670,000</u>
General Fund	1,000,000	2,000,000	2,500,000	2,500,000	2,500,000
Cash Funds	148,230	150,063	170,000	170,000	170,000
Restorative Justice Programs	<u>191,666</u>	<u>529,261</u>	<u>872,249</u>	<u>875,633</u>	<u>875,633</u>
FTE	0.0	0.0	1.0	1.0	1.0
Cash Funds	191,666	529,261	872,249	875,633	875,633
District Attorney Adult Pretrial Diversion Programs	<u>29,561</u>	<u>122,906</u>	<u>477,000</u>	<u>477,000</u>	<u>477,000</u>
General Fund	29,561	122,906	400,000	400,000	400,000
Cash Funds	0	0	77,000	77,000	77,000
Family-friendly Court Program	<u>150,510</u>	<u>247,732</u>	<u>225,943</u>	<u>225,943</u>	<u>225,943</u>
FTE	0.5	0.5	0.5	0.5	0.5
General Fund	0	0	0	0	0
Cash Funds	150,510	247,732	225,943	225,943	225,943
Compensation for Exonerated Persons	<u>107,800</u>	<u>102,771</u>	<u>105,751</u>	<u>107,020</u>	<u>107,020</u> *
General Fund	107,800	102,771	105,751	107,020	107,020
Child Support Enforcement	<u>83,183</u>	<u>85,405</u>	<u>95,339</u>	<u>95,339</u>	<u>95,339</u> *
FTE	1.0	1.0	1.0	1.0	1.0
General Fund	28,458	28,564	32,415	32,415	32,415
Reappropriated Funds	54,725	56,841	62,924	62,924	62,924

JBC Staff Staff Figure Setting - FY 2016-17
Staff Working Document - Does Not Represent Committee Decision

	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
SUBTOTAL - (C) Centrally Administered					
Programs	52,413,170	53,727,328	61,405,246	64,085,749	64,461,349
<i>FTE</i>	<u>149.2</u>	<u>161.2</u>	<u>189.9</u>	<u>190.0</u>	<u>190.0</u>
General Fund	4,710,701	9,319,998	11,790,350	13,355,996	13,131,596
Cash Funds	46,923,514	43,673,608	46,654,431	47,769,288	48,369,288
Reappropriated Funds	778,955	733,722	2,960,465	2,960,465	2,960,465
Federal Funds	0	0	0	0	0

(D) Ralph L. Carr Colorado Judicial Center

This subsection includes appropriations related to the operations of the Ralph L. Carr Colorado Judicial Center. Funding supports: various contractual services (including engineering, custodial, and maintenance services; parking garage operations and maintenance; and copy center operations); the purchase of security services from the Colorado State Patrol; utilities; operational and engineering facility staff; debt service payments (previously included in the Capital Construction section of the budget); and an annual appropriation for facility controlled maintenance needs. Cash funds are from the Justice Center Cash Fund. Reappropriated funds are transferred from Leased Space appropriations to the Judicial Branch and the Department of Law.

Personal Services	<u>1,315,312</u>	<u>1,371,181</u>	<u>1,460,479</u>	<u>1,465,519</u>	<u>1,465,519</u>
FTE	2.0	2.0	2.0	2.0	2.0
Cash Funds	0	11,283	351,707	356,747	1,465,519
Reappropriated Funds	1,315,312	1,359,898	1,108,772	1,108,772	0
Federal Funds	0	0	0	0	0
Operating Expenses	<u>3,703,417</u>	<u>3,728,478</u>	<u>4,026,234</u>	<u>4,026,234</u>	<u>4,026,234</u>
General Fund	0	0	1,146,362	952,887	0
Cash Funds	43,379	0	0	0	4,026,234
Reappropriated Funds	3,660,038	3,728,478	2,879,872	3,073,347	0
Controlled Maintenance	<u>0</u>	<u>454,681</u>	<u>2,025,000</u>	<u>2,025,000</u>	<u>2,025,000</u>
Cash Funds	0	454,681	487,652	487,652	2,025,000
Reappropriated Funds	0	0	1,537,348	1,537,348	0

JBC Staff Staff Figure Setting - FY 2016-17
Staff Working Document - Does Not Represent Committee Decision

	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
Debt Service Payments	0	0	<u>21,543,903</u>	<u>21,577,604</u>	<u>21,577,604</u> *
General Fund	0	0	3,853,638	3,853,638	4,806,525
Cash Funds	0	0	17,690,265	17,723,966	11,031,746
Reappropriated Funds	0	0	0	0	5,739,333
SUBTOTAL - (D) Ralph L. Carr Colorado					
Judicial Center	5,018,729	5,554,340	29,055,616	29,094,357	29,094,357
<i>FTE</i>	<u>2.0</u>	<u>2.0</u>	<u>2.0</u>	<u>2.0</u>	<u>2.0</u>
General Fund	0	0	5,000,000	4,806,525	4,806,525
Cash Funds	43,379	465,964	18,529,624	18,568,365	18,548,499
Reappropriated Funds	4,975,350	5,088,376	5,525,992	5,719,467	5,739,333
Federal Funds	0	0	0	0	0
TOTAL - (2) Courts Administration	135,683,122	150,442,956	193,119,091	198,835,981	195,323,314
<i>FTE</i>	<u>343.1</u>	<u>370.0</u>	<u>426.8</u>	<u>431.8</u>	<u>431.3</u>
General Fund	65,835,546	84,922,778	97,578,114	95,491,231	91,213,714
Cash Funds	62,188,292	57,635,100	84,722,087	92,386,866	93,131,850
Reappropriated Funds	7,659,284	7,885,078	10,818,890	10,957,884	10,977,750
Federal Funds	0	0	0	0	0

JBC Staff Staff Figure Setting - FY 2016-17
Staff Working Document - Does Not Represent Committee Decision

	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
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(3) TRIAL COURTS

