

The following file contains two documents:

- A memorandum to the Joint Budget Committee members dated March 13, 2014. This memorandum provides a recommendation for a request for information concerning court appointments in domestic relations cases.
- A memorandum to the Joint Budget Committee members dated March 4, 2014. This memorandum provides a revised recommendation concerning the allocation of moneys in the Correctional Treatment Cash Fund for FY 2014-15.
- A document dated February 19, 2014, titled "FY 2014-15 Staff Figure Setting: Judicial Branch". This document includes staff recommendations related the Judicial Branch budget requests for FY 2014-15.

# MEMORANDUM

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**TO:** Joint Budget Committee

**FROM:** Carolyn Kampman, JBC Staff

**SUBJECT:** Request for Information Concerning Appointments in Domestic Relations Cases

**DATE:** March 13, 2014

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Staff recommends including the following request for information in the Committee's letter to the Chief Justice of the Colorado Supreme Court:

**2 JUDICIAL DEPARTMENT, TRIAL COURTS, COURT COSTS, JURY COSTS, AND COURT-APPOINTED COUNSEL; OFFICE OF THE CHILD'S REPRESENTATIVE, COURT-APPOINTED COUNSEL** – THE STATE COURT ADMINISTRATOR'S OFFICE (SCAO) IS REQUESTED TO PROVIDE BY NOVEMBER 1, 2014, A REPORT CONCERNING PRACTICES RELATED TO COURT APPOINTMENTS IN DOMESTIC RELATIONS CASES, INCLUDING THE FOLLOWING INFORMATION: (1) THE NUMBER OF STATE-PAID APPOINTMENTS IN EACH JUDICIAL DISTRICT FOR FY 2013-14 AND THE ASSOCIATED STATE EXPENDITURES FOR ATTORNEYS SERVING AS A CHILD AND FAMILY INVESTIGATOR (CFI), FOR NON-ATTORNEYS SERVING AS A CFI, AND FOR ATTORNEYS SERVING AS A CHILD'S LEGAL REPRESENTATIVE (CLR); (2) A DESCRIPTION OF THE SCAO'S ROLE IN OVERSEEING PRIVATELY-PAID APPOINTMENTS OF CFIS AND CLRS; (3) THE MERITS OF ALLOWING JUDGES THE DISCRETION TO APPOINT AN ATTORNEY OR A NON-ATTORNEY AS A CFI; (4) THE MERITS OF HAVING TWO DIFFERENT JUDICIAL AGENCIES OVERSEEING STATE-PAID APPOINTMENTS IN DOMESTIC RELATIONS CASES; AND (5) THE MERITS OF PAYING ATTORNEYS AND NON-ATTORNEYS WHO SERVE AS CFIS DIFFERENT HOURLY RATES. THE SCAO IS REQUESTED TO PREPARE THE REPORT WITH THE INPUT OF THE OFFICE OF THE CHILD'S REPRESENTATIVE (OCR), AND THE OCR IS REQUESTED TO COOPERATE WITH THE SCAO AS NECESSARY TO PREPARE THE REQUESTED REPORT.

The purpose of this recommendation is to ask the two judicial agencies that currently share responsibility for overseeing state-paid appointments in domestic relations cases involving the allocation of parental responsibilities to work together to evaluate current court and administrative practices to determine if changes are warranted. Staff believes that this issue requires attention for the following reasons:

- State expenditures for CFI and CLR appointments have ranged from \$424,493 to \$891,261 in the last seven years, but the expenditure fluctuations do not correspond to caseload changes.
- The State currently pays significantly different hourly rates for attorney and non-attorney CFIs (\$65 and \$25, respectively), but the average expenditure per case for each type of CFI does not differ significantly.
- Practices in individual judicial districts related to the appointment of a CFI versus a CLR appear to differ significantly.

Staff has discussed this issue and shared the above proposed language with staff from both the SCAO and the OCR, and they are supportive of the recommendation.

*Background Information – Domestic Relations Cases*

In FY 2012-13, 34,629 domestic relations (DR) cases were filed in state district courts, representing 15 percent of all district court case filings. About three-quarters of DR cases involve dissolutions of marriage or a civil union; the remaining cases involve allocation of parental responsibility, legal separation, administrative support orders, or marriage invalidity. In FY 2012-13, 76 percent of parties in DR cases did not have legal representation (called "*pro se*" parties). Further, unlike other county and district court civil cases, the percent of *pro se* litigants in DR cases was just as high for the parties who filed the case as for the respondent parties.

*Background Information – Court Appointments in Domestic Relations Cases*

Under current law, the court may make two types of appointments in a DR case that involves the allocation of parental responsibilities:

- The court may appoint an attorney, a mental health professional, or any other individual with appropriate training and qualifications to serve as a child and family investigator (CFI)<sup>1</sup>. The role of the CFI is to investigate, report, and make recommendations to the court on issues outlined in the court's order of appointment that affect the best interests of children involved in the DR case. The CFI is required to file a written report with the court and may be called to testify as a witness regarding his/her recommendations.
- The court may appoint an attorney to serve as a child's legal representative (CLR)<sup>2</sup>. The role of the CLR is to serve as the legal representative of the minor or dependent child, representing the best interests of the child with respect to the child's custody, the allocation of parental responsibilities, support for the child, the child's property, parenting time, or any other issue related to the child that is identified by the CLR or the appointing court. The CLR may not be called as a witness. An attorney may not serve as both the child's CLR and as the CFI.

When the court appoints an attorney to act as a CFI or a CLR, and the parties to the case are determined to be indigent, the Office of the Child's Representative (OCR) oversees and pays for appointment. When the court appoints a non-attorney to act as a CFI and the parties to the case are determined to be indigent, the State Court Administrator's Office (SCAO) oversees and pays for the appointment. In addition, the SCAO oversees the eligibility of individuals to be appointed as a CFI when the parties to the case are not determined to be indigent (and thus the costs of the CFI appointment are paid by the parties).

The table on the following page provides three sets of data concerning domestic relations cases for the last seven fiscal years: (1) the number of cases filed; (2) the number of appointments paid

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<sup>1</sup> See Section 14-10-116.5, C.R.S.

<sup>2</sup> See Section 14-10-116, C.R.S.

## Request for Information – Appointments in Domestic Relations Cases

Page 3

March 13, 2014

and the associated expenditures incurred by the OCR; and (3) the number of appointments paid and the associated expenditures incurred by the SCAO.

Selected Data Concerning Domestic Relations Cases							
Description	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13
<u>District Court Data</u>							
Number of DR Cases Filed	32,230	33,025	33,190	35,624	36,009	35,434	34,629
<u>OCR Data (Attorney CFIs and CLR)</u>							
Number of Appointments Paid in DR Cases	624	606	760	690	450	494	631
Expenditures for DR Appointments	\$525,290	\$546,087	\$801,945	\$402,210	\$352,768	\$408,037	\$478,766
Average Cost per Appointment	\$842	\$901	\$1,055	\$583	\$784	\$826	\$759
<u>SCAO Data (Non-attorney CFIs)</u>							
Number of Appointments Paid in DR Cases	n/a	n/a	n/a	n/a	101	87	81
Expenditures for DR Appointments	\$41,031	\$37,969	\$89,316	\$79,161	\$71,725	\$64,012	\$72,737
Average Cost per Appointment	n/a	n/a	n/a	n/a	\$710	\$736	\$898
<b>Totals</b>							
Total Appointments Paid in DR Cases	n/a	n/a	n/a	n/a	551	581	712
<b>Total Expenditures for DR Appointments</b>	<b>\$566,321</b>	<b>\$584,056</b>	<b>\$891,261</b>	<b>\$481,371</b>	<b>\$424,493</b>	<b>\$472,049</b>	<b>\$551,503</b>
Average Cost per Appointment	n/a	n/a	n/a	n/a	\$710	\$736	\$898

The data indicates that the number of appointments and the associated expenditures fluctuate significantly, and do not appear to correspond to the total number of DR cases filed. In addition, nearly 90 percent of the appointments in DR cases involve attorneys and are thus overseen and paid by the OCR. Staff notes that the hourly rates paid by the OCR and the SCAO differ significantly: OCR currently pays \$65 per hour and the SCAO pays \$25 per hour. As a result, staff would have expected to see a lower average cost per appointment paid by the SCAO. However, the data available for the last three fiscal years indicates that the average cost per appointment does not significantly differ as one would expect given the difference in hourly rates.

Finally, staff has seen data that indicates that practices may differ significantly among judicial districts. Specifically, for most judicial districts, most or all of the appointments in DR cases are for a CFI; however, for a few judicial districts, most or all of the appointments in DR cases are for a CLR.

# MEMORANDUM

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**TO:** Joint Budget Committee

**FROM:** Carolyn Kampman, JBC Staff

**SUBJECT:** Allocation of Moneys in the Correctional Treatment Cash Fund for FY 2014-15

**DATE:** March 4, 2014

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On February 19, the Committee approved a staff recommendation concerning appropriations from the Correctional Treatment Cash Fund (CTCF) for FY 2014-15. [*The discussion that begins on page 110 of the document titled, "FY 2014-15 Staff Figure Setting: Judicial Branch", dated February 19, 2014*]. In addition, the Committee approved a motion by Senator Steadman to discontinue using CTCF moneys that currently support probation officers (a total of \$812,168), and instead use these funds to expand services for offenders. Senator Steadman's motion assumed the additional moneys would be allocated proportionately based on the Correctional Treatment Board's allocation plan for FY 2014-15. However, Senator Steadman asked staff to prepare a "comeback" if another allocation of these additional moneys is more appropriate.

The Correctional Treatment Board has discussed the Committee's action and recommends the following allocation of the \$812,168 made available by the Committee:

- \$291,168 for services for offenders on probation;
- \$221,000 for Jail-based behavioral health services;
- \$200,000 for services for offenders in community corrections; and
- \$100,000 for substance abuse treatment for offenders on parole.

**Staff has thus prepared a revised FY 2014-15 recommendation for the Committee's consideration.** The table that starts on the next page details the following:

- the existing allocation of CTCF;
- the allocation of the \$3.5 million increase required by statute;
- the re-allocation of \$812,168 per the Committee's action on February 19; and
- a re-allocation among line items within the Department of Human Services to reflect current contracting practices (this recommendation is discussed in more detail in staff's figure setting document for the Department's behavioral health services programs, dated March 5, 2014).

**Staff requests permission to adjust the appropriations for all four departments that spend moneys from the Correctional Treatment Cash Fund accordingly.**

Allocation from Correctional Treatment Cash Fund

Page 2

March 4, 2014

Appropriations from the Correctional Treatment Cash Fund						
Department/ Line Item	FY 2013-14	FY 2014-15				Revised Recommendation
		Increase per Initial Correctional Treatment Board Plan	Re-allocation of Existing Funding Following JBC Action	Realignment Based on DHS Contracting Practices		
<b>JUDICIAL:</b>						
<u>Courts Administration</u>						
<i>Administration and Technology</i>						
General Courts Administration	\$91,078	\$3,245	\$0	\$0	\$94,323	
Indirect Cost Assessment 1/	222,859	(4,111)	0	0	218,748	
<i>Central Appropriations</i>						
Various line items - probation staff	110,054	0	(110,054)	0	0	
Various line items - CTB staff	0	26,494	0	0	26,494	
<i>Centrally Administered Programs</i>						
District Attorney Adult Pretrial Diversion Programs	0	77,000	0	0	77,000	
<u>Probation and Related Services</u>						
Probation Programs	702,114	0	(702,114)	0	0	
Offender Treatment and Services	5,406,879	297,372	291,168	0	5,995,419	
<b>Subtotal: Judicial</b>	<b>\$6,532,984</b>	<b>\$400,000</b>	<b>(\$521,000)</b>	<b>\$0</b>	<b>\$6,411,984</b>	
	<i>Annual \$ Change</i>				<i>(\$121,000)</i>	
	<i>Annual % Change</i>				<i>-1.9%</i>	
<b>CORRECTIONS:</b>						
<u>Inmate Programs</u>						
<i>Drug and Alcohol Treatment Subprogram</i>						
Services for Substance Abuse and Co-occurring Disorders	995,127	0	0	0	995,127	
Contract Services	250,000	100,000	0	0	350,000	
<u>Community Services</u>						
<i>Parole Subprogram</i>						
Contract Services (Substance abuse treatment)	1,259,100	0	300,000	0	1,559,100	
Contract Services (Substance abuse monitoring)	498,000	255,000	(200,000)	0	553,000	
<b>Subtotal: Corrections</b>	<b>\$3,002,227</b>	<b>\$355,000</b>	<b>\$100,000</b>	<b>\$0</b>	<b>\$3,457,227</b>	
	<i>Annual \$ Change</i>				<i>\$455,000</i>	
	<i>Annual % Change</i>				<i>15.2%</i>	
<b>HUMAN SERVICES:</b>						
<u>Behavioral Health Services</u>						
<i>Substance Use Treatment and Prevention</i>						
Treatment and Detoxification Contracts	887,300	250,000	0	(72,612)	1,064,688	
Short-term Intensive Residential Remediation and Treatment (STIRRT)	389,066	0	0	38,880	427,946	
<i>Integrated Behavioral Health Services</i>						
Jail-based Behavioral Health Services	3,013,790	310,000	221,000	33,732	3,578,522	
<b>Subtotal: Human Services</b>	<b>\$4,290,156</b>	<b>\$560,000</b>	<b>\$221,000</b>	<b>\$0</b>	<b>\$5,071,156</b>	
	<i>Annual \$ Change</i>				<i>\$781,000</i>	
	<i>Annual % Change</i>				<i>18.2%</i>	

Allocation from Correctional Treatment Cash Fund

Page 3

March 4, 2014

Appropriations from the Correctional Treatment Cash Fund					
Department/ Line Item	FY 2013-14	FY 2014-15			
		Increase per Initial Correctional Treatment Board Plan	Re-allocation of Existing Funding Following JBC Action	Realignment Based on DHS Contracting Practices	Revised Recommendation
<b>PUBLIC SAFETY:</b>					
Executive Director's Office <i>Administration</i>					
Various line items	13,366	0	0	0	13,366
Division of Criminal Justice <i>Administration</i>					
DCJ Administrative Services	90,631	0	0	0	90,631
<i>Community Corrections</i>					
Community Corrections Placements	1,018,869	1,625,000	0	0	2,643,869
Services for Substance Abuse and Co-occurring Disorders	1,793,900	560,000	200,000	0	2,553,900
<b>Subtotal: Public Safety</b>	<b>\$2,916,766</b>	<b>\$2,185,000</b>	<b>\$200,000</b>	<b>\$0</b>	<b>\$5,301,766</b>
<i>Annual \$ Change</i>					\$2,385,000
<i>Annual % Change</i>					81.8%
<b>GRAND TOTAL</b>	<b>\$16,742,133</b>	<b>\$3,500,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$20,242,133</b>
<i>Annual \$ Change</i>					\$3,500,000
<i>Annual % Change</i>					20.9%

Please note that the Board's re-allocation recommendation includes the shift of \$200,000 within the Department of Corrections (DOC) from substance abuse monitoring to substance abuse treatment. It is staff's understanding that while the DOC had planned to use \$200,000 to provide co-pay incentives for parolees with clean urinalyses, this will not be possible. Thus, the Board recommends that these funds instead be used for treatment services.

**COLORADO GENERAL ASSEMBLY  
JOINT BUDGET COMMITTEE**



**FY 2014-15 STAFF FIGURE SETTING  
JUDICIAL BRANCH**

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

**Prepared By:  
Carolyn Kampman, JBC Staff  
February 19, 2014**

For Further Information Contact:

Joint Budget Committee Staff  
200 E. 14th Avenue, 3rd Floor  
Denver, Colorado 80203  
Telephone: (303) 866-2061  
TDD: (303) 866-3472



## TABLE OF CONTENTS

Branch Overview .....	1
Summary of:	
Branch Request .....	1
Staff Recommendation.....	1
Initiatives Affecting Multiple Divisions	
OADC R2 and OCR R3 Contractor rate increases .....	6
JUD R6 Self-represented litigant coordinators .....	10
JUD BA1 General Fund support for Stabilization Cash Fund.....	15
JUD BA4 Increased CF and grant spending authority.....	18
(1) Supreme Court/ Court of Appeals .....	20
(2) Courts Administration .....	25
(a) Administration and Technology .....	25
JUD R1 Regional technicians for IT support.....	29
JUD R8 IT staff.....	33
JUD R12 Probation background checks .....	35
JUD BA3 Adult diversion – travel expenses .....	37
JUD R3 Network bandwidth.....	40
(b) Central Appropriations .....	43
JUD R13 Carr Center true-up and year two lease increase .....	55
(c) Centrally Administered Programs .....	57
JUD R11 Restitution enforcement.....	58
JUD R4 Language access.....	67
JUD R14 Courthouse Capital/Infrastructure Maintenance .....	73
JUD R10 Leadership education .....	78
JUD R5 Judicial performance.....	82
JUD BA2 Restorative justice – cash funds spending authority .....	84
(d) Ralph L. Carr Colorado Judicial Center.....	90
(3) Trial Courts .....	93
JUD R7 Family court facilitators.....	96
JUD BA6 Counsel for children transfer.....	103
JUD BA7 Court-appointed counsel costs ( <i>withdrawn</i> ) .....	104
(4) Probation and Related Services.....	110
Correctional Treatment Cash Fund allocation .....	110
JUD BA5 Probation clean-up .....	117

(5) Office of the State Public Defender .....	127
OSPD R1 Appellate staffing .....	127
OSPD R3 Annual fleet vehicle request.....	136
OSPD R2 Attorney registration fees.....	138
(6) Office of the Alternate Defense Counsel .....	140
OADC R3 Increase training cash fund spending authority .....	145
OADC R1/BA1 Caseload increase .....	145
(7) Office of the Child's Representative .....	149
OCR R5 FTE increase .....	151
OCR R2 Salary alignment .....	153
OCR R4 Operating increase.....	156
OCR R1 Caseload/ workload increase.....	162
(8) Independent Ethics Commission .....	164
IEC R1 Legal services .....	167
Long Bill Footnotes .....	168
Requests for Information .....	174

Appendix A – Numbers Pages:

(1) Supreme Court/ Court of Appeals .....	A-1
(2) Courts Administration .....	A-3
(3) Trial Courts .....	A-12
(4) Probation and Related Services.....	A-14
(5) Office of the State Public Defender .....	A-17
(6) Office of the Alternate Defense Counsel .....	A-20
(7) Office of the Child's Representative .....	A-22
(8) Independent Ethics Commission.....	A-24

Appendix B – Indirect Cost Assessment Methodology

Appendix C – Problem-solving Courts, by Location

Please note that the Judicial Department's budget request included two informational decision items that are not addressed in this packet as they are associated with legislation that the Department is seeking in 2014:

- JUD R2 – Add two district court judgeships in the 18<sup>th</sup> judicial district (*see H.B. 14-1050*)
- JUD R9 – Provide supplemental state funding for underfunded courthouse facilities (*see H.B. 14-1096*)

## **JUDICIAL BRANCH**

### **Branch Overview**

The Judicial Department consists of the Supreme Court, the Court of Appeals, district courts, the Denver probate and juvenile courts, and all county courts except the Denver county court. The Judicial Department also supervises juvenile and adult offenders who are sentenced to probation, and it includes four 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. Such cases are first assigned to the OSPD, and cases are referred to the OADC if the OSPD has an ethical conflict of interest. The Office of the Child's Representative oversees the provision of legal services to children entitled to legal representation at state expense, and is responsible for ensuring quality representation. Finally, the Independent Ethics Commission provides advice and guidance on ethics-related matters concerning public officers, members of the General Assembly, local government officials, and government employees.

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### **BRANCH REQUEST AND RECOMMENDATION SUMMARY**

#### **Branch Request**

The Judicial Branch request reflects an increase of \$44.7 million total funds (8.0 percent) compared to the adjusted FY 2013-14 appropriation, including a \$49.3 million (12.7 percent) increase in General Fund appropriations. The requested increase is primarily related to increases in employee salaries and the state contribution for employee benefits; these items account for about half of the overall requested increase and about half of the requested increase in General Fund appropriations. The request also includes the following significant increases:

- \$10.8 million, including \$7.5 million General Fund, to annualize prior year legislation;
- \$5.4 million General Fund to increase the rates paid for court-appointed counsel;
- \$2.5 million General Fund for furnishings and phone systems for courthouse and probation facilities in multiple judicial districts.

#### **Staff Recommendation**

Overall, the staff recommendation is \$5.0 million higher than the request, but the recommendation includes \$0.3 million less General Fund than the request. Major differences between the recommendation and the request include the following:

- Staff's recommendations for three informational cash funds line item appropriations related to the regulation of the practice of law are \$2.1 million higher than the request to better reflect anticipated expenditures.

- Staff recommendation includes \$1.8 million General Fund for the State Court Administrator's Office to implement the same increases in court-appointed counsel rates as those requested by the Office of the Alternate Defense Counsel and the Office of the Child's Representative.
- Staff's recommendation is \$1.4 million higher than the request (including \$1.3 million General Fund) because staff annualized the FY 2013-14 appropriations for Salary Survey and Merit Pay to provide 12 months (rather than 11 months) of funding. The FY 2013-14 appropriations for Salary Survey and Merit Pay only included 11 months of funding due to the paydate shift.
- Based on the application of the Committee's policies related to employee benefits, staff's recommendations are \$0.5 million higher than the amounts requested by the five judicial agencies. Staff's recommendations for Salary Survey and Merit Pay are predictably higher than the request (by \$3.1 million) based on the Committee's policies. However, staff's recommendations are unexpectedly lower than the request for both Health, Life and Dental (by \$1.2 million) and supplemental PERA contributions for amortization equalization disbursement (by \$2.1 million). In addition, staff's recommendations for employee benefits include \$3.8 million less General Fund and \$3.3 million more cash funds than the request. These unexpected differences are due to both methodological and calculation errors in some agency requests.

The staff recommendation is summarized in the table on the following page, followed by a brief description of each incremental change from the FY 2013-14 adjusted appropriation to the FY 2014-15 recommendation.

*JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision*

<b>Judicial Department</b>						
	<b>Total Funds</b>	<b>General Fund</b>	<b>Cash Funds</b>	<b>Reappropriated Funds</b>	<b>Federal Funds</b>	<b>FTE</b>
<b>FY 2013-14 Appropriation</b>						
SB 13-230 (Long Bill)	\$546,480,115	\$378,170,241	\$138,070,313	\$25,814,561	\$4,425,000	4,302.1
Other legislation	5,973,845	4,909,209	1,064,636	0	0	56.6
HB 14-1239 (Supplemental)	<u>4,445,176</u>	<u>4,118,176</u>	<u>327,000</u>	<u>0</u>	<u>0</u>	<u>0.0</u>
<b>TOTAL</b>	<b>\$556,899,136</b>	<b>\$387,197,626</b>	<b>\$139,461,949</b>	<b>\$25,814,561</b>	<b>\$4,425,000</b>	<b>4,358.7</b>
<b>FY 2014-15 Recommended Appropriation</b>						
FY 2013-14 Appropriation	\$556,899,136	\$387,197,626	\$139,461,949	\$25,814,561	\$4,425,000	4,358.7
Employee benefits/ common changes	23,602,316	20,062,351	3,391,006	148,959	0	0.0
Annualize prior year legislation	10,262,163	6,947,637	(185,474)	3,500,000	0	56.0
OADC R2 and OCR R3 Contract rate increases	7,235,498	7,235,498	0	0	0	0.0
JUD R14 Courthouse capital and infrastructure maintenance	2,462,500	2,462,500	0	0	0	0.0
Annualize prior year salary survey and merit pay	1,404,697	1,258,864	145,833	0	0	0.0
JUD R11 Restitution enforcement	1,289,885	0	1,289,885	0	0	21.0
JUD R8 IT staff	991,284	991,284	0	0	0	13.0
OSPD R1 Appellate staffing	839,684	839,684	0	0	0	14.7
JUD R3 Network bandwidth	812,480	0	812,480	0	0	0.0
JUD R7 Family court facilitators	805,691	805,691	0	0	0	10.0
JUD R6 Self-represented litigant coordinators	674,132	674,132	0	0	0	11.0
JUD BA2 Restorative justice - cash funds spending authority	481,000	0	481,000	0	0	0.0
JUD R1 Regional technicians for IT support	306,875	306,875	0	0	0	4.0
JUD R10 Leadership education	249,000	0	249,000	0	0	0.0
JUD R4 Language access	221,822	221,822	0	0	0	7.0
OCR R2 Salary alignment	208,067	208,067	0	0	0	0.0
OCR R1 Caseload/workload increases (incremental increase)	168,032	168,032	0	0	0	0.0
JUD R12 Probation background checks	55,567	55,567	0	0	0	1.0
DA mandated costs	15,452	5,452	10,000	0	0	0.0
JUD BA1 General Fund support for Stabilization Cash Fund	0	6,325,000	(6,325,000)	0	0	0.0
JUD R5 Judicial performance	0	290,000	(290,000)	0	0	0.0
Annualize prior year budget actions	(3,970,481)	285,985	(4,256,466)	0	0	3.1
Reverse supplemental	(421,702)	(234,702)	(187,000)	0	0	0.0
Other changes	<u>1,967,613</u>	<u>89,413</u>	<u>1,502,120</u>	<u>376,080</u>	<u>0</u>	<u>0.5</u>
<b>TOTAL</b>	<b>\$606,560,711</b>	<b>\$436,196,778</b>	<b>\$136,099,333</b>	<b>\$29,839,600</b>	<b>\$4,425,000</b>	<b>4,500.0</b>
<b>Increase/(Decrease)</b>	\$49,661,575	\$48,999,152	(\$3,362,616)	\$4,025,039	\$0	141.3
Percentage Change	8.9%	12.7%	(2.4%)	15.6%	0.0%	3.2%
<b>FY 2014-15 Executive Request</b>	<b>\$601,567,691</b>	<b>\$436,511,642</b>	<b>\$131,887,691</b>	<b>\$28,743,358</b>	<b>\$4,425,000</b>	<b>4,501.0</b>
Request Above/(Below) Recommendation	(\$4,993,020)	\$314,864	(\$4,211,642)	(\$1,096,242)	\$0	1.0

## **Description of Recommended Incremental Changes**

**Employee benefits/ common changes:** The recommendation includes an increase of \$23.6 million (including \$20.1 million General Fund) related to employee benefits and other centrally appropriated line items. This total primarily includes the following increases:

- \$19.7 million (including \$17.9 million General Fund) for salary increases to be awarded in FY 2014-15; and
- An increase of \$3.6 million (including \$2.3 million General Fund) for supplemental PERA contributions for amortization equalization disbursement.

**Annualize prior year legislation:** The recommendation includes an increase of \$10.3 million (including \$6.9 million General Fund) to reflect the FY 2014-15 impact of legislation that was passed in previous legislative sessions. This increase primarily includes adjustments for the following two acts:

- S.B. 13-250 (Drug sentencing changes): increase of \$7.2 million, including \$3.7 million General Fund, and 2.8 FTE; and
- H.B. 13-1210 (Right to legal counsel in plea negotiations): increase of \$3.4 million General Fund and 53.2 FTE.

**OADC R2 and OCR R3 Contract rate increases:** The recommendation includes a total of \$7.2 million General Fund to increase hourly rates paid to contract attorneys (from \$65 to \$75), investigators (from \$36 to \$41), and paralegals (from \$25 to \$30). The recommendation includes \$3.6 million for the Office of the Alternate Defense Counsel (OADC), \$1.8 million for the Office of the Child's Representative (OCR), and \$1.8 million for the State Court Administrator's Office.

**JUD R14 Courthouse capital and infrastructure maintenance:** The recommendation includes \$2.5 million General Fund to fulfill the State's responsibility to furnish court facilities. The recommendation addresses required infrastructure and courthouse furnishing and phone system needs in nearly every judicial district in the state.

**Annualize prior year salary survey and merit pay:** The recommendation includes \$1.4 million (including \$1.3 million General Fund) to annualize the FY 2013-14 appropriations for Salary Survey and Merit Pay to provide 12 months (rather than 11 months) of funding.

**JUD R11 Restitution enforcement:** The recommendation includes \$1.3 million cash funds from the Judicial Collection Enhancement Fund and 21.0 FTE to strengthen the monitoring and enforcement of criminal restitution.

**JUD R8 IT staff:** The recommendation includes \$1.0 million General Fund and 13.0 FTE to allow the Department to develop and implement a large number of critical IT-related projects that would otherwise take several years to complete with existing staffing resources.

**OSPD R1 Appellate staffing:** The recommendation includes \$839,684 General Fund and 14.7 FTE for the Office of the State Public Defender (OSPD) to add 11 attorneys and five paralegal and administrative support staff to its Appellate Division to reduce the rapidly growing backlog of appellate cases.

**JUD R3 Network bandwidth:** The recommendation includes \$812,480 cash funds from the Judicial Department Information Technology Cash Fund to allow the Department to upgrade and increase network bandwidth capacity to sustain timely operations and customer service.

**JUD R7 Family court facilitators:** The recommendation includes \$805,691 General Fund and 10.0 FTE to expand the number of Family Court Facilitators available to assist with the processing of domestic relations cases and to provide early, active, and ongoing case management of such cases.

**JUD R6 Self-represented litigant coordinators:** The recommendation includes \$674,132 General Fund to expand a statewide network of services to assist self-represented parties in court cases. The recommended funding would expand the staff in judicial districts who coordinate and provide these services from 22.0 FTE to 31.0 FTE, add 1.0 FTE to assist self-represented parties in the appellate courts, and add 1.0 FTE to serve as a statewide coordinator.

**JUD BA2 Restorative justice – cash funds spending authority:** The recommendation includes \$481,000 cash funds from the Restorative Justice Surcharge Fund to fulfill the legislative requirements in H.B. 13-1254.

**JUD R1 Regional technicians for IT support:** The recommendation includes \$306,875 General Fund and 4.0 FTE to expand the Department's capacity to provide hardware and software technical assistance and improve IT service to both internal and public users.

**JUD R10: Leadership education:** The recommendation includes \$249,000 cash funds from the Judicial Stabilization Cash Fund to continue to annually provide annual leadership education to court and probation managers around the state.

**JUD R4 Language access:** The recommendation includes \$221,822 General Fund to add 7.0 FTE Court Interpreters and Court Translators to meet the growing need for language interpreter and translation services statewide. This recommendation is partially offset by an anticipated reduction in the need for contract language interpreter services.

**OCR R2 Salary alignment:** The recommendation includes \$208,067 General Fund to better align OCR staff salaries with comparable salaries paid in the Executive and Judicial Department personnel systems.

**OCR R1 Caseload/workload increases:** The recommendation includes \$168,032 General Fund to cover projected caseload and workload increases for the OCR.

**JUD R12 Probation background checks:** The recommendation includes \$55,567 General Fund and 1.0 FTE to assist in conducting background checks for private probation vendors working under a judicial contract.

**DA mandated costs:** The recommendation includes \$15,452 to reimburse district attorneys for costs incurred for prosecution of state matters.

**JUD BA1 General Fund support for Stabilization Cash Fund:** The recommendation includes a \$6.3 million General Fund increase and a \$6.3 million decrease in cash fund appropriations from the Judicial Stabilization Cash Fund to address a significant decline in cash fund revenues.

**JUD R5 Judicial performance:** The recommendation includes \$290,000 General Fund to replace an equal amount of cash funding from the State Commission on Judicial Performance Cash Fund to address a decline in cash fund revenues.

**Annualize prior year budget actions:** The recommendation includes a decrease of \$4.0 million and an increase of 3.1 FTE to reflect the FY 2014-15 impact of multiple prior year budget decisions. The most significant adjustment is the elimination of a \$3.8 million cash funds appropriation from the Judicial Stabilization Cash Fund for one-time courthouse capital and infrastructure maintenance expenditures.

**Reverse supplemental:** The recommendation includes reductions totaling \$421,702 (including \$234,702 General Fund) to reflect the reversal of multiple relatively small mid-year adjustments recently approved for FY 2013-14.

**Other changes:** The recommendation includes multiple adjustments totaling \$2.0 million (including \$89,413 General Fund), including increases totaling \$2.1 million cash funds for three informational line item appropriations to better reflect anticipated expenditures related to the regulation of the practice of law.

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## INITIATIVES AFFECTING MULTIPLE DIVISIONS

- ➔ OADC R2 Attorney/ investigator/ paralegal hourly rate increases
- ➔ OCR R3 Attorney/paralegal rate adjustments

*Requests.* The Office of the Alternate Defense Counsel (OADC) and the Office of the Child's Representative (OCR) have submitted decision items for FY 2014-15 to increase the hourly rates paid to independent contractors who serve as court-appointed counsel. Specifically, the OADC<sup>1</sup> and OCR requests are based on increases in the hourly rates paid to contractors as follows:

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<sup>1</sup> The OADC currently pays higher rates for attorneys and investigators who work on death penalty cases (hourly rates of \$85 and \$39, respectively). The OADC request is based on increasing these rates by \$10 and \$5, respectively.



*JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision*

- Attorneys: increase from \$65 to \$75
- Investigators: increase from \$36 to \$41
- Paralegals: increase from \$25 to \$30

While the State Court Administrator's Office (SCAO) did not include a decision item related to court appointed counsel, its budget request includes an estimate of the cost of varying rate increases for informational purposes. The following table details actual expenditures incurred by each agency in FY 2012-13 for court appointed counsel, the cost of implementing the rate increases proposed by OADC and OCR, and the total amount of funding requested for court appointed counsel for FY 2014-15.

<b>General Fund Support for Court Appointed Counsel (Excluding OSPD)</b>				
<b>Agency</b>	<b>Line Item</b>	<b>FY 2012-13 Expenditures</b>	<b>Cost of Proposed Rate Increases for FY 2014-15 1/</b>	<b>Total Funding Requested for FY 2014-15 2/</b>
OADC	Conflict of Interest Contracts	\$19,882,661	\$3,559,986	\$26,238,149
OCR	Court Appointed Counsel	16,015,965	1,846,502	18,867,675
JUD	Trial Courts, Court Costs, Jury Costs, and Court-appointed Counsel	12,460,898	1,829,010	12,833,416
<b>Totals</b>		<b>\$48,359,524</b>	<b>\$7,235,498</b>	<b>\$57,939,240</b>

1/ The amounts requested by the OADC and OCR are based on higher projected caseload levels than those experienced in FY 2012-13.

2/ Neither the appropriation to the SCAO nor the annual budget request specifies what portion of the appropriation will be spent on court appointed counsel. The SCAO is requesting a continuation level of funding for this line item for FY 2014-15 (a total of \$16.0 million). The amount in the above table represents an estimate of that portion of the appropriation that would be spent on court appointed counsel based on the allocation of expenditures in FY 2012-13.

*Recommendation:* In order to ensure that judicial agencies are able to provide competent legal representation for children and adults involved in certain judicial proceedings, staff recommends that the Committee approve the requests that were submitted by the OADC and the OCR. Staff also recommends that the Committee appropriate funding for the Office of the State Court Administrator (\$1,829,010 General Fund) to implement the same court appointed counsel rates proposed by the OADC and OCR.

*Analysis:*

Recent History of Rates Paid for Court-appointed Counsel

The OADC is statutorily required to enter into contracts that "provide for reasonable compensation and reimbursement for expenses necessarily incurred" [see Section 21-2-105 (2), C.R.S.]. Similarly, the OCR is statutorily required to establish "fair and realistic state rates by which to compensate state-appointed guardians ad litem, which will take into consideration the

caseload limitations placed on guardians ad litem and which will be sufficient to attract and retain high quality, experienced attorneys to serve as guardians ad litem" [see Section 13-91-105 (1) (a) (VI), C.R.S.].

From 1990 through FY 2005-06, the hourly rate for court appointed counsel was increased once (by \$5 in January 2001). In 2003, the Judicial Department performed a study of rates paid for comparable work in the government sector. It analyzed national and regional data and studies; consulted the Colorado Bar Association, various attorneys, judges, and court administrators; and considered the compensation levels for attorneys in the OSPD, the OADC, and the Department of Law, and for county and district attorneys. Factoring in the cost of overhead expenses, the study indicated that the following hourly rates would be comparable for similar government sector work:

- \$68 per hour for attorneys;
- \$43 per hour for investigators; and
- \$30 per hour for paralegals.

For FY 2005-06, the Department, OADC, and OCR submitted various decision items to increase hourly rates for court appointed attorneys, investigators, and paralegals. Although the rate of inflation increased from 2003 to 2005, the requests were modest in light of the State's financial situation. The hourly rates at that time differed among agencies, as did their requests. However, none of the requests sought funding sufficient to implement the hourly rates suggested by the 2003 study. The Joint Budget Committee did not approve the requests for additional funding for FY 2005-06, but asked the three agencies to create a plan to achieve competitive rates for court appointed counsel.

In FY 2005-06, these agencies generally paid attorneys \$55 per hour for work performed in court, and \$45 per hour for work performed out of court. The agencies proposed phasing in hourly rate increases for attorneys to reach \$75 by FY 2008-09. As detailed in the following table, the General Assembly approved annual funding increases totaling \$10.8 million General Fund from FY 2006-07 through FY 2008-09 to increase the hourly rate for attorneys to \$65.

<b>Recent Funding Increases Approved to Increase Court Appointed Counsel Rates</b>				
	<b>FY 2006-07</b>	<b>FY 2007-08</b>	<b>FY 2008-09</b>	<b>Totals</b>
<b>Trial Courts</b>	\$ 1,802,119	\$ 520,000	\$ 849,065	\$3,171,184
<b>OADC</b>	1,754,141	862,533	1,452,059	4,068,733
<b>OCR</b>	<u>1,944,231</u>	<u>640,401</u>	<u>961,938</u>	<u>3,546,570</u>
<b>Totals</b>	\$5,500,491	\$2,022,934	\$3,263,062	\$10,786,487

None of the agencies have requested funding for rate increases for the last five fiscal years. The hourly rates paid to attorneys, investigators, and paralegals all remain below the market rates that were identified in 2003.

Updated Data Concerning Comparable Hourly Rates

The OADC provided the following data recently published by the Colorado Bar Association detailing the rates paid in private practice to associate attorneys and paralegals with varying levels of experience. All of the rates significantly exceed current rates paid by OADC (\$65 for attorneys and \$25 for paralegals).

<u>Associates</u>	Mean (Avg)	25th %	Median	75th %	95th %
Associates w/o exp	\$ 166	\$ 140	\$ 165	\$ 200	\$ 248
Associates w/ 1-3 yrs exp	\$ 181	\$ 155	\$ 175	\$ 200	\$ 275
Associates w/ 4-5 yrs exp	\$ 202	\$ 175	\$ 200	\$ 229	\$ 281
Associates w/ 6-9 yrs exp	\$ 218	\$ 180	\$ 210	\$ 250	\$ 300
Associates w/ 10+ yrs exp	\$ 235	\$ 185	\$ 240	\$ 275	\$ 338

<u>Paralegals</u>					
Paralegals w/o exp	\$ 79	\$ 64	\$ 76	\$ 100	\$ 116
Paralegals w/ 1-3 yrs exp	\$ 85	\$ 65	\$ 80	\$ 100	\$ 132
Paralegals w/ 4-5 yrs exp	\$ 95	\$ 75	\$ 90	\$ 100	\$ 152
Paralegals w/ 6-9 yrs exp	\$ 99	\$ 80	\$ 100	\$ 115	\$ 152
Paralegals w/ 10+ yrs exp	\$ 117	\$ 89	\$ 110	\$ 140	\$ 197

The OCR provided similar data, and also pointed out that the federal government's hourly rate for representing indigent defendants in federal cases is established at \$125; this rate was temporarily reduced to \$110 due to sequestration.

In addition, the OADC and OCR surveyed their independent contractors about the rates they charge in private practice cases. This survey indicated that their attorney contractors charge from \$150 to \$350 per hour for their private practice cases, and hourly rates ranging from \$50 to \$100 for paralegals and investigators.

Finally, staff notes that in the current fiscal year the Department of Law is charging state agencies a blended rate of \$91.08 per hour for legal services, based on hourly rates of \$94.95 for attorneys and \$70.86 per hour for paralegals (called "legal assistants").

The hourly rates proposed by the OADC and OCR are significantly lower than comparable private sector rates, and they are also lower than comparable federal and state rates for similar services. However, the proposed rates would represent completion of the plan that was adopted in 2006 to increase rates to a more competitive level by FY 2008-09. In order to ensure that judicial agencies are able to provide competent legal representation for children and adults involved in certain judicial proceedings, staff recommends that the Committee approve the OADC and OCR requests. Staff also recommends that the Committee appropriate funding for the State Court Administrator's Office to implement the same court appointed counsel rates proposed by the OADC and OCR.

➔ **JUD R6 Self-represented litigant coordinators**

- The Department requests \$674,132 General Fund to further expand its statewide network of services to assist self-represented parties in court cases. The requested funding would: expand the staff in judicial districts that coordinate and provide these services from 22.0 FTE to 31.0 FTE; add 1.0 FTE to assist self-represented parties in the appellate courts; and add 1.0 FTE to serve as a statewide coordinator.
- Staff recommends approving the request.

*Request:* The Department requests \$674,132 General Fund and 11.0 FTE to further expand its statewide network of services to assist self-represented parties in court cases. The request includes:

- 9.0 FTE Self-represented Litigant Coordinators ("Sherlocks") to coordinate and provide services within judicial districts;
- 1.0 FTE Self-represented Litigant Coordinator to coordinate and provide services in the appellate courts; and
- 1.0 FTE Court Programs Analyst II to serve as the statewide coordinator for self-represented litigant services.

*Recommendation:* Staff recommends approving the request.

*Analysis:*

District-based Coordinators

Over the last two years, the General Assembly has approved two requests for a total of \$1,511,559 cash funds from the Judicial Stabilization Fund to create a statewide network of services to assist self-represented (called "*pro se*") parties in court cases. This funding provided equipment and materials for 22 self-help centers, and provides ongoing funding to support 23.0 FTE allocated among judicial districts.

The numbers of *pro se* cases have increased significantly in four areas: domestic relations cases (child custody, child support, and divorce proceedings); general civil cases (mainly collections cases); probate cases; and domestic violence cases in which a victim needs assistance to file a protection order. *Pro se* parties can strain the court system by:

- increasing the amount of time necessary for clerks to handle day-to-day court business;
- often filing the wrong or incorrect documents, which may require the litigant to return to the clerk's office or to attend an additional court hearing;
- failing to properly notice another party or to prepare for a hearing or trial and bringing the necessary evidence or witnesses;
- not understanding why the clerk's office cannot provide free legal advice;

- lacking the computer skills to access requested information when given a website address;
- lacking access to a printer to secure documents necessary for their cases; and
- lacking access to statutes, and the court rules, policies, and procedures necessary to properly handle their cases.

The Self-represented Litigant Coordinators help in all areas where individual litigants have questions, including:

- clarifying procedural questions and forms;
- explaining courtroom scheduling, procedures, and policies;
- explaining how to use electronic resources to complete forms and obtain needed case information; and
- providing services on an appointment basis when appropriate.

These Coordinators also serve as an internal resource for judges and court administrators because they are in a unique position to evaluate the quality and efficiency of services for self-represented litigants. These Coordinators are also expected to act as community liaisons to maximize resources available to *pro se* litigants (*e.g.*, working with local library staff to provide access to court forms and legal materials; working with volunteer attorney organizations to provide litigants with access to free legal clinics and *pro bono* legal services).

The existing Coordinators have been working to identify the most common needs of self-represented litigants as well as common and shared resources available in the courts and community. At the state level, existing Department staff have reached out to and involved organizations such as Colorado Legal Services, the Colorado Access to Justice Commission, and the Colorado Bar Association to ensure continuity and support statewide. At the local level, Coordinators are reaching out to and working with a wide variety of organizations such as district attorney's offices, local libraries, county departments of human services (*e.g.*, child support services), local law enforcement, and local ministries and community groups. The Coordinators are developing and providing a variety of materials for use by self-represented litigants and court staff, and establishing programs that provide access to volunteer attorneys and educational programs.

The volume of self-represented litigants seeking help from Self-help Centers has been overwhelming. In a large urban courthouse, the average number of individuals assisted by one or two staff ranges from approximately 460 to 1,200 per month; rural courts tend to have one half-time or one full-time staff and are seeing an average of 50 to 100 individuals per month. Because these positions are new, the Department does not yet have a workload model for them. However, based on the volume alone, the Department has identified a need for an additional 12.0 FTE.

For FY 2014-15, the Department is requesting 9.0 FTE to address shortfalls in rural courts that have only part-time staffing, as well as to address the workload needs of districts with larger caseloads and a greater number of self-represented litigants.

### Appellate Courts Coordinator

To ensure access for self-represented parties in appellate proceedings, the Branch is requesting 1.0 FTE. This individual would be able to provide direct assistance to self-represented parties, enhancing the assistance currently provided as time allows by court employees, library staff, and *pro bono* assistance organizations. This individual would also serve as a resource to Coordinators in each judicial district when questions arise about potential appeals.

### Statewide Coordinator

To date, the coordination and development of all programming for self-represented litigant coordinators has been handled through existing staff in the Planning and Analysis Division and the Court Services unit within the State Court Administrator's Office. The Department indicates that while these staff members have been able to handle this additional workload associated with the early phases of the program, it is clear that ongoing support for these positions and statewide coordination will require a dedicated position. Expectations and goals for the requested position include the following:

- Overhaul the self-help and forms section of the Judicial Branch website.
- Create a more structured training program for self-represented litigant coordinators.
- Coordinate online tools and resources.
- Provide hands-on program support and networking.

### Recommendation

Staff recommends approving the request. During his hearing last Fall with the Committee, former Chief Justice Bender described the Coordinator positions that have been funded to date as "manna from heaven", based on the feedback he had heard from judges around the state. Providing self-represented litigants with the information they need to proceed with their cases not only increases citizen access to justice, but also allows for more streamlined case processing and improves the quality of information provided to judges.

These Coordinators are helping the court system change business practices to serve the needs of a growing number of self-represented parties. The Colorado Code of Judicial Conduct [Colorado Rules of Civil Procedure, Appendix to Chapter 24, Rule 2.6] requires a judge to, "accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law". This rule indicates that the right to be heard is "an essential component of a fair and impartial system of justice". Further, with respect to self-represented parties, the rule indicates the following:

"The steps that are permissible in ensuring a self-represented litigant's right to be heard according to law include but are not limited to liberally construing pleadings; providing brief information about the proceeding and evidentiary and foundational requirements; modifying the traditional order of taking evidence; attempting to make legal concepts understandable; explaining the basis for a ruling; and making referrals to any resources available to assist the litigant in preparation of the case. Self-represented litigants are still required to comply with the same substantive law and procedural requirements as represented litigants."

Coordinators help to ensure self-represented litigants' right to be heard by providing information about court procedures and forms, making legal reference materials accessible, and working with each local community to make resources available to assist these litigants in preparing their case.

The Department's proposal for FY 2014-15 would address the unique needs of rural jurisdictions, and begin to address the volume-driven needs in urban and mid-sized districts. The proposed Coordinator position for the Appellate Courts will assist litigants who are involved in appellate cases, and it will provide some front-end assistance for litigants who are considering filing an appeal. Finally, the proposed Statewide Coordinator will provide needed training and support for the 32 Coordinators who will be located around the state. This person will also be able to ensure that the information gathered by the Coordinators concerning the needs of self-represented litigants is translated into improvements to the Department's website, online tools and resources, and court forms and informational materials. Finally, this person can continue to reach out to state-level organizations.

The following table details the components of the request, which are included in the staff recommendations for the relevant line items throughout this packet.

*JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision*

<b>Summary of Recommendation for JUD R6: Self-Represented Litigant Coordinators</b>		
	<b>FY 2014-15</b>	<b>FY 2015-16</b>
<b><u>Supreme Court/Court of Appeals</u></b>		
<b><u>Appellate Court Programs</u></b>		
Personal Services (1.0 FTE; \$51,528 salary + PERA + Medicare; for 11 months in FY 2014-15)	52,713	57,505
Operating Expenses associated with staff (\$450 for telephone base and \$500 for supplies for 1.0 FTE)	<u>950</u>	<u>950</u>
Subtotal	53,663	58,455
<b><u>Courts Administration</u></b>		
<b><u>Administration and Technology</u></b>		
General Courts Administration		
Personal Services (1.0 FTE; \$72,816 salary + PERA + Medicare; for 11 months in FY 2014-15)	74,491	81,263
Operating Expenses associated with staff (\$450 for telephone base and \$500 for supplies for 1.0 FTE)	<u>950</u>	<u>950</u>
Subtotal	75,441	82,213
<b><u>Central Appropriations</u></b>		
AED	\$0	\$23,328
SAED	<u>0</u>	<u>21,809</u>
Subtotal	0	45,137
<b><u>Centrally Administered Programs</u></b>		
Courthouse Capital/ Infrastructure Maintenance (\$3,473 for office furniture for 10.0 FTE; \$900 for computer, and \$330 for Office Suite software for 11.0 FTE)	48,260	0
<b><u>Trial Courts</u></b>		
Trial Court Programs		
Personal Services (9.0 FTE; \$51,528 salary + PERA + Medicare; for 11 months in FY 2014-15)	474,418	517,547
Operating Expenses associated with staff (\$450 for telephone base and \$500 for supplies for 9.0 FTE; \$3,800 for software licenses and \$10,000 for training in FY 2014-15)	<u>22,350</u>	<u>8,550</u>
Subtotal	496,768	526,097
<b>Total</b>	<b>\$674,132</b>	<b>\$711,902</b>



**➔ JUD BA1 General Fund support for Stabilization Cash Fund**

- The Department requests a \$5,750,000 reduction in cash funds appropriations from the Judicial Stabilization Cash Fund, offset by a \$5,750,000 increase in General Fund appropriations.
- Staff recommends reductions in cash funds appropriations totaling \$6,325,000, offset by increases in General Fund appropriations totaling \$6,325,000.