This section provides funding for the state trial courts, which consist of district courts in 22 judicial districts, water courts, and county courts. District courts: preside over felony criminal matters, civil claims, juvenile matters, and 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	<u>123,847,168</u>	<u>133,257,426</u>	<u>143,666,952</u>	<u>151,430,646</u>	<u>151,430,646</u> *
FTE	1,741.4	1,781.3	1,860.2	1,859.6	1,859.6
General Fund	93,109,562	100,553,453	113,564,175	121,244,731	121,244,731
Cash Funds	29,626,026	31,728,323	28,852,777	28,935,915	28,935,915
Reappropriated Funds	1,111,580	975,650	1,250,000	1,250,000	1,250,000
Court Costs, Jury Costs, and Court-appointed					
Counsel	<u>15,814,487</u>	<u>18,020,657</u>	<u>18,631,026</u>	<u>8,785,645</u>	<u>8,269,738</u> *
General Fund	15,668,309	17,891,865	18,465,777	8,620,396	8,104,489
Cash Funds	146,178	128,792	165,249	165,249	165,249
District Attorney Mandated Costs	<u>2,312,067</u>	<u>2,535,043</u>	<u>2,492,350</u>	<u>2,590,153</u>	<u>2,417,350</u> *
General Fund	2,152,067	2,374,178	2,322,350	2,420,153	2,247,350
Cash Funds	160,000	160,865	170,000	170,000	170,000
Action and Statewide Discovery Sharing Systems	0	<u>3,000,000</u>	0	<u>2,866,100</u>	<u>2,866,108</u> *
General Fund	0	3,000,000	0	2,796,100	2,796,108
Cash Funds	0	0	0	70,000	70,000

JBC Staff Staff Figure Setting - FY 2016-17
Staff Working Document - Does Not Represent Committee Decision

	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
Federal Funds and Other Grants	<u>1,730,194</u>	<u>2,414,125</u>	<u>2,900,000</u>	<u>2,900,000</u>	<u>2,900,000</u>
FTE	13.7	10.3	14.0	14.0	14.0
Cash Funds	126,445	162,783	975,000	975,000	975,000
Reappropriated Funds	0	0	300,000	300,000	300,000
Federal Funds	1,603,749	2,251,342	1,625,000	1,625,000	1,625,000
TOTAL - (3) Trial Courts	143,703,916	159,227,251	167,690,328	168,572,544	167,883,842
FTE	<u>1,755.1</u>	<u>1,791.6</u>	<u>1,874.2</u>	<u>1,873.6</u>	<u>1,873.6</u>
General Fund	110,929,938	123,819,496	134,352,302	135,081,380	134,392,678
Cash Funds	30,058,649	32,180,763	30,163,026	30,316,164	30,316,164
Reappropriated Funds	1,111,580	975,650	1,550,000	1,550,000	1,550,000
Federal Funds	1,603,749	2,251,342	1,625,000	1,625,000	1,625,000

JBC Staff Staff Figure Setting - FY 2016-17
Staff Working Document - Does Not Represent Committee Decision

	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
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(4) PROBATION AND RELATED SERVICES

This section provides funding for: the supervision of offenders sentenced to probation; the preparation of presentence investigation reports for the courts; victim notification and assistance; and community outreach programs. This section also provides funding for the purchase of treatment and services for offenders on probation, as well as funding that is transferred to other state agencies to provide treatment for substance use disorder and co-occurring disorders for adult and juvenile offenders. Cash funds are from fees paid by offenders for supervision, treatment, and restitution, as well as various cost recoveries. Reappropriated funds include: spending authority for General Fund moneys that are appropriated to the Correctional Treatment Cash Fund; Victims and Witnesses Assistance and Law Enforcement funds transferred from the Trial Courts section; and funds transferred from other Departments.

Probation Programs	<u>76,075,870</u>	<u>78,159,686</u>	<u>84,373,222</u>	<u>86,464,891</u>	<u>84,464,891</u>
FTE	1,129.8	1,111.0	1,181.2	1,183.8	1,183.8
General Fund	65,583,793	68,886,315	73,461,310	75,309,364	75,309,364
Cash Funds	10,492,077	9,273,371	10,911,912	11,155,527	9,155,527
Offender Treatment and Services	<u>24,984,444</u>	<u>29,259,857</u>	<u>32,936,237</u>	<u>34,436,237</u>	<u>34,436,237</u> *
General Fund	667,197	791,272	924,877	924,877	924,877
Cash Funds	12,297,245	13,667,520	14,373,019	15,873,019	15,873,019
Reappropriated Funds	12,020,002	14,801,065	17,638,341	17,638,341	17,638,341
Appropriation to the Correctional Treatment Cash Fund	<u>11,700,000</u>	<u>15,200,000</u>	<u>16,750,000</u>	<u>16,750,000</u>	<u>16,750,000</u>
General Fund	11,700,000	15,200,000	15,200,000	15,200,000	15,200,000
Cash Funds	0	0	1,550,000	1,550,000	1,550,000
S.B. 91-94 Juvenile Services	<u>1,933,860</u>	<u>2,002,479</u>	<u>2,496,837</u>	<u>2,496,837</u>	<u>2,496,837</u>
FTE	25.0	13.1	25.0	25.0	25.0
Reappropriated Funds	1,933,860	2,002,479	2,496,837	2,496,837	2,496,837

JBC Staff Staff Figure Setting - FY 2016-17
Staff Working Document - Does Not Represent Committee Decision