*Request:* The Department requests adjustments to four line item appropriations to reduce cash funds appropriations from the Judicial Stabilization Cash Fund by a total of \$5,750,000 based on declining cash fund revenues. The Department requests offsetting increases in General Fund appropriations totaling \$5,750,000.

*Recommendation:* As detailed in the following table, staff recommends adjusting the fund sources in several line items in order to align Judicial Stabilization Cash Fund expenditures with projected revenues (shaded cells indicate differences from the request). Staff recommends a total General Fund increase of \$6,325,000, offset by a reduction in cash funds appropriations totaling \$6,325,000.

<b>Summary of Recommendation for JUD BA1: General Fund Support for Stabilization Cash Fund</b>			
	<b>General Fund</b>	<b>Cash Funds</b>	<b>Total</b>
<b><u>Supreme Court/ Court of Appeals</u></b>			
Appellate Court Programs	\$1,555,974	(\$1,555,974)	\$0
<b><u>Courts Administration</u></b>			
<i>Administration and Technology</i>			
General Courts Administration	210,667	(210,667)	0
<b><u>Central Appropriations</u></b>			
Various centrally appropriated line items (HLD, STD, AED, SAED, Salary Survey, and Merit Pay)	TBD	TBD	0
<b><u>Centrally Administered Programs</u></b>			
Language Interpreters	236,500	(236,500)	0
<b><u>Trial Courts</u></b>			
Trial Court Programs	<u>4,321,859</u>	<u>(4,321,859)</u>	<u>0</u>
<b>Total</b>	<b>\$6,325,000</b>	<b>(\$6,325,000)</b>	<b>\$0</b>

*Analysis:*

Background Information - Judicial Stabilization Cash Fund

The Judicial Stabilization Cash Fund (the Fund) was created through a JBC-sponsored bill during the last economic downturn (S.B. 03-186). Pursuant to Section 13-32-101 (6), C.R.S., moneys in the Fund are subject to annual appropriation by the General Assembly "for the expenses of trial courts in the judicial department". Senate Bill 03-186:

- Increased several court fees to support the expenses of the State's trial courts;
- Reduced General Fund support for the trial courts to help balance the state budget (by \$3.4 million in FY 2002-03 and \$9.3 million in FY 2003-04); and
- Substituted the new fee revenue in order to mitigate trial court funding cuts.

In 2007 the General Assembly authorized 43 new judgeships (H.B. 07-1054). This act increased various court fees (which are also credited to the Fund) to pay for the costs of the new judges, the associated staff and facility-related costs. This act also diverted various existing fees, fines, and penalties from the General Fund to the Judicial Stabilization Cash Fund; this diversion was phased in over a period of time to correspond to the cost increases required to implement the bill.

Since its creation in 2003, the Fund has been used to: (1) partially offset the impact of reductions in General Fund support for the trial courts during the last two economic downturns; (2) pay for the costs of new judgeships authorized by H.B. 07-1054 and H.B. 13-1035; and (3) pay for various trial court-related initiatives (*e.g.*, improving court oversight of protective proceeding cases). Due primarily to the delayed implementation of H.B. 07-1054 and the elimination of funding for employee salary increases from FY 2008-09 through FY 2011-12, the Fund balance increased to a level that significantly exceeded the statutory limitation on cash fund reserves. In response, Chief Justice Bender issued a directive [C.J.D. 12-02] to temporarily reduce filing fees in certain civil actions in January 2012.<sup>2</sup>

It is staff's understanding that the original idea behind the Fund was that many court filings are counter-cyclical. Specifically, as the economy declines, the number of foreclosures, collection cases, and related filings increase; as the economy improves, these filings decline. Thus, Fund revenues would be higher during economic downturns, and the Fund could be used to support court operations when General Fund revenues are more limited.

Department Request

The Department has experienced a significant decline in county court civil filings. From the early 1960s (as far back as the Department has data available) through FY 2009-10, county court civil filings increased annually. From FY 2009-10 through FY 2012-13, county court civil filings declined by 32,488 (15.7 percent). The Department indicates that from FY 2008-09 through FY 2011-12, county civil "money" cases (which comprise more than two-thirds of

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<sup>2</sup> Section 13-32-105.5, C.R.S., authorizes the Chief Justice of the Supreme Court to reduce the amount of one or more docket fees if necessary to comply with the 16.5 percent statutory limitation on uncommitted cash fund reserves. Subsequently, once the uncommitted reserves are sufficiently reduced, the Chief Justice is authorized to increase the docket fees to their statutorily authorized levels.

*JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision*

county civil cases) averaged 11,831 filings per month. In FY 2012-13, these filings dropped to 9,895 per month, and they are down to 9,033 in the current fiscal year. The Department has not been able to definitively determine the reasons for this precipitous decline, but it appears to be tied to national changes in collections practices that relate to changes in federal law.

**Staff Recommendation**

Consistent with the Department's request, staff's recommendation is intended to: (1) reduce the number of programs that are supported by the Fund from eight to four; and (2) reduce total appropriations from the Fund to a level that is sustainable and provides for a reasonable Fund reserve. The following table details actual Fund revenues and expenditures for the past three fiscal years, as well as estimates and projections through FY 2015-16. The Department provided projections of revenues and expenditures, and staff has modified the expenditure projections based on the recommendations included in this packet (including staff's recommendation for this request.

<b>Judicial Stabilization Cash Fund: Revenue and Expenditure Trends</b>						
Description	FY 10-11 Actual	FY 11-12 Actual	FY 12-13 Actual	FY 13-14 Proj.	FY 14-15 Rec.	FY 15-16 Proj.
Beginning Fund Balance	\$3,957,685	\$18,225,421	\$24,691,901	\$15,805,217	\$3,688,721	\$1,752,215
Revenues	42,566,095	34,948,101	25,663,981	33,000,517	32,999,709	38,943,458
Expenditures:						
Appellate Court Programs				1,260,390	0	0
General Courts Administration (oversight related to protective proceedings)				210,667	0	0
POTS (HLD, STD, AED, SAED, Salary Survey, and Merit Pay)				4,129,699	3,632,010	3,632,010
Problem-solving Courts				3,045,535	3,133,985	3,133,985
Language Interpreters				236,500	0	0
Courthouse Capital/ Infrastructure Mtnc.				4,135,871	0	0
Senior Judge Program				1,400,000	1,300,000	1,300,000
Judicial Education and Training				1,462,036	1,448,906	1,448,906
Trial Court Programs				29,236,315	25,421,314	25,421,314
Total Expenditures	28,298,359	28,481,621	34,550,665	45,117,013	34,936,215	34,936,215
<b>Ending Fund Balance</b>	<b>18,225,421</b>	<b>24,691,901</b>	<b>15,805,217</b>	<b>3,688,721</b>	<b>1,752,215</b>	<b>5,759,458</b>
Annual Change in Fund Balance	14,267,736	6,466,480	(8,886,684)	(12,116,496)	(1,936,506)	4,007,243
<i>Fund Balance as % of Annual Expenditures</i>	<i>64.4%</i>	<i>86.7%</i>	<i>45.7%</i>	<i>8.2%</i>	<i>5.0%</i>	<i>16.5%</i>

The Department is currently projecting the Fund balance to decline to \$3.7 million by the end of FY 2013-14. Based on the Department's Fund revenue projections, staff's recommendation would reduce the Fund balance to \$1.7 million by the end of FY 2014-15, but increase it to \$5.8 million by the end of FY 2015-16 (targeting a 16.5 percent reserve).

Staff requests permission from the Committee to work with Department staff to adjust the mix of General Fund and Judicial Stabilization Cash Fund appropriations in the Trial Court Programs line item and the six centrally appropriated line items noted in the above table. Staff wants to ensure that the Department uses a consistent, rational basis for applying fund splits to each of these centrally appropriated line items.

➔ **JUD BA4 Increased CF and grant spending authority**

- The Department requests The Department requests adjustments to three line items. The requested adjustments increase cash funds appropriations from various fees and cost recoveries by a total of \$150,000, and add 2.0 FTE supported by federal grants.
- Consistent with the Committee's actions on the companion supplemental request for FY 2013-14, staff recommends increasing cash funds appropriations from fees and cost recoveries by a total of \$144,000, and decreasing cash funds appropriations from the Judicial Stabilization Cash Fund by \$4,000.

*Request:* The Department requests adjustments to three line items. The requested adjustments increase cash funds appropriations from various fees and cost recoveries by a total of \$150,000, and add 2.0 FTE supported by federal grants.

*Recommendation:* Consistent with the Committee action on the companion request for FY 2013-14, staff recommends that the Committee approve the request in part. Specifically, staff recommends increasing cash funds appropriations from fees and cost recoveries by a total of \$144,000, and decreasing cash funds appropriations from the Judicial Stabilization Cash Fund by \$4,000. Staff does not recommend any FTE change.

*Analysis:*

The request includes three distinct components, described separately below.

1. Appellate Court Programs

This line item includes funding for both personal services and operating expenses for the Colorado Supreme Court and the Colorado Court of Appeals. The Department requested a \$10,000 increase in the cash funds appropriation from various fees and cost recoveries based on higher anticipated revenues from these sources. The Department indicates that actual fees and cost recovery revenues have exceeded the appropriation in the last two fiscal years, by \$2,323 and \$4,169, respectively. The Department anticipates that these revenues will exceed the FY 2013-14 appropriation by up to \$10,000, so it requested a \$10,000 increase in cash funds spending authority for both FY 2013-14 and FY 2014-15 to allow it to spend the full amount collected each year. When these revenues exceed the appropriation, the excess revenues generally revert to the General Fund.

Staff recommends increasing the appropriation from fees and cost recoveries to allow the Department to spend the full amount anticipated to be collected. However, staff recommends an increase of only \$4,000 based on the actual amount of fees and cost recoveries collected in FY 2012-13. The Department has provided subsequent information indicating that the \$10,000 requested likely overstates expected excess revenues by \$6,000.

In addition, staff recommends reducing the cash funds appropriation from the Judicial Stabilization Cash Fund (JSCF) by the same amount (\$4,000), resulting in no net change in the overall appropriation for appellate programs. Based on information provided by the Department to date, it does not appear that the increased revenues directly correspond to increased expenditures. Thus, staff believes that it is appropriate to simply implement a fund source adjustment, rather than increasing the overall appropriation.

### 2. 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. The Department requested a \$140,000 increase in the cash funds appropriation from various fees and cost recoveries for both FY 2013-14 and FY 2014-15 based on higher anticipated revenues from these sources. For this line item, these revenues reflect reimbursements collected from offenders on probation for services such as electronic home monitoring, drug testing, substance use treatment, and sex offender treatment. When these revenues exceed the appropriation, the excess revenues revert to the General Fund.

Staff recommends approving this portion of the request to allow the Department to spend the full amount anticipated to be collected and to provide additional treatment and services for offenders on probation. If these revenues do not increase by the full \$140,000, the Department will only spend revenues that are actually available.

### 3. 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, maintain, and provide technical support for 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.

The Department requested that the FTE associated with this line item increase by 2.0 FTE (from 208.5 to 210.5); the Department did not ask for any funding adjustments for this line item. The Department indicates that 2.0 FTE are necessary to more accurately reflect the number of staff who administer federal grants and who are supported by associated indirect cost recoveries.

Staff does not recommend approving this portion of the request. The number of actual FTE supported by this line item has fallen short of the FTE indicated in the appropriation in fiscal years 2010-11, 2011-12, and 2012-13 by 10.1, 15.7, and 15.2, respectively. Due to vacancy savings associated with staff turnover (particularly for IT positions), it does not appear likely that the actual number of FTE will exceed the amount indicated in the appropriation for FY 2014-15.

## (1) Supreme Court/ Court of Appeals

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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,<sup>3</sup> 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.<sup>4</sup>

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 terms<sup>5</sup>.

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### LINE ITEM DETAIL

#### 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*, which is the official publication of opinions of the Colorado Supreme Court and Court of Appeals. In accordance with Section 13-2-125, C.R.S., the Department purchases 194 copies of each book as it is published and distributes copies to various state offices, including district and county judges' offices, county court law libraries, district attorneys' offices, and state libraries. Sources of cash funds include the Judicial Stabilization Cash Fund and various fees and cost recoveries.

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

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<sup>3</sup> 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.

<sup>4</sup> See Article VI, Sections 2 through 8, Colorado Constitution; and Section 13-2-101 et seq., C.R.S.

<sup>5</sup> See Section 13-4-101 et seq., C.R.S.

*JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision*

<b>Staffing Summary Appellate Court Programs</b>	<b>FY 12-13 Actual</b>	<b>FY 13-14 Approp.</b>	<b>FY 14-15 Request</b>	<b>FY 14-15 Recommend.</b>
Supreme Court Justices	7.0	7.0	7.0	7.0
Court of Appeals Judges	21.8	22.0	22.0	22.0
Clerk of Court	1.0	1.0	1.0	1.0
Law Clerks	55.0	55.0	55.0	55.0
Counsel to the Chief Justice	1.0	1.0	1.0	1.0
Staff Attorneys	23.6	23.6	23.6	23.6
Library Staff	3.4	3.4	3.4	3.4
Self-representated Litigant Coordinator (JUD R6)	n/a	n/a	1.0	1.0
Other Support Staff	<u>27.0</u>	<u>27.0</u>	<u>27.0</u>	<u>27.0</u>
<b>Total</b>	139.8	140.0	141.0	141.0

**Request:** The Department requests \$12,466,588, including \$12,456,588 General Fund and \$10,000 cash funds from various fees and cost recoveries, and 141.0 FTE. The request is impacted by JUD R6 (Self-represented litigant coordinators), JUD BA1 (General Fund support for Stabilization Cash Fund), and JUD BA4 (Increased CF and grant spending authority).

**Recommendation:** Staff recommends appropriating \$12,531,286, including \$12,521,286 General Fund and \$10,000 cash funds, and 141.0 FTE as detailed in the following table. Staff's recommendation is higher than the request because staff annualized the FY 2013-14 appropriations for Salary Survey and Merit Pay to provide 12 months (rather than 11 months) of funding. The FY 2013-14 appropriations for Salary Survey and Merit Pay only included 11 months of funding due to the payday shift.

*JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision*

<b>Supreme Court/Court of Appeals, Appellate Court Programs</b>				
	<b>Total Funds</b>	<b>General Fund</b>	<b>Cash Funds</b>	<b>FTE</b>
<b>FY 2013-14 Appropriation</b>				
SB 13-230 (Long Bill)	\$11,581,239	\$10,248,849	\$1,332,390	140.0
HB 14-1239 (Supplemental)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.0</u>
<b>TOTAL</b>	<b>\$11,581,239</b>	<b>\$10,248,849</b>	<b>\$1,332,390</b>	<b>140.0</b>
<b>FY 2014-15 Recommended Appropriation</b>				
FY 2013-14 Appropriation	\$11,581,239	\$10,248,849	\$1,332,390	140.0
Annualize prior year salary survey	681,554	458,711	222,843	0.0
Annualize prior year merit pay	214,830	204,089	10,741	0.0
JUD R6 Self-represented litigant coordinators	53,663	53,663	0	1.0
JUD BA1 General Fund support for Stabilization Cash Fund	<u>0</u>	<u>1,555,974</u>	<u>(1,555,974)</u>	<u>0.0</u>
<b>TOTAL</b>	<b>\$12,531,286</b>	<b>\$12,521,286</b>	<b>\$10,000</b>	<b>141.0</b>
<b>Increase/(Decrease)</b>	\$950,047	\$2,272,437	(\$1,322,390)	1.0
Percentage Change	8.2%	22.2%	(99.2%)	0.7%
<b>FY 2014-15 Executive Request:</b>	<b>\$12,466,588</b>	<b>\$12,456,588</b>	<b>\$10,000</b>	<b>141.0</b>
Request Above/(Below) Recommendation	(\$64,698)	(\$64,698)	\$0	0.0

*JUD R6 (Self-represented litigant coordinators):* Staff's recommendation includes \$53,663 General Fund and 1.0 FTE. For a description of this request, see the section titled "Initiatives Affecting Multiple Divisions" at the beginning of this packet.

*JUD BA1 (General Fund support for Stabilization Cash Fund):* Staff's recommendation includes a \$1,555,974 cash funds reduction and an increase of \$1,555,974 General Fund. For a description of this request, "Initiatives Affecting Multiple Divisions" at the beginning of this packet.

*JUD BA4 (Increased CF and grant spending authority):* Staff's recommendation includes continuation of the mid-year adjustments approved for FY 2013-14 in response to the Department's supplemental request (R4) and the companion budget amendment (BA4). Thus, no change appears in the above table. For a description of this request, "Initiatives Affecting Multiple Divisions" at the beginning of this packet.

**Attorney Regulation**

Allegations of attorney misconduct are investigated by the Attorney Regulation Committee, the Attorney Regulation Counsel, the Presiding Disciplinary Judge, the Appellate Discipline Commission, the Advisory Committee, and/or the Colorado Supreme Court. A Client Protection Fund compensates persons who suffer certain monetary losses because of an attorney's dishonest conduct. This system emphasizes attorney education and rehabilitation, and resolution of problems for members of the public. These activities are supported by attorney registration fees



established by the Colorado Supreme Court. Pursuant to Section 13-2-119, C.R.S., attorney registration fees are not required to be deposited with the State Treasurer. 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 [Section 1 of Article VI of the State Constitution].

**Request:** The Department requests a continuation level of funding (\$7,000,000 cash funds and 56.0 FTE).

**Recommendation:** Staff recommends reflecting \$9,000,000 cash funds and 56.0 FTE, to better reflect anticipated expenditures.

### **Continuing Legal Education**

The Board of Continuing Legal and Judicial Education administers mandatory continuing legal education for attorneys and judicial officers, including the certification of courses and educational conferences. The program is supported by annual attorney registration fees established by the Colorado Supreme Court. Pursuant to Section 13-2-119, C.R.S., attorney registration fees are not required to be deposited with the State Treasurer. 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 [Section 1 of Article VI of the State Constitution].

**Request:** The Department requests a continuation level of funding (\$410,000 cash funds and 4.0 FTE).

**Recommendation:** Staff recommends reflecting \$300,000 cash funds and 4.0 FTE, to better reflect anticipated expenditures.

### **State Board of Law Examiners**

The State Board of Law Examiners administers the Colorado bar exam. The program is supported by law examination application fees established by the Colorado Supreme Court. Pursuant to Section 13-2-119, C.R.S., fees for admission to the bar are not required to be deposited with the State Treasurer. 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 [Section 1 of Article VI of the State Constitution].

**Request:** The Department requests a continuation level of funding (\$1,050,000 cash funds and 7.0 FTE).

**Recommendation:** Staff recommends reflecting \$1,300,000 cash funds and 7.0 FTE, to better reflect anticipated expenditures.

### **Law Library**

The Supreme Court Library is a public library that is now 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.

**Request:** The Department requests a continuation level of funding (\$563,121), including \$500,000 cash funds from the Supreme Court Library Fund and \$63,121 reappropriated funds transferred from the Department of Law, and 3.5 FTE.

**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.

**Request:** The Department requests \$175,391 cash funds.

**Recommendation:** Staff recommends appropriating \$177,001 cash funds, based on updated calculations from the Department. The amounts 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 A.

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## **(2) Courts Administration**

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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.<sup>6</sup> The Courts Administration section of the budget is currently 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

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### **(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. Unless otherwise noted, line items in this section are supported by General Fund, the Judicial Department Information Technology Cash Fund, the Judicial Stabilization Cash Fund, and various other cash funds, and indirect cost recoveries.

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<sup>6</sup> See Article VI, Section 5 (3) of the Colorado Constitution; Section 13-3-101, C.R.S.

## LINE ITEM DETAIL

### 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 Judicial Stabilization 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.

Staffing Summary General Courts Administration	FY 12-13 Actual	FY 13-14 Approp.	FY 14-15 Request	FY 14-15 Recommend.
<u>General Courts Administration</u>				
Executive	10.8	12.0	12.0	12.0
Probation Services	19.0	22.0	22.0	22.0
Financial Services (JUD BA4)	24.8	25.0	27.0	25.0
Planning (JUD R6, JUD R7)	17.8	30.0	31.0	32.0
Human Resources (JUD R12)	<u>11.9</u>	<u>25.0</u>	<u>26.0</u>	<u>26.0</u>
Subtotal	84.3	114.0	118.0	117.0
<u>Information Technology Services</u>				
Administration/Management (JUD R8)	6.0	6.0	15.0	15.0
Computer Technical Support (annualize S.B. 13-250; JUD R1)	25.6	36.5	40.0	40.0
Court Services	6.5	0.0	0.0	0.0
Support Center	5.3	9.0	9.0	9.0
Public Access/ Efile	16.1	17.0	17.0	17.0
Programming Services (annualize FY 2010-11 PAS/EFS request; JUD R8)	<u>37.4</u>	<u>26.0</u>	<u>33.0</u>	<u>33.0</u>
Subtotal	96.9	94.5	114.0	114.0
Total	181.2	208.5	232.0	231.0

**Request:** The Department requests \$22,340,388, including \$14,533,318 General Fund, \$5,755,379 cash funds, and \$2,051,691 federal funds, and 232.0 FTE. The request is impacted by the following decision items:

- JUD R1 (Regional technicians for IT support);
- JUD R6 (Self-represented litigant coordinators);
- JUD R8 (IT staff);
- JUD R12 (Probation background checks);
- JUD BA1 (General Fund support for Stabilization Cash Fund);
- JUD BA3 (Adult diversion – travel expenses); and
- JUD BA4 (Increased CF and grant spending authority).

**Recommendation:** Staff recommends appropriating \$22,468,617, including \$14,616,345 General Fund, \$5,782,533 cash funds, and \$2,069,739 reappropriated funds, and 231.0 FTE. The amount of reappropriated funds recommended equals the sum of the three Indirect Cost Assessment line items in this packet, plus \$142,000 from indirect cost recoveries from federal grants. This amount includes: \$1,779,053 to cover departmental indirect costs, \$148,686 to cover the Department's share of statewide indirect costs, and \$142,000 from indirect cost recoveries from federal grants to cover both departmental and statewide indirect costs.

Overall, staff's recommendation is \$128,229 higher than the Department's request due to the following:

- Staff's recommendation is \$52,788 higher than the request (including \$47,509 General Fund and \$5,279 cash funds) because staff annualized the FY 2013-14 appropriations for Salary Survey and Merit Pay to provide 12 months (rather than 11 months) of funding. The FY 2013-14 appropriations for Salary Survey and Merit Pay only included 11 months of funding due to the payday shift.
- Staff recommends an additional \$75,441 General Fund and 1.0 FTE for JUD R7.
- Staff's recommendation includes an additional \$18,048 reappropriated funds due to a higher calculation of indirect cost recoveries, which is offset by a General Fund recommendation that is \$18,048 lower than the request.
- Staff's annualization of H.B. 13-1254 includes a \$6,013 increase for Personal Services, consistent with the Department's request and with the Legislative Council Staff fiscal note for the bill. However, staff has eliminated all General Fund support for the 0.5 FTE added through the act, and substituted cash funds from the Restorative Justice Surcharge Fund. This financing is consistent with the fiscal note, and results in a recommendation that has \$24,875 less General Fund and \$24,875 more cash funds than the request.
- Staff does not recommend the 2.0 FTE requested through JUD BA4.

*JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision*

<b>Courts Administration, Administration and Technology, General Courts Administration</b>					
	<b>Total Funds</b>	<b>General Fund</b>	<b>Cash Funds</b>	<b>Reappropriated Funds</b>	<b>FTE</b>
<b>FY 2013-14 Appropriation</b>					
SB 13-230 (Long Bill)	\$19,919,542	\$12,109,981	\$5,893,302	\$1,916,259	206.0
Other legislation	176,919	164,656	12,263	0	2.5
HB 14-1239 (Supplemental)	<u>3,000</u>	<u>3,000</u>	<u>0</u>	<u>0</u>	<u>0.0</u>
<b>TOTAL</b>	<b>\$20,099,461</b>	<b>\$12,277,637</b>	<b>\$5,905,565</b>	<b>\$1,916,259</b>	<b>208.5</b>
<b>FY 2014-15 Recommended Appropriation</b>					
FY 2013-14 Appropriation	\$20,099,461	\$12,277,637	\$5,905,565	\$1,916,259	208.5
Annualize prior year salary survey	342,316	308,084	34,232	0	0.0
Annualize prior year merit pay	291,134	262,021	29,113	0	0.0
Annualize prior year legislation	(28,591)	(52,881)	24,290	0	(0.5)
Annualize prior year budget actions	299,194	299,194	0	0	3.0
JUD R1 Regional technicians for IT support	288,063	288,063	0	0	4.0
JUD R6 Self-represented litigant coordinators	75,441	75,441	0	0	1.0
JUD R7 Family court facilitators	75,441	75,441	0	0	1.0
JUD R8 IT staff	975,294	975,294	0	0	13.0
JUD R12 Probation background checks	50,864	50,864	0	0	1.0
JUD BA1 General Fund support for Stabilization Cash Fund	0	210,667	(210,667)	0	0.0
JUD BA4 Increased CF and grant spending authority	0	0	0	0	0.0
Indirect cost assessment	<u>0</u>	<u>(153,480)</u>	<u>0</u>	<u>153,480</u>	<u>0.0</u>
<b>TOTAL</b>	<b>\$22,468,617</b>	<b>\$14,616,345</b>	<b>\$5,782,533</b>	<b>\$2,069,739</b>	<b>231.0</b>
<b>Increase/(Decrease)</b>	\$2,369,156	\$2,338,708	(\$123,032)	\$153,480	22.5
Percentage Change	11.8%	19.0%	(2.1%)	8.0%	10.8%
<b>FY 2014-15 Executive Request:</b>	<b>\$22,340,388</b>	<b>\$14,533,318</b>	<b>\$5,755,379</b>	<b>\$2,051,691</b>	<b>232.0</b>
Request Above/(Below) Recommendation	(\$128,229)	(\$83,027)	(\$27,154)	(\$18,048)	1.0

*JUD R6 (Self-represented litigant coordinators):* Staff's recommendation includes \$75,441 General Fund and 1.0 FTE. For a description of this request, see the section titled "Initiatives Affecting Multiple Divisions" at the beginning of this packet.

*JUD R7 (Family court facilitators):* Staff's recommendation includes \$75,441 and 1.0 FTE. For a description of this request and staff's recommendation, see the Trial Courts section of this packet.

*JUD BA1 (General Fund support for Stabilization Cash Fund):* Staff's recommendation includes a \$210,667 cash funds reduction and an increase of \$210,667 General Fund. For a

description of this request, "Initiatives Affecting Multiple Divisions" at the beginning of this packet.

*JUD BA3 (Adult diversion – travel expenses):* Staff's recommendation maintains the \$3,000 General Fund increase that was recently approved by the Committee for FY 2013-14. As there is no change for FY 2014-15, this item does not appear in the above table.

*JUD BA4 (Increased CF and grant spending authority):* Staff's recommendation does not include the FTE adjustment requested in the Department's supplemental request (R4) and the companion budget amendment (BA4). For a description of this request, "Initiatives Affecting Multiple Divisions" at the beginning of this packet.

*JUD R1, R8, R12, and BA3:* Staff's recommendations for these decision items are detailed below.

**➔ JUD R1 Regional technicians for IT support**

- The Department requests \$306,875 General Fund and 4.0 FTE to expand its capacity to provide hardware and software technical assistance to improve IT service to internal and public users.
- Staff recommends approving the request.

*Background Information – Department IT Staff:*

This is the first of three IT-related requests submitted by the Department. These requests are part of the Department's ongoing efforts to develop, support, and maintain technology that supports the courts' core business functions, that is agile and responsive to change, and that improves court users' experience with and understanding of the judicial system.

The Department's current IT-related staff consists of 93 FTE who work across four teams that support application development, systems integration, and statewide technical infrastructure, as well as providing user support. First, the *Executive IT and Web Development Team* has eight staff and is responsible for supporting systems including Courts and Probation's website, intranet, self-help forms, and public access system.

*JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision*

Executive IT and Web Development Team Positions		Staff
Chief Information Officer		1
Administrative Assistant		1
Senior ITS Manager		1
Information Security Officer		1
Business Intelligence Reporting (IBM Cognos)		1
IT Procurement Specialist		1
Web Development Team		2
Total Staff:		8
Executive IT and Web Development Team Supported Systems and Applications		
Judicial Website	Profile Requests	
Intranet	Social Media Sites	
Public Access System	Interpreter Calendaring Website	
Judicial Resource Manual	Self-Help Forms	
DOC Mittimus Clarification Website	Juror Self-Help Site	

Second, the *Application Team I* has a total of 27 FTE and is responsible for developing and supporting e-filing systems for civil, criminal, small claims, and *pro se* cases; back office applications such as employee leave time and recruitment; and all other attorney-related systems, including court-appointed counsel and attorney registration integration.

Application Team I Positions		Staff
Manager of Application Development		1
Application Development Staff (Programmers)		11
Business Analysts		7
ICCES Customers Support Technicians		8
Total Staff:		27

Application Team I Supported Systems and Applications	
E-Filing Public Access Terminals	All E-Filing Systems
Court Appointed Counsel	Attorney Registration Integration
Pay-for-Performance and Paid Time Off	Judicial Education Training System

Third, the *Application Team II* has a total of 20 FTE and is responsible for supporting internal applications such as the jPOD case management systems used by the Supreme Court, Court of Appeals, and District and County Courts, as well as the ICON/ECLIPSE case management system. This team also manages applications such as the online fees and fines payment system and jury management. Externally, this team manages integration with several extra-agency systems to provide data exchanges related to alcohol and drug offenders, dependency and neglect cases, child support compliance, and more.



*JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision*

Application Team II Positions		Staff
Manager of Application Development		1
Application Development Staff (Programmers)		11
Business Analysts		8
Total Staff:		20
Application Team II Supported Systems and Applications		
jPOD Case Management Systems	ICON/ECLIPSE Case Management System	
Online Fees & Fines Payment System	Jury Management	
Alternative Dispute Resolution	Case Management System Transformation	
Application Team II Supported Extra-Agency Data Exchanges		
CICJIS	Alcohol & Drug Administration Exchange	
CDHS Dependency & Neglect Cases	CDHS Child Support Cases	
DMV Traffic Dispositions	Tax, Gambling, and Lotto Intercepts	
DOC Restitution Payments	Drug Testing Results (NORCHEM/Sentry)	
FBI Mental Health Cases	Tickets on Demand – E-Citations in Weld	
DOR Electronic Distrain Warrants	DOI Bondsperson Data Integration	

Fourth, the *Technical Infrastructure Services Team* is the largest team with 38 FTE and is responsible for managing numerous critical systems, including servers and internal applications, as well as providing support to over 3,800 users on over 8,000 desktops and PCs and 700 other network devices in 105 courthouses and probation offices across the state.

Technical Infrastructure Services Team Positions		Staff
Manager of Technical Services		1
Systems Administrators		5
Midrange Server Administrators (AS/400 or iSeries)		2
Network Administrators		3
Telecommunications Coordinator		1
Technical Support Supervisor		2
Technical Support Specialists (Regional Technicians)		24
Total Staff:		38
Technical Infrastructure Services Team Supported Systems and Applications		
Over 250 Servers	Over 8,000 Desktops and PCs	
Over 700 Network Devices	105 Court & Probation Locations	
Over 3,800 User Accounts	Mobile & Peripheral Devices	
Patch Management	WestKM	
All Internally Developed Applications & Data Exchanges	Enterprise Content & Document Management System	
Microsoft Exchange	Adobe LiveCycle	
Security Appliance Installations & Configurations	Disaster Recovery & High Availability Site (E-Fort)	
Server & Network Monitoring	Hardware Help/Service Desk	

Request

Through JUD R1, the Department requests \$306,875 General Fund and 4.0 FTE to expand its capacity to provide hardware and software technical assistance to improve IT service to both internal and public users. The Department currently has 24 regional technicians who provide hardware support for all: PCs and laptops; mobile devices; scanners and printers; fax machines; server and network configurations; digital court reporting FTR devices; video and telephone conferencing equipment; audio/visual courtroom technology; and public access computers.

These regional technicians provide software support for: the Department's court case management system; content management software; all Microsoft applications; Adobe Professional; Cisco VPN configurations; anti-virus and encryption software; scanning and printing software; and specialty software.

The Department's current ratio of desktop and laptop computers to regional technicians is 215:1<sup>7</sup>. The Department identifies two benchmarks for purposes of evaluating the appropriateness of this ratio:

- a 2012 Human Staffing study of the Society for Human Resource Management reports an acceptable level of 150:1
- a 2012 Computer Economics report on Desktop Support Staffing Ratios reports an average ratio found in large organizations of 190:1

The Department's request would increase the number of regional technicians from 24 to 28, and is expected to reduce this ratio to 185:1.

Approval of this request would reduce the average response time and time to resolution, and provide a high level of technical aptitude on special project teams working on emerging opportunities and issue (*e.g.*, integrating court reporting devices with servers to serve as backups, networking personal computer/laptop backups, identifying and correcting critical network security issues, assisting with wireless access solutions for internal and public users, implementing network enhancements, and implementing proper IT physical security needs).

*Recommendation:* Staff recommends approving the request, as detailed in the following table. Given the number of devices and court and probation staff that are supported by Department IT staff, this request is reasonable. In addition, staff believes that the fact that the Department chose to rank this request first among all requests reflects the increased reliance of court and probation staff on IT equipment to perform daily tasks.

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<sup>7</sup> As of April 15, 2013, the Department was supporting 5,178 desktop and laptop computers throughout the State.

<b>Summary of Recommendation for JUD R1: Regional technicians for IT support</b>		
	<b>FY 2014-15</b>	<b>FY 2015-16</b>
<b><u>Courts Administration</u></b>		
<i>Administration and Technology</i>		
Personal Services (4.0 FTE; \$69,468 salary + PERA + Medicare)	\$284,263	\$310,105
Operating Expenses (\$950 for telephone base, \$450 for supplies for 4.0 FTE)	<u>3,800</u>	<u>3,800</u>
Subtotal	288,063	313,905
<i>Centrally Administered Programs</i>		
Courthouse Capital/ Infrastructure Maintenance (\$3,473 for office furniture, \$900 for computer, and \$330 for Office Suite software for 4.0 FTE)	18,812	0
<b>Total</b>	<b>\$306,875</b>	<b>\$313,905</b>

**➔ JUD R8 IT staff**

- The Department requests \$991,282 General Fund and 13.0 FTE to allow the Department to develop, implement, and complete a large number of critical IT-related projects that will otherwise take several years to complete with existing IT staff.
- Staff recommends approving the request.

*Request:* The Department requests \$991,282 General Fund and 13.0 FTE to complete ongoing projects more quickly and to develop new programs that will support and enhance the business needs of the Judicial Branch.

The Department's IT systems provide the public, Judicial Branch staff, attorneys, collection agencies, and many other state and local agencies with increasingly sophisticated and user-friendly applications. The systems also ensure the proper and secure storage and exchange of information between all Judicial employees, state agencies, and the public. The systems are critical to the ongoing operations of the courts and probation, and it is essential for the Department to provide adequate staff to support the increasingly vital and sophisticated IT systems that ensure that the courts, probation offices, and administrators can perform their daily business.

The request would add the following 13.0 FTE positions to expand the number of IT staff on the two application teams (described above), including the following:

- A total of 11.0 FTE, including: 3.0 FTE Business Analyst II, 1.0 FTE Programmer I, 3.0 FTE Programmer II, and 4.0 Assistant Server Administrators – During the last few years, the Department has focused on successfully developing and implementing top priority projects.

During this time, other projects that will increase public access, employee productivity, information availability, and network security were identified but placed on the Department's IT backlog. These new positions would join existing staff to form application development teams to facilitate completion of the ongoing work to migrate additional case types to the new jPod case management system, and to tackle backlogged IT projects.

- 1.0 FTE Database Administrator – The Department would like to hire a dedicated and experienced database administrator. The Department does not currently have a dedicated database administrator, and relies on the part-time efforts of one of their server administrators to address database needs. The Department notes that a Computer Economics 2012 report on IT staffing ratios indicates that large organizations have 1.0 FTE database administrator position for every 25 applications. The Department currently has over 30 applications that it must support 24 hours a day, seven days a week.
- 1.0 FTE Telecommunications Coordinator – The Department would like to increase the number of Telecommunications Coordinators from one to two to administer and maintain telephone systems that serve over 3,500 court, probation, and administrative staff in over 100 locations across the state.

**Recommendation:** Staff recommends approving the request, as detailed in the following table. The expansion of the Department's E-filing system (ICCES) to criminal, misdemeanor, juvenile delinquency, traffic, mental health, and other juvenile case types will be facilitated if the Department is able to complete the migration of the remaining case types to the new jPod case management system. If this request is approved, the Department plans to have one application development team focus on completing the jPod transition, and have a second team focus on a variety of other projects that are ongoing or have been backlogged. The Department's request lists over 70 backlogged projects. Examples of these projects include the following:

- enhancing the Department's court-appointed counsel payment system to allow one to identify billings that are duplicated in the Office of the Alternate Defense Counsel and the Office of the Child's Representative systems;
- developing an offender services tracking system to allow one to analyze expenditures and outcomes;
- developing an automated Presentence Investigation Report;
- developing a website for scheduling language interpreters;
- developing an eCitation system to utilize data provided by local law enforcement to initiate and create court cases; and
- enhance human resources systems to track employee leave time and administer the employee pay-for-performance system.

<b>Summary of Recommendation for JUD R8: IT staff</b>		
	<b>FY 2014-15</b>	<b>FY 2015-16</b>
<b><u>Courts Administration</u></b>		
<b><i>Administration and Technology</i></b>		
Personal Services (2.0 FTE at \$80,760 salary and 1.0 FTE at \$71,400 salary, + PERA + Medicare)	\$962,942	\$1,050,482
Operating Expenses (per FTE costs of \$450 for telephone and \$500 for supplies for 13.0 FTE)	<u>12,350</u>	<u>12,350</u>
Subtotal	975,292	1,062,832
<b><i>Central Appropriations</i></b>		
AED	0	37,338
SAED	<u>0</u>	<u>34,906</u>
Subtotal	0	72,244
<b><i>Centrally Administered Programs</i></b>		
Courthouse Capital/ Infrastructure Maintenance (per FTE costs of \$0 for cubicle/workstation and \$1,230 for computer and software for 13.0 FTE)	15,990	0
<b>Total</b>	<b>\$991,282</b>	<b>\$1,100,170</b>

**➔ JUD R12 Probation background checks**

- The Department requests \$55,567 General Fund and 1.0 FTE Human Resources Technician to assist in conducting criminal background checks primarily for private vendors working in the area of probation under a judicial contract.
- Staff recommends approving the request.

*Request:* The Department requests \$55,567 General Fund and 1.0 FTE Human Resources Technician to assist in conducting paper-based criminal background checks for private vendors working in the area of probation under a judicial contract. By the terms of the contract, all private probation providers and vendors are required to undergo a Colorado (CCIC) and an FBI (NCIC) background check. Earlier this year the Department discovered that these contractors were unable to accomplish the FBI background checks as they are not statutorily required to have a fingerprint-based background check. The Colorado Bureau of Investigation (CBI) manages the FBI fingerprint background check process and would not accept them for processing based on the statutory language.

The Department is not seeking a statutory change to require these vendors to obtain a fingerprint-based background check prior to making an offer of employment. This would place a higher standard on vendors than is currently in place for state probation employees. The Department

believes that it is more efficient and effective to have a Department employee who is trained and authorized to conduct an NCIC background check on both state and private probation employees. The Department plans to run these background checks every two years for private probation employees (consistent with their practice for Department probation staff). The Department indicates that the workload associated with these background checks is greater than can be handled by the existing employee charged with this task. This causes delays in obtaining the background checks, which then delays the ability of a vendor to fill positions.

The Department notes that a private probation caseworker was recently arrested and charged with sexual assault on one or more clients; this individual had a prior record for sex offending in another state. A background check would have caught this record.

**Recommendation:** Staff recommends approving the request, as detailed in the following table. The Department's proposal is a reasonable approach to conducting criminal background checks for private and State probation staff in a consistent and efficient manner. This approach is less costly than paying the CBI to conduct fingerprint-based background checks, and it ensures that the checks are timely to avoid unnecessary delays in the hiring process.

<b>Summary of Recommendation for JUD R12: Probation background checks</b>		
	<b>FY 2014-15</b>	<b>FY 2015-16</b>
<b><u>Courts Administration</u></b>		
<b><i>Administration and Technology</i></b>		
Personal Services (1.0 FTE at \$48,792 salary + PERA + Medicare; for 11 months in FY 2014-15)	\$49,914	\$54,452
Operating Expenses (per FTE costs of \$450 for telephone and \$500 for supplies for 1.0 FTE)	950	950
Subtotal	50,864	55,402
<b><i>Central Appropriations</i></b>		
AED	0	1,776
SAED	0	1,659
Subtotal	0	3,435
<b><i>Centrally Administered Programs</i></b>		
Courthouse Capital/ Infrastructure Maintenance (per FTE costs of \$3,473 for cubicle/workstation and \$1,230 for computer and software for 1.0 FTE)	4,703	0
<b>Total</b>	<b>\$55,567</b>	<b>\$57,178</b>

**➔ JUD BA3 Adult diversion – travel expenses**

- The Department requests \$3,000 General Fund to cover the travel expenses of a member of the Diversion Funding Committee (created by H.B. 13-1156) who lives in La Junta.
- Staff recommends approving the request.

*Request:* The Department requested an additional \$3,000 General Fund for both FY 2013-14 and FY 2014-15 to cover the travel expenses of a member of the Diversion Funding Committee (created by H.B. 13-1156) who lives in La Junta.

*Recommendation:* For FY 2013-14, staff recommended (and the Committee approved) providing \$3,000 General Fund to cover travel expenses for a Committee member, and reducing the appropriation for adult pretrial diversion programs by \$3,000 General Fund. For FY 2014-15, staff recommends maintaining the \$3,000 General Fund increase in this line item for travel expenses.

*Analysis:*

House Bill 13-1156

House Bill 13-1156 repealed the adult deferred prosecution sentencing option and replaced it with an adult pretrial diversion program. The act required the State Court Administrator to create a five-member Diversion Funding Committee<sup>8</sup> to:

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

The act requires the Judicial Department to execute the contract and allocate the funding requests approved by the Committee. The act requires a district attorney that receives funding pursuant to the act to collect data and provide a status report to the Judicial Department concerning its adult pretrial diversion program. The act requires the Judicial Department to provide an annual status report to the Joint Budget Committee beginning January 31, 2015. The act included an appropriation of \$425,000 General Fund and 0.5 FTE to the Judicial Department for FY 2013-14, allocated as follows:

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<sup>8</sup> 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.

- \$33,072 and 0.5 FTE for personal services;
- \$475 for operating expenses;
- \$1,230 for one-time capital outlay expenses; and
- \$390,223 for allocation to district attorney adult pretrial diversion programs.

The Diversion Funding Committee has met and developed guidelines and application forms. Application forms have been distributed to district attorneys. Applications for state funding are due January 14, 2014; no applications had been received as of January 8. The Committee is scheduled to meet February 13 to review applications and allocate available funding for diversion programs.

#### Department Request

The Department requested an additional \$3,000 General Fund for both FY 2013-14 and FY 2014-15 to cover the travel expenses of a member of the Diversion Funding Committee who lives in La Junta. The request for \$3,000 is based on mileage reimbursement for 12 trips to Denver (\$2,142), meals and lodging for three overnight stays in Denver (\$615), and parking and other incidental expenses (\$243).

#### Staff Recommendation

For FY 2013-14, staff recommended providing the additional \$3,000 General Fund to cover travel expenses, but also reducing the appropriation for adult pretrial diversion programs by \$3,000 General Fund (from \$390,223 to \$387,223) based on staff's understanding that the General Assembly intended to appropriate a total of \$425,000 for FY 2013-14 for H.B. 13-1156. For FY 2014-15, **staff recommends maintaining the \$3,000 General Fund increase in this line item for travel expenses.** Staff recommends appropriating funds for District Attorney Adult Pretrial Diversion Programs based on the amount anticipated to be requested by District Attorneys for adult pretrial diversion programs that meet the established statutory guidelines.

The Department indicates that only two judicial districts submitted applications to the Diversion Funding Committee, and both were determined to meet the guidelines. Specifically, the 16th judicial district (Bent, Crowley, and Otero counties) requested and received \$56,000 and the 9th judicial district (Garfield, Pitkin, and Rio Blanco counties) requested and received \$13,350 as partial year funding for the final quarter of FY 2013-14. A total of \$69,350 was requested and approved for FY 2013-14.

Department staff indicate that the Diversion Funding Committee believes that the newness of the program and the tight timeframe for applications for FY 2013-14 affected the response to the request for applications. For FY 2014-15, the Committee expects that these two programs will request a full year of funding and that there will be an increase in requests and awards for other districts. To increase the response to the request for applications, the Committee plans to open FY 2014-15 applications April 4th and close on May 16th, allowing applicants six weeks to respond. The Committee will review and score applications by May 23rd and make award announcements by May 30th. The Committee does not believe that it can accurately estimate the need for FY 2014-15 based on the FY 2013-14 awards, but would like to retain the full \$390,223 provided in the legislation to ensure that they can continue to support the currently-funded



programs to continue developing their adult diversion programs as well as to make it possible to fund additional districts.

For FY 2014-15, **staff recommends appropriating \$400,000 General Fund for allocation to district attorney adult pretrial diversion programs.** The stated legislative intent of H.B. 13-1156 was to "facilitate and encourage diversion of defendants from the criminal justice system when diversion may prevent defendants from committing additional criminal acts, restore victims of crime, and reduce the number of cases in the criminal justice system". While a district attorney is allowed to develop or continue to operate a diversion program that is not consistent with the guidelines and requirements that are set forth in Section 18-1.3-101, C.R.S., H.B. 13-1156 provided state funding to incentive district attorneys to develop diversion programs that are consistent with such requirements. Staff recommends providing a consistent level of funding for the second year of the program (using a rounded dollar amount), as suggested by the Diversion Funding Committee.

### **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.).
- 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).

**Request:** The Department requests \$5,686,351 (including \$403,094 General Fund and \$5,283,257 cash funds from the Judicial Department Information Technology Cash Fund). The request is impacted by JUD R3 (Network bandwidth).

**Recommendation:** Staff recommends appropriating \$5,450,321, including \$403,094 General Fund and \$5,047,227 cash funds, as detailed in the following table. Staff's recommendation is \$236,030 lower than the request based on staff's recommendation for JUD R3, discussed below.

*JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision*

<b>Courts Administration, Administration and Technology, Information Technology Infrastructure</b>				
	<b>Total Funds</b>	<b>General Fund</b>	<b>Cash Funds</b>	<b>FTE</b>
<b>FY 2013-14 Appropriation</b>				
SB 13-230 (Long Bill)	\$4,637,841	\$403,094	\$4,234,747	0.0
<b>TOTAL</b>	<b>\$4,637,841</b>	<b>\$403,094</b>	<b>\$4,234,747</b>	<b>0.0</b>
<b>FY 2014-15 Recommended Appropriation</b>				
FY 2013-14 Appropriation	\$4,637,841	\$403,094	\$4,234,747	0.0
JUD R3 Network bandwidth	812,480	0	812,480	0.0
<b>TOTAL</b>	<b>\$5,450,321</b>	<b>\$403,094</b>	<b>\$5,047,227</b>	<b>0.0</b>
<b>Increase/(Decrease)</b>	\$812,480	\$0	\$812,480	0.0
Percentage Change	17.5%	0.0%	19.2%	0.0%
<b>FY 2014-15 Executive Request:</b>	<b>\$5,686,351</b>	<b>\$403,094</b>	<b>\$5,283,257</b>	<b>0.0</b>
Request Above/(Below) Recommendation	\$236,030	\$0	\$236,030	0.0

**➔ JUD R3 Network bandwidth**

- The Department requests \$1,048,510 cash funds from the Judicial Department Information Technology Cash Fund to upgrade and increase network bandwidth capacity as it becomes available to sustain timely operations and customer service.
- Staff recommends appropriating \$812,480 cash funds based on more recent data provided by the Department.

*Request:* The Department requests \$1,048,510 cash funds from the Judicial Department Information Technology Cash Fund to upgrade and increase network bandwidth capacity to maintain and improve service levels for those who rely on the Department's network applications (e.g., court and probation staff, court users, other government agencies that exchange data with the Department, public access vendors, probation and treatment providers, and the public).

Network bandwidth demands continue to increase along with as the use of the following types of systems and technologies:

- video streaming;
- Voice over Internet Protocol (VoIP);
- E-Filing;
- Public Access;
- Private Probation;
- Case Management System enhancements;
- video-conferencing among courts and other agencies;
- digital audio recordings of courtroom proceedings;

- the use of the Internet for research;
- online training; and
- other Internet applications using web and mobile technologies.

Although the Department received funding in 2012 to upgrade its bandwidth in some locations to 1.5 megabits per second (Mbps) or 3.0 Mbps multiprotocol label switching (MPLS) circuits<sup>9</sup>, the bandwidth currently available in many rural areas has not increased at a rate necessary to keep up with these technological demands. This results in slower response times and decreased performance for all users. The problem is particularly pronounced in rural areas because of poor availability and the relatively high costs of increasing capacity to needed levels. The Department continually monitors network performance, and performance statistics in a number of locations indicate that network bandwidth is insufficient or inadequate to support daily operations.

In addition to improving response times and performance for court and probation staff and court users, approval of this request will have four additional benefits. First, approval of this request will ensure that existing data interchanges with other government and private agencies (*e.g.*, the Department of Human Services, the Department of Corrections, Public Access vendors, and private probation and treatment providers) will be maintained and improved.

Second, in order to create additional efficiencies and increase public accessibility, the Department plans to provide wireless access for the public, private counsel, public defenders, and district attorney staff while visiting courts and probation facilities. Many facilities currently purchase individual DSL circuits to provide public wireless access because current Department network circuits are unable to support "split-tunneled" networks. Increasing the bandwidth will allow the Department to split its network circuit to each location in a way that will both support business operations and provide public wireless access without the cost of a separate DSL connection.

Third, approval of this request will facilitate the Department's plans to expand the use of video conferencing (between judges, defendants, victims, witnesses, probationers, and treatment providers) and the use of VoIP to reduce the costs of long-distance calls as well as maintenance costs associated with moving or adding phone lines.

- Video conferencing can reduce local sheriff's expenditures associated with transporting inmates to local county courts for court advisements. For example, in Weld county, over 250 inmates are transported every year to Weld county courts at a minimum cost of \$500 per offender. In addition, some judges in rural areas would like to provide offenders on probation with access to treatment using video conferencing, in order to reduce the number of probation revocations.

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<sup>9</sup> Multiprotocol label switching circuits is a high performance network technology offered by many telecommunications providers to direct data from one network node to the next based on short path labels or virtual links rather than long network addresses, thus avoiding complex lookups within an Internet service provider's (ISP's) routing table.

- The Department estimates that the implementation of VoIP in the 19<sup>th</sup> judicial district (Weld county) will save \$81,320 annually in phone service expenses, allowing for a return on the initial investment to purchase and install the system of 3.5 years. In addition, a VoIP system reduces the cost of long distance calls and allows a district to self-administer the phone system rather than relying on outside vendors to move, add, or change phones. VoIP also offers qualitative benefits, allowing integration of audio and web conferencing, personalized control of voice mail, greetings, and call handling modes, as well as desktop application integration for easy scheduling and management of calls.

Fourth, approval of this request will facilitate the Department's efforts to implement real-time PC/laptop and court reporting backups to dedicated servers.

If this request is approved, the Department will upgrade the network bandwidth for 32 sites to 30Mbps circuits. Each site will require the installation of a private port and ongoing annual access costs. In addition, the Department will purchase video conferencing equipment for 18 sites that currently lack such equipment.

*Recommendation:* Staff recommends approving the request, but appropriating only \$812,480 cash funds for FY 2013-14. The Department has provided updated information about the number of sites that will be involved. The components of the recommendation are detailed in the following table (shading indicates where the recommendation differs from the request).

<b>Summary of Recommendation for JUD R3: Network bandwidth</b>		
Description	FY 2014-15	FY 2015-16
Private port installation (\$1,500 per site for 32 sites)	\$48,000	\$0
Annual access charges (\$2,515 per site for 32 sites)	80,480	80,480
Video conferencing equipment (\$38,000 per site for 18 sites)	684,000	0
<b>Total</b>	<b>\$812,480</b>	<b>\$80,480</b>

**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.

**Request:** The Department requests \$640,865, including \$634,106 cash funds and \$6,759 reappropriated funds.

**Recommendation:** Staff recommends appropriating \$646,898, including \$640,139 cash funds and \$6,759 reappropriated funds. The recommendation is based on updated calculations from the Department.

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## **(B) CENTRAL APPROPRIATIONS**

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

### **LINE ITEM DETAIL**

#### **Health, Life and Dental**

This is the first of five 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. This line item provides funds for Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation staff.

**Request:** The Department requests \$25,681,799, including \$23,193,747 General Fund and \$2,488,052 cash funds.

**Recommendation:** Staff recommends appropriating \$24,531,551, including \$22,143,265 General Fund and \$2,388,285 cash funds, consistent with Committee policy with respect to employer contribution rates.<sup>10</sup>

The following table summarizes all of staff's recommendations in this packet for Health, Life and Dental:

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<sup>10</sup> Employer contribution rates approved by the Committee are the same as for FY 2013-14 and include the following: \$434.10 (employee), \$762.60 (employee + spouse), \$795.66 (employee + children), and \$1,080.90 (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 \$8.76 for life benefits.

<b>Summary of FY 2014-15 Recommendations for Health, Life, and Dental</b>			
	<b>General Fund</b>	<b>Cash Funds</b>	<b>Total</b>
Courts Administration (for courts and probation)	\$22,143,265	\$2,388,285	\$24,531,550
Office of the State Public Defender	5,433,139	0	5,433,139
Office of the Alternate Defense Counsel	112,745	0	112,745
Office of the Child's Representative	249,721	0	249,721
Independent Ethics Commission	<u>15,393</u>	<u>0</u>	<u>15,393</u>
<b>Total</b>	<b>\$27,954,263</b>	<b>\$2,388,285</b>	<b>\$30,342,548</b>

**Short-term Disability**

This is the first of five line items that provide funding for the employer's share of state employees' short-term disability insurance premiums. 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.<sup>11</sup> 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.

**Request:** The Department requests \$509,024, including \$464,779 General Fund and \$44,245 cash funds. The request includes judicial officer salaries when calculating short-term disability.

**Recommendation:** Staff recommends appropriating \$409,779, including \$301,119 General Fund and \$108,660 cash funds, consistent with the Committee's common policy. This calculation is based on applying a rate of 0.22 percent to base salaries (excluding judicial officers), including the recommended salary survey and merit pay increases.

The following table summarizes all of staff's recommendations in this packet for Short-term Disability:

<b>Summary of FY 2014-15 Recommendations for Short-term Disability</b>			
	<b>General Fund</b>	<b>Cash Funds</b>	<b>Total</b>
Courts Administration (for courts and probation)	\$301,119	\$108,660	\$409,779
Office of the State Public Defender	106,725	0	106,725
Office of the Alternate Defense Counsel	1,711	0	1,711
Office of the Child's Representative	4,760	0	4,760
Independent Ethics Commission	<u>376</u>	<u>0</u>	<u>376</u>
<b>Total</b>	<b>\$414,691</b>	<b>\$0</b>	<b>\$414,691</b>

<sup>11</sup> 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 line item provides additional funding to increase the state contribution for Public Employees' Retirement Association (PERA). One of five such line items, this one provides funds for Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation staff.

**Request:** The Department requests \$9,254,970, including \$8,450,518 General Fund and \$804,452 cash funds.

**Recommendation:** Staff recommends appropriating \$8,397,070, including \$6,259,541 General Fund and \$2,137,529 cash funds, consistent with Committee's common policy. For non-judicial officer staff, this calculation is based on applying the relevant rates [3.8 percent of base salaries for CY 2014 and 4.2 percent of base salaries for CY 2015] to base salaries, including the recommended salary survey and merit pay increases. The blended rate (4.0 percent) does not include an adjustment for the pay date shift. For judicial officers, this calculation is based on a rate of 2.2 percent, with no adjustment of the pay date shift.

The following table summarizes all of staff's recommendations in this packet for AED:

<b>Summary of FY 2014-15 Recommendations for AED</b>			
	<b>General Fund</b>	<b>Cash Funds</b>	<b>Total</b>
Courts Administration (for courts and probation)	\$6,259,541	\$2,137,529	\$8,397,070
Office of the State Public Defender	1,940,453	0	1,940,453
Office of the Alternate Defense Counsel	31,104	0	31,104
Office of the Child's Representative	86,542	0	86,542
Independent Ethics Commission	<u>6,844</u>	<u>0</u>	<u>6,844</u>
<b>Total</b>	<b>\$8,324,484</b>	<b>\$2,137,529</b>	<b>\$10,462,013</b>

**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. One of five such line items, this one provides funds for Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation staff.

**Request:** The Department requests \$8,676,535, including \$7,922,361 General Fund and \$754,174 cash funds.

**Recommendation:** Staff recommends appropriating \$7,630,240, including \$5,687,913 General Fund and \$1,942,327 cash funds, consistent with Committee's common policy. For non-judicial officer staff, this calculation is based on applying the relevant rates [3.5 percent of base salaries for CY 2014 and 4.0 percent of base salaries for CY 2015] to base salaries, including the recommended salary survey and merit pay increases. The blended rate (3.75 percent) does not include an adjustment for the pay date shift. For judicial officers, this calculation is based on a rate of 1.5 percent, with no adjustment of the pay date shift.

The following table summarizes all of staff's recommendations in this packet for SAED:

<b>Summary of FY 2014-15 Recommendations for SAED</b>			
	<b>General Fund</b>	<b>Cash Funds</b>	<b>Total</b>
Courts Administration (for courts and probation)	\$5,687,913	\$1,942,327	\$7,630,240
Office of the State Public Defender	1,819,175	0	1,819,175
Office of the Alternate Defense Counsel	29,160	0	29,160
Office of the Child's Representative	81,133	0	81,133
Independent Ethics Commission	<u>6,416</u>	<u>0</u>	<u>6,416</u>
<b>Total</b>	<b>\$7,623,797</b>	<b>\$1,942,327</b>	<b>\$9,566,124</b>

**Salary Survey**

The Department uses this line item to pay for annual salary increases. One of five such line items, this one provides funds for Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation staff.

**Request:** The Department requests \$11,040,093, including \$10,495,519 General Fund and \$544,574 cash funds. This request includes \$4,565,527 to increase all base salaries by 1.5 percent (with no adjustment for the payday shift), plus \$6,474,566 to implement salary range adjustments for selected job classifications.

*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; and
- The Independent Ethics Commission.

*Methodology.* The Judicial Department methodology to calculate the overall request for the Salary Survey line item is based on the following:



- For judicial officers (including Supreme Court justices, Court of Appeals judges, District Court judges, and County Court judges), increase base salaries by the sum of the percent increase proposed as a result of the "systems study", plus 3.0 percent. This across the board 3.0 increase is intended to mirror the Executive proposal of a 1.5 percent across the board and a 1.5 percent merit increase. Due to the unique nature of judicial officers and Colorado's judicial performance evaluation system and judicial retention elections, the merit increase is applied to all judicial officers uniformly.
- For those job classifications for which a systems study base salary increase is proposed (excluding judicial officers), increase base salaries by the sum of the percent increase proposed as a result of the systems study, plus 1.5 percent.
- For the remaining job classifications, increase base salaries by 1.5 percent.

*Salary Range Adjustments.* The Judicial Department request for FY 2014-15 includes \$6,474,566 to implement salary range adjustments for employees in 93 job classifications. The requested increases can be broken out into three parts:

- Over half of the requested funds would increase salaries for judicial officers, magistrates, and water referees by 5.5 percent (including \$2,715,195 for judicial officers and \$633,322 for magistrates and water referees).
- One quarter of the requested funds (\$1,642,655) would provide for the third and final 3.3 percent salary adjustment for Court Judicial Assistants and Support Services Clerks to close a 10 percent pay gap.
- The remainder of the requested funds (\$1,483,394) would address job classifications that were found to be 4.0 percent or more out of alignment.

Overall, the proposal would achieve full alignment for three job classifications in which an out of cycle study was conducted with findings of misalignment within the previous year, and for which the number of incumbents represents 10.0 percent or less of Department staff. A total of 30 incumbent staff would be affected by the following proposed base salary adjustments:

- Managing Court Reporter: 4.0 percent increase;
- Managing Court Reporter Realtime: 4.0 percent increase; and
- Account Clerk: 9.5 percent increase.

For the remaining classifications, the proposal would improve alignment based on the following tiered approach:

Classes 4.00 to 4.99 percent out of alignment: 1.5 percent increase  
Classes 5.00 to 5.99 percent out of alignment: 2.5 percent increase  
Classes 6.00 to 6.99 percent out of alignment: 3.5 percent increase  
Classes 7.00 to 7.99 percent out of alignment: 4.5 percent increase

Classes 8.00 percent or greater out of alignment: 5.5 percent increase

*Associated Benefits.* Finally, please note that the request includes the associated PERA, Medicare, AED, and SAED.

**Recommendation:** Staff recommends appropriating \$13,936,195, including \$12,992,590 General Fund and \$943,605 cash funds, pursuant to Committee policy. For non-judicial officer staff, this calculation includes all the proposed salary range adjustments for specific job classifications plus a 3.0 percent increase in base salaries, plus the associated PERA and Medicare contributions (with no adjustment for the paydate shift). The associated increases required for AED, SAED, and Short-term Disability are included in the recommendations for those respective line items.

For judicial officers, the recommendation includes a 10.0 percent increase in base salaries, based on the proposed 5.5 percent salary adjustment plus an across the board increase of 4.5 percent. [This issue is discussed in more detail below, and staff has recommended an amended Long Bill footnote at the end of this packet to specify the corresponding increases for each judicial salary. In addition, because the existing Long Bill footnote ties the salaries of the Directors of three of the independent judicial agencies to specific judge salaries, staff's recommendations for those agencies correspond to the recommended increase in judicial officer salaries.] The recommendation includes the associated PERA and Medicare contributions (with no adjustment for the paydate shift). The associated increases required for AED, SAED, and Short-term Disability are included in the recommendations for those respective line items.

*Salaries for Justices and Judges.* As indicated above, the Department's budget request for FY 2014-15 includes funding to increase all judge and justice salaries by 8.5 percent, including: (1) a 5.5 percent "systems study" increase; and (2) a 3.0 percent salary survey increase (which corresponds to the Executive Branch proposed 1.5 percent salary survey increase and a 1.5 percent merit pay increase).

The Department uses salary data from the National Center for State Courts (NCSC) as well as several municipal courts to annually evaluate judicial officer salaries. The Department uses the District Court judge position for benchmarking purposes. The Department's goal is for Colorado's District Court judge salary to reach the 12<sup>th</sup> ranking nationally among general jurisdiction trial courts, because Colorado ranks 12<sup>th</sup> nationally in median income<sup>12</sup>. Based on the most recent NCSC annual survey of judicial salaries (dated January 1, 2013), the salary of District Court judges is ranked 34<sup>rd</sup> among 50 states and the District of Columbia. Colorado's District Court judge salary would need to be increased by \$21,402 (16.6 percent) to match the 12<sup>th</sup> ranked state (Wyoming).

The Department also provided the following salary comparisons using municipal court salary data:

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<sup>12</sup> Median income ranking is based on 2012 data from the U.S. Census.

*JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision*

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	Annual Salary	Deviation
District Court Judge	128,598	
Arvada Municipal Judge	131,424	-2.2%
Colo. Springs Municipal Judge	123,060	4.3%
Lakewood Municipal Judge	145,596	-13.2%
Westminster Municipal Judge	130,236	-1.3%
Denver-Aurora Administrative Law Judge	165,300	-25.8%
Denver Hearings Officer	136,890	-6.1%

Finally, the Department also indicates that the District Court judge salary represents the salary lid for all Judicial Department salaries. Thus, the proposed increase in the District Court judge salary would help to address ongoing pay compression issues.

**The funding recommendations in this packet and the recommended revisions to the Long Bill footnote for FY 2014-15 are based on providing a 10.0 percent increase in judicial salaries, including the Department's proposed 5.5 percent increase in base salaries, plus the application of Committee policy of providing increases averaging 4.5 percent for state employees** (including a 3.0 percent across the board increase and merit increases averaging 1.5 percent). Staff's recommendation is based on the information provided by the Department as well as an analysis of five additional sources of comparable data.

First, the most recent NCSC an annual survey of judicial salaries (dated January 1, 2013), provides salary rankings for three types of judicial officers:

- the salary for Associate Justices of the Colorado Supreme Court is ranked 37<sup>th</sup> among the 50 states and the District of Columbia;
- the salary for Associate Judges of the Colorado Court of Appeals is ranked 30<sup>th</sup> of the 39 states that have an intermediate appellate court; and
- the salary of District Court Judges is ranked 34<sup>rd</sup> among 50 states and the District of Columbia, and is ranked 36<sup>th</sup> when adjusted for cost of living.

Based on January 2013 NCSC data, all of Colorado's judicial salaries fall below both the mean and the median among states. The percentage gap between Colorado salaries and the national mean ranges from 7.8 percent for District Court Judges to 10.0 percent for Supreme Court Justices. The proposed base salary increase of 5.5 percent would reduce, but not eliminate, these gaps.

Staff does not agree with the Department's rationale for its goal of Colorado's District Court judge salary to reach the 12<sup>th</sup> ranking nationally among general jurisdiction trial courts, based on Colorado's 12<sup>th</sup> ranking in median income. Instead, staff suggests a goal based on the NCSC's *adjusted* comparative salary data for general jurisdiction trial courts, which adjusts the rankings to reflect differences in cost of living in various jurisdictions. Based on this adjusted ranking, Colorado's District Court judge salary is ranked 36<sup>th</sup> of 51 jurisdictions. To reach the midpoint nationally (the 26<sup>th</sup> ranking, which is currently where the State of Washington is ranked),

Colorado's District Court judge salaries would need to increase by 7.8 percent. Using this approach, the proposed 5.5 percent salary adjustment seems reasonable.

Second, all of the FY 2013-14 judicial officer salaries (including the Chief Justice of the Supreme Court) fall well below the salary for administrative law judges in Denver and Aurora (provided by the Department and included above), and they fall well below the existing salary for Denver County Court judges (\$159,521). Further, all of the recommended judicial officer salaries (including the Chief Justice of the Supreme Court) would fall below the Denver County Court judge salary proposed for January 2014 by the presiding judge (\$164,648)<sup>13</sup>. The proposal would continue to link Denver County Court judge salaries to the Assistant City Attorney – Section Supervisor classification.

Third, the Department of Law annually 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. The latest survey, prepared by Fox Lawson & Associates (FLA), was published in October 2013. This study utilized compensation data for Front Range city and county attorney offices, the U.S. Office of the Attorney General, Front Range judicial districts, and the Office of the State Public Defender. The 2013 survey includes a comparison of salary ranges for five attorney classifications (using Department of Law salary data as of July 1, 2013). Deputy Attorneys General are the highest paid attorneys within the five classifications.

All of the FY 2013-14 judicial officer salaries (including the Chief Justice of the Supreme Court) fall below the average actual salary paid by the Department of Law to Deputy Attorneys General (\$154,244), with gaps ranging from 21.0 percent for County Court judges to 4.3 percent for the Chief Justice. Further, assuming that the average actual Deputy Attorney General salary increases by 4.5 percent in FY 2014-15 (based on the Committee's common policy), most of the recommended judicial officer salaries would still fall below the average actual Deputy Attorney General salary; the gaps would be reduced, however, ranging from 14.9 percent for County Court judges to 1.3 percent for Associate Justices of the Supreme Court. The recommended salary for the Chief Justice (\$162,630) would slightly exceed the average actual Deputy Attorney General salary if it increases by 4.5 percent (to \$161,185) in FY 2014-15.

Fourth, all of the FY 2012-13 judicial officer salaries (including the Chief Justice of the Supreme Court) fall below the average actual salary paid by the University of Colorado-Boulder for full, associate, and assistant Law School professors in FY 2012-13 (\$158,054), with gaps ranging from 28.4 percent for County Court judges to 10.8 percent for the Chief Justice. The average actual salary paid for full professors was even higher in FY 2012-13 (\$179,601).

Fifth, the current salary range for Executive Branch employees who fall under the Senior Executive Service category is \$82,092 to \$170,256, with a midpoint of \$126,174. The proposed

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<sup>13</sup> Source: Memorandum from Judge John Marcucci to members of the Denver City Council Finance and Government Sub-Committee, dated November 5, 2013. Staff was unable to confirm whether this proposal was approved by the City Council.

judicial officer salaries would fall within this range, with county court judge salaries falling at the 66<sup>th</sup> percentile and the Chief Justice' salary falling at the 91<sup>st</sup> percentile.

The following table summarizes all of staff's recommendations in this packet for Salary Survey:

<b>Summary of FY 2014-15 Recommendations for Salary Survey</b>			
	<b>General Fund</b>	<b>Cash Funds</b>	<b>Total</b>
Courts Administration (for courts and probation)	\$12,992,590	\$943,605	\$13,936,195
Office of the State Public Defender	1,562,013	0	1,562,013
Office of the Alternate Defense Counsel	32,806	0	32,806
Office of the Child's Representative	277,030	0	277,030
Independent Ethics Commission	<u>4,911</u>	<u>0</u>	<u>4,911</u>
<b>Total</b>	<b>\$14,869,350</b>	<b>\$943,605</b>	<b>\$15,812,955</b>

**Merit Pay**

The Department uses this line item to pay for longevity or performance-related pay increases. One of five such line items, this one provides funds for Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation staff.

**Request:** The Department requests \$3,187,170, including \$2,840,394 General Fund and \$346,776 cash funds, for merit increases averaging 1.5 percent. This calculation was based on applying a 1.5 percent increase to the sum of non-judicial officer staff base salaries plus salary range adjustments, plus a 1.5 percent across-the-board increase in base salaries (with no adjustment for the payday shift). The request includes the associated PERA, Medicare, AED, and SAED payments.

*Methodology.* The Judicial Department methodology to calculate the overall request for the Merit Pay line item is based on the following:

- For judicial officers, no funding is included in this line item.
- For those job classifications for which a systems study base salary increase is proposed (excluding judicial officers), apply a 1.5 percent increase to the adjusted base salary (which includes the FY 2013-14 base salary increased by the sum of the percent increase proposed as a result of the systems study plus 1.5 percent).
- For the remaining job classifications, apply a 1.5 percent increase to the adjusted base salary (which includes the FY 2013-14 base salary increased by 1.5 percent).

Please note that for purposes of calculating the dollar amount of its request, the Department assumes that every employee will receive a 1.5 percent merit pay increase. However, in practice, the Department may allocate the amount appropriated for merit pay differentially based on individual employee performance.

**Recommendation:** Staff recommends appropriating \$3,044,148, including \$2,236,936 General Fund and \$807,212 cash funds, pursuant to Committee policy. This calculation is based on applying a 1.5 percent increase to the sum of non-judicial officer staff base salaries plus salary range adjustments plus a 2.0 percent across-the-board increase in base salaries, plus the associated PERA and Medicare contributions (with no adjustment for the payday shift). The associated increases required for AED, SAED, and Short-term Disability are included in the recommendations for those respective line items.

The following table summarizes all of staff's recommendations in this packet for Merit Pay:

<b>Summary of FY 2014-15 Recommendations for Merit Pay</b>			
	<b>General Fund</b>	<b>Cash Funds</b>	<b>Total</b>
Courts Administration (for courts and probation)	\$2,236,936	\$807,212	\$3,044,148
Office of the State Public Defender	792,300	0	792,300
Office of the Alternate Defense Counsel	12,583	0	12,583
Office of the Child's Representative	32,353	0	32,353
Independent Ethics Commission	<u>2,492</u>	<u>0</u>	<u>2,492</u>
<b>Total</b>	<b>\$3,076,664</b>	<b>\$807,212</b>	<b>\$3,883,876</b>

**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.

**Request:** The Department requests \$1,241,647 General Fund.

**Recommendation:** Staff's recommendation for this line item is pending. Staff will ultimately reflect the amount approved by the Committee when the common policy for Workers' Compensation is established.

**Legal Services**

This line item provides funding for the Department to purchase legal services from the Department of Law.

**Request:** The Department requests \$200,740 General Fund to purchase 2,204 hours of legal services.

**Recommendation:** Staff recommends approving the request to provide funding sufficient to purchase 2,204 hours of legal services. This appropriation has decreased since FY 2007-08 when the appropriation supported 4,227 hours of services. The associated appropriation will be calculated after the Committee sets the common policy for the legal services rate.

<b>Summary of FY 2014-15 Recommendations for Legal Services</b>	
	<b>Hours</b>
Courts Administration (for courts and probation)	2,204.0
Independent Ethics Commission	1,080.0
<b>Total</b>	<b>3,284.0</b>

**Purchase of Services from Computer Center**

This line item provides funding for the Branch's share of statewide computer services provided by the Department of Personnel and Administration, Division of Information Technology (including funding associated with the independent agencies).

**Request:** The Department requests \$731,777 General Fund. However, based on a proposal from OIT, the Department's request reflects this amount in a new consolidated line item titled "Payments to OIT" (see description below).

**Recommendation:** Staff's recommendation for this line item is pending. Staff will ultimately reflect the amount approved by the Committee when the common policy for this service is established.

**Colorado State Network**

This line item is used to pay the Branch's share of the statewide multi-use network (including funding associated with the independent agencies).

**Request:** The Department requests \$1,544,985 General Fund. However, based on a proposal from OIT, the Department's request reflects this amount in a new consolidated line item titled "Payments to OIT" (see description below).

**Recommendation:** Staff's recommendation for this line item is pending. Staff will ultimately reflect the amount approved by the Committee when the common policy for these payments is established.

**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.

**Request:** The Department requests \$676,966 General Fund.

**Recommendation:** Staff's recommendation for this line item is pending. Staff will ultimately reflect the amount approved by the Committee when the common policy for Risk Management and Property Funds is established.

**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.

**Request:** The Department requests \$122,812 General Fund, which represents an increase of \$34,630 relative to the FY 2013-14 appropriation. The Department's request includes funding to replace four full-size sedans (license numbers: 030RBT, 021TTX, 029RBT, and 273CSD).

**Recommendation:** Staff recommends approving the request for funding to replace three vehicles, including two which are projected to exceed 130,000 miles by the end of FY 2014-15 and one due to relatively high maintenance costs. Staff does not recommend providing funding to replace one vehicle (license number 029RBT) because it is not projected to exceed 130,000 miles by the end of FY 2014-15, is not 16 years or older, and is not a high maintenance cost vehicle. Staff's overall recommendation for this line item is pending. Staff will ultimately reflect the amount approved by the Committee when the common policy for Vehicle Lease Payments is established.

**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); and
- The Independent Ethics Commission.

**Request:** The Department requests \$2,384,393 General Fund.

**Recommendation:** Staff recommends approving the requested amounts related to leased space in the Carr Center, as detailed in the following table.



<b>Recommended Appropriations for Carr Center Leased Space</b>				
	<b>FY 2013-14</b>	<b>FY 2014-15</b>	<b>Annual Change</b>	
			<b>\$</b>	<b>%</b>
<b>Department of Law a/</b>	<u>\$2,926,487</u>	<u>\$2,981,368</u>	<u>\$54,881</u>	1.9%
General Fund	760,611	804,128	43,517	5.7%
Cash Funds	359,753	348,331	(11,422)	-3.2%
Reappropriated Funds	1,718,514	1,743,005	24,491	1.4%
Federal Funds	87,609	85,904	(1,705)	-1.9%
<b>Judicial Branch</b>				
General Fund	\$2,063,194	\$2,384,393	\$321,199	15.6%
<b>Grand Total</b>	<b><u>\$4,989,681</u></b>	<b><u>\$5,365,761</u></b>	<b><u>\$376,080</u></b>	<b>7.5%</b>
General Fund	2,823,805	3,188,521	364,716	12.9%
Cash Funds	359,753	348,331	(11,422)	-3.2%
Reappropriated Funds	1,718,514	1,743,005	24,491	1.4%
Federal Funds	87,609	85,904	(1,705)	-1.9%
a/ Fund splits for the Department of Law are estimated based on the Department's initial request, and will likely be adjusted to reflect all Committee actions.				

The amounts are based on the actual leased space occupied by each agency and the applicable leased space rates for FY 2014-15. As described below, the requested increases are based on: (1) actual square footage calculations based on tenant leases; and (2) a 1.8 percent annual increase in lease payments as contemplated in the financing plan associated with S.B. 08-206. Specifically, this recommended appropriation for the above listed Judicial Branch agencies is based on the following:

- A total of 165,181 square feet of office space at a rate of \$14.67 per rentable square foot; and
- A total of 3,089 square feet of storage space at a rate of \$8.14 per square foot.

The recommended appropriation to the Department of Law is based on the following:

- A total of 200,161 square feet of office space at a rate of \$14.67 per rentable square foot; and
- A total of 5,529 square feet of storage space at a rate of \$8.14 per square foot.

Please note that the fund splits reflected in the above table for the Department of Law are estimates, and the actual fund splits will be determined by the analyst for the Department of Law to properly implement all of the Committee's actions.

**➔ JUD R13 Carr Center true-up and year two lease increase**

- The Department requests \$321,199 General Fund to cover the Judicial Branch share of leased space expenses in the Carr Center.
- Staff recommends approving the request.

*Request:* The Department requests an increase in its appropriation to cover its share of leased space. The requested increase is based on: (1) actual square footage calculations based on tenant

leases; and (2) a 1.8 percent annual increase in lease payments as contemplated in the financing plan associated with S.B. 08-206.

*Recommendation:* Staff recommends approving the request.

### **Communication Services Payments**

This line item provides funding to pay to the Department of Personnel and Administration the Branch's share of the costs associated with operating the public safety communications infrastructure (including funding associated with the independent agencies).

**Request:** The Department requests \$24,369 General Fund. However, based on a proposal from OIT, the Department's request reflects this amount in a new consolidated line item titled "Payments to OIT" (see description below).

**Recommendation:** Staff's recommendation for this line item is pending. Staff will ultimately reflect the amount approved by the Committee when the common policy for these payments is established.

### **COFRS Modernization**

This line item provides the Branch's share of funding for replacement of the statewide accounting system (COFRS) that is used by the Office of the State Controller to record all state revenues and expenditures (including funding associated with the independent agencies).

**Request:** The Department requests \$696,991 General Fund.

**Recommendation:** Staff's recommendation for this line item is pending. Staff will ultimately reflect the amount approved by the Committee when the common policy for this project is established.

### **IT Security**

This line item provides the Branch's share of funding for security-related services provided by OIT (including funding associated with the independent agencies).

**Request:** The Department requests \$156,680 General Fund. However, based on a proposal from OIT, the Department's request reflects this amount in a new consolidated line item titled "Payments to OIT" (see description below).

**Recommendation:** Staff's recommendation for this line item is pending. Staff will ultimately reflect the amount approved by the Committee when the common policy for this project is established.

### **Payments to OIT**

This new consolidated line item is proposed by OIT to cover the Branch's share of funding for the various services currently funded through separate line items (and described above).

**Request:** The Department requests \$2,457,811 General Fund.

**Recommendation:** Staff's recommendation for this line item is pending. Staff will ultimately reflect the amount approved by the Committee when the common policy for this project is established.

**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.

**Request:** The Department requests a continuation level of funding (\$119,878 General Fund).

**Recommendation:** Staff recommends approving the request.

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**(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.

**LINE ITEM DETAIL**

**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, in accordance with Articles 4.1 and 4.2 of Title 24, C.R.S. These amounts are included for informational purposes only, as they are continuously appropriated under the Judicial Branch's constitutional authority. However, the Department request tries to reflect anticipated activity with these accounts.

**Request:** The Department requests a continuation level of funding (\$16,375,000 cash funds for Victim Assistance and \$12,175,000 cash funds for Victim Compensation).

**Recommendation:** Staff recommends approving the request. 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).

**Collections Investigators**

Collection investigators are located in each judicial district as required by Section 18-1.3-401 (1) (a) (III) (C), C.R.S. These investigators 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 (VALE) Boards.

**Request:** The Department requests \$6,485,122, including \$5,587,581 cash funds and \$897,541 reappropriated funds, and 104.2 FTE. This line item is impacted by JUD R11 (Restitution enforcement), discussed below.

**Recommendation:** Staff recommends appropriating \$6,497,511, including \$5,599,970 cash funds and \$897,541 reappropriated funds, and 104.2 FTE as detailed in the following table. Staff's recommendation is higher than the request because staff annualized the FY 2013-14 appropriations for Salary Survey and Merit Pay to provide 12 months (rather than 11 months) of funding. The FY 2013-14 appropriations for Salary Survey and Merit Pay only included 11 months of funding due to the payday shift.

<b>Courts Administration, Centrally Administered Programs, Collections Investigators</b>					
	<b>Total Funds</b>	<b>General Fund</b>	<b>Cash Funds</b>	<b>Reappropriated Funds</b>	<b>FTE</b>
<b>FY 2013-14 Appropriation</b>					
SB 13-230 (Long Bill)	<u>\$5,157,739</u>	<u>\$0</u>	<u>\$4,260,198</u>	<u>\$897,541</u>	<u>83.2</u>
<b>TOTAL</b>	<b>\$5,157,739</b>	<b>\$0</b>	<b>\$4,260,198</b>	<b>\$897,541</b>	<b>83.2</b>
<b>FY 2014-15 Recommended Appropriation</b>					
FY 2013-14 Appropriation	\$5,157,739	\$0	\$4,260,198	\$897,541	83.2
Annualize prior year salary survey	72,383	0	72,383	0	0.0
Annualize prior year merit pay	76,267	0	76,267	0	0.0
JUD R11 Restitution enforcement	<u>1,191,122</u>	<u>0</u>	<u>1,191,122</u>	<u>0</u>	<u>21.0</u>
<b>TOTAL</b>	<b>\$6,497,511</b>		<b>\$5,599,970</b>	<b>\$897,541</b>	<b>104.2</b>
<b>Increase/(Decrease)</b>	\$1,339,772	\$0	\$1,339,772	\$0	21.0
Percentage Change	26.0%	0.0%	31.4%	0.0%	25.2%
<b>FY 2014-15 Executive Request:</b>	<b>\$6,485,122</b>	<b>\$0</b>	<b>\$5,587,581</b>	<b>\$897,541</b>	<b>104.2</b>
Request Above/(Below) Recommendation	(\$12,389)		(\$12,389)	\$0	0.0

**➔ JUD R11 Restitution enforcement**

- The Department requests \$1,289,885 cash funds from the Judicial Collection Enhancement Fund and 21.0 FTE to strengthen the monitoring and enforcement of criminal restitution.
- Staff recommends approving the request.

*Request:* The Department requests \$1,289,885 cash funds from the Judicial Collection Enhancement Fund to hire 20.0 FTE Collections Investigators and 1.0 FTE Restitution Resource Coordinator to strengthen the monitoring the enforcement of criminal restitution.

Since 1988, collections investigators have been providing services in every judicial district. The localized nature of these efforts has been instrumental to the program's success, along with collection staff's ability to meet with offenders upon sentencing to determine the maximum payment plan. Historically, these investigators have been tasked with collecting various statutory fines, fees, costs, and surcharges that are assessed by courts each year, as well as restitution. Restitution cases are unique because there are third-party stakeholders involved (crime victims and/or their families) and the balance owed are considerable, averaging about \$8,000.

Over time, there have been new and changing demands that existing collections investigators must address. For example, average fine and cost obligations have increased from \$364 to \$541 owed since FY 2007-08. This tends to require longer payment schedules, requiring more staff effort and monitoring time. The Department also has four intercept programs that, while bringing in substantial funds, also require the time and attention of collections investigators to manage inquiries from defendants, and review updated address data received from the intercepting agencies.

The Department has determined that additional resources are needed to ensure adequate attention is given to each restitution case. Assuming \$70 million in restitution is ordered by the courts, collecting another five percent would translate into \$3.5 million more each year for crime victims. On older orders in which the full amount remains due – for example, the approximate 15,500 from FY 2003-04 through FY 2007-08, totaling \$50 million – recouping an additional five percent would yield \$2.5 million. The Department believes that these results are achievable.

Offenders are ordered to pay restitution in approximately 11,000 cases annually. While a majority of restitution cases in Colorado are ultimately paid in full<sup>14</sup>, more can be done to collect unpaid restitution. The Department has identified a number of strategies and methods that have been demonstrated to be effective and which could be put to greater use through additional resources.

*Recommendation:* Staff recommends approving the request, as detailed in the following table. The additional resources should allow the Department to improve collections of restitution, which would benefit crime victims and their families. The source of funding is the Judicial Collection Enhancement Fund, which consists of time payment fees, late payment fees, and various cost recoveries. The Department indicates that this fund is "stable and capable of funding this request". The revenues to this fund increased by 13.1 percent in FY 2012-13, and are projected to continue increasing annually through at least FY 2015-16. The balance in the fund currently exceeds the statutory 16.5 percent reserve balance, and this request is part of the Department's plan to bring the fund into compliance. Given the annual increases in employee benefits, staff believes that the sustainability of expansion will need to be monitored over the long-term.

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<sup>14</sup> Approximately 65 percent of cases are paid in full over time, with another 15 percent receiving partial payments. Thus, approximately 80 percent are either paid in full or at least partially paid.

<b>Summary of Recommendation for JUD R11: Restitution enforcement</b>		
	<b>FY 2014-15</b>	<b>FY 2015-16</b>
<b><u>Courts Administration</u></b>		
<i>Central Appropriations</i>		
AED	\$0	\$41,440
SAED	0	<u>38,850</u>
Subtotal	0	80,290
<i>Centrally Administered Programs</i>		
Personal Services (20.0 FTE at \$48,960 salary and 1.0 FTE at \$56,796 salary + PERA + Medicare)	1,166,170	1,166,170
Operating Expenses (per FTE costs of \$450 for telephone and \$500 for supplies for 21.0 FTE; \$5,000 for training)	24,950	24,950
Courthouse Capital/ Infrastructure Maintenance (per FTE costs of \$3,473 for cubicle/workstation and \$1,230 for computer and software for 21.0 FTE)	<u>98,763</u>	<u>0</u>
Subtotal	1,289,883	1,191,120
<b>Total</b>	<b>\$1,289,883</b>	<b>\$1,271,410</b>

**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.

*Background Information.* This line item was established in FY 2008-09. Historically, drug treatment courts and other types of "problem-solving courts" in Colorado were created at the local level with little coordination with other judicial districts regarding staffing models, funding models, treatment, case management and program review, and evaluation. In April 2008, the Joint Budget Committee submitted the following request for information to the Chief Justice:

"The Department is requested to develop a general strategy and plan regarding the provision of drug courts statewide, including in rural areas, and to provide a report on this plan to the Judiciary Committees of the House and Senate by December 31, 2008."

The Department submitted a report and plan in the Fall of 2008 as requested. The report included data concerning the significant number of offenders on probation, incarcerated, and on parole that have a substance abuse problem. Also, in an effort to streamline the drug treatment

court movement in the State of Colorado, Chief Justice Mullarkey established the Problem Solving Court Advisory Committee in April 2008. This committee has worked to encourage districts to implement best practices and to develop a strategic plan that will lead to sustainable courts with adequate financial support.

An **Adult Drug Treatment Court** is an innovative alternative to prison with emphasis on accountability and intensive monitoring for drug abusing criminal offenders. A drug treatment court provides an environment where the offender undergoes treatment and counseling, submits to frequent and random drug testing, makes regular appearances before the judge, and is monitored closely for program compliance. In addition, this court increases the probability of a defendant's success by providing ancillary services such as mental health treatment, trauma and family therapy, and job skills training.

The drug treatment court model the Department seeks to implement consistently statewide (in those judicial districts that choose to implement such a court) has the following characteristics:

- The court's *target population* is defined as drug dependent offenders who are in high need of treatment and are at high risk for recidivating. The target population excludes violent offenders, sex offenders, and offenders who pose too large of risk to the community, as well as low risk/ low need individuals (who are better served through standard probation services<sup>15</sup>).
- The court conducts *regular, judicial review hearings* to continually monitor offenders' performance and impose *immediate sanctions and incentives* contingent on that performance.
- The *probation caseload* for drug court offenders is lower than for a regular adult probation program (*e.g.*, 40 offenders per probation officer) to provide adequate time to prepare for and attend frequent hearings.
- A *drug court coordinator* serves as the “hub” of the drug court program, allowing judges and probation officers to perform other duties. This person is responsible for day-to-day program operations, including: developing policies and procedures, coordinating training, collecting data for program evaluation, and collaborating with drug court team members, community stakeholders, and state agencies.

If implemented properly, adult drug treatment courts have proven effective in reducing the need for jail and prison beds, reducing crime rates, increasing treatment participation and effectiveness, and increasing employment among offenders. As these courts continue to produce positive results, other problem-solving treatment courts, such as family dependency treatment courts, DUI treatment courts, mental health treatment courts, and veterans treatment courts, are using the drug treatment court model to successfully treat drug-dependent individuals.

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<sup>15</sup> Research indicates that placing low risk/low needs offenders in an intense program such as drug court or long term incarceration results in low risk/low needs offenders failing at a greater rate.

Beginning in FY 2008-09, the General Assembly established this line item to provide funding and staff to enhance and expand the number of adult drug treatment courts, to increase the number of high risk and high need offenders served, and to ensure that these courts are operating consistently and effectively in order to maximize the resulting cost savings. In subsequent years, the General Assembly has increased funding to support other types of problem-solving courts, described below.

- A **Mental Health Treatment Court** is a specialized court for defendants with co-occurring substance abuse and mental illness in the criminal justice system. This court aims to improve the court system's ability to identify, assess, evaluate, and monitor offenders with mental illness, create effective linkages between the criminal justice and mental health systems, and improve public safety by ensuring that participants receive high quality community-based treatment and services.
- A **Family Dependency Treatment Court** is a family court docket in which selected dependency and neglect cases are identified where parental substance abuse is a primary factor. Judges, attorneys, child protection services, and treatment personnel unite with the goal of providing safe, nurturing, and permanent homes for children while simultaneously providing parents the necessary support and services to promote long-term stabilized recovery and enhance the possibility of family reunification within mandatory legal timeframes. These courts follow the adult drug treatment court model with additional emphasis on best practices in child well-being and care. National data indicates that these types of courts have the potential to increase the number of children who are successfully reunited with their parents, and to reduce the number of days children spend in out-of-home placement. Jefferson and Fremont counties have found that these courts allow them to significantly reduce out-of-home placement expenditures, and to increase treatment resources. This type of court also complements other child welfare reforms that are underway, such as the "differential response" team decision-making that is used to evaluate abuse and neglect referrals.
- A **Veterans Treatment Court** uses a hybrid integration of drug and mental health treatment court principles to serve military veterans and active-duty personnel. This court promotes sobriety, recovery, and stability through a coordinated response that involves collaboration with the traditional partners found in drug and mental health treatment courts, as well as the Department of Veterans' Affairs, volunteer veteran mentors, and organizations that support veterans and veterans' families. This court is a promising approach to serve military veterans who have become involved in the judicial system as a result, in part, from trauma sustained through military service. These courts are able to build their program around the specialized culture and needs of veterans. Colorado data indicates promising results from utilizing this specialized approach. The 4th judicial district has reported that court participants are experiencing overall improved health, stability in the form of employment and social connectedness, and mental health symptom reduction, as well as decreases in substance abuse.



*JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision*

There are currently a total of 78 problem-solving treatment courts in 20 of 22 judicial districts<sup>16</sup>. Another 11 problem-solving courts are in the planning process. In addition, there are currently a total of 11 "accountability" courts in operation, including nine truancy courts and two child support enforcement courts. A list of all of these problem-solving courts is provided in Appendix B.

**Request:** The Department requests \$3,126,614 cash funds and 41.5 FTE.

**Recommendation:** Staff recommends appropriating \$3,133,985 cash funds and 41.5 FTE, as detailed in the following table. Staff's recommendation is higher than the request because staff annualized the FY 2013-14 appropriations for Salary Survey and Merit Pay to provide 12 months (rather than 11 months) of funding. The FY 2013-14 appropriations for Salary Survey and Merit Pay only included 11 months of funding due to the payday shift.

<b>Courts Administration, Centrally Administered Programs, Problem-solving Courts</b>					
	<b>Total Funds</b>	<b>General Fund</b>	<b>Cash Funds</b>	<b>Federal Funds</b>	<b>FTE</b>
<b>FY 2013-14 Appropriation</b>					
SB 13-230 (Long Bill)	<u>\$3,045,535</u>	<u>\$0</u>	<u>\$3,045,535</u>	<u>\$0</u>	<u>41.5</u>
<b>TOTAL</b>	<b>\$3,045,535</b>	<b>\$0</b>	<b>\$3,045,535</b>	<b>\$0</b>	<b>41.5</b>
<b>FY 2014-15 Recommended Appropriation</b>					
FY 2013-14 Appropriation	\$3,045,535	\$0	\$3,045,535	\$0	41.5
Annualize prior year salary survey	47,629	0	47,629	0	0.0
Annualize prior year merit pay	<u>40,821</u>	<u>0</u>	<u>40,821</u>	<u>0</u>	<u>0.0</u>
<b>TOTAL</b>	<b>\$3,133,985</b>	<b>\$0</b>	<b>\$3,133,985</b>	<b>\$0</b>	<b>41.5</b>
<b>Increase/(Decrease)</b>	\$88,450	\$0	\$88,450	\$0	0.0
Percentage Change	2.9%	0.0%	2.9%	0.0%	0.0%
<b>FY 2014-15 Executive Request:</b>	<b>\$3,126,614</b>	<b>\$0</b>	<b>\$3,126,614</b>	<b>\$0</b>	<b>41.5</b>
Request Above/(Below) Recommendation	(\$7,371)	\$0	(\$7,371)	\$0	(0.0)

**Language Interpreters**

This is one of six 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. Sections 13-90-113 and 114,

<sup>16</sup> All judicial districts except the 15<sup>th</sup> (Baca, Cheyenne, Kiowa, and Prowers) and the 21<sup>st</sup> (Mesa county) judicial districts operate or are planning to operate at least one problem-solving treatment court.

C.R.S., provide for the payment of language interpreters “when the judge of any court of record in this state has occasion to appoint an interpreter for his court.” 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)<sup>17</sup>. 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 the individual who administers the program, and Department staff in each judicial district. Interpreter services are currently provided at the judicial district level by a total of 24 staff, including the following:

- 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

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<sup>17</sup> Individuals who are LEP do not speak English as their primary language and have a limited ability to read, speak, write, or understand English.

- Nine Court Interpreters (certified Spanish interpreters whose primary function is to interpret for their assigned district and provide administrative support for the local interpreter office)

In addition, two judicial districts provide statewide language access services. The 18<sup>th</sup> judicial district houses the Translation Unit, which provides accurate and consistent translation of forms, instructional documentation, signage, and communications of the court. Section 13-1-120, C.R.S., requires all court forms to be completed in English, but LEP individuals are provided meaningful access through translation to increase understanding, follow through, and compliance with court orders and procedures. The 20<sup>th</sup> 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 (62 contractors in FY 2012-13) as well as interpreters of other languages (145 contractors for court proceedings in 85 languages in FY 2012-13). Certified Spanish interpreters are paid \$35 per hour, plus compensation for travel time (at half the hourly rate) and mileage (\$0.51/mile). 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.

**Request:** The Department requests \$3,908,563, including \$3,858,563 General Fund and \$50,000 cash funds, and 25.0 FTE. The source of requested cash funds is fees and cost recoveries. This line item is impacted by both JUD R4 (Language access, which is discussed below) and JUD BA1 (General Fund support for Stabilization Cash Fund). The following table details the history of annual appropriations and expenditures for language interpreter services.

<b>Recent History of Funding for Language Interpreter Services</b>			
<b>Fiscal Year</b>	<b>Appropriation (excluding employee benefits)</b>	<b>Expenditures (including employee benefits)</b>	<b>Annual % Change in Expenditures</b>
1999-00	n/a	\$1,390,769	
2000-01	n/a	1,736,343	24.8%
2001-02	n/a	2,135,898	23.0%
2002-03	n/a	2,261,106	5.9%
2003-04	n/a	2,224,287	-1.6%
2004-05	n/a	2,545,831	14.5%
2005-06	n/a	2,879,595	13.1%
2006-07*	2,883,666	3,181,250	10.5%
2007-08	2,892,427	3,520,983	10.7%
2008-09	3,393,469	3,715,881	5.5%
2009-10	3,396,568	3,347,499	-9.9%

*JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision*

Recent History of Funding for Language Interpreter Services			
Fiscal Year	Appropriation (excluding employee benefits)	Expenditures (including employee benefits)	Annual % Change in Expenditures
2010-11	3,428,312	3,456,745	3.3%
2011-12	3,633,821	3,924,198	13.5%
2012-13	3,622,739	4,112,277	4.8%
2013-14	3,622,739		
2014-15 Request	3,908,563		

\* Prior to FY 2006-07, funding was included in "Mandated Costs" line item appropriation.

**Recommendation:** Staff recommends appropriating \$3,913,738, including \$3,863,738 General Fund and \$50,000 cash funds (from various fees and cost recoveries), as detailed in the following table. Staff's recommendation is higher than the request because staff annualized the FY 2013-14 appropriations for Salary Survey and Merit Pay to provide 12 months (rather than 11 months) of funding. The FY 2013-14 appropriations for Salary Survey and Merit Pay only included 11 months of funding due to the payday shift.

Courts Administration, Centrally Administered Programs, Language Interpreters				
	Total Funds	General Fund	Cash Funds	FTE
<b>FY 2013-14 Appropriation</b>				
SB 13-230 (Long Bill)	<u>\$3,662,739</u>	<u>\$3,376,239</u>	<u>\$286,500</u>	<u>25.0</u>
<b>TOTAL</b>	<b>\$3,662,739</b>	<b>\$3,376,239</b>	<b>\$286,500</b>	<b>25.0</b>
<b>FY 2014-15 Recommended Appropriation</b>				
FY 2013-14 Appropriation	\$3,662,739	\$3,376,239	\$286,500	25.0
Annualize prior year salary survey	30,047	30,047	0	0.0
Annualize prior year merit pay	32,051	32,051	0	0.0
JUD BA1 General Fund support for Stabilization Cash Fund	0	236,500	(236,500)	0.0
JUD R4 Language access	<u>188,901</u>	<u>188,901</u>	<u>0</u>	<u>7.0</u>
<b>TOTAL</b>	<b>\$3,913,738</b>	<b>\$3,863,738</b>	<b>\$50,000</b>	<b>32.0</b>
<b>Increase/(Decrease)</b>	\$250,999	\$487,499	(\$236,500)	7.0
Percentage Change	6.9%	14.4%	(82.5%)	28.0%
<b>FY 2014-15 Executive Request:</b>	<b>\$3,908,563</b>	<b>\$3,858,563</b>	<b>\$50,000</b>	<b>32.0</b>
Request Above/(Below) Recommendation	(\$5,175)	(\$5,175)	\$0	0.0

*JUD BA1 (General Fund support for Stabilization Cash Fund):* Staff's recommendation includes a \$236,500 cash funds reduction and an increase of \$236,500 General Fund. For a description of this request, "Initiatives Affecting Multiple Divisions" at the beginning of this packet.