	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
Reimbursements to Law Enforcement Agencies for the Costs of Returning a Probationer	<u>88,049</u>	<u>86,399</u>	<u>187,500</u>	<u>187,500</u>	<u>187,500</u>
Cash Funds	88,049	86,399	187,500	187,500	187,500
Victims Grants	<u>359,162</u>	<u>351,380</u>	<u>650,000</u>	<u>650,000</u>	<u>650,000</u>
FTE	6.0	3.6	6.0	6.0	6.0
Reappropriated Funds	359,162	351,380	650,000	650,000	650,000
Federal Funds and Other Grants	<u>4,546,976</u>	<u>4,227,633</u>	<u>5,600,000</u>	<u>5,600,000</u>	<u>5,600,000</u>
FTE	33.0	33.0	33.0	33.0	33.0
Cash Funds	731,174	673,616	1,950,000	1,950,000	1,950,000
Reappropriated Funds	150,768	216,882	850,000	850,000	850,000
Federal Funds	3,665,034	3,337,135	2,800,000	2,800,000	2,800,000
Indirect Cost Assessment	<u>1,031,039</u>	<u>1,103,840</u>	<u>1,144,696</u>	<u>940,714</u>	<u>940,714</u>
Cash Funds	1,031,039	1,103,840	1,144,696	940,714	940,714
TOTAL - (4) Probation and Related Services	120,719,400	130,391,274	144,138,492	147,526,179	145,526,179
FTE	<u>1,193.8</u>	<u>1,160.7</u>	<u>1,245.2</u>	<u>1,247.8</u>	<u>1,247.8</u>
General Fund	77,950,990	84,877,587	89,586,187	91,434,241	91,434,241
Cash Funds	24,639,584	24,804,746	30,117,127	31,656,760	29,656,760
Reappropriated Funds	14,463,792	17,371,806	21,635,178	21,635,178	21,635,178
Federal Funds	3,665,034	3,337,135	2,800,000	2,800,000	2,800,000

JBC Staff Staff Figure Setting - FY 2016-17
Staff Working Document - Does Not Represent Committee Decision

	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
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(5) OFFICE OF THE STATE PUBLIC DEFENDER

This independent 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 and grants.

Personal Services	<u>43,409,279</u>	<u>55,774,090</u>	<u>59,930,492</u>	<u>61,123,385</u>	<u>61,123,385</u>
FTE	670.8	745.0	783.3	783.9	783.9
General Fund	43,409,279	55,774,090	59,930,492	61,123,385	61,123,385
Health, Life, and Dental	<u>4,978,927</u>	<u>5,355,507</u>	<u>6,232,846</u>	<u>6,159,824</u>	<u>6,159,824</u>
General Fund	4,978,927	5,355,507	6,232,846	6,159,824	6,159,824
Short-term Disability	<u>89,283</u>	<u>102,281</u>	<u>114,758</u>	<u>99,261</u>	<u>99,261</u>
General Fund	89,283	102,281	114,758	99,261	99,261
S.B. 04-257 Amortization Equalization					
Disbursement	<u>1,679,974</u>	<u>1,915,191</u>	<u>2,295,153</u>	<u>2,507,649</u>	<u>2,507,649</u>
General Fund	1,679,974	1,915,191	2,295,153	2,507,649	2,507,649
S.B. 06-235 Supplemental Amortization					
Equalization Disbursement	<u>1,513,219</u>	<u>1,795,395</u>	<u>2,216,909</u>	<u>2,481,528</u>	<u>2,481,528</u>
General Fund	1,513,219	1,795,395	2,216,909	2,481,528	2,481,528
Salary Survey	<u>5,640,158</u>	<u>1,303,106</u>	<u>583,552</u>	<u>0</u>	<u>0</u>
General Fund	5,640,158	1,303,106	583,552	0	0
Merit Pay	<u>651,614</u>	<u>528,200</u>	<u>576,242</u>	<u>0</u>	<u>0</u>
General Fund	651,614	528,200	576,242	0	0

JBC Staff Staff Figure Setting - FY 2016-17
Staff Working Document - Does Not Represent Committee Decision

	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
Vehicle Lease Payments	<u>105,286</u>	<u>99,127</u>	<u>105,569</u>	<u>114,910</u>	<u>114,910</u> *
General Fund	105,286	99,127	105,569	114,910	114,910
Capital Outlay	<u>419,037</u>	<u>183,514</u>	<u>17,401</u>	<u>0</u>	<u>0</u>
General Fund	419,037	183,514	17,401	0	0
Operating Expenses	<u>1,553,480</u>	<u>1,705,567</u>	<u>1,744,642</u>	<u>1,745,212</u>	<u>1,745,212</u>
General Fund	1,534,805	1,691,012	1,714,642	1,715,212	1,715,212
Cash Funds	18,675	14,555	30,000	30,000	30,000
Leased Space/Utilities	<u>5,618,157</u>	<u>5,598,781</u>	<u>6,456,972</u>	<u>6,456,972</u>	<u>6,456,972</u>
General Fund	5,618,157	5,598,781	6,456,972	6,456,972	6,456,972
Automation Plan	<u>1,766,920</u>	<u>1,515,437</u>	<u>1,416,920</u>	<u>1,416,920</u>	<u>1,416,920</u>
General Fund	1,766,920	1,515,437	1,416,920	1,416,920	1,416,920
Attorney Registration	<u>126,300</u>	<u>134,260</u>	<u>140,522</u>	<u>140,085</u>	<u>140,085</u>
General Fund	126,300	134,260	140,522	140,085	140,085
Contract Services	<u>0</u>	<u>45,825</u>	<u>49,395</u>	<u>49,395</u>	<u>49,395</u>
General Fund	0	45,825	49,395	49,395	49,395
Mandated Costs	<u>4,777,888</u>	<u>5,177,715</u>	<u>4,817,866</u>	<u>4,011,360</u>	<u>4,011,360</u> *
General Fund	4,777,888	5,177,715	4,817,866	4,011,360	4,011,360
Grants	<u>35,223</u>	<u>35,928</u>	<u>120,000</u>	<u>120,000</u>	<u>120,000</u>
FTE	0.3	0.3	2.0	2.0	2.0
Cash Funds	35,223	35,928	120,000	120,000	120,000

JBC Staff Staff Figure Setting - FY 2016-17
Staff Working Document - Does Not Represent Committee Decision

	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
TOTAL - (5) Office of the State Public Defender	72,364,745	81,269,924	86,819,239	86,426,501	86,426,501
<i>FTE</i>	<u>671.1</u>	<u>745.3</u>	<u>785.3</u>	<u>785.9</u>	<u>785.9</u>
General Fund	72,310,847	81,219,441	86,669,239	86,276,501	86,276,501
Cash Funds	53,898	50,483	150,000	150,000	150,000