Staff also recommends modifying the name of this line item "Language Interpreters and Translators" to better reflect the staff and contractors that are supported by this line item.

➔ **JUD R4 Language access**

- The Department requests \$221,822 General Fund and 7.0 FTE to provide ongoing and long-term meaningful language access and professional interpreter and translation services to individuals who are limited in their English proficiency.
- Staff recommends approving the request.

*Request:* The Department requests \$221,822 General Fund to add 7.0 FTE Court Interpreters and Court Translators to meet the growing need for language interpreter and translation services statewide. This request is partially offset by an anticipated reduction in the need for contract language interpreter expenses.

In June 2011, Chief Justice Bender amended C.J.D. 06-03 to initiate the transition to comprehensive language access for all individuals who have contact with or work in Colorado's state courts, and ensures access to justice and due process for all parties. The C.J.D. now allows language access to all parties irrespective of case type or indigency status.

In March 2012, the Department's Office of Language Acquisition published its *Strategic Plan for Implementing Enhanced Language Access in the Colorado State Courts*, providing a blueprint for achieving full access to justice for LEP court users. The Office continues to work toward completion of the required policy and administrative tasks outlined in the Plan; however the most vital services provided by district staff and independent contractors continue to be interpretation (*i.e.*, unrehearsed transmitting of a spoken or signed message from one language to another) and translation (*i.e.*, the process of converting written text from one language into written text in another language). This request is intended to ensure that quality services can continue to be provided, to meet the needs of program growth, and to guarantee sustainability.

The requested funding would support 5.0 FTE Court Interpreter II positions. Four of these positions would be assigned to the four districts with the highest daily independent contract Spanish interpreter need, and one multi-jurisdictional interpreter would be assigned daily to the district with the highest need. The funding would also support 2.0 FTE Court Translator positions. Currently, staff interpreters in the 18<sup>th</sup> judicial district are used to respond to translation requests; the district regularly brings in contract interpreters to backfill for these staff. This request seeks to use dedicated employees to handle the growing need for translation services, and allow the court employed interpreters to remain available full-time for court interpreter needs.

By employing interpreters rather than utilizing contract interpreters, the Department would be better able to provide consistent services at a lower cost based on reduced personnel and travel

*JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision*

expenses. The Department indicates that excluding travel savings, the requested 7.0 FTE would reduce contractor expenses by \$78,178 in FY 2014-15 and by \$46,078 annually thereafter.

Finally, the request includes an increase of \$300,000 to address the current shortfall in funding for language interpreter services. From FY 2010-11 to FY 2012-13, total expenditures for this line item increased by \$419,032 (excluding the \$236,500 that was provided for a contractor rate increase). In FY 2012-13, expenses for this line item exceeded the appropriation by \$489,538. The requested increase of \$300,000 would cover about two-thirds of the existing funding shortfall.

*Recommendation:* Staff recommends approving the request, which is detailed in the following table. Language access is not limited to the individual with LEP. All parties communicating with the individual – including the courthouse information desk, other parties named in a case, the judicial officer presiding over a hearing – utilize the services of a professional interpreter. Through the use of a professional interpreter, judicial officers and court staff can reach case resolution, reduce the number of future appearances in court, communicate requirements for the individual, and make informed and appropriate rulings.

<b>Summary of Recommendation for JUD R4: Language access</b>		
	<b>FY 2014-15</b>	<b>FY 2015-16</b>
<b><u>Courts Administration</u></b>		
<i>Centrally Administered Programs</i>		
<b>Language Interpreters line item</b>		
Personal Services (5.0 FTE Court Interpreter II at \$50,400 salary and 2.0 FTE Court Translators at \$65,520 salary + PERA + Medicare; for only 11 months in FY 2014-15)	391,850	427,473
Operating Expenses (per FTE costs of \$450 for telephone and \$500 for supplies for 7.0 FTE)	<u>6,650</u>	<u>6,650</u>
Subtotal	398,500	434,123
Contract Interpreter Services		
Reduction due to hiring 7.0 FTE (7 FTE x 2,080 hours/FTE x \$35/hour)	(509,600)	(509,600)
Increase due to caseload growth	<u>300,000</u>	<u>300,000</u>
Subtotal	(209,600)	(209,600)
<i>Central Appropriations</i>		
AED	0	15,194
SAED	<u>0</u>	<u>14,204</u>
Subtotal	0	29,398
<i>Centrally Administered Programs</i>		
Courthouse Capital/ Infrastructure Maintenance (per FTE costs of \$3,473 for cubicle/workstation and \$1,230 for computer and software for 7.0 FTE)	32,921	0
<b>Total</b>	<b>\$221,821</b>	<b>\$253,921</b>

### **Courthouse Security**

Established in 2007, 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.<sup>18</sup>

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.

**Request:** The Department requests \$3,218,151 cash funds and 1.0 FTE.

**Recommendation:** Staff recommends appropriating \$3,218,438 cash funds and 1.0 FTE, as detailed in the following table. Staff's recommendation is higher than the request because staff annualized the FY 2013-14 appropriations for Salary Survey and Merit Pay to provide 12 months (rather than 11 months) of funding. The FY 2013-14 appropriations for Salary Survey and Merit Pay only included 11 months of funding due to the paydate shift.

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<sup>18</sup> See Section 13-1-201, *et seq.*, C.R.S.

*JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision*

<b>Courts Administration, Centrally Administered Programs, Courthouse Security</b>				
	<b>Total Funds</b>	<b>General Fund</b>	<b>Cash Funds</b>	<b>FTE</b>
<b>FY 2013-14 Appropriation</b>				
SB 13-230 (Long Bill)	<u>\$3,214,989</u>	<u>\$0</u>	<u>\$3,214,989</u>	<u>1.0</u>
<b>TOTAL</b>	<b>\$3,214,989</b>	<b>\$0</b>	<b>\$3,214,989</b>	<b>1.0</b>
<b>FY 2014-15 Recommended Appropriation</b>				
FY 2013-14 Appropriation	\$3,214,989	\$0	\$3,214,989	1.0
Annualize prior year salary survey	1,669	0	1,669	0.0
Annualize prior year merit pay	<u>1,780</u>	<u>0</u>	<u>1,780</u>	<u>0.0</u>
<b>TOTAL</b>	<b>\$3,218,438</b>		<b>\$3,218,438</b>	<b>1.0</b>
<b>Increase/(Decrease)</b>	\$3,449	\$0	\$3,449	0.0
Percentage Change	0.1%	0.0%	0.1%	0.0%
<b>FY 2014-15 Executive Request:</b>	<b>\$3,218,151</b>	<b>\$0</b>	<b>\$3,218,151</b>	<b>1.0</b>
Request Above/(Below) Recommendation	(\$287)		(\$287)	0.0

**Courthouse Capital/ Infrastructure Maintenance**

*Background Information – State Role Related to Courthouse Facilities*

Section 13-3-108, C.R.S, requires each county to provide and maintain adequate courtrooms and other court facilities. However, Section 13-3-104, C.R.S. requires that the State 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 equipment.

Finally, the General Assembly established the Courthouse Security Grant Program in 2007 to provide 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.<sup>19</sup>

This grant 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.

#### *History of State Appropriations for Courthouse Facilities*

The annual appropriation for courthouse capital/ infrastructure maintenance varies significantly depending on the number and size of county construction projects. Historically, General Fund moneys have been appropriated for this purpose. From FY 2009-10 through FY 2013-14, the General Fund appropriation was temporarily replaced with cash funds from the Judicial Stabilization Fund. This financing was made possible by delaying the implementation of the last 15 district and county court judgeships authorized by H.B. 07-1054. The one-time cash funds savings resulting from this delay were allocated to meet the State's obligation to furnish new and remodeled courthouses. The following table provides a history of recent expenditures, the FY 2013-14 appropriation, and the request for FY 2014-15.

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<sup>19</sup> See Section 13-1-201, *et seq.*, C.R.S.

<b>Recent Expenditures/Appropriations for Courthouse Capital/Infrastructure Maintenance</b>			
	<b>General Fund</b>	<b>Cash Funds</b>	<b>Total</b>
FY 2000-01	\$5,808,916	\$0	\$5,808,916
FY 2001-02	2,317,321	0	2,317,321
FY 2002-03	317,302	0	317,302
FY 2003-04	433,463	0	433,463
FY 2004-05	1,027,533	0	1,027,533
FY 2005-06	910,616	0	910,616
FY 2006-07	1,103,359	0	1,103,359
FY 2007-08	948,680	0	948,680
FY 2008-09	1,000,000	0	1,000,000
FY 2009-10	0	3,064,041	3,064,041
FY 2010-11*	80,791	2,351,276	2,432,067
FY 2011-12*	143,406	473,526	616,932
FY 2012-13*	0	1,621,173	1,621,173
<b>Average Annual Expenditure</b>			<b>1,661,646</b>
FY 2013-14* Approp.	172,550	4,135,871	4,308,421
FY 2014-15* Request	2,642,653	98,763	2,741,416
<p>* Since FY 2010-11, this line item has also included funds appropriated for capital outlay expenses associated with new FTE for the State Court Administrator's Office, the courts, and probation. Prior to FY 2010-11, funding for capital outlay appeared in separate line items in each respective division.</p>			

**Request:** The Department requests \$2,741,416, including \$2,642,653 General Fund and \$98,763 cash funds. The request includes \$2,462,500 requested through R14 (Courthouse capital and infrastructure maintenance) which is discussed below, plus another \$278,916 for one-time capital outlay costs associated with the following decision items:

- JUD R1 (Regional technicians for IT support);
- JUD R4 (Language access);
- JUD R6 (Self-represented litigant coordinators);
- JUF R7 (Family court facilitators);
- JUD R8 (IT staff);
- JUD R11 (Restitution enforcement); and
- JUD R12 (Probation background checks).

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

*JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision*

<b>Courts Administration, Centrally Administered Programs, Courthouse Capital/ Infrastructure Maintenance</b>					
	<b>Total Funds</b>	<b>General Fund</b>	<b>Cash Funds</b>	<b>Reappropriated Funds</b>	<b>FTE</b>
<b>FY 2013-14 Appropriation</b>					
SB 13-230 (Long Bill)	\$3,956,958	\$20,042	\$3,936,916	\$0	0.0
Other legislation	<u>351,463</u>	<u>152,508</u>	<u>198,955</u>	<u>0</u>	<u>0.0</u>
<b>TOTAL</b>	<b>\$4,308,421</b>	<b>\$172,550</b>	<b>\$4,135,871</b>	<b>\$0</b>	<b>0.0</b>
<b>FY 2014-15 Recommended Appropriation</b>					
FY 2013-14 Appropriation	\$4,308,421	\$172,550	\$4,135,871	\$0	0.0
Annualize prior year legislation	(334,323)	(135,368)	(198,955)	0	0.0
Annualize prior year budget actions	(3,956,958)	(20,042)	(3,936,916)	0	0.0
JUD R1 Regional technicians for IT support	18,812	18,812	0	0	0.0
JUD R4 Language access	32,921	32,921	0	0	0.0
JUD R6 Self-represented litigant coordinators	48,260	48,260	0	0	0.0
JUD R7 Family court facilitators	42,327	42,327	0	0	0.0
JUD R8 IT staff	15,990	15,990	0	0	0.0
JUD R11 Restitution enforcement	98,763	0	98,763	0	0.0
JUD R12 Probation background checks	4,703	4,703	0	0	0.0
JUD R14 Courthouse capital and infrastructure maintenance	<u>2,462,500</u>	<u>2,462,500</u>	<u>0</u>	<u>0</u>	<u>0.0</u>
<b>TOTAL</b>	<b>\$2,741,416</b>	<b>\$2,642,653</b>	<b>\$98,763</b>	<b>\$0</b>	<b>0.0</b>
<b>Increase/(Decrease)</b>	(\$1,567,005)	\$2,470,103	(\$4,037,108)	\$0	0.0
Percentage Change	(36.4%)	1,431.5%	(97.6%)	0.0%	0.0%
<b>FY 2014-15 Executive Request:</b>	<b>\$2,741,416</b>	<b>\$2,642,653</b>	<b>\$98,763</b>	<b>\$0</b>	<b>0.0</b>
Request Above/(Below) Recommendation	\$0	\$0	\$0	\$0	0.0

All of the decision items listed above, except JUD R14, are addressed in other sections of this packet.

**➔ Request JUD R14: Courthouse Capital/Infrastructure Maintenance**

- The Department requests \$2,462,500 General Fund to fulfill the State's responsibility to furnish court facilities. The request addresses required infrastructure and courthouse furnishing needs.
- Staff recommends approving the request.

*Request:* The Department indicates that for FY 2014-15, it will require a total of \$2,462,500 for courthouse and probation facility furnishings and infrastructure in multiple judicial districts. Unlike the last five fiscal years, the Department proposes using General Fund (rather than the Judicial Stabilization Cash Fund) for this purpose. The Department's request is included on the next page, and described briefly below.

The Department's request includes \$1,780,500 for furnishings, \$622,000 for phone systems, and \$60,000 for audiovisual systems.

*Recommendation:* Staff recommends approving the request.

<u>District</u>	<u>County</u>	<u>Project</u>	<u>Request</u>
<b><u>Furnishings</u></b>			
4th, 12th, 13th, 15th, 16th, 20th	El Paso, Teller, Rio Grande, Yuma, Prowers, Otero, Boulder	Seven Counties (El Paso, Teller, Rio Grande, Yuma, Prowers, Otero, and Boulder) are remodeling and/ or refurbishing existing courtrooms. The new and remodeled spaces must be furnished by Judicial. The cost range for the projects is \$4,000 - \$70,000 and the average project cost is \$29,100.	\$ 204,000
6th	La Plata	La Plata County is consolidating the courthouse in Durango with the Federal court. The Federal court will pay for a building addition, and the entire building will be reconfigured. The new and remodeled spaces must be furnished by Judicial.	200,000
7th	Gunnison	Gunnison County is providing a new courthouse. The new spaces must be furnished by Judicial.	477,500
3rd	Huerfano	Ongoing and emergent County courthouse problems may require that the Courts temporarily relocate to another facility. The relocation cost must be paid by Judicial.	50,000
2nd, 4th, 5th, 6th, 13th, 18th, 19th	Denver, El Paso, Summit, Leadville, Montezuma, Morgan, Arapahoe, Greeley	Four Counties (Summit, Leadville, Montezuma, and Weld) are remodeling or reconfiguring space in the courthouses. Arapahoe County is remodeling and reconfiguring space for the courts and probation employees. Two Counties (El Paso and Summit) are providing new space to the Probation offices. The teller windows in the Morgan County Courthouse are being reconfigured. Denver is relocating employees and records to make operations more efficient. The reconfigured and remodeled spaces must be furnished by Judicial. The cost range for the projects is \$4,000 - \$516,000, with the highest being the Arapahoe County project. The average project cost of the other projects is \$47,600.	849,000
General	To be determined	Courts are increasingly requesting audiovisual systems, which greatly facilitate courtroom operations. The Judicial Facilities Designer maintains a prioritized list of such requests. Each system costs \$20,000.	60,000
<b>TOTAL FURNISHINGS</b>			<b>\$ 1,840,500</b>
<b><u>Phone Systems</u></b>			
1st, 9th	Jefferson, Glenwood, Adams	New phone systems are needed but cannot be furnished from the unencumbered funds remaining in the phone lease. The cost of these systems are \$80,000 (Glenwood) and \$500,000 (Jefferson).	\$ 580,000
9th, 12th, 13th	Rangely, Saquache, Conejos, Costilla, Washington	Phone systems that are quite small are less expensive if the Judicial Telecommunications Manager installs them himself instead of using the vendor required by the lease. The cost of these five phone systems will range from \$8,000-\$10,000 if installed by Judicial.	42,000
<b>TOTAL PHONE SYSTEMS</b>			<b>\$ 622,000</b>
<b>TOTAL FURNISHINGS AND PHONE SYSTEMS</b>			<b>\$ 2,462,500</b>

### **Senior Judge Program**

Pursuant to Section 24-51-1105, C.R.S., 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 education, and conflicts of interest. Retired judges provide flexibility in coverage as they can fill a temporary need anywhere in the state. These retired judges may also participate in special projects conducted by the Office of the State Court Administrator. Recent examples include a judge who helped IT staff determine what case management information a judge needs to see on the screen for certain types of cases, and another judge who participated in a pilot program concerning post-conviction cases involving inmate appeals. The Department is also using retired judges to assist with the conservation easement case backlog (using additional funding that was provided for that purpose).

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 to 30 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 2013-14 will be reimbursed by the Branch in FY 2014-15). Travel expenditures are reimbursed in the fiscal year in which they are incurred.

**Request:** The Department requests a continuation level of funding (\$1,400,000 cash funds from the Judicial Stabilization Cash Fund).

**Recommendation:** Staff recommends reducing this appropriation by \$100,000, to \$1,300,000 for FY 2014-15. This program is a cost-effective way of managing dockets and covering judges' leave time. As detailed in the table below, the Department has effectively reduced the costs of this program in the last two fiscal years, decreasing expenditures from a high of \$1,943,200 in FY 2009-10 to \$1,255,217 in FY 2012-13. The Department is projecting expenditures to total \$1,260,774 in FY 2013-14.

Now that all 43 judgeships that were authorized by H.B. 07-1054 have been filled, the General Assembly recently authorized the addition of two judgeships (H.B. 13-1035), and the General Assembly is considering legislation to add two more judgeships in FY 2014-15 (H.B. 14-1050), staff believes that it is reasonable to reduce this appropriation. Staff has discussed this recommendation with Department staff, and they have indicated that an appropriation of \$1,300,000 should be adequate for FY 2014-15. The following table provides a history of appropriations and expenditures for this program.

*JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision*

<b>Recent History of Funding for the Senior Judge Program</b>						
<b>Fiscal Year</b>	<b>Appropriation</b>	<b>Actual Expenditures</b>			<b>Annual % Change</b>	<b>Appropriation - Expenditures</b>
		<b>PERA Payment</b>	<b>Travel/Other Expenses</b>	<b>Total</b>		
2002-03	\$882,825	\$788,018	\$94,807	\$882,825		\$0
2003-04*	1,121,775	1,026,968	40,408	1,067,376	20.9%	54,399
2004-05	1,384,006	1,292,979	103,991	1,396,970	30.9%	(12,964)
2005-06	1,384,006	1,433,085	90,383	1,523,468	9.1%	(139,462)
2006-07*	1,523,468	1,432,441	97,940	1,530,381	0.5%	(6,913)
2007-08*	1,665,571	1,574,544	121,411	1,695,955	10.8%	(30,384)
2008-09*	1,894,006	1,775,613	141,873	1,917,486	13.1%	(23,480)
2009-10	1,894,006	1,838,902	104,298	1,943,200	1.3%	(49,194)
2010-11	1,635,326	1,485,564	107,309	1,592,873	-18.0%	42,453
2011-12	1,500,000	1,216,211	132,319	1,348,530	-15.3%	151,470
2012-13	1,500,000	1,137,703	117,514	1,255,217	-6.9%	244,783
2013-14 (Approp)	1,400,000					
2014-15 (Request)	1,400,000					

\* Appropriation includes a mid-year increase.

### **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 the Judicial Stabilization Cash Fund.

**Request:** The Department requests \$1,448,334 cash funds and 2.0 FTE. The request is impacted by JUD R10 (Leadership Education), discussed below.

**Recommendation:** Staff recommends appropriating \$1,448,906 cash funds and 2.0 FTE, as detailed in the following table. Staff's recommendation is higher than the request because staff annualized the FY 2013-14 appropriations for Salary Survey and Merit Pay to provide 12 months (rather than 11 months) of funding. The FY 2013-14 appropriations for Salary Survey and Merit Pay only included 11 months of funding due to the paydate shift.

<b>Courts Administration, Centrally Administered Programs, Judicial Education and Training</b>				
	<b>Total Funds</b>	<b>General Fund</b>	<b>Cash Funds</b>	<b>FTE</b>
<b>FY 2013-14 Appropriation</b>				
SB 13-230 (Long Bill)	<u>\$1,462,036</u>	<u>\$0</u>	<u>\$1,462,036</u>	<u>2.0</u>
<b>TOTAL</b>	<b>\$1,462,036</b>	<b>\$0</b>	<b>\$1,462,036</b>	<b>2.0</b>
<b>FY 2014-15 Recommended Appropriation</b>				
FY 2013-14 Appropriation	\$1,462,036	\$0	\$1,462,036	2.0
Annualize prior year salary survey	2,849	0	2,849	0.0
Annualize prior year merit pay	4,021	0	4,021	0.0
Annualize prior year budget actions	(269,000)	0	(269,000)	0.0
JUD R10 Leadership education	<u>249,000</u>	<u>0</u>	<u>249,000</u>	<u>0.0</u>
<b>TOTAL</b>	<b>\$1,448,906</b>		<b>\$1,448,906</b>	<b>2.0</b>
<b>Increase/(Decrease)</b>	(\$13,130)	\$0	(\$13,130)	0.0
Percentage Change	(0.9%)	0.0%	(0.9%)	0.0%
<b>FY 2014-15 Executive Request:</b>	<b>\$1,448,334</b>	<b>\$0</b>	<b>\$1,448,334</b>	<b>2.0</b>
Request Above/(Below) Recommendation	(\$572)		(\$572)	0.0

**➔ Request JUD R10: Leadership Education**

- The Department requests \$249,000 cash funds from the Judicial Stabilization Fund in FY 2014-15 to continue to annually provide leadership education to three cohorts of court and probation managers around the state.
- Staff recommends approving the request.

*Request:* The Department requests a total of \$497,500 cash funds from the Judicial Stabilization Fund in FY 2014-15 to continue to provide 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. This request represents an increase of \$249,000 above the



*JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision*

amounts that were identified in the JBC staff figure setting document last Spring, so the Department submitted a decision item to clarify its intent and resource needs.

Essentially, the Department is requesting sufficient funding to continue to train three cohorts of court and probation managers around the state each year. Staff's documentation only provided ongoing funding for one cohort.

*Recommendation.* Staff recommends approving the request. The following table details the request (R10), and provides a comparison to the amounts detailed in the JBC staff figure setting document last Spring.

<b>Summary of Request for JUD R10: Leadership Education</b>			
	<b>FY 2013-14</b>	<b>FY 2014-15 (per JBC Staff Figure Setting)</b>	<b>FY 2014-15 (per R10)</b>
<b>Course Design and Development</b>	\$20,000	\$0	\$0
<b>Executive Education</b>			
3 cohorts of 30 participants at \$90,000 per cohort (10 days at \$9,000 per day)	270,000	90,000	270,000
Travel, lodging, and per diem expenses (\$2,300 for one-half of participants)	<u>103,500</u>	<u>34,500</u>	<u>103,500</u>
Subtotal	373,500	124,500	373,500
<b>Staff Education</b>			
5 classes of 30 to 40 participants (\$16,000 per class)	80,000	80,000	80,000
<b>Facilitating Local Efforts</b>			
22 Judicial districts (\$2,000 each)	44,000	44,000	44,000
<b>Total Request</b>	<b>\$517,500</b>	<b>\$248,500</b>	<b>\$497,500</b>

*Analysis.* The Department submitted this request to essentially clarify the ongoing funding needs associated with the request submitted last year. The Department is requesting sufficient funding to continue to train three cohorts of court and probation managers around the state each year. Staff's documentation last year only provided ongoing funding for one cohort.

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. Based on discussions with judges, and district and county court administrators, it is staff's perception that this initiative of the Chief Justice serves as a useful framework for judges and staff to use in evaluating a variety of day-to-day challenges. Several other initiatives that are underway, such as improving services for self-represented litigants and implementing problem-solving courts for individuals and families, will be more effective if the elements of procedural fairness are taken into account.

**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<sup>20</sup>. 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.

**Request:** The Department requests \$898,248, including \$350,000 General Fund and \$548,248 cash funds, and 2.0 FTE. The request is essentially a continuation level of funding, including the amount appropriated in FY 2013-14, 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 (the next poll will not need to be conducted until FY 2015-16), plus funding for salary increases awarded in FY 2013-14. The sources of funds comprising the request are impacted by JUD R5 (Judicial performance), described below.

**Recommendation:** As detailed in the following table, staff recommends appropriating \$748,911, including \$290,000 General Fund and \$458,911 cash funds, and 2.0 FTE.

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<sup>20</sup> See Section 13-5.5-101, *et seq.*, C.R.S.

*JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision*

<b>Courts Administration, Centrally Administered Programs, Office of Judicial Performance Evaluation</b>				
	<b>Total Funds</b>	<b>General Fund</b>	<b>Cash Funds</b>	<b>FTE</b>
<b>FY 2013-14 Appropriation</b>				
SB 13-230 (Long Bill)	<u>\$920,955</u>	<u>\$0</u>	<u>\$920,955</u>	<u>2.0</u>
<b>TOTAL</b>	<b>\$920,955</b>	<b>\$0</b>	<b>\$920,955</b>	<b>2.0</b>
<b>FY 2014-15 Recommended Appropriation</b>				
FY 2013-14 Appropriation	\$920,955	\$0	\$920,955	2.0
Annualize prior year legislation	(30,000)	0	(30,000)	0.0
Annualize prior year salary survey	3,850	0	3,850	0.0
Annualize prior year merit pay	4,106	0	4,106	0.0
Base program reduction	(150,000)	0	(150,000)	0.0
JUD R5 Judicial performance	<u>0</u>	<u>290,000</u>	<u>(290,000)</u>	<u>0.0</u>
<b>TOTAL</b>	<b>\$748,911</b>	<b>\$290,000</b>	<b>\$458,911</b>	<b>2.0</b>
<b>Increase/(Decrease)</b>	(\$172,044)	\$290,000	(\$462,044)	0.0
Percentage Change	(18.7%)	0.0%	(50.2%)	0.0%
<b>FY 2014-15 Executive Request:</b>	<b>\$898,248</b>	<b>\$350,000</b>	<b>\$548,248</b>	<b>2.0</b>
Request Above/(Below) Recommendation	\$149,337	\$60,000	\$89,337	0.0

Staff's recommendation differs from the request for three reasons:

- Staff's recommendation includes an additional \$663 because staff annualized the FY 2013-14 appropriations for Salary Survey and Merit Pay to provide 12 months (rather than 11 months) of funding. The FY 2013-14 appropriations for Salary Survey and Merit Pay only included 11 months of funding due to the paydate shift.
- Staff's recommendation includes a base reduction of \$150,000 cash funds to better reflect current program operations. Over the last four fiscal years, actual program expenditures have ranged from \$646,674 to \$705,806, resulting in reversions ranging from \$181,306 to \$274,281. Staff's recommended program appropriation of \$748,911 is more than six percent higher than expenditures in each of the last four fiscal years, and thus provides a reasonable cushion to ensure that existing program operations can be maintained.
- Due to the base reduction described above, staff recommends a smaller appropriation of General Fund (\$290,000), and a smaller corresponding reduction in the cash funds appropriation.

As detailed in the following table, staff's recommended cash funds appropriation of \$458,911, when combined with the indirect cost assessment for this fund, will fall below the annual fund revenues projected by the Department for FY 2014-15 (total expenditures of \$505,609 compared to revenues of \$513,518 in FY 2014-15).

*JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision*

<b>State Commission on Judicial Performance Cash Fund: Revenue and Expenditure Trends</b>							
<b>Description</b>	<b>FY 09-10</b>	<b>FY 10-11</b>	<b>FY 11-12</b>	<b>FY 12-13</b>	<b>FY 13-14</b>	<b>FY 14-15</b>	<b>FY 15-16</b>
	<b>Actual</b>	<b>Actual</b>	<b>Actual</b>	<b>Actual</b>	<b>Proj.</b>	<b>Rec.</b>	<b>Proj.</b>
Beginning Fund Balance	\$654,883	\$694,061	\$611,072	\$505,239	\$315,034	\$58,303	\$66,212
Revenue	739,811	666,582	601,587	557,263	529,400	513,518	508,383
Expenditures:							
Program Costs	646,687	705,806	677,047	695,015	748,240	458,911	488,911
Indirect Cost Assessment	53,946	43,765	30,373	52,453	37,891	46,698	46,698
Total Expenditures	700,633	749,571	707,420	747,468	786,131	505,609	535,609
<b>Ending Fund Balance</b>	<b>694,061</b>	<b>611,072</b>	<b>505,239</b>	<b>315,034</b>	<b>58,303</b>	<b>66,212</b>	<b>38,986</b>
Annual Change in Fund Balance		(82,989)	(105,833)	(190,205)	(256,731)	7,909	(27,226)
<i>Fund Balance as % of Annual Expenditures</i>	99.06%	81.52%	71.42%	42.15%	7.42%	13.10%	7.28%

**➔ JUD R5 Judicial performance**

- The Department requests \$350,000 General Fund to replace declining cash revenues and to ensure a competent and capable bench of judicial officers and an informed voter base for judicial retention elections.
- Staff recommends approving the request, but only appropriating \$290,000 General Fund for such purpose.

*Request:* The Department requests \$350,000 General Fund to replace an equal amount of cash funding from the State Commission on Judicial Performance Cash Fund. Due to declining cash revenues, General Fund is required to maintain the system of reviewing the performance of all judges and justices standing for retention, providing voters written recommendations by the State Commission and the 22 judicial district commissions concerning the retention of judges and justices, and conducting interim evaluations for each judge and justice.

In 2008, the Judicial Performance Evaluation Program was expanded and moved from General Fund support to cash funding derived from district criminal, county criminal, and traffic fees. As more municipalities have adopted the model traffic code and become eligible to retain fees generated by traffic violations, they have significantly impacted a major revenue source for this Program. Specifically, cash fund revenues for this program declined from a high of \$871,003 in FY 2007-08 to \$557,263 in FY 2012-13; these revenues are projected to decline to \$513,518 in FY 2014-15.

This request is intended to shift a portion of the Program's support to General Fund to provide a more stable source of funding. The Department indicates that if this request is not approved, the Program will likely need to reduce or eliminate the interim evaluation process that provides meaningful feedback to judicial officers between retention elections. With terms of office ranging from four to ten years, the interim evaluations play a critical role in providing information to judicial officers to improve their judicial skills and service to the public.

**Recommendation:** Staff recommends approving the request, but providing a smaller General Fund appropriation (\$290,000 rather than \$350,000), and a smaller corresponding reduction in the cash funds appropriation. As described above, the Department's annual expenditures over the last four fiscal years have fallen well below the annual appropriation. The stated intent of this request is to stabilize the funding for the program, and allow the Department to maintain its existing system of reviewing and evaluating the performance of all judges and justices standing for retention. Thus, staff recommends reducing the appropriation by \$150,000 to better reflect current program operations. As detailed above, staff's recommended General Fund appropriation is calculated to ensure that cash fund expenditures do not exceed projected revenues in FY 2014-15.

### **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.<sup>21</sup> 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 \$143,430 in new fund revenues).<sup>22</sup> 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.

**Request:** The Department requests a continuation level of funding (\$1,170,000), including \$1,000,000 General Fund and \$170,000 cash funds from the Family Violence Justice Fund.

**Recommendation:** Staff recommends approving the request. Staff notes, however, that revenues to the Family Violence Justice Fund have not yet reached \$170,000 (revenues totaled \$161,182, \$159,249, and \$157,472 in the past three fiscal years, respectively). The Department manages this revenue shortfall by restricting the appropriation. The following table provides a recent history of appropriations for this program.

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<sup>21</sup> See Section 14-4-107, C.R.S.

<sup>22</sup> The other half of fee revenue is credited to the Colorado Domestic Abuse Program Fund, administered by the Department of Human Services.

<b>Recent History of State Appropriations for Family Violence Justice Grants</b>			
<b>Fiscal Year</b>	<b>General Fund</b>	<b>Cash Funds</b>	<b>Total</b>
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 Appropriation	1,000,000	170,000	1,170,000
2014-15 Request	1,000,000	170,000	1,170,000

**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).

**Request:** The Department requests \$481,000 cash funds. This line item is impacted by JUD BA2 (Restorative justice – cash funds spending authority), described below.

**Recommendation:** Staff recommends approving the request.

**➔ JUD BA2 Restorative justice – cash funds spending authority**

- The Department requests \$481,000 cash funds from the Restorative Justice Surcharge Fund.
- Staff recommends approving the request.

*Request:* The Department requests an appropriation of \$481,000 cash funds from the Restorative Justice Surcharge Fund to fulfill the legislative requirements in H.B. 13-1254.

*Recommendation:* Staff recommends approving the request.

*Analysis:* House Bill 13-1254 made several changes concerning restorative justice programs, including:

- expanding the membership of the Restorative Justice Coordinating Council (Council) in the State Court Administrator's Office;
- requiring the Council to develop a uniform restorative justice satisfaction evaluation and to collect information regarding all existing restorative justice programs and practices, and report that data to the Judiciary Committees by January 31, 2014; and
- creating a pilot program in four judicial districts to facilitate and encourage diversion of juveniles from the juvenile justice system to restorative justice practices.

The act established \$10 surcharge on each person convicted of a crime and each juvenile adjudicated of a crime. The surcharge revenue (less five percent that is retained by the clerk of the court for administrative costs) is credited to a newly created Restorative Justice Surcharge Fund. Moneys in the Fund are subject to annual appropriation for distribution to judicial districts that offer restorative justice programs and for the Council's administrative expenses. The act included an appropriation of \$32,892 and 0.5 FTE to the Judicial Department for FY 2013-14, including \$20,629 General Fund and \$12,263 cash funds from the new fund. A one-time General Fund appropriation was provided for FY 2013-14 to cover the first six months of expenses until the new fund balance was sufficient to cover program expenses.

The Department began collecting the revenues in August 2013 and is projecting total revenues of \$499,821 in FY 2013-14 and \$566,256 in FY 2014-15. When compared to the Legislative Council Staff fiscal note for the act, these recent projections are higher for FY 2013-14 (by \$88,473) and lower for FY 2014-15 (by \$176,537).

The Department requested (and the Committee approved) an appropriation of \$187,000 from the new cash fund in FY 2013-14 for the Council's research and data collection efforts and to distribute funds to the four participating judicial districts. The Department requests \$481,000 for FY 2014-15. The Department provided the following details concerning projected expenditures from the new fund for FY 2013-14 and FY 2014-15 based on the most recent revenue estimates.

**Estimated Expenditures to Implement H.B. 13-1254**

	FY 2014	FY 2015
Payroll & benefits, 0.2 FTE	12,073	14,488
RJCC expenses:		
Supplies & Operating	2,190	8,190
Survey	3,000	8,000
Website	500	9,000
Data Collection Program (1)	10,000	9,000
Technology (2)	20,000	24,000
Research (3)	25,000	30,000
Council Training Event	3,000	8,000
Education & Outreach	500	1,000
Conferences & Training	2,000	4,000
Travel	3,000	9,000
RJ Programs Support:		
10th District	40,000	83,000
12th District	43,000	121,000
19th District	17,000	87,000
20th District	18,000	80,000
Total	199,263	495,678
Less: Current Spending Authority	12,263	14,678
Additional Request	187,000	481,000

(1) Data Collection will be done with a cloud-based database software that will be installed on tablets used at each of the four pilot sites. The software allows for online surveys, data collection and analysis at both the program and the state level.

(2) Technology includes the tablets and software needed to ensure functionality at the pilot sites and RJ process locations. Remote locations may require a hot spot to ensure online access. A projector may be acquired for training purposes.

(3) Research will be conducted by a competitively-selected vendor in order to respond to the legislative mandates and questions.

Staff recommends approving the request. The expenditure estimates provided by the Department are consistent with the requirements set forth in H.B. 13-1254 and will allow the Department to comply with the research and reporting requirements in the act.



### **District Attorney Adult Pretrial Diversion Programs**

This line item provides funding for district attorneys' adult pretrial diversion programs.

*Background Information – H.B. 13-1156.* House Bill 13-1156 repealed the adult deferred prosecution sentencing option and replaced it with an adult pretrial diversion program. The act required the State Court Administrator to create a five-member Diversion Funding Committee<sup>23</sup> to:

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

The act requires the Judicial Department to execute the contract and allocate the funding requests approved by the Committee. The act requires a district attorney that receives funding pursuant to the act to collect data and provide a status report to the Judicial Department concerning its adult pretrial diversion program. The act requires the Judicial Department to provide an annual status report to the Joint Budget Committee beginning January 31, 2015. The act included an appropriation of \$425,000 General Fund and 0.5 FTE to the Judicial Department for FY 2013-14, allocated as follows:

- \$33,072 and 0.5 FTE for personal services;
- \$475 for operating expenses;
- \$1,230 for one-time capital outlay expenses; and
- \$390,223 for allocation to district attorney adult pretrial diversion programs.

**Request:** The Department requests \$390,223 General Fund.

**Recommendation:** Staff recommends appropriating \$400,000 General Fund. For further information, see the discussion concerning JUD BA3 (Adult diversion – travel expenses) in the Administration and Technology subsection of this section.

### **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. Pursuant to Section 13-3-113, C.R.S., 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.

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<sup>23</sup> 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.

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.).

**Request:** The Department requests a continuation level of funding (\$375,864 and 0.5 FTE).

**Recommendation:** Staff recommends appropriating \$375,943 cash funds and 0.5 FTE, as detailed in the following table. Staff's recommendation is higher than the request because staff annualized the FY 2013-14 appropriations for Salary Survey and Merit Pay to provide 12 months (rather than 11 months) of funding. The FY 2013-14 appropriations for Salary Survey and Merit Pay only included 11 months of funding due to the paydate shift.

<b>Courts Administration, Centrally Administered Programs, Family-friendly Court Program</b>				
	<b>Total Funds</b>	<b>General Fund</b>	<b>Cash Funds</b>	<b>FTE</b>
<b>FY 2013-14 Appropriation</b>				
SB 13-230 (Long Bill)	\$375,000	\$0	\$375,000	0.5
<b>TOTAL</b>	<b>\$375,000</b>	<b>\$0</b>	<b>\$375,000</b>	<b>0.5</b>
<b>FY 2014-15 Recommended Appropriation</b>				
FY 2013-14 Appropriation	\$375,000	\$0	\$375,000	0.5
Annualize prior year merit pay	943	0	943	0.0
<b>TOTAL</b>	<b>\$375,943</b>		<b>\$375,943</b>	<b>0.5</b>
<b>Increase/(Decrease)</b>	\$943	\$0	\$943	0.0
Percentage Change	0.3%	0.0%	0.3%	0.0%
<b>FY 2014-15 Executive Request:</b>	<b>\$375,864</b>	<b>\$0</b>	<b>\$375,864</b>	<b>0.5</b>
Request Above/(Below) Recommendation	(\$79)		(\$79)	0.0

**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<sup>24</sup>.

*Background Information – H.B. 13-1230.* House Bill 13-1230 created a state compensation program for 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:

<sup>24</sup> See Sections 13-3-114 and 13-65-101, *et seq.*, C.R.S.

- 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.

**Request:** The Department requests \$100,000 General Fund.

**Recommendation:** Staff recommends appropriating an amount slightly higher than \$100,000 General Fund. The court recently issued an order finding that Robert Dewey is actually innocent [2013-CV-30043 out of Mesa County] and ordering compensation pursuant to Article 65 of Title 13, C.R.S. The court order included payment of legal fees in the amount of \$7,800.15. The Department requested, and the Committee approved, a one-time increase in the FY 2013-14 appropriation to pay the legal fees as ordered by the court. The Department's request appropriately excludes that one-time increase.

However, the Department's request excludes an annual inflationary increase required by statute. Pursuant to Section 13-3-114 (1) (a), C.R.S., the annual payment to an exonerated person is limited to a maximum of \$100,000, adjusted annually "by the state auditor to account for inflation". Staff requests permission from the Committee to adjust the \$100,000 appropriation for FY 2014-15 by the appropriate percentage, once the Department has worked with the State Auditor to determine the appropriate inflationary measure to apply.

### **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.

**Request:** The Department requests a continuation level of funding (\$90,900 and 1.0 FTE).

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

## **(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 source of funding is 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 (*e.g.*, fee revenue that is used to pay for the Supreme Court and Court of Appeals areas of the Carr Center, leased space payments from continuously appropriated fund sources like Attorney Regulation, and parking fees paid by state employees of the public for use of the Carr Center parking garage) are reflected a cash funds.

### **LINE ITEM DETAIL**

#### **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*

**Request:** The Department requests \$1,449,723 and 2.0 FTE.

**Recommendation:** Staff recommends appropriating \$1,450,421, as detailed in the following table. Staff's recommendation is higher than the request because staff annualized the FY 2013-14 appropriations for Salary Survey and Merit Pay to provide 12 months (rather than 11 months)

*JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision*

of funding. The FY 2013-14 appropriations for Salary Survey and Merit Pay only included 11 months of funding due to the payday shift.

<b>Courts Administration, Ralph L. Carr Colorado Judicial Center, Personal Services</b>						
	<b>Total Funds</b>	<b>General Fund</b>	<b>Cash Funds</b>	<b>Reappropriated Funds</b>	<b>Federal Funds</b>	<b>FTE</b>
<b>FY 2013-14 Appropriation</b>						
SB 13-230 (Long Bill)	\$1,442,049	\$0	\$581,582	\$860,467	\$0	2.0
<b>TOTAL</b>	<b>\$1,442,049</b>	<b>\$0</b>	<b>\$581,582</b>	<b>\$860,467</b>	<b>\$0</b>	<b>2.0</b>
<b>FY 2014-15 Recommended Appropriation</b>						
FY 2013-14 Appropriation	\$1,442,049	\$0	\$581,582	\$860,467	\$0	2.0
Annualize prior year salary survey	4,051	0	4,051	0	0	0.0
Annualize prior year merit pay	4,321	0	4,321	0	0	0.0
Fund source adjustment	<u>0</u>	<u>0</u>	<u>(176,986)</u>	<u>176,986</u>	<u>0</u>	<u>0.0</u>
<b>TOTAL</b>	<b>\$1,450,421</b>		<b>\$412,968</b>	<b>\$1,037,453</b>	<b>\$0</b>	<b>2.0</b>
<b>Increase/(Decrease)</b>	\$8,372	\$0	(\$168,614)	\$176,986	\$0	0.0
Percentage Change	0.6%	0.0%	(29.0%)	20.6%	0.0%	0.0%
<b>FY 2014-15 Executive Request:</b>	<b>\$1,449,723</b>	<b>\$0</b>	<b>\$589,256</b>	<b>\$860,467</b>	<b>\$0</b>	<b>2.0</b>
Request Above/(Below) Recommendation	(\$698)		\$176,288	(\$176,986)	\$0	0.0

**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.*

**Request:** The Department requests a continuation level of funding (\$4,026,234).

**Recommendation:** Staff recommends approving the request.

**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 annually set aside a portion of these revenues for controlled maintenance needs.

**Request:** The Department requests a continuation level of funding (\$2,025,000).

**Recommendation:** Staff recommends approving the request.

*Fund Splits.* Staff recommends appropriating a total of \$5,365,761 from reappropriated funds, based on the recommended leased space appropriations for the Department of Law (\$2,981,368) and the State Court Administrator's Office (\$2,384,393). The remainder of the appropriations will be reflected as cash funds.

### (3) Trial Courts

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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.<sup>25</sup>

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.<sup>26</sup>

*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.<sup>27</sup>

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## LINE ITEM DETAIL

### 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.

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<sup>25</sup> See Article VI, Sections 9 through 12 of the Colorado Constitution; and Section 13-5-101 et seq., C.R.S.

<sup>26</sup> See Sections 37-92-203 and 204, C.R.S.

<sup>27</sup> 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 2014-15 Staff Working Document – Does Not Represent  
Committee Decision*

<b>Staffing Summary Trial Court Programs</b>	<b>FY 12-13 Actual</b>	<b>FY 13-14 Approp.</b>	<b>FY 14-15 Request</b>	<b>FY 14-15 Recommend.</b>
District Court Judges	175.6	178.0	178.0	178.0
County Court Judges	90.8	90.4	90.4	90.4
Magistrates/ Water Referees	61.5	64.5	64.8	64.8
District Administrators	21.8	22.0	22.0	22.0
Clerks of Court	60.7	66.4	66.4	66.4
Law Clerks/ Legal Research Attorneys	84.9	176.0	176.3	176.3
Jury Commissioners	13.1	12.5	12.5	12.5
Court Reporters	94.9	178.5	178.8	178.8
Probate Examiners/ Protective Proceedings Monitor	13.7	19.0	19.0	19.0
Self-Represented Litigant Coordinators (JUD R6)	8.6	23.0	32.0	32.0
Family Court Facilitators (JUD R7)	23.5	22.0	31.0	31.0
Other Court and Administrative Staff	<u>1,046.9</u>	<u>968.2</u>	<u>968.5</u>	<u>968.5</u>
<b>Total</b>	<b>1,696.0</b>	<b>1,820.5</b>	<b>1,839.7</b>	<b>1,839.7</b>

**Request:** The Department requests \$132,030,865, including \$102,263,317 General Fund, \$28,667,548 cash funds, and \$1,100,000 reappropriated funds, and 1,839.7 FTE. The request is impacted by JUD R6 (Self-represented litigant coordinators), JUD R7 (Family court facilitators), and JUD BA1 (General Fund support for Stabilization Cash Fund).

**Recommendation:** Staff recommends appropriating \$132,395,755, including \$103,199,441 General Fund, \$28,096,314 cash funds, and \$1,100,000 reappropriated funds, and 1,839.7 FTE, as detailed in the following table.



*JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision*

<b>Trial Courts, Trial Court Programs</b>					
	<b>Total Funds</b>	<b>General Fund</b>	<b>Cash Funds</b>	<b>Reappropriated Funds</b>	<b>FTE</b>
<b>FY 2013-14 Appropriation</b>					
SB 13-230 (Long Bill)	\$124,961,437	\$92,803,540	\$31,057,897	\$1,100,000	1,804.1
Other legislation	<u>1,199,836</u>	<u>346,418</u>	<u>853,418</u>	<u>0</u>	<u>16.4</u>
<b>TOTAL</b>	<b>\$126,161,273</b>	<b>\$93,149,958</b>	<b>\$31,911,315</b>	<b>\$1,100,000</b>	<b>1,820.5</b>
<b>FY 2014-15 Recommended Appropriation</b>					
FY 2013-14 Appropriation	\$126,161,273	\$93,149,958	\$31,911,315	\$1,100,000	1,820.5
Annualize prior year legislation	115,049	95,858	19,191	0	1.2
Annualize prior year salary survey	3,588,115	3,049,898	538,217	0	0.0
Annualize prior year merit pay	1,397,177	1,397,177	0	0	0.0
JUD BA1 General Fund support for Stabilization Cash Fund	0	4,321,859	(4,321,859)	0	0.0
JUD R7 Family court facilitators	687,923	687,923	0	0	9.0
JUD R6 Self-represented litigant coordinators	496,768	496,768	0	0	9.0
Annualize prior year budget actions	<u>(50,550)</u>	<u>0</u>	<u>(50,550)</u>	<u>0</u>	<u>0.0</u>
<b>TOTAL</b>	<b>\$132,395,755</b>	<b>\$103,199,441</b>	<b>\$28,096,314</b>	<b>\$1,100,000</b>	<b>1,839.7</b>
<b>Increase/(Decrease)</b>	\$6,234,482	\$10,049,483	(\$3,815,001)	\$0	19.2
Percentage Change	4.9%	10.8%	(12.0%)	0.0%	1.1%
<b>FY 2014-15 Executive Request:</b>	<b>\$132,030,865</b>	<b>\$102,263,317</b>	<b>\$28,667,548</b>	<b>\$1,100,000</b>	<b>1,839.7</b>
Request Above/(Below) Recommendation	(\$364,890)	(\$936,124)	\$571,234	\$0	0.0

Staff's recommendation differs from the request for the following reasons:

- Staff included an additional \$415,440 in order to annualized the FY 2013-14 appropriations for Salary Survey and Merit Pay to provide 12 months (rather than 11 months) of funding. The FY 2013-14 appropriations for Salary Survey and Merit Pay only included 11 months of funding due to the paydate shift.
- Staff's recommendation reflects a reduction of \$50,550 cash funds (from the Judicial Stabilization Cash Fund) to eliminate one-time funding that was provided in FY 2013-14 to one-time operating expenditures associated with approval of FY 2013-14 R4, which added 10.0 FTE Self-represented Litigant Coordinators.

*Annualize prior year legislation:* Staff's recommendation includes adjustments for the following acts: S.B. 13-123 (+\$38,626 General Fund); S.B. 13-197 (-\$1,084 General Fund); H.B. 13-1160 (-\$16,942 General Fund); H.B. 13-1210 (+\$75,258 General Fund); and H.B. 13-1259 (+\$19,191 cash funds).

*Annualize prior year budget actions:* Staff's recommendation includes a reduction of \$50,550 cash funds to eliminate the one-time funding that was provided in FY 2013-14, in response to the Department's request for JUD R4 Self-represented litigant coordinators. This funding was

provided to cover the purchase of computers, software, printers, reference materials, and office supplies for *pro se* centers.

*JUD R6 (Self-represented litigant coordinators):* Staff's recommendation includes \$496,768 General Fund and 9.0 FTE. For a description of this request, see the section titled "Initiatives Affecting Multiple Divisions" at the beginning of this packet.

*JUD R7 (Family court facilitators):* Staff's recommendation for this decision item is described below.

*JUD BAI (General Fund support for Stabilization Cash Fund):* Staff's recommendation includes a \$4,321,859 cash funds reduction and an increase of \$4,321,859 General Fund. For a description of this request, "Initiatives Affecting Multiple Divisions" at the beginning of this packet.

### **JUD R7 Family court facilitators**

- The Department requests \$730,250 General Fund and 9.0 FTE Family Court Facilitator positions to expedite the processing of cases involving the dissolution of marriage and parental responsibility disputes and to provide early, active, and ongoing case management of domestic relations cases.
- Staff recommends appropriating \$806,921 General Fund and 10.0 FTE.

*Request:* The Department requests \$730,250 General Fund and 9.0 FTE Family Court Facilitator positions to expedite the processing of cases involving the dissolution of marriage and parental responsibility disputes, and to provide early, active, and ongoing case management of domestic relations cases.

*Recommendation:* Staff recommends appropriating \$806,921 General Fund and 10.0 FTE. Staff's recommendation is \$76,671 higher than the request because staff recommends funding a statewide coordinator for Family Court Facilitators.

*Analysis:* From 1997 to 2001, 22 Family Court Facilitator positions were allocated to judicial districts. These positions have been an integral resource in cases in every judicial district. Of the total allocated, 16.3 FTE are focused solely on domestic relations cases (some Facilitators also work on dependency and neglect cases). In May 2010, the Division of Planning and Analysis, in conjunction with the National Center for State Courts, conducted a workload study of Family Court Facilitators in order to create tools that would help quantify the number of Facilitators required statewide. This study found that an additional 42.0 FTE Facilitators are needed.

Based on FY 2012-13 court filings, the workload model indicates that 30.7 FTE Facilitators for domestic relations cases are needed, over and above the existing staff. The Department indicates that it plans to request these additional FTE over multiple years; the FY 2014-15 request is intended to assist those districts with the greatest demonstrated need.

Approximately 61 percent of all domestic relations cases involve self-represented litigants. This represents a nearly 20 percent increase since the first round of Domestic Relations Family Court Facilitator positions were funded and allocated over 10 years ago. With fewer attorneys guiding parties through the court process, facilitating agreements, and explaining court procedures, access to and understanding of domestic relations proceedings for individuals has become daunting and stressful. For many families involved in a domestic relations case, the Family Court Facilitator is the only resource available to guide, manage, facilitate agreements, and prepare their case for the judge.

The work of a Family Court Facilitator differs from a Self-represented Litigant Coordinator because it involves case-based work, such as conducting status conferences, supporting the case management efforts of the bench, and oversight of court appointed professionals for domestic relations cases (*e.g.*, mediators, child and family investigators, and parenting class providers). These Facilitators reduce time in court by actively managing domestic relations cases and facilitating agreements between parties.

In addition to funding for the 9.0 FTE, the request includes \$60,000 to annually fund a statewide multi-disciplinary team training key personnel such as: judicial officers, Family Court Facilitators, Self-represented Litigant Coordinators, and clerk's office staff. The training would focus on procedural fairness, communication, continuous quality improvement, and differentiated case management in domestic relations cases.

*Recommendation:* Staff recommends appropriating \$806,921 General Fund and 10.0 FTE, as detailed in the following table (shading indicates those items that differ from the request). Approval of this request would reduce the court time required for domestic relations cases by facilitating agreements between parties. This will benefit both the litigants and the courts. Approval of this request will also enable the courts to more effectively address the increasing volume of post-decree motions and complex cases involving never-married parents.

Staff's recommendation is \$76,671 higher than the request because staff recommends funding a statewide coordinator for Family Court Facilitators. Similar to the Department's request for a statewide coordinator for Self-represented Litigant Coordinators, the recommended position is intended to ensure that the Department is providing ongoing training and support for the 31 Family Court Facilitators who will be located around the state. Based on discussions with Department staff, it appears that the existing Family Court Facilitators operate independently and their practices can differ significantly. In FY 2012-13, more than 34,000 domestic relations cases were filed in district courts, constituting 15.0 percent of all district court case filings. Staff believes that it's important for Department staff to be knowledgeable about how various jurisdictions utilize Family Court Facilitators in order to evaluate best practices – particularly if the Department intends to submit future funding requests to continue expanding the number of Facilitators.

The following table details the components of staff's recommendation, which are included in the staff recommendations for the relevant line items throughout this packet. Items which differ from the request are shaded.

*JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision*

<b>Summary of Recommendation for JUD R7: Family Court Facilitators</b>		
	<b>FY 2014-15</b>	<b>FY 2015-16</b>
<b><u>Courts Administration</u></b>		
<b><i>Administration and Technology</i></b>		
General Courts Administration		
Personal Services (1.0 FTE; \$72,816 salary + PERA + Medicare; for 11 months in FY 2014-15)	74,491	81,263
Operating Expenses associated with staff (\$450 for telephone base and \$500 for supplies for 1.0 FTE)	<u>950</u>	<u>950</u>
Subtotal	75,441	82,213
<b><i>Central Appropriations</i></b>		
AED	0	24,218
SAED	<u>0</u>	<u>22,704</u>
Subtotal	0	46,922
<b><i>Centrally Administered Programs</i></b>		
Courthouse Capital/ Infrastructure Maintenance (\$3,473 for office furniture for 9.0 FTE; \$900 for computer, and \$330 for Office Suite software for 10.0 FTE)	43,557	0
<b><u>Trial Courts</u></b>		
Trial Court Programs		
Personal Services (9.0 FTE; \$67,272 salary + PERA + Medicare; for 11 months in FY 2014-15)	619,373	675,680
Operating Expenses associated with staff (\$450 for telephone base and \$500 for supplies for 9.0 FTE; \$60,000 for training in FY 2014-15)	<u>68,550</u>	<u>8,550</u>
Subtotal	687,923	684,230
<b>Total</b>	<b>\$806,921</b>	<b>\$813,365</b>

*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 Volland 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 1999-00<sup>28</sup>, 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. The following table provides a summary of actual expenditures for all mandated costs, by line item.

<b>Mandated Costs: Actual Expenditures for Judicial Branch</b>							
	<b>FY 06-07</b>	<b>FY 07-08</b>	<b>FY 08-09</b>	<b>FY 09-10</b>	<b>FY 10-11</b>	<b>FY 11-12</b>	<b>FY 12-13</b>
Courts Administration, Centrally Administered Programs - Language Interpreters	\$3,181,249	\$3,520,983	\$3,715,881	\$3,347,499	\$3,456,745	\$3,924,198	\$4,112,276
Trial Courts - Court Costs, Jury Costs, and Court-appointed Counsel	12,104,759	13,426,559	15,331,794	15,841,967	15,472,347	15,181,494	15,521,672
Trial Courts - District Attorney Mandated Costs	2,027,885	2,112,008	2,127,119	2,068,755	2,026,627	2,050,295	2,181,277
Office of the State Public Defender	2,541,618	3,143,259	2,954,167	3,092,601	3,516,379	3,758,631	4,126,488
Office of the Alternate Defense Counsel	1,240,579	1,549,841	1,589,848	1,513,582	1,429,874	1,469,945	1,764,603
Office of the Child's Representative	26,342	41,080	34,437	39,717	29,290	40,405	43,607
<b>Total</b>	<b>21,122,432</b>	<b>23,793,729</b>	<b>25,753,246</b>	<b>25,904,121</b>	<b>25,931,262</b>	<b>26,424,968</b>	<b>27,749,922</b>
<i>Annual Percent Change</i>		12.6%	8.2%	0.6%	0.1%	1.9%	5.0%

**Court Costs, Jury Costs, and Court-appointed Counsel**

This is the largest of six 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. 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. Pursuant to Sections 13-71-125 through 13-71-131, C.R.S., jurors must be compensated \$50 daily,<sup>29</sup> 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.

<sup>28</sup> This budget format change was implemented through mid-year adjustments in H.B. 00-1403.

<sup>29</sup> This dollar amount has not changed since at least 1989.

*Court-appointed Counsel.* 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.

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 actual expenditures for this line item for the last seven fiscal years.

*JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision*

<b>Trial Courts - Court Costs, Jury Costs, and Court-appointed Counsel</b>							
	<b>FY 06-07</b>	<b>FY 07-08</b>	<b>FY 08-09</b>	<b>FY 09-10</b>	<b>FY 10-11</b>	<b>FY 11-12</b>	<b>FY 12-13</b>
<b>Court-appointed Counsel:</b>							
Respondent Parent Counsel Attorney	\$6,461,658	\$7,224,241	\$8,579,436	\$8,588,777	\$8,344,476	\$8,374,063	\$8,410,578
Mental Health Attorney	789,490	907,860	1,014,617	1,175,473	1,377,864	1,593,328	1,600,474
Other Counsel/Investigators a/	1,413,720	1,737,148	1,911,452	2,024,857	2,053,164	1,291,976	1,177,495
Attorney Guardian Ad Litem	240,195	296,195	452,282	577,568	397,510	482,784	590,240
Parental Refusal (FMV) a/	0	0	0	0	0	402,033	338,341
Truancy Attorney a/	46,953	47,428	47,872	54,294	56,502	124,792	165,968
Non-Attorney Child and Family Investigator	41,031	37,969	89,316	79,161	71,725	64,012	72,737
Other Appointments b/	46,039	44,814	65,272	60,189	51,493	52,926	63,808
Court-appointed Counsel Programming							22,730
Attorney Fee Collection Costs	14,154	21,737	25,436	29,865	22,312	22,483	18,321
Other Counsel per S.B. 06-061	0	175	0	1,772	1,101	1,635	206
Interpreter	0	455	0	0	0	0	0
<b>Subtotal: Court-appointed Counsel</b>	<b>9,053,240</b>	<b>10,318,024</b>	<b>12,185,683</b>	<b>12,591,956</b>	<b>12,376,147</b>	<b>12,410,032</b>	<b>12,460,898</b>
<i>Annual Percent Change</i>		14.0%	18.1%	3.3%	-1.7%	0.3%	0.4%
<b>Court Costs:</b>							
Evaluations/Expert Witness Fees	792,117	823,305	987,813	1,023,207	935,168	830,071	1,017,257
Transcripts	149,696	132,174	190,662	178,817	180,452	137,760	150,970
Discovery & Process Fees	38,514	49,728	39,615	36,737	25,549	35,458	35,515
Forms	16,621	13,805	16,283	13,520	22,500	12,175	9,542
Advertising	12,275	11,856	9,870	8,666	7,189	9,084	8,115
Interpreters	6,324	3,109	4,073	195	335	1,933	2,928
Experts/Witness Travel	4,050	1,828	2,953	3,628	992	1,550	1,558
Postage (moved to TC Operating)	215,061	194,206	3,029	1,547	198	209	494
Investigators	294	727	10,531	1,000	2,488	0	4,796
Death Penalty Costs	143	84	808	96	795	0	7,196
Misc.	53,397	56,799	69,571	56,852	43,538	28,686	43,088
<b>Subtotal: Court Costs</b>	<b>1,288,490</b>	<b>1,287,620</b>	<b>1,335,208</b>	<b>1,324,266</b>	<b>1,219,203</b>	<b>1,056,925</b>	<b>1,281,459</b>
<i>Annual Percent Change</i>		-0.1%	3.7%	-0.8%	-7.9%	-13.3%	21.2%
<b>Jury Costs</b>	<b>1,763,029</b>	<b>1,820,915</b>	<b>1,810,902</b>	<b>1,925,745</b>	<b>1,876,998</b>	<b>1,714,537</b>	<b>1,779,315</b>
<i>Annual Percent Change</i>		3.3%	-0.5%	6.3%	-2.5%	-8.7%	3.8%
<b>Total</b>	<b>12,104,759</b>	<b>13,426,559</b>	<b>15,331,794</b>	<b>15,841,967</b>	<b>15,472,347</b>	<b>15,181,494</b>	<b>15,521,672</b>

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.

**Request:** The Department requests a continuation level of funding (\$15,940,692), including \$15,455,692 General Fund and \$485,000 cash funds from various fees, cost recoveries, and grants. This line item is impacted by two decision items, which are described below: JUD BA6 (Counsel for children transfer) and JUD BA7 (Court-appointed counsel costs).

**Recommendation:** Staff recommends appropriating \$17,769,702 General Fund, as detailed in the following table.

<b>Trial Courts, Court Costs, Jury Costs, and Court-appointed Counsel</b>				
	<b>Total Funds</b>	<b>General Fund</b>	<b>Cash Funds</b>	<b>FTE</b>
<b>FY 2013-14 Appropriation</b>				
SB 13-230 (Long Bill)	\$15,985,692	\$15,500,692	\$485,000	0.0
HB 14-1239 (Supplemental)	<u>(45,000)</u>	<u>(45,000)</u>	<u>0</u>	<u>0.0</u>
<b>TOTAL</b>	<b>\$15,940,692</b>	<b>\$15,455,692</b>	<b>\$485,000</b>	<b>0.0</b>
<b>FY 2014-15 Recommended Appropriation</b>				
FY 2013-14 Appropriation	\$15,940,692	\$15,455,692	\$485,000	0.0
Staff-initiated adjustment	<u>1,829,010</u>	<u>1,829,010</u>	<u>0</u>	<u>0.0</u>
<b>TOTAL</b>	<b>\$17,769,702</b>	<b>\$17,284,702</b>	<b>\$485,000</b>	<b>0.0</b>
<b>Increase/(Decrease)</b>	\$1,829,010	\$1,829,010	\$0	0.0
Percentage Change	11.5%	11.8%	0.0%	0.0%
<b>FY 2014-15 Executive Request:</b>	<b>\$15,940,692</b>	<b>\$15,455,692</b>	<b>\$485,000</b>	<b>0.0</b>
Request Above/(Below) Recommendation	<u>(\$1,829,010)</u>	<u>(\$1,829,010)</u>	<u>\$0</u>	<u>0.0</u>

*Staff-initiated adjustment:* Staff's recommendation includes \$1,829,010 General Fund to allow the State Court Administrator's Office to implement the same court-appointed counsel contractor rate increases that have been proposed by the OADC and the OCR. For a description of this request, see the section titled "Initiatives Affecting Multiple Divisions" at the beginning of this packet.

*JUD BA6 Counsel for children transfer:* Staff's recommendation includes continuation of the transfer of \$45,000 from the State Court Administrator's Office to this line item, which was approved by the Committee in response to a supplemental request for FY 2013-14. This request is discussed below.





**JUD BA6 Counsel for children transfer**

- The Department requests the transfer of \$45,000 General Fund to the Office of the Child's Representative (OCR) to cover the cost of providing counsel for children who are subject to dependency and neglect actions.
- Staff recommends approving the request.

*Request:* The Department requests the transfer of \$45,000 General Fund to the OCR to cover the cost of providing counsel for children who are subject to dependency and neglect actions. This request includes a \$45,000 reduction in the appropriation to the State Court Administrator's Office for Court Costs, Jury Costs, and Court-Appointed Counsel Costs, and a corresponding \$45,000 increase in the appropriation to the OCR for Court Appointed Counsel. Approval of both requests results in a net \$0 change in appropriations.

*Recommendation:* The Committee approved a companion request to make this transfer for FY 2013-14. Staff's recommendations reflect the continuation of this transfer.

*Analysis:*

Department Request

The State Court Administrator's Office has historically administered appointments of legal counsel for children who are subject to dependency and neglect proceedings. These cases have primarily involved children facing the possibility of contempt charges. In early 2013, the State Court Administrator's Office and the OCR agreed that these types of appointments should be handled by the OCR due to its expertise in the representation of children in dependency and neglect actions. In addition, it is anticipated that the recent Colorado Supreme Court decision in *L.A.N. v. L.M.B.*<sup>30</sup> will increase the number of such appointments when courts exercise discretion to appoint counsel for children who are deemed to be their own psychotherapist-patient privilege holders. Chief Justice Directive 04-06, "Court Appointments through the Office of the Child's Representative", was amended in March 2013 to reflect the OCR's expanded responsibilities.

The two agencies cooperated in executing a transfer of funds at the end of FY 2012-13 to cover the costs for these appointments from March through June 2013. The Committee recently approved a request to adjust annual appropriations beginning in FY 2013-14 to include the funding for these types of appointments in OCR's budget. The requested transfer of \$45,000 General Fund is based on actual expenditures for these types of cases in FY 2010-11 and FY 2011-12.

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<sup>30</sup> In *L.A.N. v. L.M.B.*, 2013 CO6, the court held that the *guardian ad litem* (GAL) in a dependency and neglect proceeding is in the best position to exercise the child's psychotherapist-patient privilege in such proceedings when the child or parent are unavailable to do so. In these cases, the GAL must be extremely vigilant to ensure that children's privacy interests are protected in a manner that promotes both effective therapy and informed judicial decisions that serve the best interests of children. In addition, if the court determines that a child is of sufficient age and maturity to exercise their own privilege, the court may appoint counsel (separate from the GAL), to advise the child and protect the child's interest with regard to privileged information.

Staff Recommendation

Staff recommends approving the request so that appropriations that support these types of counsel appointments are consistent with the amended Chief Justice Directive.

**→ JUD BA7 Court-appointed Counsel Costs**

*This request was withdrawn 1/9/14*

**District Attorney Mandated Costs**

This is one of six 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. Section 16-18-101, C.R.S., states that, "The costs in criminal cases shall be paid by the state pursuant to section 13-3-104, C.R.S.,<sup>31</sup> when the defendant is acquitted or when the defendant is convicted and the court determines he is unable to pay them." Pursuant to Section 18-1.3-701 (2), C.R.S., when a person is convicted of an offense or a juvenile is adjudicated, the Court shall give judgment in favor of the State, the prosecuting attorney, or the law enforcement agency and against the offender or juvenile for the amount of the costs of prosecution. Section 18-1.3-701 (2), C.R.S., specifies the types of expenditures that may be included under this provision.

Based on FY 2012-13 expenditure data recently provided by the Colorado District Attorneys' Council (CDAC),<sup>32</sup> DAs' mandated costs consist of the following:

- Witness fees and travel expenses (\$636,648 or 29.2 percent of reimbursed expenditures);
- Mailing subpoenas<sup>33</sup> (\$534,183 or 24.5 percent);
- Expert witness fees and travel expenses (\$474,947 or 21.8 percent);
- Service of process<sup>34</sup> (\$360,513 or 16.5 percent); and
- Court reporter fees for transcripts (\$174,986 or 8.0 percent).

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 #1 for FY 2013-14) indicating that DAs in each judicial district are responsible for allocations made by an oversight committee (currently the CDAC). Any increases in the line

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<sup>31</sup> This section states that the State "shall provide funds by annual appropriation for the operations, salaries, and other expenses of all courts of record within the state, except for county courts in the city and county of Denver and municipal courts".

<sup>32</sup> The CDAC is a quasi-government agency, supported by assessments charged to each member's office (through an intergovernmental agreement).

<sup>33</sup> 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.

<sup>34</sup> 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.

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Committee Decision**

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 (\$113,222 in FY 2012-13) to cover the administrative costs associated with allocating and managing this appropriation.

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

District Attorneys' Mandated Costs								
Fiscal Year	Appropriation			Actual Expenditures				Over/ (Under) Budget
	General Fund	Cash Funds	Total	General Fund	Cash Funds	Total	Annual % Change	
2000-01	\$1,938,724	\$0	\$1,938,724	\$1,889,687	\$0	\$1,889,687		(\$49,037)
2001-02	1,938,724	0	1,938,724	1,978,963	0	1,978,963	4.7%	40,239
2002-03	2,025,199	125,000	2,150,199	1,833,410	71,117	1,904,527	-3.8%	(245,672)
2003-04	2,025,199	125,000	2,150,199	1,847,369	59,334	1,906,703	0.1%	(243,496)
2004-05	1,911,899	0	1,911,899	1,911,970	0	1,911,970	0.3%	71
2005-06	1,911,899	0	1,911,899	1,772,849	106,325	1,879,174	-1.7%	(32,725)
2006-07	1,841,899	125,000	1,966,899	1,928,795	99,090	2,027,885	7.9%	60,986
2007-08	1,837,733	125,000	1,962,733	2,092,974	130,674	2,223,648	9.7%	260,915
2008-09	2,101,052	125,000	2,226,052	2,063,785	125,000	2,188,785	-1.6%	(37,267)
2009-10	2,101,052	125,000	2,226,052	2,101,050	125,000	2,226,050	1.7%	(2)
2010-11 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	2,179,497	125,000	2,304,497	5.4%	(225,052)
2013-14 c/	2,491,916	160,000	2,651,916					
2014-15 Request d/	2,644,352	160,000	2,804,352					

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 includes \$353,500 specifically for the *Holmes* and *Sigg* cases.

d/ The FY 2014-15 request includes \$400,000 specifically for the *Holmes* and *Sigg* cases.

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Committee Decision***

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*Background Information – State Funding for DAs.* Colorado's DAs are responsible for prosecuting all criminal and traffic cases filed in district and county courts. While DAs' budgets are primarily set and provided by boards of county commissioners within each respective judicial district, the State provides direct funding for DAs in the following four areas (a total of \$7.0 million for FY 2013-14):

1. The Department of Law's budget includes an appropriation for "District Attorneys' Salaries" (\$2,676,960 for FY 2013-14).
2. The Judicial Branch's budget includes an appropriation for "District Attorney Mandated Costs" (\$2,651,916 for FY 2013-14). This line item is described above.
3. The Department of Corrections' budget includes an appropriation for "Payments to District Attorneys" for costs associated with prosecuting a crime alleged to have been committed by a person in the custody of the Department (\$1,224,693 for FY 2013-14).
4. The Judicial Branch's budget includes an appropriation for "District Attorney Adult Pretrial Diversion Programs" for adult pretrial diversion programs that meet the established statutory guidelines [established through H.B. 13-1156] (\$387,223 for FY 2013-14).
5. The Department of Public Safety's budget includes an appropriation for "Witness Protection Fund Expenditures" to pay DAs for qualifying expenses related to security personnel, travel expenses, lodging, and other immediate needs (\$83,000 for FY 2013-14).

In addition, the General Assembly appropriates funds to the State Court Administrator's Office, the OSPD, the OADC, and the OCR to cover the costs of obtaining discoverable materials.<sup>35</sup> In FY 2012-13, these offices spent a total of \$2,178,819 reimbursing DAs and the Attorney General's Office for discovery-related expenses.

*Background Information CDAC's Role.* The CDAC allocates the amount appropriated for this line item among the 22 judicial districts (including those districts that are not members of the CDAC), based on historical spending (currently the last three fiscal years). However, the CDAC excludes from this initial allocation: a portion of the appropriation to cover its costs of administering the allocation (5.0 percent of the appropriation); and another amount (typically \$300,000) to cover any unanticipated district needs. On a quarterly basis, DAs also submit a list of mandated cost expenditures to the CDAC so that the CDAC can monitor the allocation of the appropriation among districts.

The CDAC has a special process for DAs to request additional funds above the initial allocation. Three district attorneys serve on a Mandated Costs Committee to oversee the annual allocation

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<sup>35</sup> Under Colorado Supreme Court Rule 16, the prosecuting attorney is required to make available to the defense certain material and information that is within his or her control and to provide duplicates upon request. The State pays the costs of duplicating discoverable material when legal representation is provided for an indigent defendant.

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Committee Decision**

process and to review and take action on any DA requests for funds above the initial allocation. In order to limit state expenditures, the CDAC limits expert witness fees to \$1,500 per expert. Fees paid in excess of the limit are only reimbursed if funds remain available at the end of the fiscal year. In FY 2012-13, DAs did not incur expenditures above this limit.

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.

**Request:** The CDAC requests \$2,804,352, including \$2,644,352 General Fund and \$160,000 cash funds. The request includes \$2,404,352 to reimburse all DAs' mandated costs, plus \$400,000 to cover unanticipated expert witness fees and witness travel expenses associated with two specific cases:

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

The request indicates that the best predictor of future expenses is averaging, and suggests focusing on the three most recently completed actual fiscal years. The request further states: "Over the last three years, costs of prosecution have increased, on average, 4.5% per year. Thus, the District Attorneys' request a conservative 3.0% increase from the current fiscal year's appropriation \$2,332,381 for a total requested appropriation of \$2,402,352<sup>36</sup> to responsibly budget for this upcoming year."

**Recommendation:** Staff recommends appropriating \$2,667,368 (including \$2,497,368 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
2013-14 Approp.	\$2,138,416	\$160,000	\$2,298,416	\$353,500	\$0	\$353,500	\$2,491,916	\$160,000	\$2,651,916
<b>2014-15 Request</b>	<b>\$2,244,352</b>	<b>\$160,000</b>	<b>\$2,404,352</b>	<b>\$400,000</b>	<b>\$0</b>	<b>\$400,000</b>	<b>\$2,644,352</b>	<b>\$160,000</b>	<b>\$2,804,352</b>
Annual \$ Change			\$105,936			\$46,500			\$152,436
Annual % Change			4.6%			13.2%			5.7%
<b>2014-15 Recommendation</b>	<b>\$2,197,368</b>	<b>\$170,000</b>	<b>\$2,367,368</b>	<b>\$300,000</b>	<b>\$0</b>	<b>\$300,000</b>	<b>\$2,497,368</b>	<b>\$170,000</b>	<b>\$2,667,368</b>
Annual \$ Change			\$68,952			(\$53,500)			\$15,452
Annual % Change			3.0%			-15.1%			0.6%

Staff's recommendation includes \$2,367,368 to reimburse all DAs' mandated costs. While the CDAC indicates that it is requesting a 3.0 percent increase for FY 2014-15, the dollar amount requested actually represents a 4.6 percent increase in the base appropriation (excluding funding

<sup>36</sup> The CDAC request for DA Mandated Costs also lists its total request as \$2,804,352. Staff used this higher figure for purposes of representing the request.

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Committee Decision**

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for the *Holmes* and *Sigg* cases), and a 5.7 percent overall increase. Staff's recommendation provides a 3.0 percent increase, consistent with the stated intent of the CDAC request.

There is data that would support an appropriation below staff's recommendation. First, excluding expenditures related to the *Holmes* and *Sigg* cases, the compound annual growth rate of actual expenditures for this line item are as follows for the indicated periods of time:

3 fiscal years:	-0.5%
5 fiscal years:	-0.3%
10 fiscal years:	1.4%

Second, in FY 2012-13, the CDAC reverted a total of \$71,945 (excluding the amount related to the *Sigg* and *Holmes* cases).

However, staff believes the recommendation is reasonable given the recent increase in felony case filings. After decreasing annually for six years, the number of felony case filings increased by 6.1 percent in FY 2012-13. In addition, the CDAC indicates that DAs are incurring higher costs for DUI cases due to the recent closure of the Department of Public Health and Environment's toxicology lab. At this point, it appears that DAs may continue to experience these higher costs.

Staff's recommendation also includes \$300,000 for unanticipated expert witness fees and witness travel expenses associated with the *Holmes* case. Austin Sigg was sentenced on November 19, 2013, so the 1<sup>st</sup> judicial district will not incur any further expenditures related to this case. Based on updated information provided by the CDAC, an appropriation of \$300,000 is estimated to be needed to cover costs in the *Holmes* case. At the end of this packet staff has included a recommendation to continue the Long Bill footnote associated with this portion of the appropriation (with appropriate amendments).

Finally, please note that the recommendation includes a \$10,000 increase in the cash funds appropriation from cost recoveries (from \$160,000 to \$170,000). This increase is appropriate and reasonable, given that cost recoveries exceeded \$160,000 in the last two fiscal years (\$174,640 in FY 2011-12 and \$169,622 in FY 2012-13); based on fiscal year-to-date cost recoveries, the Department projects recoveries totaling \$171,091 in FY 2013-14. When cost recoveries exceed the appropriation, the excess is credited to the General Fund.

**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.

**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.

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Committee Decision*

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**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**

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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 probation<sup>37</sup>. 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, 1,150 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.

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### **➔ Correctional Treatment Cash Fund allocation**

*Request:* The Department requests a \$14,497,886 General Fund appropriation to the Correctional Treatment Cash Fund (CTCF). The Department also requests a total of \$20,235,960 in spending authority from the CTCF to allow the Department to use these moneys

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<sup>37</sup> See Section 18-1.3-202 (1), C.R.S.



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Committee Decision**

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.

*Recommendation:* First, staff recommends appropriating \$15,200,000 General Fund to the CTCF, consistent with the minimum statutory requirement.

Second, as detailed in the following table, staff recommends appropriations from the CFCF totaling \$20,235,960 to provide the increases recommended by the Correctional Treatment Board, and to cover the estimated salary and benefits for state employees that are currently supported by the CTCF. [Shaded items differ from the Department's request.]

Appropriations from the Correctional Treatment Cash Fund						
Department/ Line Item	FY 2013-14			FY 2014-15 Recommendation		
	CF (CTCF)	RF (Transfer from Judicial)	Total	CF (CTCF)	RF (Transfer from Judicial)	Total
<b>JUDICIAL:</b>						
<u>Courts Administration</u>						
<i>Administration and Technology</i>						
General Courts Administration	\$91,078	\$0	\$91,078	\$94,323	\$0	\$94,323
Indirect Cost Assessment 1/	222,859	0	222,859	218,748	0	218,748
<i>Central Appropriations</i>						
Various line items - probation staff	110,054	0	110,054	110,054	0	110,054
Various line items - CTB staff	0	0	0	26,494	0	26,494
<i>Centrally Administered Programs</i>						
District Attorney Adult Pretrial Diversion Programs	0	0	0	77,000	0	77,000
<u>Probation and Related Services</u>						
Probation 1/	702,114	0	702,114	702,114	0	702,114
Offender Treatment and Services	5,406,879	0	5,406,879	5,698,079	0	5,698,079
<b>Subtotal: Judicial</b>	<b>\$6,532,984</b>	<b>\$0</b>	<b>\$6,532,984</b>	<b>\$6,926,811</b>	<b>\$0</b>	<b>\$6,926,811</b>
	<i>Annual \$ Change</i>					\$393,827
	<i>Annual % Change</i>					6.0%
<b>CORRECTIONS:</b>						
<u>Inmate Programs</u>						
<i>Drug and Alcohol Treatment Subprogram</i>						
Services for Substance Abuse and Co-occurring Disorders	0	995,127	995,127	0	995,127	995,127
Contract Services	0	250,000	250,000	0	350,000	350,000
<u>Community Services</u>						
<i>Parole Subprogram</i>						
Contract Services (Substance abuse treatment)	0	1,259,100	1,259,100	0	1,259,100	1,259,100
Contract Services (Substance abuse monitoring)	0	498,000	498,000	0	753,000	753,000
<b>Subtotal: Corrections</b>	<b>\$0</b>	<b>\$3,002,227</b>	<b>\$3,002,227</b>	<b>\$0</b>	<b>\$3,357,227</b>	<b>\$3,357,227</b>
	<i>Annual \$ Change</i>					\$355,000
	<i>Annual % Change</i>					11.8%

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Committee Decision**

Appropriations from the Correctional Treatment Cash Fund						
Department/ Line Item	FY 2013-14			FY 2014-15 Recommendation		
	CF (CTCF)	RF (Transfer from Judicial)	Total	CF (CTCF)	RF (Transfer from Judicial)	Total
<b>HUMAN SERVICES:</b>						
<u>Behavioral Health Services</u>						
<i>Alcohol and Drug Abuse Division</i>						
Treatment and Detoxification Contracts	0	887,300	887,300	0	1,137,300	1,137,300
Strategies for Self-improvement and Change (SSC)						
SSC Training						
The Haven						
Short-term Intensive Residential Remediation and Treatment (STIRRT)	0	389,066	389,066	0	389,066	389,066
<i>Co-occurring Behavioral Health Services</i>						
Substance Use Disorder Offender Services (H.B. 10-1352)	0	3,013,790	3,013,790	0	3,323,790	3,323,790
<b>Subtotal: Human Services</b>	<b>\$0</b>	<b>\$4,290,156</b>	<b>\$4,290,156</b>	<b>\$0</b>	<b>\$4,850,156</b>	<b>\$4,850,156</b>
<i>Annual \$ Change</i>						\$560,000
<i>Annual % Change</i>						13.1%
<b>PUBLIC SAFETY:</b>						
<u>Executive Director's Office</u>						
<i>Administration</i>						
Various line items	0	13,366	13,366	0	13,366	13,366
<u>Division of Criminal Justice</u>						
<i>Administration</i>						
DCJ Administrative Services	0	90,631	90,631	0	90,631	90,631
<i>Community Corrections</i>						
Community Corrections Placements	0	1,018,869	1,018,869	0	2,643,869	2,643,869
Services for Substance Abuse and Co-occurring Disorders	0	1,793,900	1,793,900	0	2,353,900	2,353,900
<b>Subtotal: Public Safety</b>	<b>\$0</b>	<b>\$2,916,766</b>	<b>\$2,916,766</b>	<b>\$0</b>	<b>\$5,101,766</b>	<b>\$5,101,766</b>
<i>Annual \$ Change</i>						\$2,185,000
<i>Annual % Change</i>						74.9%
<b>GRAND TOTAL</b>	<b>\$6,532,984</b>	<b>\$10,209,149</b>	<b>\$16,742,133</b>	<b>\$6,926,811</b>	<b>\$13,309,149</b>	<b>\$20,235,960</b>
<i>Annual \$ Change 1/</i>						\$3,493,827
<i>Annual % Change</i>						20.9%

Third, consistent with the above 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, consistent with the Correctional Treatment Board's recommendations:

- DOC: \$3,357,227
- DHS: \$4,850,156
- Public Safety: \$5,101,766

*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 CTCF, beginning in FY 2014-15<sup>38</sup>.

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

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<sup>38</sup> See Sections 19-19-103 (3.5) (b) and (c) and (4) (a), C.R.S.

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 sheriffs<sup>39</sup>:

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.

#### Proposed 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.
- 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 research and training related to substance abuse and risk/need assessments.

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<sup>39</sup> See Section 18-19-103 (5) (b), C.R.S.

**JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision**

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- The *Department of Human Services* uses funds for: community-based treatment and services for adult offenders with co-occurring disorders; community-based outpatient substance abuse treatment; and 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.

The initial budget request submitted by the Judicial Department for FY 2014-15 included the \$3.5 million General Fund increase required for FY 2014-15 and the corresponding amount of spending authority from the CTCF to spend and distribute moneys from the fund, the budget requests for the other departments do not reflect the above proposed increases. The following table, prepared by the Correctional Treatment Board, details the allocation of funds for FY 2012-13, FY 2013-14, and the proposed allocation for FY 2014-15.

**Summary of Annual Appropriations**

	<u>FY2013</u>	<u>FY2014</u>	<u>FY2015</u>
<b>Corrections</b>	<b>3,002,227</b>	<b>3,002,227</b>	<b>3,357,227</b>
<b>Public Safety</b>	<b>2,666,766</b>	<b>2,916,766</b>	<b>5,101,766</b>
<b>Human Services</b>	<b>3,090,516</b>	<b>4,290,156</b>	<b>4,850,156</b>
<b>Judicial</b>	<b>6,281,709</b>	<b>6,310,125</b>	<b>6,460,125</b>
<b>Non-Agency Specific</b>	<b>222,859</b>	<b>222,859</b>	<b>472,859</b>
<b>Total</b>	<b>15,264,077</b>	<b>16,742,133</b>	<b>20,242,133</b>
<b>Change over prior year</b>		<b>1,478,056</b>	<b>3,500,000</b>

The Correctional Treatment Board recommends the following funding increases for FY 2014-15:

- The Board recommendation adds a total of \$2,185,000 for the Department of Public Safety. The Correctional Treatment Board has identified a substantial need for intensive residential treatment (IRT) beds for high risk/high needs felony offenders on probation. In addition, S.B. 13-250 authorized the use of CTCF moneys for misdemeanor probationers for the purpose of specialized residential treatment. The recommendation includes \$1,625,000 to support 53 new IRT beds, which would be used to serve approximately 212 felony and misdemeanor probationers who meet clinical criteria for IRT services.

The recommendation also includes \$560,000 for the Outpatient Treatment Program (OTP) for the provision of substance abuse and dual diagnosis treatment for other offenders on probation and parole who are in community corrections facilities.

***JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision***

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- The Board recommendation adds a total of \$560,000 for the Department of Human Services. Specifically, the recommendation includes \$310,000 to provide recovery support services (e.g., emergency housing vouchers, transportation funding, and fees for obtaining identification) for offenders released from county jails. The recommendation also includes \$250,000 to offset a reduction in federal funding for the Strategies for Self-improvement and Change (SSC) out-patient treatment program.
- The Board recommendation adds \$355,000 for the Department of Corrections for three purposes: (1) \$200,000 to provide co-pay incentives for parolees with clean urinalyses; (2) \$100,000 to provide case management services for more parolees in rural mountain communities; and (3) \$55,000 for synthetic substance (e.g., bath salts) drug testing for parolees.
- The Board recommendation adds \$150,000 for the Judicial Department, including: (1) \$77,000 to support treatment needs for offenders participating in district attorney diversion programs; and (2) \$73,000 to provide continued funding for inpatient and intensive treatment needs for the Summit View pre-trial program for high risk/high need offenders in Mesa County. [Please note that the Board indicates that it plans to seek a statutory change to ensure that CTCF moneys may be used for pre-trial programs such as Summit View.]

The remaining \$250,000 has been set aside (within the Judicial budget) for Board-authorized research and evaluation projects, as well as changes in the indirect cost assessment associated with drug offender surcharge revenues and the costs of staffing for the Board.

Please note that while the Judicial Branch budget request for FY 2014-15 includes the \$3.5 million General Fund increase required for FY 2014-15 and the corresponding amount of spending authority from the CTCF to spend and distribute moneys from the fund, the budget requests for the other departments do not reflect the above proposed increases. In addition, please note that the Judicial Department submitted a supplemental request and budget amendment in January 2014 (discussed below) that affected the General Fund appropriation to the CTCF and the allocation of funds from the CTCF.

**Staff Recommendation**

Staff recommends increasing allocations to each state agency as recommended by the Correctional Treatment Board. However, staff's recommendations for individual line items within the Judicial Department differ from the Department's request in four ways:

- Staff recommends appropriating more for the employee benefits associated with the Correctional Treatment Board staff position (\$26,494) and for the FY 2013-14 salary increase for that position (an estimated \$3,245 based on the overall Committee policy for FY 2013-14).
- Staff recommends appropriating \$2,062 more for the indirect cost assessment for the CTCF.

*JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision*

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- In order to offset the two increases described above, staff recommends appropriating \$31,800 less for Offender Treatment and Services. Staff assumes that the Department will reduce the amount allocated by the Board for research and evaluation projects.
- Staff recommends denying the budget amendment described below, so staff's recommendation continues to appropriate \$702,114 for probation officer salaries.

**➔ JUD BA5 Probation clean-up**

- The Department requests adjustments to three line items to redirect appropriations from the CTCF to treatment and services.
- Staff recommends denying the request.

*Request:* The Department requests adjustments to three line items to redirect CTCF moneys that are currently used to support state employees to treatment and services for offenders.

*Recommendation:* Staff recommends denying the request. However, as requested, staff has provided the Committee with information below about the estimated General Fund that would be required to eliminate CTCF appropriations that support state staff other than the staff person who provides direct support to the Correctional Treatment Board.

*Analysis:*

Prior to the creation of the CTCF, the General Assembly annually appropriated \$702,114 from the Drug Offender Surcharge Fund to support 11.5 FTE probation officer staff, along with associated funding for centrally appropriated employee benefits. House Bill 12-1310 replaced all appropriations from the Drug Offender Surcharge Fund with appropriations from the CTCF. Subsequently, consistent with the proposal from the Correctional Treatment Board, the FY 2013-14 Long Bill continues to appropriate \$702,114 from the CTCF to support probation officer staff salaries, along with funding from the CTCF to support associated centrally appropriated employee benefits.

This request is intended to ensure that appropriations from the CTCF are consistent with legislative intent and to maximize the amount from the CTCF that is available for the treatment of offenders. The Department requests a series of adjustments to redirect appropriations from the CTCF to treatment and services; these adjustments are summarized in the following table and described below:

**JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision**

Department Request, by Line Item				
	General Fund	Cash Funds	Reappropriated Funds	Total Funds
Probation Programs	\$702,114	(\$702,114)	\$0	\$0
Offender Treatment and Services	0	702,114	(702,114)	0
Appropriation to the CTCF	<u>(702,114)</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total	\$0	\$0	(\$702,114)	\$0

- *Probation Programs:* Eliminate the \$702,114 cash funds appropriation from the CTCF (from drug offender surcharge revenues) that supports probation officer salaries, and replace it with a General Fund appropriation. The Department states that the use of moneys in the CTCF "was not provided for in the legislation".
- *Offender Treatment and Services:* Increase the cash funds appropriation from the CTCF (from drug offender surcharge revenues) by \$702,114, and decrease the appropriation from the CTCF (from General Fund moneys that are credited to the CTCF) by \$702,114.
- *Appropriation to the CTCF:* Reduce the General Fund appropriation to the CTCF by \$702,114.

Staff recommends denying this request for two reasons. First, current law requires the General Assembly to appropriate at least \$15,200,000 General Fund to the CTCF in FY 2014-15. Approval of this request would reduce the General Fund appropriation to the CTCF to \$14,497,886, which is not consistent with current law.

Second, the General Assembly previously appropriated moneys from the Drug Offender Surcharge Fund to support probation officers to cover costs associated with substance abuse assessment and testing activities, as statutorily authorized. Following the passage of H.B. 12-1310, the General Assembly has continued to appropriate moneys from the CTCF for this purpose. Staff believes that these appropriations are consistent with the authorized use of moneys in the CTCF to cover alcohol and drug screening, assessment, and evaluation activities. Staff thus disagrees with the Department's assertion that the use of moneys in the CTCF for probation officers "was not provided for in the legislation".

If the Committee is interested in recommending a policy change to reduce or eliminate appropriations from the CTCF that support staff in order to redirect funding for the direct provision of treatment services for offenders, staff provides the following for the Committee's consideration:

- Unless the Committee intends to reduce funding supporting probation officers or other staff supported by the CTCF, additional General Fund would be required to implement this policy change. For FY 2014-15, an estimated total of \$887,941 General Fund would be required to eliminate appropriations from the CTCF that support state employees other than the staff person who provides direct support to the Correctional Treatment Board. This amount



**JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision**

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includes: \$783,944 for 11.5 FTE probation officers (including an estimated \$81,830 in associated benefits), and \$103,997 that supports 1.0 FTE in the Division of Criminal Justice (including an estimated \$13,366 in associated benefits). The latter position provides interagency substance abuse assessments training, as well as cognitive behavioral training and mental health first aid training.

- The Committee should consider increasing allocations from the CTCF by the same amount (an estimated \$887,941) to one or more agencies to increase the availability of treatment services for offenders.
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**LINE ITEM DETAIL**

**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.

<b>Staffing Summary Probation Programs</b>	<b>FY 12-13 Actual</b>	<b>FY 13-14 Approp.</b>	<b>FY 14-15 Request</b>	<b>FY 14-15 Recommend.</b>
Chief Probation Officers/ Deputy Chief Probation Officers	27.5	28.0	28.0	28.0
Probation Supervisors	110.0	115.6	115.6	115.6
Probation Officers (annualize S.B. 13-250)	811.0	844.9	848.2	848.2
Administrative/ Support Staff	<u>160.3</u>	<u>164.2</u>	<u>164.2</u>	<u>164.2</u>
<b>Total</b>	<b>1,108.8</b>	<b>1,152.7</b>	<b>1,156.0</b>	<b>1,156.0</b>

**Request:** The Department requests \$79,135,251, including \$68,689,706 General Fund and \$10,445,545 cash funds, and 1,156.0 FTE. The request is impacted by JUD BA5 (Probation clean-up).

**Recommendation:** Staff recommends appropriating \$79,389,528, including \$68,187,689 General Fund and \$11,201,839 cash funds, and 1,156.0 FTE, as detailed in the following table. Staff's recommendation is higher than the request because staff annualized the FY 2013-14 appropriations for Salary Survey and Merit Pay to provide 12 months (rather than 11 months) of funding. The FY 2013-14 appropriations for Salary Survey and Merit Pay only included 11 months of funding due to the paydate shift.

**JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision**

<b>Probation and Related Services, Probation Programs</b>				
	<b>Total Funds</b>	<b>General Fund</b>	<b>Cash Funds</b>	<b>FTE</b>
<b>FY 2013-14 Appropriation</b>				
SB 13-230 (Long Bill)	\$75,932,735	\$65,381,056	\$10,551,679	1,149.4
Other legislation	202,737	202,737	0	3.3
HB 14-1239 (Supplemental)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.0</u>
<b>TOTAL</b>	<b>\$76,135,472</b>	<b>\$65,583,793</b>	<b>\$10,551,679</b>	<b>1,152.7</b>
<b>FY 2014-15 Recommended Appropriation</b>				
FY 2013-14 Appropriation	\$76,135,472	\$65,583,793	\$10,551,679	1,152.7
Annualize prior year legislation	202,738	202,738	0	3.3
Annualize prior year salary survey	1,442,062	1,254,595	187,467	0.0
Annualize prior year merit pay	1,609,256	1,146,563	462,693	0.0
JUD BA5	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.0</u>
<b>TOTAL</b>	<b>\$79,389,528</b>	<b>\$68,187,689</b>	<b>\$11,201,839</b>	<b>1,156.0</b>
<b>Increase/(Decrease)</b>	\$3,254,056	\$2,603,896	\$650,160	3.3
Percentage Change	4.3%	4.0%	6.2%	0.3%
<b>FY 2014-15 Executive Request:</b>	<b>\$79,135,251</b>	<b>\$68,689,706</b>	<b>\$10,445,545</b>	<b>1,156.0</b>
Request Above/(Below) Recommendation	(\$254,277)	\$502,017	(\$756,294)	0.0

*Annualize Prior Year Legislation:* The recommendation includes \$202,738 General Fund and 3.3 FTE to annualize the impact of S.B. 13-250 (Drug crime sentencing).

**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;

***JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision***

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- Transportation assistance;
- Day reporting<sup>40</sup>;
- 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 Appendix C-19 in the FY 2014-15 JBC Staff Budget Briefing for the Judicial Branch, dated November 21, 2013]. 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.

In addition, the General Assembly appropriated \$367,197 General Fund through this line item in FY 2012-13 for the express purpose of providing treatment and services for offenders participating in veterans trauma courts (and this intent was expressed through a Long Bill footnote).

Cash fund sources that support this line item include the Correctional Treatment Cash Fund (drug offender surcharge fee revenues), the Offender Services Fund, the Sex Offender Surcharge Fund, and various fees and cost recoveries. Reappropriated funds include General Fund moneys that are appropriated to the Correctional Treatment Cash Fund, and \$779,846 that is 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.

**Request:** The Department requests an appropriation of \$30,312,355, including \$667,197 General Fund, \$14,367,426 cash funds, and \$15,277,732 reappropriated funds. The request is impacted by JUD BA4 (Increased CF and grant spending authority) and JUD BA5 (Probation clean-up).

**Recommendation:** Staff recommends appropriating \$30,280,555, as detailed in the following table.

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<sup>40</sup> Day reporting centers provide intensive, individualized support and treatment services (e.g., employment assistance, substance abuse monitoring, substance abuse treatment) for offenders who are at risk of violating terms of community placement.

**JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision**

<b>Calculation of Offender Treatment and Services Appropriation</b>				
<b>Description</b>	<b>GF</b>	<b>CF</b>	<b>RF</b>	<b>Total</b>
<u>Existing appropriations for FY 2013-14</u>				
Appropriation from General Fund credited to the Correctional Treatment Cash Fund (CTCF)			\$11,700,000	\$11,700,000
Appropriation from the Offender Services Fund		9,097,255		9,097,255
Appropriation from drug offender surcharge revenues credited to the Correctional Treatment Cash Fund (CTCF)		3,916,028		3,916,028
Appropriation from moneys transferred from the Department of Human Services' Persistent Drunk Driver Programs line item			779,846	779,846
Funding for treatment and services for offenders participating in veterans trauma courts	367,197			367,197
Appropriation from the Sex Offender Surcharge Fund		302,029		302,029
Funding for day reporting services	300,000			300,000
Appropriation from various fees and cost recoveries		<u>350,000</u>		<u>350,000</u>
Subtotal	667,197	13,665,312	12,479,846	26,812,355
<u>Recommended changes for FY 2014-15</u>				
Spending authority associated with statutorily required increase in General Fund appropriation to the CTCF			3,500,000	3,500,000
Adjustment for costs of Correctional Treatment Board staff support		(29,738)		(29,738)
Adjustment for change in indirect cost assessment		<u>(2,062)</u>		<u>(2,062)</u>
Subtotal	0	(31,800)	3,500,000	3,468,200
<b>Total Recommendation for FY 2014-15</b>	<b>667,197</b>	<b>13,633,512</b>	<b>15,979,846</b>	<b>30,280,555</b>

*JUD BA4 (Increased CF and grant spending authority):* Staff's recommendation includes continuation of the mid-year adjustments approved for FY 2013-14 in response to the Department's supplemental request (R4) and the companion budget amendment (BA4). Thus, no change appears in the above table. For a description of this request, "Initiatives Affecting Multiple Divisions" at the beginning of this packet.

Staff's recommendation for this line item is \$31,800 lower than the Department's request because staff's recommended allocation from the CTCF includes \$29,738 for the employee benefits associated with the Correctional Treatment Board staff position and the FY 2013-14 salary increase for this position (based on the overall Committee policy), as well as \$2,062 for the increased indirect cost assessment for the CTCF. In addition, staff's fund splits differ from those requested by the Department based on staff's recommendation to deny JUD BA 5. [Shaded cells in the above table indicate those items that differ from the request.]

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.

***JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision***

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Finally, at the end of this packet, staff has recommended continuation of the Long Bill footnote that expresses the General Assembly's intent that \$367,197 of the appropriation be used to provide treatment and services for offenders in veterans treatment courts.