JBC Staff Staff Figure Setting - FY 2016-17
Staff Working Document - Does Not Represent Committee Decision

	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
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(6) OFFICE OF THE ALTERNATE DEFENSE COUNSEL

This independent agency provides legal representation for indigent defendants in cases where the State 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	<u>880,672</u>	<u>916,445</u>	<u>1,093,458</u>	<u>1,286,372</u>	<u>1,186,762</u> *
FTE	8.4	9.1	10.9	13.0	12.0
General Fund	880,672	916,445	1,093,458	1,286,372	1,186,762
Health, Life, and Dental	<u>109,710</u>	<u>105,484</u>	<u>134,599</u>	<u>158,680</u>	<u>134,268</u> *
General Fund	109,710	105,484	134,599	158,680	134,268
Short-term Disability	<u>1,341</u>	<u>1,671</u>	<u>2,078</u>	<u>2,164</u>	<u>1,994</u> *
General Fund	1,341	1,671	2,078	2,164	1,994
S.B. 04-257 Amortization Equalization					
Disbursement	<u>24,222</u>	<u>30,879</u>	<u>41,541</u>	<u>54,661</u>	<u>50,378</u> *
General Fund	24,222	30,879	41,541	54,661	50,378
S.B. 06-235 Supplemental Amortization					
Equalization Disbursement	<u>21,799</u>	<u>28,892</u>	<u>40,126</u>	<u>54,092</u>	<u>49,853</u> *
General Fund	21,799	28,892	40,126	54,092	49,853
Salary Survey	<u>12,817</u>	<u>34,797</u>	<u>61,947</u>	<u>0</u>	<u>0</u>
General Fund	12,817	34,797	61,947	0	0
Merit Pay	<u>10,408</u>	<u>835</u>	<u>6,761</u>	<u>0</u>	<u>0</u>
General Fund	10,408	835	6,761	0	0

JBC Staff Staff Figure Setting - FY 2016-17
Staff Working Document - Does Not Represent Committee Decision

	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
Operating Expenses	<u>96,917</u>	<u>71,691</u>	<u>75,405</u>	<u>79,765</u>	<u>76,355</u> *
General Fund	96,917	71,691	75,405	79,765	76,355
Capital Outlay	<u>0</u>	<u>4,703</u>	<u>4,703</u>	<u>6,946</u>	<u>4,703</u> *
General Fund	0	4,703	4,703	6,946	4,703
Training and Conferences	<u>42,996</u>	<u>60,916</u>	<u>60,000</u>	<u>60,000</u>	<u>60,000</u>
General Fund	22,996	20,916	20,000	20,000	20,000
Cash Funds	20,000	40,000	40,000	40,000	40,000
Conflict-of-interest Contracts	<u>22,416,624</u>	<u>26,861,292</u>	<u>28,007,998</u>	<u>28,007,998</u>	<u>28,007,998</u> *
General Fund	22,416,624	26,861,292	28,007,998	28,007,998	28,007,998
Mandated Costs	<u>1,938,282</u>	<u>2,243,477</u>	<u>2,047,677</u>	<u>1,830,862</u>	<u>1,830,862</u> *
General Fund	1,938,282	2,243,477	2,047,677	1,830,862	1,830,862
TOTAL - (6) Office of the Alternate Defense					
Counsel	25,555,788	30,361,082	31,576,293	31,541,540	31,403,173
<i>FTE</i>	8.4	9.1	10.9	13.0	12.0
General Fund	25,535,788	30,321,082	31,536,293	31,501,540	31,363,173
Cash Funds	20,000	40,000	40,000	40,000	40,000

JBC Staff Staff Figure Setting - FY 2016-17
Staff Working Document - Does Not Represent Committee Decision

	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
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(7) OFFICE OF THE CHILD'S REPRESENTATIVE

This independent 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	<u>1,905,492</u>	<u>1,925,171</u>	<u>2,295,026</u>	<u>2,442,114</u>	<u>2,442,114</u> *
FTE	26.9	26.8	28.9	29.1	29.1
General Fund	1,905,492	1,925,171	2,295,026	2,442,114	2,442,114
Health, Life, and Dental	<u>195,658</u>	<u>186,552</u>	<u>222,248</u>	<u>218,190</u>	<u>218,190</u>
General Fund	195,658	186,552	222,248	218,190	218,190
Short-term Disability	<u>3,197</u>	<u>4,198</u>	<u>5,224</u>	<u>4,111</u>	<u>4,111</u> *
General Fund	3,197	4,198	5,224	4,111	4,111
S.B. 04-257 Amortization Equalization					
Disbursement	<u>59,322</u>	<u>76,543</u>	<u>104,479</u>	<u>103,850</u>	<u>103,850</u> *
General Fund	59,322	76,543	104,479	103,850	103,850
S.B. 06-235 Supplemental Amortization					
Equalization Disbursement	<u>53,380</u>	<u>71,580</u>	<u>100,917</u>	<u>102,767</u>	<u>102,767</u> *
General Fund	53,380	71,580	100,917	102,767	102,767
Salary Survey	<u>34,879</u>	<u>266,519</u>	<u>93,977</u>	<u>13,095</u>	<u>0</u>
General Fund	34,879	266,519	93,977	13,095	0
Merit Pay	<u>28,323</u>	<u>19,415</u>	<u>23,011</u>	<u>0</u>	<u>0</u>
General Fund	28,323	19,415	23,011	0	0

JBC Staff Staff Figure Setting - FY 2016-17
Staff Working Document - Does Not Represent Committee Decision

	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
Operating Expenses	<u>241,195</u>	<u>242,477</u>	<u>193,354</u>	<u>193,354</u>	<u>193,354</u>
General Fund	241,195	242,477	193,354	193,354	193,354
Leased Space	<u>102,120</u>	<u>103,618</u>	<u>105,137</u>	<u>106,680</u>	<u>106,680</u>
General Fund	102,120	103,618	105,137	106,680	106,680
CASA Contracts	<u>1,020,000</u>	<u>1,020,000</u>	<u>1,020,000</u>	<u>1,020,000</u>	<u>1,020,000</u>
General Fund	1,020,000	1,020,000	1,020,000	1,020,000	1,020,000
Training	<u>38,000</u>	<u>49,588</u>	<u>38,000</u>	<u>38,000</u>	<u>38,000</u>
General Fund	38,000	49,588	38,000	38,000	38,000
Court-appointed Counsel	<u>17,625,017</u>	<u>19,004,216</u>	<u>19,627,534</u>	<u>19,813,764</u>	<u>19,703,764</u> *
General Fund	17,625,017	19,004,216	19,627,534	19,813,764	19,703,764
Mandated Costs	<u>54,486</u>	<u>35,998</u>	<u>54,645</u>	<u>47,246</u>	<u>47,246</u> *
General Fund	54,486	35,998	54,645	47,246	47,246
Title IV-E Training Grant	<u>9,390</u>	<u>19,515</u>	<u>9,390</u>	<u>9,390</u>	<u>9,390</u>
Reappropriated Funds	9,390	19,515	9,390	9,390	9,390
TOTAL - (7) Office of the Child's Representative	21,370,459	23,025,390	23,892,942	24,112,561	23,989,466
<i>FTE</i>	<u>26.9</u>	<u>26.8</u>	<u>28.9</u>	<u>29.1</u>	<u>29.1</u>
General Fund	21,361,069	23,005,875	23,883,552	24,103,171	23,980,076
Reappropriated Funds	9,390	19,515	9,390	9,390	9,390

JBC Staff Staff Figure Setting - FY 2016-17
Staff Working Document - Does Not Represent Committee Decision

	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
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(8) OFFICE OF THE RESPONDENT PARENTS COUNSEL

This independent agency will provide legal representation for indigent parents involved in judicial dependency and neglect proceedings, effective July 1, 2016. Cash funds are received from private attorneys for training.

Personal Services	<u>0</u>	<u>0</u>	<u>362,975</u>	<u>1,177,365</u>	<u>1,177,365</u>
FTE	0.0	0.0	2.7	10.0	10.0
General Fund	0	0	362,975	1,177,365	1,177,365
Health, Life, and Dental	<u>0</u>	<u>0</u>	<u>11,789</u>	<u>44,210</u>	<u>90,389</u>
General Fund	0	0	11,789	44,210	90,389
Short-term Disability	<u>0</u>	<u>0</u>	<u>562</u>	<u>2,013</u>	<u>1,739</u>
General Fund	0	0	562	2,013	1,739
S.B. 04-257 Amortization Equalization					
Disbursement	<u>0</u>	<u>0</u>	<u>11,236</u>	<u>43,930</u>	<u>43,930</u>
General Fund	0	0	11,236	43,930	43,930
S.B. 06-235 Supplemental Amortization					
Equalization Disbursement	<u>0</u>	<u>0</u>	<u>10,853</u>	<u>43,472</u>	<u>43,472</u>
General Fund	0	0	10,853	43,472	43,472
Salary Survey	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	0	0	0	0	0
Merit Pay	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	0	0	0	0	0

JBC Staff Staff Figure Setting - FY 2016-17
Staff Working Document - Does Not Represent Committee Decision

	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
Operating Expenses	<u>0</u>	<u>0</u>	<u>25,433</u>	<u>60,800</u>	<u>60,800</u>
General Fund	0	0	25,433	60,800	60,800
Capital Outlay	<u>0</u>	<u>0</u>	<u>435,140</u>	<u>0</u>	<u>0</u>
General Fund	0	0	435,140	0	0
Legal Services	<u>0</u>	<u>0</u>	<u>47,505</u>	<u>19,010</u>	<u>1,900</u>
General Fund	0	0	47,505	19,010	1,900
Case Management System	<u>0</u>	<u>0</u>	<u>37,500</u>	<u>337,500</u>	<u>337,500</u>
General Fund	0	0	37,500	337,500	337,500
Training	<u>0</u>	<u>0</u>	<u>15,000</u>	<u>60,000</u>	<u>60,000</u>
General Fund	0	0	7,500	30,000	30,000
Cash Funds	0	0	7,500	30,000	30,000
Court-appointed Counsel	<u>0</u>	<u>0</u>	<u>0</u>	<u>9,973,326</u>	<u>10,768,254</u>
General Fund	0	0	0	9,973,326	10,768,254
Mandated Costs	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>294,122</u>
General Fund	0	0	0	0	294,122
TOTAL - (8) Office of the Respondent Parents					
Counsel	0	0	957,993	11,761,626	12,879,471
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>2.7</u>	<u>10.0</u>	<u>10.0</u>
General Fund	0	0	950,493	11,731,626	12,849,471
Cash Funds	0	0	7,500	30,000	30,000

JBC Staff Staff Figure Setting - FY 2016-17
Staff Working Document - Does Not Represent Committee Decision

	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
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(9) OFFICE OF THE CHILD PROTECTION OMBUDSMAN

This independent agency investigates complaints and reviews issues raised relating to child protection services, policies, and procedures, and makes recommendations to improve services and promote better outcomes for children and families receiving child protection services.

Program Costs	<u>0</u>	<u>0</u>	<u>228,841</u>	<u>483,876</u>	<u>483,876</u>
FTE	0.0	0.0	2.0	4.0	4.0
General Fund	0	0	228,841	483,876	483,876
Legal Services	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	0	0	0	0	0

TOTAL - (9) Office of the Child Protection					
Ombudsman	0	0	228,841	483,876	483,876
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>2.0</u>	<u>4.0</u>	<u>4.0</u>
General Fund	0	0	228,841	483,876	483,876

JBC Staff Staff Figure Setting - FY 2016-17
Staff Working Document - Does Not Represent Committee Decision

	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
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(10) INDEPENDENT ETHICS COMMISSION

This independent agency 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.