**Services and Activities Authorized by Section 18-19-103 (5) (c) and (d), C.R.S.**

House Bill 12-1310 included an appropriation of \$15,168,296 from the newly created Correctional Treatment Cash Fund (CTCF) to the Judicial Department for FY 2012-13. This amount included \$5,407,877 in drug offender surcharge fee revenue (cash funds) and \$9,760,419 General Fund that is credited to the CTCF (reappropriated funds). Of this total amount, \$6,408,787 is to be spent by the Judicial Department to support probation staff and provide substance abuse treatment and services to offenders on probation, and the remaining \$8,759,509 will be transferred to other state agencies purposes authorized by H.B. 12-1310. For FY 2013-14, appropriations from the CTCF for these purposes will be included within other line items as follows:

- *Offender Treatment and Services:* \$4,623,765 cash funds and \$9,760,419 reappropriated funds
- *Probation Programs:* \$702,114 cash funds (this essentially reestablishes an appropriation of the same amount from drug offender surcharge revenues that was included in the FY 2012-13 Long Bill and was eliminated and included in this temporary line item in H.B. 12-1310)
- *Various Centrally Appropriated Line Items:* \$81,998 cash funds

The above delineated transfers of moneys from this temporary line item to other line items will not change the pattern of expenditures from the CTCF. Rather, these transfers shift these moneys back to the same line items that previously included appropriations from the Drug Offender Surcharge Fund.

**Day Reporting Services**

This line item was included in the annual Long Bill from FY 2009-10 through FY 2011-12 to provide funding specifically for the purchase of day reporting services. For FY 2012-13, this line item appropriation was: (a) reduced from \$393,078 to \$300,000 based on three years of actual expenditures; and (b) consolidated with the "Offender Treatment and Services" line item to provide increased flexibility to local probation departments to determine the most appropriate allocation of resources based on the availability of treatment and services and the particular needs of the local offender population.

*Background Information.* Day reporting centers provide intensive, individualized support and treatment services (e.g., employment assistance, substance abuse monitoring, substance abuse treatment) for offenders who are at risk of violating terms of community placement. While parolees do access these services, the primary users of the services are offenders on probation. This funding was thus transferred from the Division of Criminal Justice within the Department of Public Safety to the Judicial Department in FY 2009-10.

**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.

**Request:** The Department requests \$14,497,886 General Fund. The request is impacted by JUD BA5 (Probation clean-up).

**Recommendation:** Staff recommends appropriating \$15,200,000 General Fund, consistent with current law. Specifically, pursuant to Section 18-19-103, C.R.S., the General Assembly is required to appropriate at least \$15,200,000 General Fund to the CTCF in FY 2014-15, consisting of the following three components:

- Subsection (3.5) (b): at least \$9,500,000 annually, beginning in FY 2013-14
- Subsection (3.5) (c): at least \$3,500,000 annually, beginning in FY 2014-15
- Subsection (4): at least \$2,200,000 annually

**H.B. 10-1352 Appropriation to the Drug Offender Surcharge Fund**

Prior to FY 2012-13, this line item directed the Judicial Department to credit a specific amount of General Fund to the Drug Offender Surcharge Fund (DOSF) as required by H.B. 10-1352. This appropriation was eliminated in FY 2012-13 through H.B. 12-1310, and has been replaced by the above line item, "Appropriation to the Correctional Treatment Cash Fund".

**S.B. 03-318 Community Treatment Funding**

Prior to FY 2012-13, S.B. 03-318 required the General Assembly to annually appropriate \$2,200,000 General Fund for community-based substance abuse treatment. This appropriation was eliminated in FY 2012-13 through H.B. 12-1310, and has been replaced by the above line item, "Appropriation to the Correctional Treatment Cash Fund".

**S.B. 91-094 Juvenile Services**

Pursuant to Section 19-2-310, C.R.S., 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 2013-14, this line item authorizes the Department to receive and spend up to

***JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision***

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\$2,496,837 (20.3 percent) of the \$12,272,159 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.

**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).

**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.

**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).

**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.

**Request:** The Department requests \$1,093,435 cash funds.

**Recommendation:** Staff recommends appropriating \$1,103,840 cash funds, based on updated calculations from the Department.



## **(5) Office of the State Public Defender**

The federal<sup>41</sup> and state<sup>42</sup> 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.

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## **INITIATIVES AFFECTING MULTIPLE LINE ITEMS IN THIS DIVISION**

### **➔ OSPD R1 Appellate staffing**

- The OSPD requests \$995,045 General Fund to add 14.7 FTE to its Appellate Division to reduce the rapidly growing backlog of appellate cases.
- Staff recommends approving the request, but appropriating \$839,684 General Fund and 14.7 FTE.

*Request:* The OSPD requests \$995,045 General Fund to expand its Appellate Division staff from 45.8 FTE to 60.5 FTE to reduce the rapidly growing backlog of appellate cases. This request was submitted in response to a request for information from the General Assembly.

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<sup>41</sup> See Amendment VI of the U.S. Constitution (Rights of accused).

<sup>42</sup> See Article II, Section 16 of the Colorado Constitution (Criminal prosecutions - rights of defendant).

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Committee Decision***

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*Recommendation:* Staff recommends approving the request, but appropriating a slightly lower dollar amount. These resources are critical for the OSPD to comply with Court of Appeals timeline requirements and avoid the potential for the Court to dismiss a defendant's appeal solely due to delays caused by inadequate staffing.

*Analysis:*

Background Information - OSPD Appellate Workload and Backlog

The OSPD represents indigent criminal defendants in both the trial and appellate courts. With respect to appeals, the OSPD's central Appellate Division represents all defendants in appeals of felony convictions and the OSPD's regional trial offices handle county court and juvenile appeals in their respective jurisdictions.

For the OSPD, an appeal is initiated by entry in the district court docket of a "final order" or "judgment" subject to appeal, and an order finding the defendant indigent and appointing the OSPD for purposes of appeal. The appeals process involves several steps, but the preparation of an opening brief is generally the most time-intensive aspect of the appellate process for the Division attorney handling the appeal. Once the attorney ensures that the district court record filed with the Court of Appeals is complete, the attorney must: review the entire case record in order to identify, research, and evaluate all potential appellate issues; identify the issues to be raised in the appeal; and then write the opening brief. In addition, throughout the appellate process, the Division attorney is required to adequately communicate with his or her client. This can require a substantial amount of time, particularly if the client is incarcerated outside the Denver metro area.

The Department of Law also handles criminal appeals, representing the prosecution when a defendant challenges his or her felony conviction before the state appellate court or the federal courts. For FY 2013-14, the General Assembly provided additional resources for the Department of Law to reduce its backlog of cases awaiting the filing of an answer brief. As the Department reduces its backlog, the OSPD will be required to respond more quickly by filing a reply brief, thus exacerbating the OSPD's backlog of cases awaiting the filing of opening briefs. Given this dynamic, and with the goal of reducing the overall time required to process criminal appeals cases, the General Assembly requested that the State Public Defender provide information concerning his Office's appellate case backlog, and the potential resources that would be required to reduce the backlog to a reasonable level within the next five fiscal years.

The OSPD reported that its backlog of appellate cases awaiting the filing of an opening brief has increased from 369 in June 2000 to 671 in June 2013; with existing resources this backlog is projected to continue growing by 26 cases per year. From FY 1999-00 through FY 2009-10, the number of new appellate cases for the OSPD increased at an annual rate of 3.8 percent. On average, the number of new cases outpaced the number of closed cases, resulting in a growing number of active cases. On average, Division attorneys carry a total of 40 cases annually.

The OSPD's caseload statistics are detailed in the following table, including a comparison of the projected caseload with and without additional resources.

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Committee Decision**

OSPD Appellate Division Case Statistics						
Fiscal Year	Total Attorney FTE	New Cases	Opening Briefs Filed by OSPD	Cases Resolved Other Ways	Total Cases Closed	Cases Awaiting Opening Brief ("backlog")
1999-00	25.0	487			387	369
2007-08	29.0	606	465	121	586	611
2008-09	31.8	627	450	205	655	583
2009-10	31.8	602	427	124	551	634
2010-11	34.8	575	415	142	557	652
2011-12	34.8	589	460	133	593	648
2012-13	34.8	585	427	135	562	671
2013-14 Estim.	35.8	597	440	131	571	697
Projections based on current resources						
2014-15 Proj.	35.8	597	440	131	571	723
2015-16 Proj.	35.8	597	440	131	571	749
2016-17 Proj.	35.8	597	440	131	571	775
2017-18 Proj.	35.8	597	440	131	571	801
2018-19 Proj.	35.8	597	440	131	571	827
Projections based on requested resources						
2014-15 Proj.	43.8	597	538	131	669	624
2015-16 Proj.	43.8	597	538	131	669	552
2016-17 Proj.	43.8	597	538	131	669	480
2017-18 Proj.	43.8	597	538	131	669	407
2018-19 Proj.	43.8	597	538	131	669	335

**Background Information - Consequences of Growing Backlog**

The timeline established by Colorado Appellate Rules contemplates a total of 252 days between the entry of judgment in district court and the filing of a reply brief. These rules require Opening Briefs to be filed 42 days after the record on appeal is filed, followed by an answer brief 35 days later, and a reply brief 21 days later. Due to the backlogs experienced by both the OSPD and the Department of Law, the Court of Appeals has been granting significant extensions for both opening briefs and answer briefs.

However, in November 2012, the Court announced that the Chief Judge was unwilling to grant extensions of time that exceed 540 days for opening and answer briefs, and would instead issue orders in such cases granting extensions of up to 28 days to complete the briefs. In addition, reply briefs would only be granted extensions of up to 49 days. Any requests to reconsider such orders would be referred to a three-judge motions panel. At the time of the adoption of the new policy, the OSPD had approximately 60 cases in which the opening brief due date had been extended 600 or more days.

On July 1, 2013, the Court of Appeals dismissed an appeal in *People v. Rodney Eddy*, Case No. 10CA2492, a case handled by the OSPD. The Court's dismissal order cited the significant extensions of time that had been granted to date and the Court's new policy related to extensions, and indicated that the Court was not persuaded that further extensions were warranted. The

OSPD immediately requested that the Court of Appeals reconsider its dismissal order, arguing that it had established good cause for the extension requests. The OSPD informed the Court that both it and the Department of Law had numerous discussions with Joint Budget Committee staff about the need to reduce appellate backlogs in both offices, and that the Appellate Division would be a priority for the OSPD in the 2014 legislative session. The Department of Law and the Office of the Alternate Defense Counsel supported the OSPD request to reinstate Mr. Eddy's appeal since dismissals of criminal appeals would result in a claim of ineffective assistance of counsel against the OSPD, thus impacting the workload of those agencies. In light of this, as well as the progress the OSPD had made in reducing its backlog of the oldest cases, the Court reinstated Mr. Eddy's appeal in August 2013.

#### OSPD Request

The OSPD has requested \$995,045 General Fund for FY 2014-15 to expand its Appellate Division staff from 45.8 FTE to 60.5 FTE to reduce the rapidly growing backlog of appellate cases. Specifically, the OSPD proposes adding 11.0 FTE attorneys, 2.5 FTE paralegals, and 2.5 FTE administrative support staff. The OSPD plans to use the additional staff as follows:

- The OSPD would add 8.0 FTE attorneys in the Appellate Division to increase the number of opening briefs that are filed each year, reducing the backlog by about 99 each year or nearly 500 over the next five years.
- Currently, OSPD regional offices handle all county court and juvenile appeals. Generally, attorneys in the regional offices focus their efforts on trial court cases, working on appeals as time permits. This can lead to an inefficient and ineffective process, and unmet client needs. The OSPD proposes to consolidate county, juvenile, and felony appeals in the OSPD's Appellate Division to make the appellate process more efficient and effective. This would also provide an opportunity for attorneys who are new to the Division to gain experience by working on county court appeals prior to working on felony appeals. In addition, this would allow the Division to have one attorney with experience with juvenile cases to be fully dedicated to juvenile appeals cases. Over the last couple of years, the trial office closed an average of 150 county and juvenile appeals per year. The OSPD estimates that it would require 2.0 FTE attorneys in the Appellate Division to handle these cases.
- The OSPD would add 1.0 FTE attorney to handle the additional reply brief workload anticipated to result from the resources recently provided to the Department of Law.

The OSPD indicates that while this decision item may not necessarily fully staff the Appellate Division, it should allow the Division to reduce the backlog of cases awaiting an opening brief to a more reasonable level. The OSPD is collecting additional workload data related to the various stages of the appellate process in order to more accurately measure total staffing needs of the Division. Once sufficient data is available, the OSPD will be able to provide further information and analyses related to an appropriate staffing level for the Division.

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Committee Decision**

Recommendation

Staff recommends approving the request, but appropriating a slightly lower dollar amount. Given the impact of the Court of Appeal's new policy regarding extensions of time for filing opening, answer, and reply briefs, and the impact of the additional resources provided to the Department of Law to address its backlog of cases awaiting an answer brief, the OSPD requires additional resources. These resources are critical for the OSPD to comply with Court of Appeals timeline requirements and avoid the potential for the Court to dismiss a defendant's appeal solely due to delays caused by inadequate staffing.

The appropriation amounts recommended by staff are detailed in the following table (shading indicates those items that differ from the request), along with continuation funding anticipated to be required in FY 2015-16. Staff's recommendation is lower than the request because, Consistent with Committee policy, staff excludes funding for centrally appropriated line items.

<b>Summary of Recommendation for OSPD R1: Appellate staffing</b>		
	<b>FY 2014-15</b>	<b>FY 2015-16</b>
Personal Services (salaries for 11.0 FTE attorneys, 2.5 FTE paralegals, and 2.5 FTE administrative support staff for 11 months + PERA + Medicare)	\$733,802	\$812,043
Operating Expenses (per FTE costs of \$450 for telephone, \$500 for supplies, and \$834 for travel for 16.0 FTE)	28,544	28,544
Attorney Registration Fees (\$190/FTE for 11 FTE)	2,090	2,090
Capital Outlay (per FTE costs of \$3,473 for cubicle/workstation and \$1,230 for computer and software for 16.0 FTE)	75,248	0
<b><i>Central Appropriations</i></b>		
Health, Life, and Dental	0	112,608
Short-term Disability	0	1,601
AED	0	31,775
SAED	0	<u>30,624</u>
Subtotal	0	176,608
<b>Total</b>	<b>\$839,684</b>	<b>\$1,019,285</b>

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Committee Decision**

**LINE ITEM DETAIL**

**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.

<b>Staffing Summary Office of the State Public Defender</b>	<b>FY 12-13 Actual</b>	<b>FY 13-14 Approp.</b>	<b>FY 14-15 Request</b>	<b>FY 14-15 Recommend.</b>
State Public Defender, Chief Deputies, and Chief Administrative Officer	2.4	2.4	2.4	2.4
Statewide Complex Case Management (annualization of H.B. 13-1210)	8.0	9.5	10.0	10.0
Finance/ Operations	6.9	7.0	7.0	7.0
Human Resources	1.0	2.0	3.0	3.0
Information Technology	8.0	9.0	9.0	9.0
Training (annualization of H.B. 13-1210)	2.0	2.5	3.0	3.0
Administrative and Executive Assistants (annualization of H.B. 13-1210)	<u>2.1</u>	<u>4.4</u>	<u>4.6</u>	<u>4.6</u>
<b>Total - Central Office</b>	<b>30.4</b>	<b>36.8</b>	<b>39.0</b>	<b>39.0</b>
Appellate Attorneys (OSPD R1)	33.5	34.8	44.9	44.9
Office Head	1.0	1.0	1.0	1.0
Investigators/ Legal Assistants (OSPD R1)	3.9	4.0	6.3	6.3
Administrative Support Staff (OSPD R1)	4.0	5.0	7.3	7.3
Office Manager	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>
Subtotal - Support Staff	8.9	10.0	14.6	14.6
<i>Ratio of Support Staff to Appellate Attorneys</i>	25.8%	27.9%	31.8%	31.8%
<b>Total - Appellate Office</b>	<b>43.4</b>	<b>45.8</b>	<b>60.5</b>	<b>60.5</b>
Trial Attorneys (annualization of H.B. 13-1210)	344.4	378.8	409.3	378.8
Office Head	20.2	21.0	21.0	21.0
Investigators/ Legal Assistants (annualization of H.B. 13-1210)	104.6	116.3	127.3	116.3
Administrative Support Staff (annualization of H.B. 13-1210)	60.4	71.3	79.6	71.3
Office Manager	<u>21.0</u>	<u>21.0</u>	<u>21.0</u>	<u>21.0</u>
Subtotal - Support Staff	186.0	208.6	227.9	208.6
<i>Ratio of Support Staff to Trial Attorneys</i>	51.0%	52.2%	53.0%	52.2%
<b>Total - Regional Trial Offices</b>	<b>550.6</b>	<b>608.4</b>	<b>658.2</b>	<b>608.4</b>
<b>Total</b>	<b>624.4</b>	<b>691.0</b>	<b>757.7</b>	<b>707.9</b>

**Request:** The OSPD requests \$56,265,942 General Fund and 757.7 FTE. The request is impacted by OSPD R1 (Appellate staffing).

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Committee Decision**

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**Recommendation:** Staff recommends appropriating \$56,837,922 General Fund and 757.7 FTE, as detailed in the following table. Staff's recommendation is higher than the request because staff annualized the FY 2013-14 appropriations for Salary Survey and Merit Pay to provide 12 months (rather than 11 months) of funding. The FY 2013-14 appropriations for Salary Survey and Merit Pay only included 11 months of funding due to the paydate shift.

<b>Office of the State Public Defender, Personal Services</b>			
	<b>Total Funds</b>	<b>General Fund</b>	<b>FTE</b>
<b>FY 2013-14 Appropriation</b>			
SB 13-230 (Long Bill)	\$43,760,551	\$43,760,551	656.6
Other legislation	<u>2,191,683</u>	<u>2,191,683</u>	<u>34.4</u>
<b>TOTAL</b>	<b>\$45,952,234</b>	<b>\$45,952,234</b>	<b>691.0</b>
<b>FY 2014-15 Recommended Appropriation</b>			
FY 2013-14 Appropriation	\$45,952,234	\$45,952,234	691.0
Annualize prior year salary survey	6,152,900	6,152,900	0.0
Annualize prior year legislation	3,288,134	3,288,134	52.0
Annualize prior year merit pay	710,852	710,852	0.0
OSPD R1 Appellate staffing	<u>733,802</u>	<u>733,802</u>	<u>14.7</u>
<b>TOTAL</b>	<b>\$56,837,922</b>	<b>\$56,837,922</b>	<b>757.7</b>
<b>Increase/(Decrease)</b>	\$10,885,688	\$10,885,688	66.7
Percentage Change	23.7%	23.7%	9.7%
<b>FY 2014-15 Executive Request:</b>	<b>\$56,265,942</b>	<b>\$56,265,942</b>	<b>757.7</b>
Request Above/(Below) Recommendation	(\$571,980)	(\$571,980)	(0.0)

**Health, Life, and Dental**

This is the second of five 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. This line item provides funds for OSPD staff.

**Request:** The OSPD requests \$5,424,553 General Fund. The request is impacted by OSPD R1 (Appellate staffing).

**Recommendation:** Staff recommends appropriating \$5,433,139 for FY 2014-15, consistent with Committee policy with respect to employer contribution rates<sup>43</sup>. Consistent with the

<sup>43</sup> Please note consistent with calculations for other state agencies, staff has excluded funding (\$247,612) for 19 positions that were vacant at the time the OSPD collected position-by-position detail for purposes of calculating centrally appropriated employee benefits. However, staff has included \$675,559 for 91 positions that were authorized by H.B. 13-1210. These positions were not anticipated to be filled until February 2014, and thus were

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Committee Decision***

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Committee's common policy, staff's recommendation does not include any funding related to OSPD R1.

**Short-term Disability**

This is the second of five line items that provide funding for the employer's share of state employees' short-term disability insurance premiums. This line item provides funds for OSPD staff.

**Request:** The OSPD requests \$114,151 General Fund. The request is impacted by OSPD R1 (Appellate staffing).

**Recommendation:** Staff recommends an appropriation of \$106,725 General Fund, consistent with the Committee's common policy. This calculation is based on applying a rate of 0.22 percent to base salaries, including the recommended salary survey and merit pay increases. Consistent with the Committee's common policy, staff's recommendation does not include any funding related to OSPD R1.

**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). The second of five such line items, this one provides funds for OSPD staff.

**Request:** The OSPD requests \$2,075,326 General Fund. The request is impacted by OSPD R1 (Appellate staffing).

**Recommendation:** Staff recommends an appropriation of \$1,940,453 General Fund, consistent with Committee's common policy. This calculation is based on applying the relevant rates [3.8 percent of base salaries for CY 2014 and 4.2 percent of base salaries for CY 2015] to base salaries, including the recommended salary survey and merit pay increases. The blended rate (4.0 percent) does not include an adjustment for the pay date shift. Consistent with the Committee's common policy, staff's recommendation does not include any funding related to OSPD R1.

**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. The second of five such line items, this one provides funds for OSPD staff.

**Request:** The OSPD requests \$1,945,581 General Fund. The request is impacted by OSPD R1 (Appellate staffing).

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excluded from the position-by-position detail. Staff has utilized the average monthly cost of health, life, and dental insurance benefits for positions that were filled when the position-by-position detail was collected (\$619 average per month) to estimate the cost of providing benefits to the employees hired pursuant to H.B. 13-1210.



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Committee Decision***

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**Recommendation:** Staff recommends an appropriation of \$1,819,175 General Fund, consistent with Committee's common policy. This calculation is based on applying the relevant rates [3.5 percent of base salaries for CY 2014 and 4.0 percent of base salaries for CY 2015] to base salaries, including the recommended salary survey and merit pay increases. The blended rate (3.75 percent) does not include an adjustment for the pay date shift. Consistent with the Committee's common policy, staff's recommendation does not include any funding related to OSPD R1.

**Salary Survey**

The OSPD uses this line item to pay for annual salary increases, similar to "salary survey" increases in the Executive Branch. The second of five such line items, this one provides funds for OSPD staff.

**Request:** The OSPD requests \$1,345,073 General Fund.

**Recommendation:** Staff recommends an appropriation of \$1,562,013 General Fund pursuant to Committee policy. This calculation is based on applying a 3.0 percent increase to base salaries, plus the associated PERA and Medicare contributions (with no adjustment for the paydate shift). In addition, the recommendation includes an additional \$8,483 to align the State Public Defender's salary with the recommended salary for an associate judge of the court of appeals (consistent with Long Bill footnote #37).

**Merit Pay**

The OSPD uses this line item to pay for longevity or performance-related pay increases. The second of five such line items, this one provides funds for OSPD staff.

**Request:** The OSPD requests a total of \$909,216 General Fund.

**Recommendation:** Staff recommends an appropriation of \$792,300 General Fund pursuant to Committee policy. This calculation is based on applying a 1.5 percent increase to the sum of base salaries plus a 2.0 percent across-the-board increase in base salaries, plus the associated PERA and Medicare contributions (with no adjustment for the paydate shift).

**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 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).

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Committee Decision**

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**Request:** The OSPD requests a total of \$178,178 General Fund, which represents an increase of \$72,892 relative to the adjusted FY 2013-14 appropriation. The OSPD's request includes funding to replace six vehicles:

- Four full-size sedans (license numbers: 895REL, 938HZF, 536REM and 937HZF) and
- Two small, 4x4, passenger utility vehicles (license numbers: 797BFB and 471IXZ).

**Recommendation:** Staff recommends approving the request for funding to replace six vehicles, as they are all projected to exceed 130,000 miles by the end of FY 2014-15. Staff's overall recommendation for this line item is pending. Staff will ultimately reflect the amount approved by the Committee when the common policy for Vehicle Lease Payments is established.

**Capital Outlay**

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

**Request:** The OSPD requests \$75,248 General Fund. The request is impacted by OSPD R1 (Appellate staffing).

**Recommendation:** Staff recommends approving the request, which is consistent with staff's recommendation for R1.

**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.

**Request:** The OSPD requests \$1,697,072 General Fund. The request is impacted by OSPD R1 (Appellate staffing).

**Recommendation:** Staff recommends approving the request, which provides a continuation level of funding plus the amount recommended by staff for R1.

**Leased Space/ Utilities**

This line item currently funds a full 12 months of lease payments for leased space in 22 locations statewide. The OSPD moved its central administrative and appellate offices from 1290 Broadway to the Ralph L. Carr Colorado Judicial Center in March 2013. This line item covers all OSPD leases except those associated with the Carr Center.

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Committee Decision***

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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.

**Request:** The OSPD requests \$6,509,426 General Fund. The request reflects an increase of \$389,019, consistent with the Legislative Council Staff fiscal note for H.B. 13-1210.

**Recommendation:** Staff recommends approving the request, which provides for a continuation level of funding (including a full year of funding for the staff added through H.B. 13-1201).

**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.

**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.

**Request:** The OSPD requests \$138,755 General Fund. The request is impacted by both OSPD R1 (Appellate staffing) and OSPD R2 (Attorney registration fees).

**Recommendation:** Staff recommends approving the request, which provides sufficient funding to pay the attorney registration fee for all attorney staff that would be funded by staff's recommendation for the Personal Services line item.



**OSPD R2 Attorney registration fees**

- The OSPD requests \$28,242 General Fund to cover an increase in attorney registration fee rates.
- Staff recommends approving the request.

*Request:* The OSPD requests \$28,242 General Fund to cover an increase in attorney registration fee rates. Attorney registration fees vary depending on the length of time the attorney has been practicing. Effective September 1, 2013, rates for attorneys who have been practicing less than three years increased from \$180 to \$190 (5.6 percent) and rates for attorneys who have been practicing more than three years increased from \$225 to \$325 (44.4 percent). Since the majority of OSPD attorneys are hired directly out of law school, the requested appropriation for FY 2014-15 equates to an average of \$286 per attorney.

*Recommendation:* Staff recommends approving the request. The Colorado Supreme Court recently approved increases in annual attorney registration fees. Rates for attorney registration fees vary depending on the length of time the attorney has been practicing. Effective January 1, 2014, attorneys who have been practicing less than three years will be charged an annual registration fee of \$190 (an increase of \$10); attorneys who have been practicing for more than three years will be charged an annual registration fee of \$325 (an increase of \$100). Staff recommends approving the request to provide sufficient funding to cover the annual registration fee for all OSPD attorneys in FY 2014-15.

**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.

*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 six 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 2006-07.

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Committee Decision**

OSPD Mandated Costs							
Category	Actual Expenditures						
	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13
Discovery	\$761,495	\$886,112	\$969,306	\$1,125,966	\$1,514,957	\$1,623,452	\$1,751,829
Transcripts	1,054,167	1,186,376	1,238,740	1,267,820	1,343,846	1,408,864	1,320,864
Experts	569,094	817,186	504,530	516,403	474,661	485,145	785,941
Interpreters	71,545	85,301	109,563	106,661	93,239	117,828	126,459
Travel	75,818	150,005	109,567	58,254	74,700	65,471	119,749
Misc.	9,499	18,279	22,461	17,497	14,976	57,871	21,646
<b>Total</b>	<b>\$2,541,618</b>	<b>\$3,143,259</b>	<b>\$2,954,167</b>	<b>\$3,092,601</b>	<b>\$3,516,379</b>	<b>\$3,758,631</b>	<b>\$4,126,488</b>
<i>Annual % change</i>		23.7%	-6.0%	4.7%	13.7%	6.9%	9.8%
Active cases	112,339	114,103	117,472	120,816	122,949	120,498	125,606
Average cost per case	\$23	\$28	\$25	\$26	\$29	\$31	\$33
<i>Annual % change</i>		21.8%	-8.7%	1.8%	11.7%	9.1%	5.3%

**Request:** The OSPD requests a continuation level of funding (\$4,327,888 General Fund).

**Recommendation:** Staff recommends approving the request.

**Grants**

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

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

- An ongoing annual grant of \$60,000 (supporting 1.0 FTE) from the Boulder Integrated Managed Partnership for Adolescent and Child Community Treatment ("IMPACT") Program to allow the OSPD to continue to provide family advocate services for juveniles and their families. Specifically, these funds are used to support a family advocate in the Boulder field office to assist Spanish-speaking families in navigating the juvenile justice system. The Family Advocate meets with juveniles and their families to explain case information, and attends detention hearings and court proceedings. While court-certified interpreters are available to offer translation services to these youth, they are prohibited from explaining, advocating, and helping in any way beyond translation
- An ongoing annual grant of \$60,000 (supporting 1.0 FTE) from IMPACT to support Boulder County's Juvenile Integrated Treatment Court (JITC). The JITC was created to reduce juvenile criminal activity and improve family functioning by integrating substance abuse treatment, mental health treatment, intensive family services, intensive supervision, and substantial judicial oversight for juveniles and their families who are involved in the juvenile delinquency system. The OSPD uses these funds to support an attorney to represent defendants in the JITC. Absent public defender participation, the JITC could not take indigent cases. The contract with IMPACT calls for one half-time attorney, plus a designated lead/supervising attorney to provide supervision, serve as a liaison, and ensure quality legal representation.

**Recommendation:** Staff recommends approving the request.

## **(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 interest<sup>44</sup>. 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 cases<sup>45</sup>.

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.

### **LINE ITEM DETAIL**

#### **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.

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<sup>44</sup> See Section 21-2-101 *et seq.*, C.R.S.

<sup>45</sup> 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.

**JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision**

<b>Staffing Summary</b>	<b>FY 12-13</b>	<b>FY 13-14</b>	<b>FY 14-15</b>	<b>FY 14-15</b>
<b>Office of the Alternate Defense Counsel</b>	<b>Actual</b>	<b>Approp.</b>	<b>Request</b>	<b>Recommend.</b>
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		0.9	1.0	1.0
Budget Analyst/ Controller	1.0	1.0	1.0	1.0
Appellate Case Manager and Legal/Administrative Assistant	1.5	1.5	1.5	1.5
Administrative Support	<u>2.0</u>	<u>2.0</u>	<u>2.0</u>	<u>2.0</u>
<b>Total</b>	<b>7.5</b>	<b>8.4</b>	<b>8.5</b>	<b>8.5</b>

**Request:** The OADC requests \$821,379 General Fund and 8.5 FTE.

**Recommendation:** Staff recommends appropriating \$839,579 General Fund and 8.5 FTE, as detailed in the following table. Staff's recommendation is higher than the request for two reasons. First, staff annualized the FY 2013-14 appropriations for Salary Survey and Merit Pay to provide 12 months (rather than 11 months) of funding. The FY 2013-14 appropriations for Salary Survey and Merit Pay only included 11 months of funding due to the paydate shift. Second, staff annualized the funding provided in FY 2013-14 for a Legal Resource and Technology Coordinator to provide 12 months (rather than 11 months) of funding.

<b>Office of the Alternate Defense Counsel, Personal Services</b>			
	<b>Total Funds</b>	<b>General Fund</b>	<b>FTE</b>
<b>FY 2013-14 Appropriation</b>			
SB 13-230 (Long Bill)	\$805,230	\$805,230	8.4
HB 14-1239 (Supplemental)	<u>94,000</u>	<u>94,000</u>	<u>0.0</u>
<b>TOTAL</b>	<b>\$899,230</b>	<b>\$899,230</b>	<b>8.4</b>
<b>FY 2014-15 Recommended Appropriation</b>			
FY 2013-14 Appropriation	\$899,230	\$899,230	8.4
Annualize prior year salary survey	13,982	13,982	0.0
Annualize prior year merit pay	11,354	11,354	0.0
Annualize prior year budget actions	9,013	9,013	0.1
Reverse supplemental	<u>(94,000)</u>	<u>(94,000)</u>	<u>0.0</u>
<b>TOTAL</b>	<b>\$839,579</b>	<b>\$839,579</b>	<b>8.5</b>
<b>Increase/(Decrease)</b>	(\$59,651)	(\$59,651)	0.1
Percentage Change	(6.6%)	(7.6%)	1.2%

**JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision**

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<b>Office of the Alternate Defense Counsel, Personal Services</b>			
	<b>Total Funds</b>	<b>General Fund</b>	<b>FTE</b>
<b>FY 2014-15 Executive Request:</b>	<b>\$821,379</b>	<b>\$821,379</b>	<b>8.5</b>
Request Above/(Below) Recommendation	(\$18,200)	(\$18,200)	0.0

**Health, Life, and Dental**

This is the third of five 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. This line item provides funds for OADC staff.

**Request:** The OADC requests \$112,699 General Fund.

**Recommendation:** Staff recommends appropriating \$112,745 General Fund, consistent with Committee policy with respect to employer contribution rates.

**Short-term Disability**

This is the third of five line items that provide funding for the employer's share of state employees' short-term disability insurance premiums. This line item provides funds for OADC staff.

**Request:** The OADC requests \$1,427 General Fund.

**Recommendation:** Staff recommends an appropriation of \$1,711 General Fund, consistent with the Committee's common policy. This calculation is based on applying a rate of 0.22 percent to base salaries, including the recommended salary survey and merit pay increases.

**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). The third of five such line items, this one provides funds for OADC staff.

**Request:** The OADC requests \$29,230 General Fund.

**Recommendation:** Staff recommends an appropriation of \$31,104 General Fund, consistent with Committee's common policy. This calculation is based on applying the relevant rates [3.8 percent of base salaries for CY 2014 and 4.2 percent of base salaries for CY 2015] to base salaries, including the recommended salary survey and merit pay increases. The blended rate (4.0 percent) does not include an adjustment for the pay date shift.

**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. The third of five such line items, this one provides funds for OADC staff.



***JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision***

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**Request:** The OADC requests \$27,329 General Fund.

**Recommendation:** Staff recommends an appropriation of \$29,160 General Fund, consistent with Committee's common policy. This calculation is based on applying the relevant rates [3.5 percent of base salaries for CY 2014 and 4.0 percent of base salaries for CY 2015] to base salaries, including the recommended salary survey and merit pay increases. The blended rate (3.75 percent) does not include an adjustment for the pay date shift.

**Salary Survey**

The OADC uses this line item to pay for annual salary increases. The third of five such line items, this one provides funds for OADC staff.

**Request:** The OADC requests \$10,518 General Fund for a salary increase of 1.5 percent. This calculation was based on applying a 1.5 percent increase to base salaries (with an adjustment for the paydate shift). The requested amount does not include funding for the associated PERA and Medicare contributions.

**Recommendation:** Staff recommends an appropriation of \$32,806 General Fund pursuant to Committee policy. This calculation is based on applying a 3.0 percent increase to base salaries, plus the associated PERA and Medicare contributions (with no adjustment for the paydate shift). In addition, the recommendation includes an additional \$8,133 to align the Alternate Defense Counsel's salary with the recommended salary for district court judge (consistent with Long Bill footnote #37).

**Merit Pay**

The OADC uses this line item to pay for longevity or performance-related pay increases. The third of five such line items, this one provides funds for OADC staff.

**Request:** The OADC requests a total of \$11,369 General Fund for merit pay increases averaging 1.5 percent. This calculation was based on applying a 1.5 percent increase to base salaries (with an adjustment for the paydate shift). The requested amount does not include funding for the associated PERA and Medicare contributions.

**Recommendation:** Staff recommends an appropriation of \$12,583 General Fund pursuant to Committee policy. This calculation is based on applying a 1.5 percent increase to the sum of base salaries plus a 2.0 percent across-the-board increase in base salaries, plus the associated PERA and Medicare contributions (with no adjustment for the paydate shift).

**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.

**Request:** The OADC requests a continuation level of funding (\$69,210 General Fund).

**JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision**

**Recommendation:** Staff recommends appropriating \$67,030 General Fund. Staff's recommendation is lower than the request because staff annualized the funding provided in FY 2013-14 for a Legal Resource and Technology Coordinator to eliminate \$2,180 that was provided for capital outlay expenses. Staff's recommendation is detailed in the following table.

<b>Office of the Alternate Defense Counsel, Operating Expenses</b>			
	<b>Total Funds</b>	<b>General Fund</b>	<b>FTE</b>
<b>FY 2013-14 Appropriation</b>			
SB 13-230 (Long Bill)	\$69,210	\$69,210	0.0
HB 14-1239 (Supplemental)	<u>23,730</u>	<u>23,730</u>	<u>0.0</u>
<b>TOTAL</b>	<b>\$92,940</b>	<b>\$92,940</b>	<b>0.0</b>
<b>FY 2014-15 Recommended Appropriation</b>			
FY 2013-14 Appropriation	\$92,940	\$92,940	0.0
Reverse supplemental	(23,730)	(23,730)	0.0
Annualize prior year budget actions	<u>(2,180)</u>	<u>(2,180)</u>	<u>0.0</u>
<b>TOTAL</b>	<b>\$67,030</b>	<b>\$67,030</b>	<b>0.0</b>
<b>Increase/(Decrease)</b>	(\$25,910)	(\$25,910)	0.0
Percentage Change	(27.9%)	(27.9%)	0.0%
<b>FY 2014-15 Executive Request:</b>	<b>\$69,210</b>	<b>\$69,210</b>	<b>0.0</b>
Request Above/(Below) Recommendation	\$2,180	\$2,180	0.0

**Leased Space**

This line item previously funded lease payments for 1,993 square feet at 1580 Logan Street in Denver. When the OADC relocated in the Ralph L. Carr Colorado Judicial Center, the funding in this line item was transferred to the Courts Administration section of the Long Bill to consolidate all Judicial Branch appropriations for leased space at the Carr Center.

**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.

**Request:** The OADC 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. The request is impacted by OADC R3 (Increase training cash fund spending authority).

**Recommendation:** Staff recommends approving the request.

**➔ OADC R3 Increase training cash fund spending authority**

- The OADC requests a \$20,000 cash funds for training.
- Staff recommends approving the request.

*Request:* The OADC requests a \$20,000 cash funds increase to ensure that it can meet the training needs of its contractors (including attorneys, paralegals, and investigators). The source of cash funds is nominal training fees paid by participants. Based on feedback from contractors, the OADC would like to provide additional training sessions throughout the year. The additional funds would be used to cover the costs of experts as well as the costs of webcasting and producing DVDs of training sessions to ensure that contractors outside the Denver area have access to training.

*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 and partially 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.

**Request:** The OADC requests \$26,615,760 General Fund. The request is impacted by both OADC R1/BA1 (Caseload increase) and OADC R2 (Contractor rate increase).

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 2013-14 and FY 2014-15; and (b) a recent history of annual expenditures along with estimates for FY 2013-14 and FY 2013-14.

**JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision**

OADC: Conflict of Interest Contracts: Caseload (Annual number of cases paid)							
Case Type	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13	FY 13-14 (estimate)	FY 14-15 (projection)
<b>Trial Case Types:</b>							
<b>Felony:</b>							
Felony 1 - Death Penalty	4	4	3	2	2	2	2
Felony 1 - Other	145	145	126	111	104	118	118
Felony 2 and 3	2,532	2,604	2,409	2,323	2,533	2,671	2,671
Felony 4, 5, and 6	4,028	3,894	3,754	4,064	4,512	4,718	4,718
Subtotal: Felony	6,709	6,647	6,292	6,500	7,151	7,509	7,509
annual percent change	-6.4%	-0.9%	-5.3%	3.3%	10.0%	5.0%	0.0%
Juvenile	1,803	1,808	1,542	1,496	1,235	1,507	1,507
Misdemeanor/ DUI/ Traffic	1,654	1,884	1,934	2,406	2,512	2,708	2,708
Other	2	2	1	1	0	0	0
<b>Subtotal: Trial Cases</b>	<b>10,168</b>	<b>10,341</b>	<b>9,769</b>	<b>10,403</b>	<b>10,898</b>	<b>11,724</b>	<b>11,724</b>
annual percent change	2.1%	1.7%	-5.5%	6.5%	4.8%	7.6%	0.0%
Appeals	765	725	717	691	697	708	708
Post-Conviction	492	489	429	471	461	460	460
Special Proceedings/ Other	1,049	1,040	963	1,020	1,234	1,587	1,587
<b>Total Cases</b>	<b>12,474</b>	<b>12,595</b>	<b>11,878</b>	<b>12,585</b>	<b>13,290</b>	<b>14,479</b>	<b>14,479</b>
annual percent change	3.2%	1.0%	-5.7%	6.0%	5.6%	8.9%	0.0%

OADC: Conflict of Interest Contracts: Expenditures							
Description	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13	FY 13-14 (estimate)	FY 14-15 (projection)
Total Cases Paid	12,474	12,595	11,878	12,585	13,290	14,479	14,479
annual percent change	3.2%	1.0%	-5.7%	6.0%	5.6%	8.9%	0.0%
Average Cost/Case*	\$1,659	\$1,648	\$1,527	\$1,571	\$1,496	\$1,592	\$1,838
annual percent change	11.8%	-0.6%	-7.4%	2.9%	-4.8%	6.4%	15.4%
<b>Total</b>	<b>\$20,692,161</b>	<b>\$20,760,634</b>	<b>\$18,132,047</b>	<b>\$19,767,979</b>	<b>\$19,882,661</b>	<b>\$23,055,774</b>	<b>\$26,615,760</b>
annual percent change	15.4%	0.3%	-12.7%	9.0%	0.6%	16.0%	15.4%

\* Please note that the average costs per case in FY 2006-07, FY 2007-08, and FY 2008-09 reflect approved increases in hourly rates.  
The FY 2014-15 request includes increases in hourly rates.

**Recommendation:** Staff recommends approving the request, as detailed in the following table. Please note that staff's recommendation includes approval of a decision item (OADC R1) and budget amendment (OADC BA1) concerning caseload increases. The OADC requested, and the Committee approved, a mid-year increase in FY 2013-14 of \$3,041,461 General Fund to cover caseload increase (OADC S1). For FY 2014-15, the OADC requests continuation of this funding without any additional funding related to caseload increases for FY 2014-15. For more information, please see the staff recommendations for Judicial Branch supplemental requests dated January 16, 2014.

**JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision**

<b>Office of the Alternate Defense Counsel, Conflict of Interest Contracts</b>			
	<b>Total Funds</b>	<b>General Fund</b>	<b>FTE</b>
<b>FY 2013-14 Appropriation</b>			
SB 13-230 (Long Bill)	\$20,234,616	\$20,234,616	0.0
HB 14-1239 (Supplemental)	<u>2,821,158</u>	<u>2,821,158</u>	<u>0.0</u>
<b>TOTAL</b>	<b>\$23,055,774</b>	<b>\$23,055,774</b>	<b>0.0</b>
<b>FY 2014-15 Recommended Appropriation</b>			
FY 2013-14 Appropriation	\$23,055,774	\$23,055,774	0.0
OADC R2 Attorney/ investigator/ paralegal hourly rate increases	<u>3,559,986</u>	<u>3,559,986</u>	0.0
<b>TOTAL</b>	<b>\$26,615,760</b>	<b>\$26,615,760</b>	<b>0.0</b>
<b>Increase/(Decrease)</b>	\$3,559,986	\$3,559,986	0.0
Percentage Change	15.4%	15.4%	0.0%
<b>FY 2014-15 Executive Request:</b>	<b>\$26,615,760</b>	<b>\$26,615,760</b>	<b>0.0</b>
Request Above/(Below) Recommendation	\$0	\$0	0.0

*OADC R2 (Attorney/ investigator/ paralegal hourly rate increases):* Staff's recommendation includes \$3,559,986 General Fund. For a description of this request, see the section titled "Initiatives Affecting Multiple Divisions" at the beginning of this packet.

In addition, staff recommends renaming this line item "Conflict-of-interest Contracts". Based on advice from the Revisor of Statutes, staff recommends consistently using a hyphen in line items that contain a compound modifier that immediately precedes a noun.

**Mandated Costs**

This is one of six 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:

- reimbursement of district attorney offices for discovery costs/ electronic replication grand jury proceedings (\$648,392 or 36.7 percent of mandated costs in FY 2012-13);
- expert witnesses (\$691,889 or 39.2 percent);
- transcripts (\$305,227 or 17.3 percent);
- expert witness travel reimbursement (\$67,216 or 3.8 percent);
- interpreters - out of court (\$21,058 or 1.2 percent);and
- PERA contributions for contractors with PERA benefits (\$30,820 or 1.7 percent).

**Request:** The OADC requests a continuation level of funding (\$1,800,417 General Fund). This line item is impacted by OADC R1/BA1 (Caseload increase).

**JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision**

**Recommendation:** Staff recommends approving the request, as detailed in the following table. Please note that staff's recommendation includes approval of a decision item (OADC R1) and budget amendment (OADC BA1) concerning caseload increases. The OADC requested, and the Committee approved, a mid-year increase in FY 2013-14 of \$220,303 General Fund to cover caseload increase (OADC S1). For FY 2014-15, the OADC requests continuation of this funding without any additional funding related to caseload increases for FY 2014-15. For more information, please see the staff recommendations for Judicial Branch supplemental requests dated January 16, 2014.

The following table provides a recent history of mandated costs in comparison to the number of cases paid, along with estimates for FY 2013-14 and FY 2014-15.

OADC Mandated Costs						FY 13-14 (updated projection)	FY 14-15 (projection)
Description	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13		
Transcripts	\$431,067	\$377,435	\$307,472	\$290,268	\$305,227	\$375,546	\$375,546
Discovery	567,917	635,061	599,872	626,180	648,392	728,631	728,631
Experts	482,103	415,134	443,237	476,272	691,889	594,158	594,158
Travel	56,198	28,488	39,618	37,927	67,216	47,691	47,691
Interpreters	42,765	42,219	24,842	29,364	21,058	34,466	34,466
Misc.	9,798	15,245	14,833	9,934	30,820	19,925	19,925
<b>Total</b>	<b>1,589,848</b>	<b>1,513,582</b>	<b>1,429,874</b>	<b>1,469,945</b>	<b>1,764,602</b>	<b>1,800,417</b>	<b>1,800,417</b>
<i>annual percent change</i>	2.6%	-4.8%	-5.5%	2.8%	20.0%	2.0%	0.0%
Total cases paid	12,474	12,595	11,878	12,585	13,290	14,479	14,479
Average cost per case	\$127	\$120	\$120	\$117	\$133	\$124	\$124
<i>annual percent change</i>	-0.6%	-5.7%	0.2%	-3.0%	13.7%	-6.3%	0.0%

## **(7) Office of the Child's Representative**

Pursuant to Section 13-91-104, C.R.S., 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<sup>46</sup> appointed to serve as a *child's legal representative child* or as a *child and family investigator* 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 matters<sup>47</sup>. 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

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<sup>46</sup> If the court appoints a *mental health professional* (rather than an attorney) to be a child and family investigator, and the clients are indigent, the State Court Administrator's Office compensates the investigator for their services.

<sup>47</sup> 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.].

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Committee Decision**

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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.

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.

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**LINE ITEM DETAIL**

**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.

<b>Staffing Summary</b>	<b>FY 12-13</b>	<b>FY 13-14</b>	<b>FY 14-15</b>	<b>FY 14-15</b>
<b>Office of the Child's Representative</b>	<b>Actual</b>	<b>Approp.</b>	<b>Request</b>	<b>Recommend.</b>
Executive Director	1.0	1.0	1.0	1.0
Deputy Director	0.9	0.8	0.8	0.8
Staff Attorneys	1.5	1.6	1.6	1.6
Budget/ Billing/ Office Administration (OCR R5)	2.9	3.5	3.6	3.6
Training Coordinator/ Indigency Screener	<u>0.8</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>
<b>Subtotal - Administrative Office</b>	<b>7.1</b>	<b>7.9</b>	<b>8.0</b>	<b>8.0</b>
Attorneys	12.6	12.0	12.0	12.0
Social Workers/ Case Coordinators (OCR R5)	4.0	4.6	5.0	5.0
Administrative Support Staff	<u>2.4</u>	<u>2.4</u>	<u>2.4</u>	<u>2.4</u>
<b>Subtotal - El Paso County Office</b>	<b>19.0</b>	<b>19.0</b>	<b>19.4</b>	<b>19.4</b>
<b>Total</b>	<b>26.1</b>	<b>26.9</b>	<b>27.4</b>	<b>27.4</b>

**Request:** The OCR requests \$2,173,263 General Fund and 27.4 FTE. The request is impacted by both OCR R2 (Salary alignment) and OCR R5 (FTE increase).

**Recommendation:** Staff recommends appropriating \$1,971,589 General Fund and 27.4 FTE, as detailed in the following table. Staff's recommendation differs from the request for the following reasons:



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Committee Decision**

- Staff includes funding to annualize the FY 2013-14 appropriations for Salary Survey and Merit Pay to provide 12 months (rather than 11 months) of funding. The FY 2013-14 appropriations for Salary Survey and Merit Pay only included 11 months of funding due to the payday shift.
- Staff excludes any funding related to R5 to align salaries. Staff has recommended approving this request, but recommends including the associated funding in the Salary Survey line item (consistent with other agencies). A description of R5, along with staff's recommendation, appears following the description of the Salary Survey line item below.

<b>Office of the Child's Representative, Personal Services</b>			
	<b>Total Funds</b>	<b>General Fund</b>	<b>FTE</b>
<b>FY 2013-14 Appropriation</b>			
SB 13-230 (Long Bill)	<u>\$1,902,541</u>	<u>\$1,902,541</u>	<u>26.9</u>
<b>TOTAL</b>	<b>\$1,902,541</b>	<b>\$1,902,541</b>	<b>26.9</b>
<b>FY 2014-15 Recommended Appropriation</b>			
FY 2013-14 Appropriation	\$1,902,541	\$1,902,541	26.9
Annualize prior year salary survey	38,150	38,150	0.0
Annualize prior year merit pay	30,898	30,898	0.0
OCR R2 Salary alignment	0	0	0.0
OCR R5 FTE increase	<u>0</u>	<u>0</u>	<u>0.5</u>
<b>TOTAL</b>	<b>\$1,971,589</b>	<b>\$1,971,589</b>	<b>27.4</b>
<b>Increase/(Decrease)</b>	\$69,048	\$69,048	0.5
Percentage Change	3.6%	3.6%	1.9%
<b>FY 2014-15 Executive Request:</b>	<b>\$2,173,263</b>	<b>\$2,173,263</b>	<b>27.4</b>
Request Above/(Below) Recommendation	\$201,674	\$201,674	0.0

**➔ OCR R5 FTE increase**

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|--|
| <ul style="list-style-type: none"> <li>• The OCR requests an additional 0.5 FTE to better reflect full capacity staffing levels.</li> <li>• Staff recommends approving the request.</li> </ul> |
|--|

*Request:* The OCR requests that the FY 2014-15 Long Bill reflect a total of 27.4 FTE (rather than 26.9 FTE) to better reflect full capacity staffing levels. The OCR does not request any corresponding increase in its appropriation.