Program Costs	<u>0</u>	<u>0</u>	<u>176,690</u>	<u>176,690</u>	<u>188,007</u>
FTE	0.0	0.0	1.0	1.0	1.0
General Fund	0	0	176,690	176,690	188,007
Legal Services	<u>150,252</u>	<u>144,182</u>	<u>171,018</u>	<u>171,018</u>	<u>171,018</u>
General Fund	150,252	144,182	171,018	171,018	171,018
Salary Survey	<u>0</u>	<u>4,567</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	0	4,567	0	0	0
Personal Services	<u>118,832</u>	<u>110,555</u>	<u>0</u>	<u>0</u>	<u>0</u>
FTE	2.0	0.0	0.0	0.0	0.0
General Fund	118,832	110,555	0	0	0
Health, Life, and Dental	<u>7,209</u>	<u>9,979</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	7,209	9,979	0	0	0
Short-term Disability	<u>183</u>	<u>226</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	183	226	0	0	0
S.B. 04-257 Amortization Equalization					
Disbursement	<u>4,335</u>	<u>4,042</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	4,335	4,042	0	0	0

JBC Staff Staff Figure Setting - FY 2016-17
Staff Working Document - Does Not Represent Committee Decision

	FY 2013-14 Actual	FY 2014-15 Actual	FY 2015-16 Appropriation	FY 2016-17 Request	FY 2016-17 Recommendation
S.B. 06-235 Supplemental Amortization					
Equalization Disbursement	<u>3,917</u>	<u>3,794</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	3,917	3,794	0	0	0
Merit Pay	<u>0</u>	<u>1,827</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	0	1,827	0	0	0
Operating Expenses	<u>15,601</u>	<u>15,893</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	15,601	14,676	0	0	0
Cash Funds	0	1,217	0	0	0
TOTAL - (10) Independent Ethics Commission	300,329	295,065	347,708	347,708	359,025
<i>FTE</i>	<u>2.0</u>	<u>0.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>
General Fund	300,329	293,848	347,708	347,708	359,025
Cash Funds	0	1,217	0	0	0
TOTAL - Judicial Department	544,632,332	598,604,377	673,592,323	695,371,787	690,038,118
<i>FTE</i>	<u>4,210.9</u>	<u>4,316.7</u>	<u>4,592.3</u>	<u>4,611.7</u>	<u>4,610.2</u>
General Fund	384,473,354	440,919,393	478,438,124	490,622,957	486,524,438
Cash Funds	131,583,698	125,781,337	156,643,072	166,098,481	164,843,465
Reappropriated Funds	23,306,497	26,315,170	34,086,127	34,225,349	34,245,215
Federal Funds	5,268,783	5,588,477	4,425,000	4,425,000	4,425,000

Appendix B: Indirect Cost Assessment Methodology

Description of Indirect Cost Assessment Methodology

The Judicial Branch's indirect cost assessment methodology is based on an "*Indirect Cost Pool*", which is allocated among fund sources based on estimates of the relative benefit that each program area receives from each component of the Indirect Cost Pool.

The Branch's Indirect Cost Pool is comprised of the General Fund share of several line item appropriations that appear in three sections of the Long Bill, listed below.

Courts Administration

*General Courts Administration

Information Technology Infrastructure

Workers' Compensation

Legal Services

Payment to Risk Management and Property Funds

Leased Space

Payments to OIT

CORE Operations

Lease Purchase

One line item appropriation that is included in the Department's Indirect Cost Pool (noted with an asterisk above) supports personal services and operating expenses in the State Court Administrator's Office. The Department only includes that portion of the appropriation that relates to administrative positions. The Department also includes the associated costs of administrative employees' benefits. The Department's Indirect Cost Pool is based on appropriated amounts for the previous fiscal year (*e.g.*, the Indirect Cost Pool for FY 2016-17 is based on FY 2015-16 appropriations).

Please note that in previous years the Department also included a portion of the appropriations for both Trial Court Programs and Probation Programs in the indirect cost pool. For FY 2016-17, the Department has excluded these amounts from the indirect cost pool. The Department also increased the portion of appropriations for personnel and operating expenses for General Courts Administration that are included in the indirect cost pool (from 64.6 percent to 79.6 percent). The net impact of these changes is to reduce the indirect cost pool by \$10.1 million. The Department indicates that Trial Court and Probation salaries and benefits are direct costs identified with a particular district and deemed part of the final cost objective for that district. The Department indicates that this change is based on the following two resources:

- Guidance for developing a Federal Indirect Cost Proposal outside of a State Allocation Plan - <https://rates.psc.gov/fms/dca/ASMBc-10.pdf>
- Updates for grant administration and cost principles are available under the Uniform Guidance. That website is <https://www.federalregister.gov/articles/2013/12/26/2013-30465/uniform-administrative-requirements-cost-principles-and-audit-requirements-for-federal-awards>.

Table 1 outlines which line items are included in the Department’s Indirect Cost Pool for FY 2016-17.

Table 1				
Division	Judicial Department: Indirect Cost Pool Line Item	FY 2014-15 General Fund Appropriation	Percent of Costs Included in Indirect Cost Pool	FY 2015-16 Indirect Cost Pool Components
Courts Administration	General Courts Administration - Personal Services and Operating Expenses	\$16,520,860	79.6%	\$13,158,141
	Health, Life, and Dental - Administration	1,553,545	79.6%	1,237,331
	Short-term Disability - Administration	35,786	79.6%	28,502
	S.B. 04-257 AED - Administration	715,719	79.6%	570,039
	S.B. 06-235 SAED - Administration	691,319	79.6%	550,605
	Salary Survey - Administration	428,428	79.6%	341,224
	Information Technology Infrastructure	0	100.0%	0
	Workers’ Compensation	1,126,921	100.0%	1,126,921
	Legal Services	190,020	100.0%	190,020
	Payment to Risk Management and Property Funds	729,019	100.0%	729,019
	Leased Space - State Court Administrator's Office	2,491,754	100.0%	2,491,754
	Payments to OIT	4,031,075	100.0%	4,031,075
	CORE Operations	1,619,424	100.0%	1,619,424
	Lease Purchase	119,878	100.0%	119,878
Trial Courts	Trial Court Programs - Personal Services and Operating Expenses	113,504,175	0.0%	0
	Health, Life, and Dental - Trial Courts	13,858,456	0.0%	0
	Short-term Disability - Trial Courts	153,909	0.0%	0
	S.B. 04-257 AED - Trial Courts	4,193,268	0.0%	0
	S.B. 06-235 SAED - Trial Courts	3,733,527	0.0%	0
	Salary Survey - Trial Courts	6,316,948	0.0%	0
Probation and Related Services	Probation Programs - Personal Services and Operating Expenses	73,461,310	0.0%	0
	Health, Life, and Dental - Probation	7,789,843	0.0%	0
	Short-term Disability - Probation	133,161	0.0%	0
	S.B. 04-257 AED - Probation	2,667,405	0.0%	0
	S.B. 06-235 SAED - Probation	2,576,471	0.0%	0
	Salary Survey - Probation	976,489	0.0%	0
Departmental Indirect Cost Pool				\$26,193,933

As detailed in **Table 2**, the Department calculates an *Indirect Cost Rate* for each general program area. The Department first allocates each component of the Indirect Cost Pool among general program areas. While most components are categorized as “general overhead” because they benefit all program areas in a similar manner, some components only benefit one program area. The Department then calculates an Indirect Cost Rate for each program area by comparing the program area’s allocation from the Indirect Cost Pool to total Long Bill appropriations for the Department (including all state fund sources, but excluding appropriations for each of the independent agencies). For example, the “general overhead” portion of the Indirect Cost Pool represents 2.45 percent of total Department appropriations, and the “probation” portion of the Indirect Cost Pool represents 0.99 percent of total Department appropriations. Thus, the Department applies an Indirect Cost Rate of 4.28 percent (2.45% + 0.99% = 3.44%) to each fund source that supports a probation-related program.

Table 2 Judicial Department: Calculation of Basis for Allocating Indirect Costs												
Division		Line Items Included in Indirect Cost Pool		Allocation of Cost Pool Components by Program Area								
				Total (from Table 1)	General Overhead		Trial Courts		Probation		Attorney Regulation	
					Percent	Dollars	Percent	Dollars	Percent	Dollars	Percent	Dollars
Courts Administration	General Courts Administration - Personal Services and Operating Expenses, and Associated Benefits	\$15,885,842	16.0%	\$2,541,735	49.0%	\$7,784,063	33.0%	\$5,242,328	2.0%	\$317,717		
	Information Technology Infrastructure	0	100.0%	0	0.0%	0	0.0%	0	0.0%	0		
	Workers' Compensation	1,126,921	100.0%	1,126,921	0.0%	0	0.0%	0	0.0%	0		
	Legal Services	190,020	100.0%	190,020	0.0%	0	0.0%	0	0.0%	0		
	Payment to Risk Management and Property Funds	729,019	100.0%	729,019	0.0%	0	0.0%	0	0.0%	0		
	Leased Space - State Court Administrator's Office	2,491,754	100.0%	2,491,754	0.0%	0	0.0%	0	0.0%	0		
	Payments to OIT (new in FY2015)	4,031,075	100.0%	4,031,075	0.0%	0	0.0%	0	0.0%	0		
	CORE Operations	1,619,424	100.0%	1,619,424	0.0%	0	0.0%	0	0.0%	0		
	Lease Purchase	119,878	100.0%	119,878	0.0%	0	0.0%	0	0.0%	0		
Trial Courts	Trial Court Programs - Personal Services and Operating Expenses, and Associated Benefits	0	0.0%	0	100.0%	0	0.0%	0	0.0%	0		
Probation and Related Services	Probation Programs - Personal Services and Operating Expenses, and Associated Benefits	0	0.0%	0	0.0%	0	100.0%	0	0.0%	0		
Total		\$26,193,933		\$12,849,826		\$7,784,063		\$5,242,328		\$317,717		
Total Budget for State Court Administrator's Office, Courts, and Probation - Allocated Indirect Cost Pool / Total Budget		527,110,564										
			2.44%		1.48%		0.99%		0.09%			

The *Indirect Cost Base* is comprised of total Long Bill appropriations to the Department (including all state fund sources, but excluding appropriations for each of the independent agencies). Thus, the *Departmental Indirect Cost Assessment* for each fund source is calculated by multiplying the applicable Indirect Cost Rate by the total amount appropriated in the Long Bill from that fund source. Please note that the Department does not recover indirect costs from several non-General Fund sources of funding, which are listed on the following page.

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- *Crime Victim-related funds:* Statutorily, a Victims and Witnesses Assistance and Law Enforcement Fund and a Crime Victim Compensation Fund are established in the office of the court administrator for each judicial district. Moneys anticipated to be expended from these funds are reflected in the Long Bill for informational purposes, but local court administrators and district attorneys may spend these funds without an appropriation. Statute requires that these funds be used for the implementation of the rights afforded to crime victims, services and compensation of crime victims, and certain related administrative costs incurred by local court administrators and district attorneys.
 - *Judicial Stabilization Cash Fund:* Moneys in this fund may be appropriated for the “expenses of trial courts in the judicial department”. This fund was created through S.B. 03-186, a Joint Budget Committee sponsored bill that raised multiple docket, filing, and probation fees and used the revenues to reduce General Fund expenditures. As this fund is used in lieu of General Fund for certain trial court expenses, it has never been used to cover indirect costs.
 - *Attorney law examination and continuing legal education fees:* The Colorado Supreme Court is authorized to collect fees from attorneys and judges to cover the costs of regulation of the practice of law. The Department currently assesses indirect costs on fees related to attorney regulation activities, but not on fees related to continuing legal education or the bar exam.
 - *Fees credited to the Supreme Court Library Fund:* The Supreme Court Library is a public library that is supported by appellate filing and other fees deposited in the Supreme Court Library Fund.
 - *Transfers from other state agencies:* The Department receives federal child support enforcement funding from the Department of Human Services, for persistent drunk driver programs, and for S.B. 91-94 juvenile service programs.