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Committee Decision**

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The Long Bill currently reflects 26.9 FTE associated with the Personal Services appropriation to the OCR. This figure includes 7.4 FTE for the OCR's central administrative office in Denver, and 19.5 FTE in the OCR's El Paso county *guardian ad litem* (GAL) office. The Denver office FTE figure is 0.1 FTE short of reflecting full staffing. The OCR would also like to use existing resources to increase a part-time case coordinator position in its El Paso county office to a full-time position.

**Recommendation:** Staff recommends approving the request. This office handled 1,353 appointments in FY 2012-13. This office operates within caseload limits, and any caseload increase must be handled by independent contracts at greater state expense.

The OCR maintains that the office will be better able to keep attorneys at or near their caseload cap of 60 cases with the additional 15 hours per week of case coordinator support. Case coordinators support attorney work by conducting investigations, attending staffings, and meeting with and establishing relationships with children and parties to the case. The institutional knowledge brought by a case coordinator enables a substitute or replacement attorney to seamlessly continue the office's representation with a smaller investment of attorney time, thereby enabling the attorney to accept additional appointments. Similarly, case coordinator involvement allows new attorneys to accept cases at a faster rate.

**Health Life and Dental**

This is the fourth of five 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. This line item provides funds for OCR staff.

**Request:** The OCR requests \$268,696 General Fund.

**Recommendation:** Staff recommends appropriating \$249,721 General Fund, consistent with Committee policy with respect to employer contribution rates.

**Short-term Disability**

This is the fourth of five line items that provide funding for the employer's share of state employees' short-term disability insurance premiums. This line item provides funds for OCR staff.

**Request:** The OCR requests \$3,761 General Fund.

**Recommendation:** Staff recommends appropriating \$4,760 General Fund, consistent with the Committee's common policy. This calculation is based on applying a rate of 0.22 percent to base salaries, including the recommended salary survey and merit pay increases.

**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). The fourth of five such line items, this one provides funds for OCR staff.

**Request:** The OCR requests \$77,184 General Fund.

**Recommendation:** Staff recommends appropriating \$86,542 General Fund, consistent with Committee's common policy. This calculation is based on applying the relevant rates [3.8 percent of base salaries for CY 2014 and 4.2 percent of base salaries for CY 2015] to base salaries, including the recommended salary survey and merit pay increases. The blended rate (4.0 percent) does not include an adjustment for the pay date shift.

**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. The fourth of five such line items, this one provides funds for OCR staff.

**Request:** The OCR requests \$72,129 General Fund.

**Recommendation:** Staff recommends appropriating \$81,133 General Fund, consistent with Committee's common policy. This calculation is based on applying the relevant rates [3.5 percent of base salaries for CY 2014 and 4.0 percent of base salaries for CY 2015] to base salaries, including the recommended salary survey and merit pay increases. The blended rate (3.75 percent) does not include an adjustment for the pay date shift.

**Salary Survey**

The OCR uses this line item to pay for annual salary increases, similar to "salary survey" increases in the Executive Branch. The fourth of five such line items, this one provides funds for OCR staff.

**Request:** The OCR requests \$31,574 General Fund for salary increases of 1.5 percent.

**Recommendation:** Staff recommends appropriating \$277,030 General Fund pursuant to Committee policy. The recommendation includes approval of the salary adjustments proposed through R2, but providing a full 12 months of funding. [Please note that the OCR requested the funding for R2 in the Personal Services line item.] The overall calculation is based on applying a 3.0 percent increase to base salaries plus the salary adjustment requested through R2, plus the associated PERA and Medicare contributions (with no adjustment for the paydate shift). In addition, the recommendation includes an additional \$8,133 to align the Executive Director's salary with the recommended salary for district court judge (consistent with Long Bill footnote #37).



**OCR R2 Salary alignment**

- The OCR requests \$190,392 General Fund to align staff salaries with the public sector market.
- Staff recommends approving the request, with an adjustment to not reflect the paydate shift consistent with Committee policy.

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Committee Decision**

*Request:* The OCR requests \$190,392 General Fund to align staff salaries with the public sector market. The OCR seeks funding to align its attorney salary ranges to, on average, within 10 to 15 percent of the market ranges, and to increase salaries for non-attorney staff to the minimum of Executive Branch salary ranges (with a few exceptions). The request would provide for 11 months of salary increases, due to the paydate shift. The OCR's request reflects this funding in the Personal Services line item.

The OCR is statutorily required to "establish fair and realistic state rates by which to compensate state-appointed guardians ad litem...which will be sufficient to attract and retain high-quality, experienced attorneys to serve as guardians ad litem" [see Section 13-91-105 (1) (a) (VI), C.R.S.]. The OCR recently joined with the Department of Law's annual attorney salary survey to assess the parity of the State's compensation of the El Paso GAL office attorney staff compared to other public sector attorney positions as of FY 2012-13. This study, performed by Fox, Lawson & Associates, surveyed attorney salary ranges and actual salaries in 18 public entities considered to be in the OCR's market (*i.e.*, county attorney offices, district attorney offices, the Department of Law, the Office of the State Public Defender, and the Office of Legislative Legal Services). The survey identified gaps between OCR attorney salaries and comparable market salaries of 31.7 percent overall, ranging from 11.5 percent for entry level attorneys to 39.0 percent for managing attorneys.

The following table summarizes, by benchmark, the percent increase and percent misalignment for requested/projected attorney salaries. More than two-thirds of the request is intended to place attorney salaries, on average, within 14 percent of the market (the resulting gap if the request is approved is indicated in the last column in the table below). While the proposal would not adjust salaries for the first two benchmarks, the salaries for ten attorney positions in the remaining three benchmarks would be within 15 percent of the market rate.

Bench No.	Benchmark Title	Office Title	Number of positions	Office Avg. Actual	Office Avg. After Increase	Percent change	Counties, JDs & State Market Ave Actual	Percent Off Market
1	Deputy Attorney General	Managing Attorney	1	103,967	103,967	0%	144,498	-39%
2	1st Asst. Attorney General	Asst Managing Attorney	1	90,368	90,638	0%	118,160	-30%
3	Sr. Attorney General	Senior Attorney	3	75,148	86,667	15%	99,479	-15%
4	Asst. Attorney General	Mid Level Attorney	4	59,954	74,000	23%	76,244	-3%
5	Attorney I	Entry Level Attorney	3	50,500	57,333	14%	61,873	-8%
	Weighted average		12	67,591	76,884	14%	87,641	-14%
Note: Mid-level attorneys are close to senior attorney range in years of service (three attorneys have 7 or over 7 years of service)								
Benchmarks 1 & 2 impacted by highest salary of Executive Director is \$132,842 (was \$128,598 for Fy 2013).								

The OCR indicates that gaps of this magnitude for attorneys representing children compared to other public sector attorneys is contrary to the General Assembly's findings in creating the OCR that, "the representation of children necessitates significant expertise as well as a substantial investment in time and fiscal resources" [see Section 13-91-102 (1) (a), C.R.S.]. This misalignment contributes to significant turnover in OCR attorney staff, undermining the OCR's ability to attract new attorneys and retain attorneys with the experience and expertise necessary to represent children. Such misalignment impedes the OCR's ability to meet its Strategic Plan goals of contracting with qualified and skilled attorneys and paying attorneys a rate of compensation commensurate with other public sector attorneys.

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Committee Decision**

The OCR also compared its non-attorney staff salaries with salaries paid for comparable positions in the Executive and Judicial Department personnel systems. This comparison revealed that non-attorney OCR staff, including but not limited to social workers, administrative support, and paralegals, are misaligned with the market. The request includes funding to adjust salaries for the OCR's non-attorney staff as detailed in the following table.

Non-attorney positions with increases:		Current Salary Ranges	Current Avg. Salary	Comparable Range	Proposed Avg. Salary	Proposed Avg. Increase
Supervising Caseworker	DPA Social Work IV	46,000 - 55,000	\$ 51,000	\$52,212 - \$58,032-\$75,492	\$ 58,000	\$ 7,000
Senior level Caseworker	DPA Social Work III	42,000 - 46,000	\$ 45,900	\$49,692-\$55,248-\$71,892	\$ 49,692	\$ 3,792
Mid level Caseworker	DPA Social Work II	41,000 - 44,000	\$ 43,032	\$45,084-\$50,124-\$65,232	\$ 46,991	\$ 3,959
Entry level Caseworker	DPA Social Work I	39,000 - 42,000	\$ 39,096	\$40,020-\$44,496-\$57,900	\$ 40,260	\$ 1,164
Administrative Assistant	Judicial staff assistant I	27,000 - 37,000	\$ 34,039	\$41,064-\$48,060-\$55,056	\$ 43,200	\$ 9,161
Legal Secretary	Judicial legal assistant	30,000 - 44,000	\$ 37,230	\$45,324 - \$53,040 - \$60,768	\$ 47,736	\$ 10,506
Controller	DPA Controller II	76,000 - 102,600	\$ 85,680	\$76,140-\$92,952-\$109,764	\$ 88,000	\$ 2,320
Accountant	DPA Accountant II	46,740 - 67,404	\$ 57,834	\$60,288- 70,560- \$80,844	\$ 63,450	\$ 5,616
Interactive Systems Admin	Judicial Court programs analyst I	41,064 - 55,056	\$ 45,760	\$53,880 - \$63,048 - \$72,216	\$ 53,880	\$ 8,120
Attorney Reimb Manager	DPA Gen Prof III/IV	41,064 - 55,056	\$ 52,044	\$56,796-\$63,228-\$74,670	\$ 60,067	\$ 8,022
Training Coordinator	Judicial Education Specialist	41,064 - 55,056	\$ 52,044	\$59,496-\$69,612-\$79,728	\$ 62,651	\$ 10,606

The above table illustrates that the majority of proposed salaries are at or near comparable range minimums. The exceptions were set above the minimum of the range because of the level of experience, institutional knowledge, and expertise the individuals in these positions bring to the OCR. The proposed salaries for these positions remain below the midpoint of the comparable range. The OCR notes that at the time the proposed salaries were budgeted, FY 2013-14 DPA Compensation Plan data was not available on line; that information is now available, and the proposed salaries for several positions fall below the current range minimums.

*Recommendation:* Staff recommends approving the request to allow the OCR to better align salary ranges with the public sector market and to comply with its statutory duty to compensate the GALs in the Colorado Springs office at salaries that are sufficient to attract and retain high-quality, experienced attorneys. Staff 's recommendation includes an adjustment to provide funding for a full 12 months, consistent with the Committee's policy.

**Merit Pay**

The Department uses this line item to pay for longevity or performance-related pay increases. The fourth of five such line items, this one provides funds for OCR staff.

**Request:** The OCR requests a total of \$31,574 General Fund for merit increases averaging 1.5 percent.

**Recommendation:** Staff recommends appropriating \$32,353 General Fund pursuant to Committee policy. This calculation is based on applying a 1.5 percent increase to the sum of base salaries plus the salary adjustment requested through R2, plus a 2.0 percent across-the-board increase in base salaries, plus the associated PERA and Medicare contributions (with no adjustment for the payday shift).

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Committee Decision**

**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.

**Request:** The OCR requests \$191,929 General Fund. The request is impacted by OCR R4 (Operating increase), which is discussed below.

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

<b>Office of the Child's Representative, Operating Expenses</b>			
	<b>Total Funds</b>	<b>General Fund</b>	<b>FTE</b>
<b>FY 2013-14 Appropriation</b>			
SB 13-230 (Long Bill)	\$159,929	\$159,929	0.0
HB 14-1239 (Supplemental)	<u>28,960</u>	<u>28,960</u>	<u>0.0</u>
<b>TOTAL</b>	<b>\$188,889</b>	<b>\$188,889</b>	<b>0.0</b>
<b>FY 2014-15 Recommended Appropriation</b>			
FY 2013-14 Appropriation	\$188,889	\$188,889	0.0
Reverse supplemental	(28,960)	(28,960)	0.0
OCR R4 Operating increase	<u>32,000</u>	<u>32,000</u>	<u>0.0</u>
<b>TOTAL</b>	<b>\$191,929</b>	<b>\$191,929</b>	<b>0.0</b>
<b>Increase/(Decrease)</b>	\$3,040	\$3,040	0.0
Percentage Change	1.6%	1.6%	0.0%
<b>FY 2014-15 Executive Request:</b>	<b>\$191,929</b>	<b>\$191,929</b>	<b>0.0</b>
Request Above/(Below) Recommendation	\$0	\$0	0.0

**➔ OCR R4 Operating increase**

- |   |
|---|
| <ul style="list-style-type: none"> <li>• The OCR requests \$32,000 General Fund to cover annual operating expenditures.</li> <li>• Staff recommends approving the request.</li> </ul> |
|---|

**Request:** The OCR requests \$32,000 General Fund to cover annual operating expenditures. Since FY 2007-08, operating expenses have exceeded the appropriation due to two primary expenditures: in-state travel per diem and computer maintenance and replacement.

- In-state travel per diem costs have doubled from 2005 levels, increasing by \$8,000. The OCR attributes this increase to additional court observations and in-person meetings with attorneys and stakeholders across the state.

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Committee Decision**

- Additional computer maintenance expenses are for web hosting charges for C.A.R.E.S. (a web-based attorney case management and billing system), and required replacement of computer equipment. Hosting services costing \$14,000 per year are required to maintain C.A.R.E.S. Replacement laptops, and peripheral equipment average about \$10,000 per year. The OCR also anticipates the need to replace its central administrative office server in the near future.

These expenses are essential to ensuring effective attorney services for children and efficiently processing contract payments [Strategic Plan goals 1, 2, and 3].

*Recommendation:* Staff recommends approving the request. As detailed in the following table, the OCR has transferred moneys from other appropriations in each of the last six years to cover operating expenses. These annual transfers have ranged from \$20,310 to \$50,000.

Transfers Made by Office of the Child's Representative Pursuant to Long Bill Footnote						
Long Bill Line Item	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13
Personal Services	(\$45,748)	(\$71,276)	(\$28,561)	(\$69,920)	\$12,220	(\$20,814)
Operating Expenses	42,493	49,073	21,070	50,000	20,310	30,793
Capital Outlay	0	(175)	(481)	0	0	0
Leased Space	1,037	24,878	1,440	2,244	0	(15,120)
Training	(246)	(5,481)	(1,000)	14,613	9,765	3,026
Court Appointed Counsel	(27,389)	(5,228)	(5,957)		(56,645)	(15,264)
Transfers from other judicial agencies for OCR Court Appointed Counsel	0	0	449,385	0	0	9,329
Mandated Costs	<u>29,853</u>	<u>8,209</u>	<u>13,489</u>	<u>3,063</u>	<u>14,350</u>	<u>17,379</u>
Net Transfers	0	0	449,385	0	0	9,329

**Leased Space**

This line item currently funds a full 12 months of lease payments for 8,375 square feet in Colorado Springs.

**Request:** The OCR requests \$103,618 General Fund. The request reflects an increase of \$1,498 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 \$12.37 per square foot).

**CASA Contracts**

This line item provides funding for grants to Colorado CASA, the nonprofit organization of volunteer 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 has initiated increases in this line item appropriation: \$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

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Committee Decision***

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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 children<sup>48</sup>. 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.

Pursuant to Section 13-91-105 (1) (b), C.R.S., 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;
- seeking to enhance existing funding sources and developing private-public partnership funding for the provision of high-quality, volunteer local CASA programs;
- studying the availability of or developing new funding sources for CASA programs;
- allocating moneys appropriated for CASA programs to local CASA programs based upon recommendations made by the contract entity;
- working 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
- accepting grants, gifts, donations, and other governmental contributions to be used to fund the work of the OCR relating to CASA programs<sup>49</sup>.

**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 more than 1,600 volunteers who provide services to children in nearly one-third of dependency and neglect cases.

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<sup>48</sup> Pursuant to Section 19-1-206 (1), C.R.S., any judge or magistrate may appoint a CASA volunteer in any domestic or probate matter when a child who may be affected by the matter may require services that a CASA volunteer can provide.

<sup>49</sup> 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.



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Committee Decision**

<b>OCR: Distribution of General Fund Appropriation for CASA Programs</b>							
	<b>FY 07-08</b>	<b>FY 08-09</b>	<b>FY 09-10</b>	<b>FY 10-11</b>	<b>FY 11-12</b>	<b>FY 12-13</b>	<b>FY 13-14</b>
Colorado CASA - General Operating	\$20,000	\$120,000	\$100,000	\$100,000	\$91,200	\$70,000	\$105,000
Public Relations Activities	0	25,000	0	0	0	0	0
Outcomes Development for Programs							25,000
Allocations to Local CASA Programs (currently 16)	0	375,000	420,000	420,000	383,800	450,000	890,000
<i>Allocation per Local Program</i>	<i>n/a</i>	<i>\$22,059</i>	<i>\$8,018 to</i>	<i>\$11,246 to</i>	<i>\$9,981 to</i>	<i>\$15,913 to</i>	<i>\$20,285 to</i>
<b>Total Appropriation</b>	<b>\$20,000</b>	<b>\$520,000</b>	<b>\$520,000</b>	<b>\$520,000</b>	<b>\$475,000</b>	<b>\$520,000</b>	<b>\$1,020,000</b>

Source: Data provided by Colorado CASA.

<b>OCR: Statewide Data Related to Local CASA Programs</b>								
	<b>FY 05-06</b>	<b>FY 06-07</b>	<b>FY 07-08</b>	<b>FY 08-09</b>	<b>FY 09-10</b>	<b>FY 10-11</b>	<b>FY 11-12</b>	<b>FY 12-13</b>
Dependency & Neglect Cases Filed	4,136	3,852	3,883	3,851	3,568	3,276	3,265	3,223
	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
New Cases Served by CASA	636	670	627	896	883	834	908	1,020
<i>New Cases Served/ Cases Filed</i>	<i>15.4%</i>	<i>17.4%</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>
Total Number of Children Served	2,666	2,838	2,935	3,273	3,608	3,791	3,770	3,748
Total Volunteers	1,045	1,177	1,174	1,411	1,637	1,608	1,603	1,670
Volunteer Hours	81,266	100,034	77,481	158,820	140,618	120,640	137,834	125,067

Source: Case filing data provided by State Court Administrator's Office. Remaining data provided by Colorado CASA.

**Training**

Pursuant to Section 13-91-105 (1), C.R.S., 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.

**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, child legal representatives, and child and family investigators in abuse or neglect, delinquency, truancy, high conflict divorce, alcohol or drug abuse, mental health issues, and probate matters. Pursuant to Section 13-91-105 (1) (a) (VI), C.R.S., 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".

**Request:** The OCR requests \$18,912,675 General Fund. The request is impacted by: OCR R1 (Caseload/workload increase), OCR R3 (Attorney rate adjustment), and OCR BA1 (Counsel for

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Committee Decision**

children transfer). The following three tables provide historical detail concerning the number of appointments paid and the cost of appointments, by type of case, as well estimates for FY 2013-14 and FY 2014-15. [Please note that the tables exclude data related to the cases that have been transferred from the State Court Administrator's Office through OCR BA1.]

OCR Court Appointed Counsel TABLE 1: Annual Number of Appointments Paid							
Case Type	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13	FY 13-14 (estimate)	FY 14-15 (request)
Dependency & Neglect	8,906	9,038	8,594	7,817	7,890	8,012	8,150
<i>annual percent change</i>	7.7%	1.5%	-4.9%	-9.0%	0.9%	1.5%	1.7%
Juvenile Delinquency	4,423	4,299	3,903	3,846	4,118	4,300	4,400
<i>annual percent change</i>	14.2%	-2.8%	-9.2%	-1.5%	7.1%	4.4%	2.3%
Domestic Relations	760	690	450	494	631	690	720
<i>annual percent change</i>	25.4%	-9.2%	-34.8%	9.8%	27.7%	9.4%	4.3%
Truancy	475	406	416	426	697	670	650
<i>annual percent change</i>	-7.6%	-14.5%	2.5%	2.4%	63.6%	-3.9%	-3.0%
Paternity	138	198	146	159	187	185	200
<i>annual percent change</i>	27.8%	43.5%	-26.3%	8.9%	17.6%	-1.1%	8.1%
Probate	71	64	79	61	62	60	65
<i>annual percent change</i>	-2.7%	-9.9%	23.4%	-22.8%	1.6%	-3.2%	8.3%
All Other Case Types	70	99	68	184	193	200	210
<b>Total</b>	<b>14,843</b>	<b>14,794</b>	<b>13,656</b>	<b>12,987</b>	<b>13,778</b>	<b>14,117</b>	<b>14,395</b>
<i>annual percent change</i>	9.9%	-0.3%	-7.7%	-4.9%	6.1%	2.5%	2.0%

OCR Court Appointed Counsel TABLE 2: Annual Costs Per Case Type							
Case Type	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13	FY 13-14 (updated projection)	FY 14-15 (request)
Dependency & Neglect	\$1,300	\$1,418	\$1,565	\$1,536	\$1,627	\$1,673	\$1,839
<i>annual percent change</i>	20.0%	9.1%	10.4%	-1.9%	5.9%	2.8%	9.9%
Juvenile Delinquency	\$628	\$512	\$474	\$502	\$533	\$560	\$614
<i>annual percent change</i>	-4.3%	-18.5%	-7.3%	5.8%	6.0%	5.2%	9.6%
Domestic Relations	\$1,055	\$583	\$784	\$826	\$759	\$795	\$871
<i>annual percent change</i>	17.1%	-44.8%	34.5%	5.4%	-8.1%	4.8%	9.6%
Truancy	\$467	\$437	\$372	\$313	\$316	\$315	\$345
<i>annual percent change</i>	41.4%	-6.5%	-14.8%	-16.0%	1.0%	-0.4%	9.6%
Paternity	\$725	\$658	\$741	\$918	\$674	\$626	\$686
<i>annual percent change</i>	14.5%	-9.1%	12.5%	24.0%	-26.6%	-7.0%	9.5%
Probate	\$1,117	\$637	\$628	\$486	\$496	\$526	\$575
<i>annual percent change</i>	-9.3%	-43.0%	-1.4%	-22.6%	2.0%	6.2%	9.4%
All Other Case Types	\$664	\$869	\$828	\$713	\$679	\$670	\$734
<b>All cases</b>	<b>\$1,051</b>	<b>\$1,072</b>	<b>\$1,173</b>	<b>\$1,138</b>	<b>\$1,162</b>	<b>\$1,194</b>	<b>\$1,311</b>
<i>annual percent change</i>	14.2%	1.9%	9.5%	-3.0%	2.1%	2.7%	9.8%

\* Please note that the average costs per case in FY 2006-07, FY 2007-08, and FY 2008-09 reflect approved increases in hourly rates.  
The average cost per case for FY 2014-15 includes a requested increase in hourly rates.

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Committee Decision**

OCR Court Appointed Counsel TABLE 3: Expenditures by Case Type							FY 13-14 (updated projection)	FY 14-15 (request)
Case Type	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13			
Dependency & Neglect	\$11,578,224	\$12,815,428	\$13,448,501	\$12,003,497	\$12,836,142	\$13,404,076	\$14,986,003	
<i>annual percent change</i>	29.3%	10.7%	4.9%	-10.7%	6.9%	4.4%	11.8%	
Juvenile Delinquency	\$2,779,458	\$2,201,105	\$1,851,671	\$1,931,335	\$2,192,888	\$2,408,000	\$2,700,923	
<i>annual percent change</i>	9.3%	-20.8%	-15.9%	4.3%	13.5%	9.8%	12.2%	
Domestic Relations	\$801,945	\$402,210	\$352,768	\$408,037	\$478,766	\$548,550	\$627,438	
<i>annual percent change</i>	46.9%	-49.8%	-12.3%	15.7%	17.3%	14.6%	14.4%	
Truancy	\$221,920	\$177,414	\$154,930	\$133,341	\$220,342	\$211,050	\$224,438	
<i>annual percent change</i>	30.7%	-20.1%	-12.7%	-13.9%	65.2%	-4.2%	6.3%	
Paternity	\$100,001	\$130,359	\$108,132	\$145,989	\$125,998	\$115,891	\$137,238	
<i>annual percent change</i>	46.3%	30.4%	-17.1%	35.0%	-13.7%	-8.0%	18.4%	
Probate	\$79,272	\$40,748	\$49,601	\$29,653	\$30,730	\$31,574	\$37,406	
<i>annual percent change</i>	-11.8%	-48.6%	21.7%	-40.2%	3.6%	2.7%	18.5%	
All Other Case Types	\$46,471	\$86,052	\$56,297	\$131,214	\$131,090	\$134,000	\$154,229	
<b>All cases</b>	<b>\$15,607,291</b>	<b>\$15,853,316</b>	<b>\$16,021,900</b>	<b>\$14,783,066</b>	<b>\$16,015,956</b>	<b>\$16,853,141</b>	<b>\$18,867,675</b>	
<i>annual percent change</i>	25.6%	1.6%	1.1%	-7.7%	8.3%	5.2%	12.0%	

\* Please note that the average costs per case in FY 2006-07, FY 2007-08, and FY 2008-09 reflect approved increases in hourly rates. The average cost per case for FY 2014-15 includes a requested increase in hourly rates.

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

Office of the Child's Representative, Court Appointed Counsel			
	Total Funds	General Fund	FTE
<b>FY 2013-14 Appropriation</b>			
SB 13-230 (Long Bill)	\$16,011,128	\$16,011,128	0.0
HB 14-1239 (Supplemental)	<u>887,013</u>	<u>887,013</u>	<u>0.0</u>
<b>TOTAL</b>	<b>\$16,898,141</b>	<b>\$16,898,141</b>	<b>0.0</b>
<b>FY 2014-15 Recommended Appropriation</b>			
FY 2013-14 Appropriation	\$16,898,141	\$16,898,141	0.0
OCR R1 Caseload/workload increases (incremental increase)	168,032	168,032	0.0
OCR R3 Attorney rate adjustment	<u>1,846,502</u>	<u>1,846,502</u>	<u>0.0</u>
<b>TOTAL</b>	<b>\$18,912,675</b>	<b>\$18,912,675</b>	<b>0.0</b>
<b>Increase/(Decrease)</b>	\$2,014,534	\$2,014,534	0.0
Percentage Change	11.9%	11.9%	0.0%
<b>FY 2014-15 Executive Request:</b>	<b>\$18,912,675</b>	<b>\$18,912,675</b>	<b>0.0</b>
Request Above/(Below) Recommendation	\$0	\$0	0.0

*OCR R3 (Attorney/paralegal rate adjustments):* Staff's recommendation includes \$1,846,502 General Fund. For a description of this request, see the section titled "Initiatives Affecting Multiple Divisions" at the beginning of this packet.

*OCR BAI Counsel for children transfer:* Staff's recommendation includes continuation of the transfer of \$45,000 from the State Court Administrator's Office to this line item, which was

approved by the Committee in response to a supplemental request for FY 2013-14. This request is discussed above in the Trial Courts section.

In addition, staff recommends renaming this line item "Court-appointed Counsel". Based on advice from the Revisor of Statutes, staff recommends consistently using a hyphen in line items that contain a compound modifier that immediately precedes a noun.

**➔ OCR R1 Caseload/ workload increase**

- The OCR requests an increase of \$168,032 General Fund to cover a projected 2.0 percent caseload increase.
- Staff recommends approving the request.

*Request:* The OCR submitted a request for \$1,010,045 General Fund (compared to the initial FY 2013-14 appropriation) to cover projected increases in the number of cases requiring OCR appointments, as well as increases in the number of contractor hours required per appointment. The Committee recently approved a mid-year increase of \$842,013 for FY 2013-14, so this request represents an incremental increase of \$168,032 compared to the adjusted FY 2013-14 appropriation.

Caseload Increases

Specifically, as indicated in the table above, the OCR anticipates that the number of dependency and neglect (D&N), juvenile delinquency, and domestic relations cases will continue to increase in both FY 2013-14 and FY 2014-15. From FY 2009-10 through FY 2011-12, the rate of growth in these types of cases slowed and then declined. While the OCR is projecting continued increases in the numbers of these case types, it does not project that they will reach the peak levels experienced in FY 2008-09 and FY 2009-10. Overall, the OCR projects a 2.5 percent caseload increase in FY 2013-14 and a 2.0 percent caseload increase in FY 2014-15.

*Recommendation:* Staff recommends approving the request. The OCR's current caseload projections are based on actual expenditures for FY 2012-13 and the first six months of FY 2013-14, as well as the OCR's assessment of its ability to work with judicial districts to manage discretionary appointments in the juvenile delinquency, domestic relations, truancy, and paternity case categories.

The OCR believes that ongoing initiatives to keep dependency and neglect (D&N) cases out of court are resulting in an increase in OCR appointments in other case types (*e.g.*, truancy, juvenile delinquency, and domestic relations cases). This belief is based on anecdotal information from judicial officers, attorneys, and other stakeholders, and the OCR's determination that the increased number of appointments in these categories do not relate to an increase in case filings.

Mandated Costs

This is one of six 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

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Committee Decision*

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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:

- expert witnesses (\$17,655 or 40.5 percent of mandated costs in FY 2012-13)
- discovery/ reproduction services (\$21,219 or 48.7 percent)
- transcripts (\$1,688 or 3.9 percent)
- interpreters - out of court (\$1,951 or 4.5 percent)
- process servers (\$874 or 2.0 percent)

**Request:** The OCR requests a continuation level of funding (\$37,000 General Fund).

**Recommendation:** Staff recommends approving the request.

## **(8) Independent Ethics Commission**

The Independent Ethics Commission (IEC) is a five-member body established through a constitutional amendment that was approved by voters in 2006<sup>50</sup>. 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. IEC 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.

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### **LINE ITEM DETAIL**

#### **Personal Services**

This line item provides funding for the 2.0 FTE that support the IEC.

**Request:** The IEC requests \$192,739 General Fund and 2.0 FTE.

**Recommendation:** Staff recommends appropriating \$193,063 General Fund and 2.0 FTE, as detailed in the following table. Staff's recommendation is higher than the request because staff annualized the FY 2013-14 appropriations for Salary Survey and Merit Pay to provide 12 months (rather than 11 months) of funding. The FY 2013-14 appropriations for Salary Survey and Merit Pay only included 11 months of funding due to the paydate shift.

<b>Independent Ethics Commission, Personal Services</b>			
	<b>Total Funds</b>	<b>General Fund</b>	<b>FTE</b>
<b>FY 2013-14 Appropriation</b>			
SB 13-230 (Long Bill)	\$189,180	\$189,180	2.0
<b>TOTAL</b>	<b>\$189,180</b>	<b>\$189,180</b>	<b>2.0</b>
<b>FY 2014-15 Recommended Appropriation</b>			

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<sup>50</sup> See Article XXIX of the Colorado Constitution and Section 24-18.5-101, C.R.S.

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Committee Decision**

<b>Independent Ethics Commission, Personal Services</b>			
	<b>Total Funds</b>	<b>General Fund</b>	<b>FTE</b>
FY 2013-14 Appropriation	\$189,180	\$189,180	2.0
Annualize prior year salary survey	2,143	2,143	0.0
Annualize prior year merit pay	<u>1,740</u>	<u>1,740</u>	<u>0.0</u>
<b>TOTAL</b>	<b>\$193,063</b>	<b>\$193,063</b>	<b>2.0</b>
<b>Increase/(Decrease)</b>	\$3,883	\$3,883	0.0
Percentage Change	2.1%	2.1%	0.0%
<b>FY 2014-15 Executive Request:</b>	<b>\$192,739</b>	<b>\$192,739</b>	<b>2.0</b>
Request Above/(Below) Recommendation	(\$324)	(\$324)	0.0

**Health Life and Dental**

This is the fifth of five 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. This line item provides funds for IEC staff.

**Request:** The IEC requests \$10,047 General Fund.

**Recommendation:** Staff recommends appropriating \$15,393 General Fund, consistent with Committee policy with respect to employer contribution rates.

**Short-term Disability**

This is the fifth of five line items that provide funding for the employer's share of state employees' short-term disability insurance premiums. This line item provides funds for IEC staff.

**Request:** The IEC requests \$320 General Fund, based on applying a rate of 0.19 percent to base salaries (including the requested salary survey and merit pay increases).

**Recommendation:** Staff recommends appropriating \$376 General Fund, consistent with the Committee's common policy. This calculation is based on applying a rate of 0.22 percent to base salaries, including the recommended salary survey and merit pay increases.

**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). The fifth of five such line items, this one provides funds for IEC staff.

**Request:** The IEC requests \$6,695 General Fund, based on applying a rate of 3.97 percent (a blended rate that includes an adjustment for the paydate shift) to base salaries (including the requested salary survey and merit increases).

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Committee Decision*

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**Recommendation:** Staff recommends appropriating \$6,844 General Fund, consistent with Committee's common policy. This calculation is based on applying the relevant rates [3.8 percent of base salaries for CY 2014 and 4.2 percent of base salaries for CY 2015] to base salaries, including the recommended salary survey and merit pay increases. The blended rate (4.0 percent) does not include an adjustment for the pay date shift.

**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. The fifth of five such line items, this one provides funds for IEC staff.

**Request:** The IEC requests \$6,257 General Fund, based on applying a rate of 3.71 percent (a blended rate that includes an adjustment for the paydate shift) to base salaries (including the requested salary survey and merit increases).

**Recommendation:** Staff recommends appropriating \$6,417 General Fund, consistent with Committee's common policy. This calculation is based on applying the relevant rates [3.5 percent of base salaries for CY 2014 and 4.0 percent of base salaries for CY 2015] to base salaries, including the recommended salary survey and merit pay increases. The blended rate (3.75 percent) does not include an adjustment for the pay date shift.

**Salary Survey**

The IEC uses this line item to pay for annual salary increases. The fifth of five such line items, this one provides funds for IEC staff.

**Request:** The IEC requests a total of \$2,455 General Fund for salary increases of 1.5 percent. This calculation was based on applying a 1.5 percent increase to base salaries (with no adjustment for the paydate shift).

**Recommendation:** Staff recommends appropriating \$5,480 General Fund pursuant to Committee policy. This calculation is based on applying a 3.0 percent increase to base salaries, plus the associated PERA and Medicare contributions (with no adjustment for the paydate shift).

**Merit Pay**

The IEC uses this line item to pay for longevity or performance-related pay increases. The fifth of five such line items, this one provides funds for IEC staff.

**Request:** The IEC requests a total of \$2,492 General Fund for merit increases averaging 1.5 percent. This calculation was based on applying a 1.5 percent increase to the sum of base salaries plus a 1.5 percent across-the-board increase in base salaries (with no adjustment for the paydate shift).

**Recommendation:** Staff recommends appropriating \$2,795 General Fund pursuant to Committee policy. This calculation is based on applying a 1.5 percent increase to the sum of base salaries plus a 2.0 percent across-the-board increase in base salaries, plus the associated PERA and Medicare contributions (with no adjustment for the paydate shift).



**Operating Expenses**

This line item provides funding for the operating expenses of the IEC staff and reimbursement of actual and necessary expenses incurred by IEC members.

**Request:** The IEC requests a continuation level of funding (\$16,757 General Fund).

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

**Legal Services**

This line item provides funding for the IEC to purchase legal services from the Department of Law.

**Request:** The IEC requests \$98,366 General Fund to purchase 1,080 hours of legal services. The request is impacted by IEC R1 (Legal services).

**Recommendation:** Staff recommends approving the request to provide funding sufficient to purchase 1,080 hours of legal services. The associated appropriation will be calculated after the Committee sets the common policy for the legal services rate.



**IEC R1 Legal services**

- The IEC requests \$16,394 General Fund to allow it purchase an additional 180 hours of legal services from the Department of Law.
- Staff recommends approving the request.

*Request:* The IEC requests \$16,394 General Fund to increase the number of legal services hours that it can purchase from 900 to 1,080. Due to the number of cases investigated, including some resulting in litigation, the IEC exceeded the FY 2012-13 appropriation for legal services by approximately 56 hours. The Department of Law has informed the IEC that litigation in one particular case will continue through FY 2013-14 and into FY 2014-15.

The IEC was able to cover the legal services over expenditure in FY 2012-13 by transferring funds from the personal services appropriation due to a delay in filling the second position that was recently authorized by the General Assembly. The IEC plans to fill this position, and thus does not anticipate that excess personal services funds will be available in FY 2014-15 to cover such an over expenditure.

## **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, in numeric order:

### Applicable to Multiple Agencies Within Judicial Branch

LBF #37 – Compensation for justices, judges, the State Public Defender, the Alternate Defense Counsel, and the Executive Director of the Office of the Child's Representative

### Probation

LBF #39 – State funding for veterans treatment courts

Statewide RFI #2 – Cash funds that are utilized by multiple state agencies

Judicial RFI #3 – Recidivism rates

Judicial RFI #4 – Expenditures for testing, treatment, and assessments for offenders

### Office of the State Public Defender

LBF #40 – Authority to transfer funds between line item appropriations

Judicial RFI #2 – Appellate case backlog (and recommended replacement request for information)

### Office of the Alternate Defense Counsel

LBF #41 – Authority to transfer funds between line item appropriations

### Office of the Child's Representative

LBF #42 – Authority to transfer funds between line item appropriations

LBF #43 – Authority to utilize \$25,000 to fund pilot program for domestic relations cases

### Independent Ethics Commission

LBF #44 – Authority to transfer funds between line item appropriations

### District Attorneys

LBF #38 – Portion of state funding for District Attorney mandated costs provided for two cases

Judicial RFI #1 – State funding for District Attorney mandated costs

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## **LONG BILL FOOTNOTES**

Staff recommends that the following footnotes be **continued**:

- 40**     **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 four 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.

- 41 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.

- 42 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.

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

**Comment:**

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

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

When the parties to the case are determined to be indigent, the Office of the Child's Representative (OCR) pays for attorney appointments. Expenditures by the OCR on appointments in domestic relations cases increased steadily from FY 2004-05 to FY 2008-09, from \$426,186 to \$801,945. However, from FY 2009-10 through FY 2012-13 expenditures have ranged from \$352,768 (FY 2010-11) to \$478,766 (FY 2012-13). The OCR is projecting that expenditures will rise to \$548,550 in the current fiscal year. Since FY 2009-10, the average cost per domestic relations case has fluctuated from \$583 (FY 2009-10) to \$826 (FY 2011-12).

*Long Bill Footnote.* This footnote, initially included in the FY 2009-10 Long Bill, authorizes the OCR to utilize up to \$25,000 of the appropriation for Court Appointed Counsel to fund a pilot program for the purpose of evaluating alternatives to the appointment of CFIs and CLR's 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.

Since FY 2009-10, the OCR has utilized this footnote authority to support a pilot program in the 17th judicial district (Adams/Broomfield) to offer Early Neutral Assessment (ENA) to parties in domestic relations cases. During FY 2012-13, the 2nd judicial district (Denver) was added to the pilot project. In FY 2012-13, the OCR spent a total of \$22,515 on 50 ENA appointments, including 12 in Adams county and 38 in Denver (at an average cost of \$450 per case).

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. Each team consists of one attorney and one mental health expert, one of whom is male and the other female. When parties attend their initial status conference they often request a CFI or request a hearing to determine parenting time. When this occurs, the Family Court Facilitator identifies cases that may be appropriate for a referral to the ENA pilot. ENA is a voluntary, free, confidential process. If the parties agree that they want to attend ENA, the session is scheduled within a month of the initial status conference.

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

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

**JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision**

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**44 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 the following footnotes be continued as **modified**:

**37 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** -- In accordance with Section 13-30-104 (3), C.R.S., funding is provided for judicial compensation, as follows:

	<u>FY 2012-13</u>		<u>FY 2013-14</u>	
	<u>FY 2013-14 Salary</u>	<u>Increase</u>	<u>FY 2014-15 Salary</u>	
Chief Justice, Supreme Court		\$5,137		
	\$142,708	\$147,845	\$14,785	\$147,845
Associate Justice, Supreme Court		5,028		
	<del>139,660</del>	144,688	14,468	<del>144,688</del>
Chief Judge, Court of Appeals		4,939		
	<del>137,201</del>	142,140	14,214	<del>142,140</del>
Associate Judge, Court of Appeals		4,829		
	<del>134,128</del>	138,957	13,896	<del>138,957</del>
District Court Judge, Denver Juvenile Court Judge, and Denver Probate Court Judge		4,630		
	<del>128,598</del>	133,228	13,323	<del>133,228</del>
County Court Judge		4,430		
	<del>123,067</del>	127,497	12,750	<del>127,497</del>

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 and the Executive Director of the Office of the Child's Representative 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 three of the four independent agencies by tying them to specific judicial salaries.

The existing footnote indicates that the FY 2013-14 budget includes funding to increase all of the salaries<sup>51</sup> affected by this footnote by 3.6 percent. This increase was consistent with the common policy for state employee salary increases (including a 1.5 percent across-the-board increase proposed by the Executive Branch, an extra 0.5 percent increase pursuant to the Committee's policy, and the 1.6 percent merit pay increase). The FY 2012-13 judicial officer salaries listed in the existing footnote were established in FY 2008-09.

The Department's budget request for FY 2014-15 includes funding to increase all judge and justice salaries by 8.5 percent, including: (1) a 5.5 percent increase in base salaries; and (2) a 3.0 percent salary survey increase (which corresponds to the Executive Branch proposed 1.5 percent salary survey increase and a 1.5 percent merit pay increase).

The recommended revisions to the footnote for FY 2014-15 are based on providing a 10.0 percent increase in judicial salaries, including the Department's proposed 5.5 percent increase in base salaries, plus the application of Committee policy of providing increases averaging 4.5 percent for state employees (including a 3.0 percent across the board increase and merit increases averaging 1.5 percent). For further information about the recommendation, see the discussion for the Salary Survey line item appropriation under (2) Courts Administration, (B) Central Appropriations.

- 38 Judicial Department, Trial Courts, District Attorney Mandated Costs** -- It is the intent of the General Assembly that ~~\$353,500~~ \$300,000 of the amount appropriated for District Attorney Mandated Costs be used only to reimburse mandated costs associated with ~~two cases~~: ONE CASE: The People of the State of Colorado v. James Holmes (12CR1522); and ~~The People v. Austin Reed Sigg (2012CR2899)~~. Should reimbursable mandated costs incurred in ~~FY 2013-14~~ FY 2014-15 for ~~these two cases~~ THIS CASE total less than ~~\$353,500~~ \$300,000, 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 two specific cases. In FY 2012-13, \$265,100 General Fund was provided for this purpose; a total of \$111,993 was used to reimburse mandated costs for these cases, and the remaining \$153,107 reverted to the General Fund.

As indicated in the above footnote, \$353,500 General Fund has been provided for this purpose for FY 2013-14. For FY 2014-15, the CDAC is requesting that \$400,000 General Fund be provided for the Holmes case. The amendments proposed above are consistent with staff's recommendation for the DA Mandated Costs line item.

- 39 Judicial Department, Probation and Related Services, Offender Treatment and Services** -- It is the intent of the General Assembly that \$367,197 of the General Fund

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<sup>51</sup> Please note that the salary amounts listed in the footnote exclude any associated PERA or Medicare contributions.

**JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision**

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appropriation for Offender Treatment and Services be used to provide treatment and services for offenders participating in veterans treatment courts.

**Comment:**

*Background Information.* Through the course of the General Assembly's consideration of the FY 2012-13 Long Bill, both the House and the Senate adopted amendments to the Long Bill to provide funding for veterans. Ultimately, the General Assembly approved: (1) an appropriation of \$1,000,000 General Fund to the Department of Military and Veterans Affairs for mental health, employment, housing, and other veterans services; and (2) an appropriation of \$367,197 General Fund to the Judicial Branch for purposes of funding treatment and services for offenders participating in veterans treatment courts. This footnote accompanied the appropriation to the Judicial Branch to state the intended use of such moneys. This funding was continued for FY 2013-14, and the Department has requested continuation funding for FY 2014-15.

*Allocation and Use of Funds.* The funding provided through the Offender Treatment and Services line item is appropriated for the provision of treatment and services to offenders participating in veterans treatment courts. The Problem-solving Courts line item (in the Administration and Technology, Centrally Administered Programs subsection of the budget) provides additional funding for the staffing of problem-solving courts, including veterans treatment courts.

There are currently four veterans treatment courts in operation and one is in the planning stages. The following table details the allocation of the available funds for FY 2012-13 and FY 2013-14.

<b>Veterans Treatment Courts: State Funding for Treatment and Services</b>							
<b>Judicial District</b>	<b>Location</b>	<b>County</b>	<b>Start Date</b>	<b>FY 2013-14 Capacity</b>	<b>Allocation of State Funds</b>		
					<b>FY 2012-13</b>	<b>FY 2013-14</b>	
1	Golden	Jefferson	in planning	n/a	\$0	\$0	
2	Denver	Denver	Fall 2011	30	56,000	56,000	
4	Colorado Springs	El Paso	Fall 2009	150	269,500	245,000	
17	Brighton	Adams	January 2014	20		24,500	
18	Castle Rock	Douglas	March 2013	30	24,500	24,500	
Training/ IT system changes (FY 2012-13 only)						17,000	17,000
Totals	5	5		230	\$367,000	\$367,000	

Available funding is used to fill service gaps that cannot be met through existing veterans programs and services. Funded services may include: mental health and substance abuse services; drug testing services and supplies; GPS services; education/vocational services; emergency housing and food; and psychotropic and antabuse medication.

## REQUESTS FOR INFORMATION

### *Requests Applicable to Multiple Departments, Including Judicial Branch*

Staff recommends that the following requests for information be **continued** (for all of the relevant state agencies):

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

**Comment:** Prior to FY 2013-14, this RFI was included as a Long Bill footnote with the intent of ensuring that Departments coordinate requests that draw on the same cash fund. A brief explanation of each fund is provided below.

*Offender Identification Fund [Section 24-33.5-415.6 (1), C.R.S.]* - This fund consists of payments for genetic testing received from adult and juvenile offenders. Moneys in the Fund are subject to annual appropriation to the Judicial Department and the Department of Public Safety to pay for genetic testing of offenders.

*Sex Offender Surcharge Fund [Section 18-21-103 (3), C.R.S.]* - This fund consists of 95 percent of sex offender surcharge revenues. Moneys in the Fund are subject to annual appropriation to the Judicial Department, the Department of Corrections, the Department of Public Safety's Division of Criminal Justice, and the Department of Human Services to cover the direct and indirect costs associated with the evaluation, identification, and treatment and the continued monitoring of sex offenders.

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



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

*Alcohol and Drug Driving Safety (ADDS) Program Fund [Section 42-4-1301.3 (4) (a), C.R.S.]* – The ADDS Program provides: (1) pre-sentence and post-sentence alcohol and drug evaluations of all persons convicted of driving violations related to alcohol or drugs; and (2) supervision and monitoring of those persons whose sentences or terms of probation require completion of a program of alcohol and drug driving safety education or treatment. The ADDS Program Fund consists of fees paid by individuals for alcohol and drug evaluations, and inspection fees paid by approved alcohol and drug treatment facilities. 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.

***Requests Applicable to the Judicial Branch only***

Staff recommends that the following requests for information be **added**:

**N JUDICIAL DEPARTMENT, OFFICE OF THE STATE PUBLIC DEFENDER** – THE STATE PUBLIC DEFENDER IS REQUESTED TO PROVIDE BY NOVEMBER 1, 2014, A REPORT CONCERNING THE APPELLATE DIVISION'S PROGRESS IN REDUCING ITS CASE BACKLOG, INCLUDING THE FOLLOWING DATA FOR FY 2013-14: 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, 2014.

**Comment:** Similar to a request for information for the Attorney General, this request is intended to provide the Committee with information to evaluate the Office's progress in reducing its backlog.

Staff recommends that the following requests for information be **eliminated**:

- 2 Judicial Department, Office of the State Public Defender** – The State Public Defender is requested to provide by November 1, 2013, a report concerning the Office's appellate case backlog for the last five fiscal years including the fiscal year ending June 30, 2013, and the potential resources that would be required to reduce the backlog to a reasonable level within the next five fiscal years.

**Comment:** The OSPD provided the information as requested..

Staff recommends that the following request for information be **continued**:

- 1 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."

- 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, 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.

**JBC Staff Staff Figure Setting - FY 2014-15**  
**Staff Working Document - Does Not Represent Committee Decision**

**Appendix A: Number Pages**

	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	FY 2014-15 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 judgments; 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 funds transferred from the Department of Law.