In addition, please note that the budget for the Judicial Branch includes funding for six independent agencies. Other than a small amount of revenue from training fees and occasional grants, these independent agencies are entirely supported by the General Fund. Thus, administrative costs incurred by these agencies are not included in the Indirect Cost Pool, and the budgets for these agencies do not reflect indirect cost assessments. These agencies do not currently use fees that are paid by attorneys attending training sessions to cover agency indirect costs. With respect to grants, if one of these agencies were to receive a grant that may be used to cover both direct and indirect costs, the agency would charge an appropriate amount to the grant, and then use that amount to cover an administrative expense that would otherwise be supported by General Fund. Thus, any indirect cost recoveries that may be collected by these agencies would be used to reduce General Fund expenditures.

Table 3, on the following page, details the calculation of the Departmental Indirect Cost Assessment for FY 2016-17 among divisions and specific funding sources. The Department then allocates the Statewide Indirect Cost Assessment proportionally, based on Departmental Indirect Cost Assessments.

Table 3 Judicial Department: Allocation of Indirect Costs Among Divisions and Fund Sources					
Division	Fund Source	Indirect Cost Rate		Statewide Indirect Cost Assessment	Total Indirect Cost Assessment
		Applied to Appropriated Amount	Dept. Indirect Cost Assessment		
Supreme Court/ Court of Appeals	Annual attorney registration fees for Attorney Regulation	2.53%	\$269,694	\$26,997	\$296,691
	Judicial Stabilization Cash Fund		0	0	0
	Law examination application fees for the State Board of Law Examiners		0	0	0
	Annual attorney registration fees for Continuing Legal Education		0	0	0
	Subtotal		269,694	26,997	296,691
Courts Administration	Judicial Department Information Technology Cash Fund	2.44%	384,803	38,519	423,322
	Victims and Witnesses Assistance and Law Enforcement Fund		0	0	0
	Crime Victim Compensation Fund		0	0	0
	Court Security Cash Fund	3.91%	77,192	7,727	84,919
	Judicial Collection Enhancement Fund	2.44%	118,800	11,892	130,692
	Fines Collection Cash Fund	2.44%	21,940	2,196	24,136
	Judicial Stabilization Cash Fund		0	0	0
	Justice Center Cash Fund	2.44%	20,462	2,048	22,510
	State Commission on Judicial Performance Cash Fund	3.91%	19,341	1,936	21,277
	Family-friendly Court Program Cash Fund	3.91%	8,845	885	9,730
	Family Violence Justice Fund	3.91%	6,655	666	7,321
	Restorative Justice Surcharge Fund	3.91%	21,321	2,134	23,455
	Various Federal Grants			9,092	9,092
	Transfer from DHS from the Child Support Enforcement line item		0	0	0
Subtotal		679,359	77,097	756,456	
Trial Courts	Judicial Stabilization Cash Fund		0	0	0
	Transfer from DHS from the Child Support Enforcement line item		0	0	0
	Water Adjudication Cash Fund		0	0	0
	Subtotal		0	0	0
Probation and Related Services	Offender Services Fund	3.43%	499,579	50,009	549,588
	Correctional Treatment Cash Fund	3.43%	164,645	16,481	181,126
	Alcohol and Drug Driving Safety Program Fund	3.43%	182,439	18,262	200,701
	Offender Identification Fund	3.43%	2,016	202	2,218
	Interstate Compact Probation Transfer Cash Fund	3.43%	6,436	644	7,080
	Sex Offender Surcharge Fund		0	0	0
	Transfer from DHS from Persistent Drunk Driver Programs line item		0	0	0
	Transfer from DHS from S.B. 91-94 Programs line item		0	0	0
	Victims and Witnesses Assistance and Law Enforcement Board grants and transfer from DPS from State Victims Assistance and Law Enforcement Programs line item		0	0	0
	Subtotal		855,115	85,598	940,713
Total			\$1,804,168	\$189,692	\$1,993,860

FY 2016-17 Indirect Cost Assessment Request

The total of departmental and statewide indirect cost assessments is appropriated in the “General Courts Administration” line item in the Courts Administration section of the Long Bill, thereby reducing General Fund expenditures by the same amount. In addition, this line item includes an amount that is anticipated to be charged to various federal grants received by the Department to cover a portion of departmental and statewide indirect costs. These federal recoveries are treated differently than other indirect cost recoveries because they are less predictable, and the indirect cost assessment is calculated using a different methodology (*e.g.*, the calculation uses lag data and the rates are not finalized until September of the fiscal year). If the total amount of indirect cost recoveries from federal grants exceeds the amount reflected in the Long Bill, the Department books the expenditure to the associated grants line item, and then applies such recoveries to the General Courts Administration line item. Thus, all indirect cost recoveries from federal grants reduce General Fund expenditures.

As detailed in the following **Table 4**, the Department's FY 2016-17 request (as modified by JUD BA3) includes a total of \$2,268,860 for indirect cost assessments and indirect cost recoveries from federal grants. The request for FY 2016-17 represents a decrease of \$54,570 compared to FY 2015-16, primarily due to the change in the Department's methodology.

Division	Total	Indirect Cost Assessments		Estimated Indirect Cost Recoveries from Federal
		Cash Funds	Other Funds	
Supreme Court/Court of Appeals	\$296,691	\$296,691	\$0	\$0
Courts Administration	756,456	747,364	9,092	0
Trial Courts	0	0	0	0
Probation and Related Services	940,713	940,713	0	0
Amounts Reflected Within Grants Line Items	275,000	0	0	275,000
Total Indirect Cost Assessment for FY 2016-17	2,268,860	1,984,768	9,092	275,000
FY 2015-16 Indirect Cost Assessment	2,323,430	2,039,427	9,003	275,000
Difference (FY 16-17 less FY 15-16)	(54,570)	(54,659)	89	0