Appellate Court Programs	<u>11,242,794</u>	<u>11,575,350</u>	<u>11,581,239</u>	<u>12,466,588</u>	<u>12,531,286</u> *
FTE	138.4	139.8	140.0	141.0	141.0
General Fund	9,930,498	10,238,791	10,248,849	12,456,588	12,521,286
Cash Funds	1,312,296	1,336,559	1,332,390	10,000	10,000
Attorney Regulation	<u>8,391,213</u>	<u>8,929,272</u>	<u>7,000,000</u>	<u>7,000,000</u>	<u>9,000,000</u>
FTE	56.0	56.0	56.0	56.0	56.0
Cash Funds	8,391,213	8,929,272	7,000,000	7,000,000	9,000,000
Continuing Legal Education	<u>295,988</u>	<u>239,906</u>	<u>410,000</u>	<u>410,000</u>	<u>300,000</u>
FTE	4.0	4.0	4.0	4.0	4.0
Cash Funds	295,988	239,906	410,000	410,000	300,000
State Board of Law Examiners	<u>1,046,155</u>	<u>1,269,392</u>	<u>1,050,000</u>	<u>1,050,000</u>	<u>1,300,000</u>
FTE	7.0	7.0	7.0	7.0	7.0
Cash Funds	1,046,155	1,269,392	1,050,000	1,050,000	1,300,000

**JBC Staff Staff Figure Setting - FY 2014-15**  
**Staff Working Document - Does Not Represent Committee Decision**

	<b>FY 2011-12 Actual</b>	<b>FY 2012-13 Actual</b>	<b>FY 2013-14 Appropriation</b>	<b>FY 2014-15 Request</b>	<b>FY 2014-15 Recommendation</b>
Law Library	<u>439,526</u>	<u>934,190</u>	<u>563,121</u>	<u>563,121</u>	<u>563,121</u>
FTE	1.5	3.5	3.5	3.5	3.5
Cash Funds	392,562	771,227	500,000	500,000	500,000
Reappropriated Funds	46,964	162,963	63,121	63,121	63,121
Indirect Cost Assessment	<u>0</u>	<u>0</u>	<u>149,983</u>	<u>175,391</u>	<u>177,001</u>
Cash Funds	0	0	149,983	175,391	177,001
<b>TOTAL - (1) Supreme Court/Court of Appeals</b>	21,415,676	22,948,110	20,754,343	21,665,100	23,871,408
<b>FTE</b>	<u>206.9</u>	<u>210.3</u>	<u>210.5</u>	<u>211.5</u>	<u>211.5</u>
General Fund	9,930,498	10,238,791	10,248,849	12,456,588	12,521,286
Cash Funds	11,438,214	12,546,356	10,442,373	9,145,391	11,287,001
Reappropriated Funds	46,964	162,963	63,121	63,121	63,121

**JBC Staff Staff Figure Setting - FY 2014-15**  
**Staff Working Document - Does Not Represent Committee Decision**

	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	FY 2014-15 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>15,463,633</u>	<u>17,304,716</u>	<u>20,099,461</u>	<u>22,340,388</u>	<u>22,468,617</u> *
FTE	174.7	181.2	208.5	232.0	231.0
General Fund	11,751,693	11,338,692	12,277,637	14,533,318	14,616,345
Cash Funds	1,364,502	3,843,414	5,905,565	5,755,379	5,782,533
Reappropriated Funds	2,347,438	2,122,610	1,916,259	2,051,691	2,069,739
Information Technology Infrastructure	<u>4,870,341</u>	<u>4,587,531</u>	<u>4,637,841</u>	<u>5,686,351</u>	<u>5,450,321</u> *
General Fund	853,094	403,092	403,094	403,094	403,094
Cash Funds	4,017,247	4,184,439	4,234,747	5,283,257	5,047,227
Indirect Cost Assessment	<u>0</u>	<u>0</u>	<u>593,237</u>	<u>640,865</u>	<u>646,898</u>
Cash Funds	0	0	581,957	634,106	640,139
Reappropriated Funds	0	0	11,280	6,759	6,759
Statewide Indirect Cost Assessment	<u>140,112</u>	<u>98,175</u>	<u>0</u>	<u>0</u>	<u>0</u>
Cash Funds	140,112	98,175	0	0	0
Federal Funds	0	0	0	0	0

**JBC Staff Staff Figure Setting - FY 2014-15**  
**Staff Working Document - Does Not Represent Committee Decision**

	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	FY 2014-15 Recommendation
Departmental Indirect Cost Assessment	<u>1,907,327</u>	<u>1,666,717</u>	0	0	0
Cash Funds	1,907,327	1,666,717	0	0	0
<b>SUBTOTAL - (A) Administration and Technology</b>	22,381,413	23,657,139	25,330,539	28,667,604	28,565,836
<i>FTE</i>	<u>174.7</u>	<u>181.2</u>	<u>208.5</u>	<u>232.0</u>	<u>231.0</u>
General Fund	12,604,787	11,741,784	12,680,731	14,936,412	15,019,439
Cash Funds	7,429,188	9,792,745	10,722,269	11,672,742	11,469,899
Reappropriated Funds	2,347,438	2,122,610	1,927,539	2,058,450	2,076,498
Federal Funds	0	0	0	0	0

**(B) Central Appropriations**

This subsection includes centrally appropriated line items. While most of these line items cover expenses for the entire Judicial Branch, several exclude funding associated with the four independent agencies, including: salary-related line items; appropriations for health, life, and dental, and short-term disability insurance; and the vehicle lease payments line item. 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>17,280,323</u>	<u>21,548,359</u>	<u>24,919,320</u>	<u>25,681,799</u>	<u>24,531,550</u>
General Fund	17,002,669	21,290,385	22,860,367	23,193,747	22,143,265
Cash Funds	277,654	257,974	2,058,953	2,488,052	2,388,285
Short-term Disability	<u>291,983</u>	<u>290,613</u>	<u>324,428</u>	<u>509,024</u>	<u>409,779</u>
General Fund	287,955	288,404	247,005	464,779	301,119
Cash Funds	4,028	2,209	77,423	44,245	108,660

**JBC Staff Staff Figure Setting - FY 2014-15**  
**Staff Working Document - Does Not Represent Committee Decision**

	<b>FY 2011-12 Actual</b>	<b>FY 2012-13 Actual</b>	<b>FY 2013-14 Appropriation</b>	<b>FY 2014-15 Request</b>	<b>FY 2014-15 Recommendation</b>
S.B. 04-257 Amortization Equalization					
Disbursement	<u>4,465,219</u>	<u>4,494,237</u>	<u>6,963,558</u>	<u>9,254,970</u>	<u>8,397,070</u> *
General Fund	4,410,863	4,454,618	5,397,337	8,450,518	6,259,541
Cash Funds	54,356	39,619	1,566,221	804,452	2,137,529
S.B. 06-235 Supplemental Amortization					
Equalization Disbursement	<u>3,541,237</u>	<u>3,714,492</u>	<u>6,081,988</u>	<u>8,676,535</u>	<u>7,630,240</u> *
General Fund	3,497,156	3,680,446	4,689,972	7,922,361	5,687,913
Cash Funds	44,081	34,046	1,392,016	754,174	1,942,327
Salary Survey	<u>0</u>	<u>309,680</u>	<u>5,698,482</u>	<u>11,040,093</u>	<u>13,936,195</u>
General Fund	0	309,680	4,676,224	10,495,519	12,992,590
Cash Funds	0	0	1,022,258	544,574	943,605
Merit Pay	<u>0</u>	<u>0</u>	<u>3,370,314</u>	<u>3,187,170</u>	<u>3,044,148</u>
General Fund	0	0	2,788,409	2,840,394	2,236,936
Cash Funds	0	0	581,905	346,776	807,212
Workers' Compensation	<u>1,672,725</u>	<u>1,712,924</u>	<u>1,337,492</u>	<u>1,241,647</u>	<u>1,241,647</u>
General Fund	1,672,725	1,712,924	1,337,492	1,241,647	1,241,647
Legal Services	<u>122,183</u>	<u>113,754</u>	<u>200,740</u>	<u>200,740</u>	<u>200,740</u>
General Fund	122,183	113,754	200,740	200,740	200,740
Purchase of Services from Computer Center	<u>510,540</u>	<u>753,476</u>	<u>699,378</u>	<u>0</u>	<u>0</u>
General Fund	510,540	753,476	699,378	0	0
Colorado State Network	<u>412,501</u>	<u>575,849</u>	<u>1,666,209</u>	<u>0</u>	<u>0</u>
General Fund	412,501	575,849	1,666,209	0	0



**JBC Staff Staff Figure Setting - FY 2014-15**  
**Staff Working Document - Does Not Represent Committee Decision**

	<b>FY 2011-12 Actual</b>	<b>FY 2012-13 Actual</b>	<b>FY 2013-14 Appropriation</b>	<b>FY 2014-15 Request</b>	<b>FY 2014-15 Recommendation</b>
Payment to Risk Management and Property Funds	<u>232,018</u>	<u>374,144</u>	<u>607,112</u>	<u>676,966</u>	<u>676,966</u>
General Fund	232,018	374,144	607,112	676,966	676,966
Vehicle Lease Payments	<u>56,364</u>	<u>58,674</u>	<u>88,182</u>	<u>122,812</u>	<u>122,812</u>
General Fund	56,364	58,674	88,182	122,812	122,812
Ralph L. Carr Colorado Judicial Center Leased Space	<u>1,241,841</u>	<u>1,312,476</u>	<u>2,063,194</u>	<u>2,384,393</u>	<u>2,384,393</u> *
General Fund	1,110,576	1,251,571	2,063,194	2,384,393	2,384,393
Cash Funds	131,265	60,905	0	0	0
Communication Services Payments	<u>12,161</u>	<u>24,725</u>	<u>18,297</u>	<u>0</u>	<u>0</u>
General Fund	12,161	24,725	18,297	0	0
COFRS Modernization	<u>0</u>	<u>1,056,857</u>	<u>1,056,857</u>	<u>696,991</u>	<u>696,991</u>
General Fund	0	1,056,857	1,056,857	696,991	696,991
Information Technology Security	<u>0</u>	<u>0</u>	<u>24,047</u>	<u>0</u>	<u>0</u>
General Fund	0	0	24,047	0	0
Payments to OIT	<u>0</u>	<u>0</u>	<u>0</u>	<u>2,457,811</u>	<u>2,457,811</u>
General Fund	0	0	0	2,457,811	2,457,811
Lease Purchase	<u>119,878</u>	<u>119,878</u>	<u>119,878</u>	<u>119,878</u>	<u>119,878</u>
General Fund	119,878	119,878	119,878	119,878	119,878
<b>SUBTOTAL - (B) Central Appropriations</b>	29,958,973	36,460,138	55,239,476	66,250,829	65,850,220
<b>FTE</b>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
General Fund	29,447,589	36,065,385	48,540,700	61,268,556	57,522,602
Cash Funds	511,384	394,753	6,698,776	4,982,273	8,327,618

**JBC Staff Staff Figure Setting - FY 2014-15**  
**Staff Working Document - Does Not Represent Committee Decision**

	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	FY 2014-15 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>16,718,575</u>	<u>16,113,865</u>	<u>16,375,000</u>	<u>16,375,000</u>	<u>16,375,000</u>
Cash Funds	16,718,575	16,113,865	16,375,000	16,375,000	16,375,000
Victim Compensation	<u>12,346,894</u>	<u>13,375,492</u>	<u>12,175,000</u>	<u>12,175,000</u>	<u>12,175,000</u>
Cash Funds	12,346,894	13,375,492	12,175,000	12,175,000	12,175,000
Collections Investigators	<u>4,923,061</u>	<u>5,002,446</u>	<u>5,157,739</u>	<u>6,485,122</u>	<u>6,497,511</u> *
FTE	72.4	72.5	83.2	104.2	104.2
Cash Funds	4,174,147	4,260,196	4,260,198	5,587,581	5,599,970
Reappropriated Funds	748,914	742,250	897,541	897,541	897,541
Problem-solving Courts	<u>2,296,638</u>	<u>2,335,869</u>	<u>3,045,535</u>	<u>3,126,614</u>	<u>3,133,985</u>
FTE	29.3	31.5	41.5	41.5	41.5
General Fund	0	0	0	0	0
Cash Funds	1,527,389	2,335,869	3,045,535	3,126,614	3,133,985
Federal Funds	769,249	0	0	0	0
Language Interpreters	<u>3,611,448</u>	<u>3,635,100</u>	<u>3,662,739</u>	<u>3,908,563</u>	<u>3,913,738</u> *
FTE	24.1	24.9	25.0	32.0	32.0
General Fund	3,347,318	3,376,235	3,376,239	3,858,563	3,863,738
Cash Funds	264,130	258,865	286,500	50,000	50,000

**JBC Staff Staff Figure Setting - FY 2014-15**  
**Staff Working Document - Does Not Represent Committee Decision**

	<b>FY 2011-12 Actual</b>	<b>FY 2012-13 Actual</b>	<b>FY 2013-14 Appropriation</b>	<b>FY 2014-15 Request</b>	<b>FY 2014-15 Recommendation</b>
Courthouse Security	<u>3,016,168</u>	<u>2,949,570</u>	<u>3,214,989</u>	<u>3,218,151</u>	<u>3,218,438</u>
FTE	1.0	1.0	1.0	1.0	1.0
Cash Funds	3,016,168	2,949,570	3,214,989	3,218,151	3,218,438
Courthouse Capital/ Infrastructure Maintenance	<u>616,932</u>	<u>1,621,173</u>	<u>4,308,421</u>	<u>2,741,416</u>	<u>2,741,416</u> *
General Fund	143,406	0	172,550	2,642,653	2,642,653
Cash Funds	473,526	1,621,173	4,135,871	98,763	98,763
Reappropriated Funds	0	0	0	0	0
Senior Judge Program	<u>1,348,530</u>	<u>1,255,217</u>	<u>1,400,000</u>	<u>1,400,000</u>	<u>1,300,000</u>
General Fund	1,348,530	0	0	0	0
Cash Funds	0	1,255,217	1,400,000	1,400,000	1,300,000
Judicial Education and Training	<u>0</u>	<u>1,069,536</u>	<u>1,462,036</u>	<u>1,448,334</u>	<u>1,448,906</u> *
FTE	0.0	1.5	2.0	2.0	2.0
Cash Funds	0	1,069,536	1,462,036	1,448,334	1,448,906
Office of Judicial Performance Evaluation	<u>646,674</u>	<u>695,016</u>	<u>920,955</u>	<u>898,248</u>	<u>748,911</u> *
FTE	2.0	2.0	2.0	2.0	2.0
General Fund	0	0	0	350,000	290,000
Cash Funds	646,674	695,016	920,955	548,248	458,911
Family Violence Justice Grants	<u>675,000</u>	<u>599,991</u>	<u>1,170,000</u>	<u>1,170,000</u>	<u>1,170,000</u>
General Fund	458,430	429,991	1,000,000	1,000,000	1,000,000
Cash Funds	216,570	170,000	170,000	170,000	170,000
Restorative Justice Programs	<u>0</u>	<u>0</u>	<u>187,000</u>	<u>481,000</u>	<u>481,000</u> *
FTE	0.0	0.0	0.0	0.0	0.0
Cash Funds	0	0	187,000	481,000	481,000

**JBC Staff Staff Figure Setting - FY 2014-15**  
**Staff Working Document - Does Not Represent Committee Decision**

	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	FY 2014-15 Recommendation
District Attorney Adult Pretrial Diversion Programs	<u>0</u>	<u>0</u>	<u>387,223</u>	<u>390,223</u>	<u>400,000</u>
General Fund	0	0	387,223	390,223	400,000
Family-friendly Court Program	<u>244,139</u>	<u>178,676</u>	<u>375,000</u>	<u>375,864</u>	<u>375,943</u>
FTE	0.5	0.5	0.5	0.5	0.5
Cash Funds	244,139	178,676	375,000	375,864	375,943
Compensation for Exonerated Persons	<u>0</u>	<u>0</u>	<u>107,801</u>	<u>100,000</u>	<u>100,000</u>
General Fund	0	0	107,801	100,000	100,000
Child Support Enforcement	<u>80,282</u>	<u>81,413</u>	<u>90,900</u>	<u>90,900</u>	<u>90,900</u>
FTE	1.0	1.0	1.0	1.0	1.0
General Fund	27,287	27,642	30,904	30,904	30,904
Reappropriated Funds	52,995	53,771	59,996	59,996	59,996
<b>SUBTOTAL - (C) Centrally Administered Programs</b>	46,524,341	48,913,364	54,040,338	54,384,435	54,170,748
<b>FTE</b>	<u>130.3</u>	<u>134.9</u>	<u>156.2</u>	<u>184.2</u>	<u>184.2</u>
General Fund	5,324,971	3,833,868	5,074,717	8,372,343	8,327,295
Cash Funds	39,628,212	44,283,475	48,008,084	45,054,555	44,885,916
Reappropriated Funds	801,909	796,021	957,537	957,537	957,537
Federal Funds	769,249	0	0	0	0

**JBC Staff Figure Setting - FY 2014-15**  
**Staff Working Document - Does Not Represent Committee Decision**

	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	FY 2014-15 Recommendation
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**(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; and an annual appropriation for future 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>0</u>	<u>831,276</u>	<u>1,442,049</u>	<u>1,449,723</u>	<u>1,450,421</u>
FTE	0.0	1.8	2.0	2.0	2.0
Cash Funds	0	831,276	581,582	589,256	412,968
Reappropriated Funds	0	0	860,467	860,467	1,037,453
Federal Funds	0	0	0	0	0
Operating Expenses	<u>0</u>	<u>1,867,262</u>	<u>4,026,234</u>	<u>4,026,234</u>	<u>4,026,234</u>
Cash Funds	0	1,867,262	1,278,829	1,278,829	1,146,362
Reappropriated Funds	0	0	2,747,405	2,747,405	2,879,872
Controlled Maintenance	<u>0</u>	<u>0</u>	<u>2,025,000</u>	<u>2,025,000</u>	<u>2,025,000</u>
Cash Funds	0	0	643,191	643,191	576,564
Reappropriated Funds	0	0	1,381,809	1,381,809	1,448,436
Leased Space	<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 2014-15**  
**Staff Working Document - Does Not Represent Committee Decision**

	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	FY 2014-15 Recommendation
<b>SUBTOTAL - (D) Ralph L. Carr Colorado</b>					
<b>Judicial Center</b>	0	2,698,538	7,493,283	7,500,957	7,501,655
<i>FTE</i>	<u>0.0</u>	<u>1.8</u>	<u>2.0</u>	<u>2.0</u>	<u>2.0</u>
General Fund	0	0	0	0	0
Cash Funds	0	2,698,538	2,503,602	2,511,276	2,135,894
Reappropriated Funds	0	0	4,989,681	4,989,681	5,365,761
Federal Funds	0	0	0	0	0
<b>TOTAL - (2) Courts Administration</b>					
	98,864,727	111,729,179	142,103,636	156,803,825	156,088,459
<i>FTE</i>	<u>305.0</u>	<u>317.9</u>	<u>366.7</u>	<u>418.2</u>	<u>417.2</u>
General Fund	47,377,347	51,641,037	66,296,148	84,577,311	80,869,336
Cash Funds	47,568,784	57,169,511	67,932,731	64,220,846	66,819,327
Reappropriated Funds	3,149,347	2,918,631	7,874,757	8,005,668	8,399,796
Federal Funds	769,249	0	0	0	0

**JBC Staff Staff Figure Setting - FY 2014-15**  
**Staff Working Document - Does Not Represent Committee Decision**

	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	FY 2014-15 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>117,944,999</u>	<u>122,511,665</u>	<u>126,161,273</u>	<u>132,030,865</u>	<u>132,395,755</u> *
FTE	1,663.1	1,696.0	1,820.5	1,839.7	1,839.7
General Fund	89,919,517	92,758,392	93,149,958	102,263,317	103,199,441
Cash Funds	26,988,570	28,750,217	31,911,315	28,667,548	28,096,314
Reappropriated Funds	1,036,912	1,003,056	1,100,000	1,100,000	1,100,000
 Court Costs, Jury Costs, and Court-appointed					
Counsel	<u>15,181,493</u>	<u>15,521,673</u>	<u>15,940,692</u>	<u>15,940,692</u>	<u>17,769,702</u> *
General Fund	14,696,493	15,036,673	15,455,692	15,455,692	17,284,702
Cash Funds	485,000	485,000	485,000	485,000	485,000
 District Attorney Mandated Costs					
	<u>2,186,883</u>	<u>2,304,497</u>	<u>2,651,916</u>	<u>2,804,352</u>	<u>2,667,368</u> *
General Fund	2,061,883	2,179,497	2,491,916	2,644,352	2,497,368
Cash Funds	125,000	125,000	160,000	160,000	170,000
 Federal Funds and Other Grants					
	<u>1,628,307</u>	<u>1,414,599</u>	<u>2,900,000</u>	<u>2,900,000</u>	<u>2,900,000</u>
FTE	14.0	10.8	14.0	14.0	14.0
Cash Funds	230,321	119,762	975,000	975,000	975,000
Reappropriated Funds	110,819	95,775	300,000	300,000	300,000
Federal Funds	1,287,167	1,199,062	1,625,000	1,625,000	1,625,000

**JBC Staff Staff Figure Setting - FY 2014-15**  
**Staff Working Document - Does Not Represent Committee Decision**

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	<b>FY 2011-12 Actual</b>	<b>FY 2012-13 Actual</b>	<b>FY 2013-14 Appropriation</b>	<b>FY 2014-15 Request</b>	<b>FY 2014-15 Recommendation</b>
<b>TOTAL - (3) Trial Courts</b>	136,941,682	141,752,434	147,653,881	153,675,909	155,732,825
<i>FTE</i>	<u>1,677.1</u>	<u>1,706.8</u>	<u>1,834.5</u>	<u>1,853.7</u>	<u>1,853.7</u>
General Fund	106,677,893	109,974,562	111,097,566	120,363,361	122,981,511
Cash Funds	27,828,891	29,479,979	33,531,315	30,287,548	29,726,314
Reappropriated Funds	1,147,731	1,098,831	1,400,000	1,400,000	1,400,000
Federal Funds	1,287,167	1,199,062	1,625,000	1,625,000	1,625,000



**JBC Staff Staff Figure Setting - FY 2014-15**  
**Staff Working Document - Does Not Represent Committee Decision**

	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	FY 2014-15 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>72,859,600</u>	<u>74,924,839</u>	<u>76,135,472</u>	<u>79,135,251</u>	<u>79,389,528</u> *
FTE	1,082.2	1,108.8	1,152.7	1,156.0	1,156.0
General Fund	62,580,677	64,373,160	65,583,793	68,689,706	68,187,689
Cash Funds	10,278,923	10,551,679	10,551,679	10,445,545	11,201,839
Offender Treatment and Services	<u>13,372,184</u>	<u>21,316,138</u>	<u>26,812,355</u>	<u>30,312,355</u>	<u>30,280,555</u> *
General Fund	0	212,286	667,197	667,197	667,197
Cash Funds	6,637,774	10,814,379	13,665,312	14,367,426	13,633,512
Reappropriated Funds	6,734,410	10,289,473	12,479,846	15,277,732	15,979,846
Services and Activities Authorized by Section 18-19-103 (5) (c) and (d), C.R.S.	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Cash Funds	0	0	0	0	0
Reappropriated Funds	0	0	0	0	0
Day Reporting Services	<u>289,291</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	289,291	0	0	0	0
Appropriation to the Correctional Treatment Cash Fund	<u>0</u>	<u>9,856,200</u>	<u>11,700,000</u>	<u>14,497,886</u>	<u>15,200,000</u> *
General Fund	0	9,856,200	11,700,000	14,497,886	15,200,000

**JBC Staff Staff Figure Setting - FY 2014-15**  
**Staff Working Document - Does Not Represent Committee Decision**

	<b>FY 2011-12 Actual</b>	<b>FY 2012-13 Actual</b>	<b>FY 2013-14 Appropriation</b>	<b>FY 2014-15 Request</b>	<b>FY 2014-15 Recommendation</b>
H.B. 10-1352 Appropriation to Drug Offender					
Surcharge Fund	<u>6,656,118</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	6,656,118	0	0	0	0
S.B. 03-318 Community Treatment Funding	<u>2,200,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	2,200,000	0	0	0	0
S.B. 91-94 Juvenile Services	<u>1,502,621</u>	<u>1,917,335</u>	<u>2,496,837</u>	<u>2,496,837</u>	<u>2,496,837</u>
FTE	13.0	25.0	25.0	25.0	25.0
Reappropriated Funds	1,502,621	1,917,335	2,496,837	2,496,837	2,496,837
Reimbursements to Law Enforcement Agencies for the Costs of Returning a Probationer	<u>0</u>	<u>0</u>	<u>187,500</u>	<u>187,500</u>	<u>187,500</u>
Cash Funds	0	0	187,500	187,500	187,500
Victims Grants	<u>407,381</u>	<u>392,934</u>	<u>650,000</u>	<u>650,000</u>	<u>650,000</u>
FTE	6.0	6.0	6.0	6.0	6.0
Reappropriated Funds	407,381	392,934	650,000	650,000	650,000
Federal Funds and Other Grants	<u>5,551,863</u>	<u>4,952,148</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	1,098,754	948,027	1,950,000	1,950,000	1,950,000
Reappropriated Funds	3,167,111	160,276	850,000	850,000	850,000
Federal Funds	1,285,998	3,843,845	2,800,000	2,800,000	2,800,000
Indirect Cost Assessment	<u>0</u>	<u>0</u>	<u>1,031,039</u>	<u>1,093,435</u>	<u>1,103,840</u>
Cash Funds	0	0	1,031,039	1,093,435	1,103,840

**JBC Staff Staff Figure Setting - FY 2014-15**  
**Staff Working Document - Does Not Represent Committee Decision**

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	<b>FY 2011-12 Actual</b>	<b>FY 2012-13 Actual</b>	<b>FY 2013-14 Appropriation</b>	<b>FY 2014-15 Request</b>	<b>FY 2014-15 Recommendation</b>
<b>TOTAL - (4) Probation and Related Services</b>	102,839,058	113,359,594	124,613,203	133,973,264	134,908,260
<i>FTE</i>	<u>1,134.2</u>	<u>1,172.8</u>	<u>1,216.7</u>	<u>1,220.0</u>	<u>1,220.0</u>
General Fund	71,726,086	74,441,646	77,950,990	83,854,789	84,054,886
Cash Funds	18,015,451	22,314,085	27,385,530	28,043,906	28,076,691
Reappropriated Funds	11,811,523	12,760,018	16,476,683	19,274,569	19,976,683
Federal Funds	1,285,998	3,843,845	2,800,000	2,800,000	2,800,000

**JBC Staff Staff Figure Setting - FY 2014-15**  
**Staff Working Document - Does Not Represent Committee Decision**

	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	FY 2014-15 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>41,604,756</u>	<u>43,511,185</u>	<u>45,952,234</u>	<u>56,265,942</u>	<u>56,837,922</u> *
FTE	612.7	624.4	691.0	757.7	757.7
General Fund	41,604,756	43,511,185	45,952,234	56,265,942	56,837,922
Health, Life, and Dental	<u>4,555,942</u>	<u>4,323,337</u>	<u>4,978,927</u>	<u>5,424,553</u>	<u>5,433,553</u> *
General Fund	4,555,942	4,323,337	4,978,927	5,424,553	5,433,553
Short-term Disability	<u>68,330</u>	<u>68,710</u>	<u>89,283</u>	<u>114,151</u>	<u>106,725</u> *
General Fund	68,330	68,710	89,283	114,151	106,725
S.B. 04-257 Amortization Equalization					
Disbursement	<u>1,067,990</u>	<u>1,239,073</u>	<u>1,679,974</u>	<u>2,075,326</u>	<u>1,940,453</u> *
General Fund	1,067,990	1,239,073	1,679,974	2,075,326	1,940,453
S.B. 06-235 Supplemental Amortization					
Equalization Disbursement	<u>852,431</u>	<u>1,059,806</u>	<u>1,513,219</u>	<u>1,945,581</u>	<u>1,819,175</u> *
General Fund	852,431	1,059,806	1,513,219	1,945,581	1,819,175
Salary Survey	<u>0</u>	<u>0</u>	<u>5,640,158</u>	<u>1,345,073</u>	<u>1,562,013</u>
General Fund	0	0	5,640,158	1,345,073	1,562,013
Merit Pay	<u>0</u>	<u>0</u>	<u>651,614</u>	<u>909,216</u>	<u>792,300</u>
General Fund	0	0	651,614	909,216	792,300

**JBC Staff Staff Figure Setting - FY 2014-15**  
**Staff Working Document - Does Not Represent Committee Decision**

	<b>FY 2011-12 Actual</b>	<b>FY 2012-13 Actual</b>	<b>FY 2013-14 Appropriation</b>	<b>FY 2014-15 Request</b>	<b>FY 2014-15 Recommendation</b>
Vehicle Lease Payments	<u>55,789</u>	<u>82,649</u>	<u>105,286</u>	<u>178,178</u>	<u>178,178</u>
General Fund	55,789	82,649	105,286	178,178	178,178
Capital Outlay	<u>141,090</u>	<u>51,733</u>	<u>419,037</u>	<u>75,248</u>	<u>75,248</u> *
General Fund	141,090	51,733	419,037	75,248	75,248
Operating Expenses	<u>1,422,866</u>	<u>1,463,618</u>	<u>1,589,354</u>	<u>1,697,072</u>	<u>1,697,072</u> *
General Fund	1,404,206	1,445,228	1,559,354	1,667,072	1,667,072
Cash Funds	18,660	18,390	30,000	30,000	30,000
Leased Space/Utilities	<u>5,431,080</u>	<u>6,122,344</u>	<u>6,120,407</u>	<u>6,509,426</u>	<u>6,509,426</u>
General Fund	5,431,080	6,122,344	6,120,407	6,509,426	6,509,426
Automation Plan	<u>1,336,920</u>	<u>841,282</u>	<u>1,416,920</u>	<u>1,416,920</u>	<u>1,416,920</u>
General Fund	1,336,920	841,282	1,416,920	1,416,920	1,416,920
Attorney Registration	<u>0</u>	<u>84,605</u>	<u>127,755</u>	<u>138,755</u>	<u>138,755</u> *
General Fund	0	84,605	127,755	138,755	138,755
Contract Services	<u>18,000</u>	<u>49,395</u>	<u>49,395</u>	<u>49,395</u>	<u>49,395</u>
General Fund	18,000	49,395	49,395	49,395	49,395
Mandated Costs	<u>3,758,632</u>	<u>4,126,488</u>	<u>4,327,888</u>	<u>4,327,888</u>	<u>4,327,888</u>
General Fund	3,758,632	4,126,488	4,327,888	4,327,888	4,327,888
Grants	<u>230,011</u>	<u>146,524</u>	<u>120,000</u>	<u>120,000</u>	<u>120,000</u>
FTE	3.5	3.5	2.0	2.0	2.0
Cash Funds	230,011	146,524	120,000	120,000	120,000

***JBC Staff Staff Figure Setting - FY 2014-15***  
***Staff Working Document - Does Not Represent Committee Decision***

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	<b>FY 2011-12 Actual</b>	<b>FY 2012-13 Actual</b>	<b>FY 2013-14 Appropriation</b>	<b>FY 2014-15 Request</b>	<b>FY 2014-15 Recommendation</b>
<b>TOTAL - (5) Office of the State Public Defender</b>	60,543,837	63,170,749	74,781,451	82,592,724	83,005,023
<i>FTE</i>	<u>616.2</u>	<u>627.9</u>	<u>693.0</u>	<u>759.7</u>	<u>759.7</u>
General Fund	60,295,166	63,005,835	74,631,451	82,442,724	82,855,023
Cash Funds	248,671	164,914	150,000	150,000	150,000

**JBC Staff Staff Figure Setting - FY 2014-15**  
**Staff Working Document - Does Not Represent Committee Decision**

	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	FY 2014-15 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>694,474</u>	<u>750,382</u>	<u>899,230</u>	<u>821,379</u>	<u>839,579</u>
FTE	7.5	7.5	8.4	8.5	8.5
General Fund	694,474	750,382	899,230	821,379	839,579
Health, Life, and Dental	<u>80,225</u>	<u>92,555</u>	<u>99,113</u>	<u>112,699</u>	<u>112,745</u>
General Fund	80,225	92,555	99,113	112,699	112,745
Short-term Disability	<u>1,103</u>	<u>1,103</u>	<u>1,230</u>	<u>1,427</u>	<u>1,711</u>
General Fund	1,103	1,103	1,230	1,427	1,711
S.B. 04-257 Amortization Equalization					
Disbursement	<u>16,364</u>	<u>20,051</u>	<u>23,089</u>	<u>29,230</u>	<u>31,104</u>
General Fund	16,364	20,051	23,089	29,230	31,104
S.B. 06-235 Supplemental Amortization					
Equalization Disbursement	<u>13,062</u>	<u>17,154</u>	<u>20,771</u>	<u>27,329</u>	<u>29,160</u>
General Fund	13,062	17,154	20,771	27,329	29,160
Salary Survey	<u>0</u>	<u>0</u>	<u>12,817</u>	<u>10,518</u>	<u>32,806</u>
General Fund	0	0	12,817	10,518	32,806
Merit Pay	<u>0</u>	<u>0</u>	<u>10,408</u>	<u>11,369</u>	<u>12,583</u>
General Fund	0	0	10,408	11,369	12,583

**JBC Staff Staff Figure Setting - FY 2014-15**  
**Staff Working Document - Does Not Represent Committee Decision**

	<b>FY 2011-12 Actual</b>	<b>FY 2012-13 Actual</b>	<b>FY 2013-14 Appropriation</b>	<b>FY 2014-15 Request</b>	<b>FY 2014-15 Recommendation</b>
Operating Expenses	<u>71,316</u>	<u>66,201</u>	<u>92,940</u>	<u>69,210</u>	<u>67,030</u>
General Fund	71,316	66,201	92,940	69,210	67,030
Leased Space	<u>32,345</u>	<u>25,186</u>	<u>0</u>	<u>0</u>	<u>0</u>
General Fund	32,345	25,186	0	0	0
Training and Conferences	<u>40,367</u>	<u>40,549</u>	<u>40,000</u>	<u>60,000</u>	<u>60,000</u> *
General Fund	20,367	20,549	20,000	20,000	20,000
Cash Funds	20,000	20,000	20,000	40,000	40,000
Conflict of Interest Contracts	<u>19,767,979</u>	<u>19,882,661</u>	<u>23,055,774</u>	<u>26,615,760</u>	<u>26,615,760</u> *
General Fund	19,767,979	19,882,661	23,055,774	26,615,760	26,615,760
Mandated Costs	<u>1,469,944</u>	<u>1,764,604</u>	<u>1,800,417</u>	<u>1,800,417</u>	<u>1,800,417</u> *
General Fund	1,469,944	1,764,604	1,800,417	1,800,417	1,800,417
<b>TOTAL - (6) Office of the Alternate Defense</b>					
<b>Counsel</b>	22,187,179	22,660,446	26,055,789	29,559,338	29,602,895
<i>FTE</i>	7.5	7.5	8.4	8.5	8.5
General Fund	22,167,179	22,640,446	26,035,789	29,519,338	29,562,895
Cash Funds	20,000	20,000	20,000	40,000	40,000



**JBC Staff Staff Figure Setting - FY 2014-15**  
**Staff Working Document - Does Not Represent Committee Decision**

	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	FY 2014-15 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>1,910,877</u>	<u>1,903,131</u>	<u>1,902,541</u>	<u>2,173,263</u>	<u>1,971,589</u> *
FTE	26.1	26.1	26.9	27.4	27.4
General Fund	1,910,877	1,903,131	1,902,541	2,173,263	1,971,589
Health, Life, and Dental	<u>140,661</u>	<u>174,855</u>	<u>248,490</u>	<u>268,696</u>	<u>249,721</u>
General Fund	140,661	174,855	248,490	268,696	249,721
Short-term Disability	<u>2,804</u>	<u>2,747</u>	<u>3,347</u>	<u>3,761</u>	<u>4,760</u> *
General Fund	2,804	2,747	3,347	3,761	4,760
S.B. 04-257 Amortization Equalization					
Disbursement	<u>45,221</u>	<u>50,484</u>	<u>62,833</u>	<u>77,184</u>	<u>86,542</u> *
General Fund	45,221	50,484	62,833	77,184	86,542
S.B. 06-235 Supplemental Amortization					
Equalization Disbursement	<u>36,095</u>	<u>43,165</u>	<u>56,523</u>	<u>72,129</u>	<u>81,133</u> *
General Fund	36,095	43,165	56,523	72,129	81,133
Salary Survey	<u>0</u>	<u>0</u>	<u>34,879</u>	<u>31,574</u>	<u>277,030</u> *
General Fund	0	0	34,879	31,574	277,030
Merit Pay	<u>0</u>	<u>0</u>	<u>28,323</u>	<u>31,574</u>	<u>32,353</u> *
General Fund	0	0	28,323	31,574	32,353

**JBC Staff Staff Figure Setting - FY 2014-15**  
**Staff Working Document - Does Not Represent Committee Decision**

	<b>FY 2011-12 Actual</b>	<b>FY 2012-13 Actual</b>	<b>FY 2013-14 Appropriation</b>	<b>FY 2014-15 Request</b>	<b>FY 2014-15 Recommendation</b>
Operating Expenses	<u>180,235</u>	<u>190,722</u>	<u>188,889</u>	<u>191,929</u>	<u>191,929</u> *
General Fund	180,235	190,722	188,889	191,929	191,929
Leased Space	<u>150,380</u>	<u>146,970</u>	<u>102,120</u>	<u>103,618</u>	<u>103,618</u>
General Fund	150,380	146,970	102,120	103,618	103,618
CASA Contracts	<u>475,000</u>	<u>520,000</u>	<u>1,020,000</u>	<u>1,020,000</u>	<u>1,020,000</u>
General Fund	475,000	520,000	1,020,000	1,020,000	1,020,000
Training	<u>47,760</u>	<u>41,026</u>	<u>38,000</u>	<u>38,000</u>	<u>38,000</u>
General Fund	47,760	41,026	38,000	38,000	38,000
Court Appointed Counsel	<u>14,783,068</u>	<u>16,015,965</u>	<u>16,898,141</u>	<u>18,912,675</u>	<u>18,912,675</u> *
General Fund	14,783,068	16,015,965	16,898,141	18,912,675	18,912,675
Mandated Costs	<u>40,405</u>	<u>43,607</u>	<u>37,000</u>	<u>37,000</u>	<u>37,000</u>
General Fund	40,405	43,607	37,000	37,000	37,000
<b>TOTAL - (7) Office of the Child's Representative</b>	17,812,506	19,132,672	20,621,086	22,961,403	23,006,350
<i>FTE</i>	<u>26.1</u>	<u>26.1</u>	<u>26.9</u>	<u>27.4</u>	<u>27.4</u>
General Fund	17,812,506	19,132,672	20,621,086	22,961,403	23,006,350

**JBC Staff Staff Figure Setting - FY 2014-15**  
**Staff Working Document - Does Not Represent Committee Decision**

	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	FY 2014-15 Recommendation
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**(8) 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.

Personal Services	<u>114,414</u>	<u>120,099</u>	<u>189,180</u>	<u>192,739</u>	<u>193,063</u>
FTE	1.0	1.0	2.0	2.0	2.0
General Fund	114,414	120,099	189,180	192,739	193,063
Health, Life, and Dental	<u>6,090</u>	<u>5,216</u>	<u>12,249</u>	<u>10,047</u>	<u>15,393</u>
General Fund	6,090	5,216	12,249	10,047	15,393
Short-term Disability	<u>167</u>	<u>166</u>	<u>328</u>	<u>320</u>	<u>376</u>
General Fund	167	166	328	320	376
S.B. 04-257 Amortization Equalization					
Disbursement	<u>3,070</u>	<u>3,094</u>	<u>6,160</u>	<u>6,695</u>	<u>6,844</u>
General Fund	3,070	3,094	6,160	6,695	6,844
S.B. 06-235 Supplemental Amortization					
Equalization Disbursement	<u>2,431</u>	<u>2,648</u>	<u>5,542</u>	<u>6,257</u>	<u>6,417</u>
General Fund	2,431	2,648	5,542	6,257	6,417
Salary Survey	<u>0</u>	<u>0</u>	<u>1,964</u>	<u>2,455</u>	<u>5,480</u>
General Fund	0	0	1,964	2,455	5,480
Merit Pay	<u>0</u>	<u>0</u>	<u>1,595</u>	<u>2,492</u>	<u>2,795</u>
General Fund	0	0	1,595	2,492	2,795

**JBC Staff Staff Figure Setting - FY 2014-15**  
**Staff Working Document - Does Not Represent Committee Decision**

	<b>FY 2011-12 Actual</b>	<b>FY 2012-13 Actual</b>	<b>FY 2013-14 Appropriation</b>	<b>FY 2014-15 Request</b>	<b>FY 2014-15 Recommendation</b>
Operating Expenses	<u>9,932</u>	<u>15,033</u>	<u>16,757</u>	<u>16,757</u>	<u>16,757</u>
General Fund	9,932	15,033	16,757	16,757	16,757
Legal Services	<u>54,315</u>	<u>75,945</u>	<u>81,972</u>	<u>98,366</u>	<u>98,366</u> *
General Fund	54,315	75,945	81,972	98,366	98,366
<b>TOTAL - (8) Independent Ethics Commission</b>	190,419	222,201	315,747	336,128	345,491
<i>FTE</i>	<u>1.0</u>	<u>1.0</u>	<u>2.0</u>	<u>2.0</u>	<u>2.0</u>
General Fund	190,419	222,201	315,747	336,128	345,491
<b>TOTAL - Judicial Department</b>	460,795,084	494,975,385	556,899,136	601,567,691	606,560,711
<i>FTE</i>	<u>3,974.0</u>	<u>4,070.3</u>	<u>4,358.7</u>	<u>4,501.0</u>	<u>4,500.0</u>
General Fund	336,177,094	351,297,190	387,197,626	436,511,642	436,196,778
Cash Funds	105,120,011	121,694,845	139,461,949	131,887,691	136,099,333
Reappropriated Funds	16,155,565	16,940,443	25,814,561	28,743,358	29,839,600
Federal Funds	3,342,414	5,042,907	4,425,000	4,425,000	4,425,000

NOTE: An asterisk (\*) indicates that the amount requested for FY 2014-15 is affected by one or more decision items or budget amendments.

## **Appendix B: Indirect Cost Assessment Methodology**

### **Description of 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
- Purchase of Services from Computer Center
- Multiuse Network Payments
- Payment to Risk Management and Property Funds
- Leased Space - State Court Administrator's Office
- Communication Services
- COFRS Modernization
- Lease Purchase

#### *Trial Courts*

- \*Trial Court Programs

#### *Probation and Related Services*

- \*Probation Programs

Three of the line item appropriations that are included in the Department's Indirect Cost Pool (noted with an asterisk above) support personal services and operating expenses in the State Court Administrator's Office and judicial districts. The Department only includes that portion of each 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 2013-14 is based on FY 2012-13 Long Bill appropriations). **Table 1** outlines which line items are included in the Department's Indirect Cost Pool for FY 2013-14.

**JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision**

Table 1				
Division	Judicial Department: Indirect Cost Pool Line Item	FY 2013-14 General Fund Appropriation	Percent of Costs Included in Indirect Cost Pool	FY 2014-15 Indirect Cost Pool Components
Courts Administration	General Courts Administration - Personal Services and Operating Expenses	\$12,274,637	67.3%	\$8,262,107
	Health, Life, and Dental - Administration	1,399,303	67.3%	941,876
	Short-term Disability - Administration	21,020	67.3%	14,149
	S.B. 04-257 AED - Administration	427,526	67.3%	287,769
	S.B. 06-235 SAED - Administration	385,961	67.3%	259,792
	Salary Survey - Administration	357,468	67.3%	240,613
	Information Technology Infrastructure	403,094	100.0%	403,094
	Workers' Compensation	1,337,492	100.0%	1,337,492
	Legal Services	200,740	100.0%	200,740
	Purchase of Services from Computer Center	699,378	100.0%	699,378
	Multiuse Network Payments	1,666,209	100.0%	1,666,209
	Payment to Risk Management and Property Funds	607,112	100.0%	607,112
	Leased Space - State Court Administrator's Office	2,063,194	100.0%	2,063,194
	Communication Services	18,297	100.0%	18,297
	COFRS Modernization	1,056,857	100.0%	1,056,857
	Lease Purchase	119,878	100.0%	119,878
Trial Courts	Trial Court Programs - Personal Services and Operating	93,149,958	4.9%	4,575,977
	Health, Life, and Dental - Trial Courts	11,930,636	4.9%	586,091
	Short-term Disability - Trial Courts	89,339	4.9%	4,389
	S.B. 04-257 AED - Trial Courts	2,475,937	4.9%	121,630
	S.B. 06-235 SAED - Trial Courts	2,089,636	4.9%	102,653
	Salary Survey - Trial Courts	3,327,896	4.9%	163,482
Probation and Related Services	Probation Programs - Personal Services and Operating Expenses	65,583,793	6.9%	4,505,822
	Health, Life, and Dental - Probation	8,272,007	6.9%	568,314
	Short-term Disability - Probation	97,085	6.9%	6,670
	S.B. 04-257 AED - Probation	1,974,619	6.9%	135,663
	S.B. 06-235 SAED - Probation	1,782,643	6.9%	122,473
	Salary Survey - Probation	1,478,487	6.9%	101,577
<b>Departmental Indirect Cost Pool</b>				<b>\$29,173,298</b>

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 (e.g., communication services only benefit probation programs). 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 2.27 percent of total Department appropriations, and the “trial court” portion of the Indirect Cost Pool represents 2.43 percent of total Department appropriations. Thus, the Department applies an Indirect Cost Rate of 4.70 percent (2.27% + 2.43% = 4.70%) to each fund source that supports a trial court-related program.

**JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent Committee Decision**

Table 2										
Judicial Department: Calculation of Basis for Allocating Indirect Costs										
Division	Line Items Included in Indirect Cost Pool	Total (from Table 1)	Allocation of Cost Pool Components by Program Area							
			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	\$10,006,306	16.0%	\$1,601,009	49.0%	\$4,903,090	33.0%	\$3,302,081	2.0%	\$200,126
	Information Technology Infrastructure	403,094	100.0%	403,094	0.0%	0	0.0%	0	0.0%	0
	Workers' Compensation	1,337,492	100.0%	1,337,492	0.0%	0	0.0%	0	0.0%	0
	Legal Services	200,740	100.0%	200,740	0.0%	0	0.0%	0	0.0%	0
	Purchase of Services from Computer Center	699,378	100.0%	699,378	0.0%	0	0.0%	0	0.0%	0
	Multiuse Network Payments	1,666,209	100.0%	1,666,209	0.0%	0	0.0%	0	0.0%	0
	Payment to Risk Management and Property Funds	607,112	100.0%	607,112	0.0%	0	0.0%	0	0.0%	0
	Leased Space - State Court Administrator's Office	2,063,194	100.0%	2,063,194	0.0%	0	0.0%	0	0.0%	0
	Communication Services	18,297	0.0%	0	0.0%	0	100.0%	18,297	0.0%	0
	COFRS Modernization	1,056,857	100.0%	1,056,857	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	5,554,222	0.0%	0	100.0%	5,554,222	0.0%	0	0.0%	0
Probation and Related Services	Probation Programs - Personal Services and Operating Expenses, and Associated Benefits	5,440,519	0.0%	0	0.0%	0	100.0%	5,440,519	0.0%	0
<b>Total</b>		<b>\$29,173,298</b>		<b>\$9,754,963</b>		<b>\$10,457,312</b>		<b>\$8,760,897</b>		<b>\$200,126</b>
Total Budget for State Court Administrator's Office, Courts, and Probation - All Fund Sources Except Federal Funds		430,410,262								
Allocated Indirect Cost Pool / Total Budget			2.27%		2.43%		2.04%		0.08%	

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.

- *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 four 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 among divisions and specific funding sources. The Department then allocates the Statewide Indirect Cost Assessment proportionally, based on Departmental Indirect Cost Assessments.



*JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision*

<b>Table 3</b>					
<b>Judicial Department: Allocation of Indirect Costs Among Divisions and Fund Sources</b>					
Division	Fund Source	Applied to Appropriated Amount	Dept. Indirect Cost Assessment	Statewide Indirect Cost Assessment	Total Indirect Cost Assessment
Supreme Court/ Court of Appeals	Annual attorney registration fees for Attorney Regulation	2.34%	\$163,924	\$13,077	\$177,001
	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		163,924	13,077	177,001
Courts Administration	Judicial Department Information Technology Cash Fund	2.27%	219,451	17,507	236,958
	Victims and Witnesses Assistance and Law Enforcement Fund		0	0	0
	Crime Victim Compensation Fund		0	0	0
	Court Security Cash Fund	4.70%	150,977	12,044	163,021
	Judicial Collection Enhancement Fund	2.27%	76,157	6,076	82,233
	Fines Collection Cash Fund	2.27%	20,398	1,627	22,025
	Judicial Stabilization Cash Fund		0	0	0
	Justice Center Cash Fund	2.27%	56,742	4,527	61,269
	State Commission on Judicial Performance Cash Fund	4.70%	43,248	3,450	46,698
	Family-friendly Court Program Cash Fund	4.70%	17,610	1,405	19,015
	Family Violence Justice Fund	4.70%	7,983	637	8,620
	Restorative Justice Surcharge Fund	4.70%	278	22	300
	Various Federal Grants			6,759	6,759
	Transfer from DHS from the Child Support Enforcement line item		0	0	0
	Subtotal		592,844	54,054	646,898
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	Offender Services Fund	4.30%	602,813	48,090	650,903
	Correctional Treatment Cash Fund	4.30%	202,586	16,162	218,748
	Alcohol and Drug Driving Safety Program Fund	4.30%	206,294	16,457	222,751
	Offender Identification Fund	4.30%	2,526	202	2,728
	Interstate Compact Probation Transfer Cash Fund	4.30%	8,066	643	8,709
	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		1,022,285	81,555	1,103,840
<b>Total</b>			<b>\$1,779,053</b>	<b>\$148,686</b>	<b>\$1,927,739</b>

**FY 2014-15 Indirect Cost Assessment Recommendation**

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

*JBC Staff Figure Setting: FY 2014-15 Staff Working Document – Does Not Represent  
Committee Decision*

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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 **Table 4**, staff recommends an appropriation of \$2,069,739 for indirect cost assessments and indirect cost recoveries from federal grants. The FY 2014-15 appropriation represents an increase of \$153,480 compared to FY 2013-14 mainly due to an increase in the indirect cost pool and an increase in the allocation of the pool for general overhead.

<b>Table 4</b>				
<b>Judicial Department: Indirect Cost Assessment</b>				
Division	Total	Indirect Cost Assessments		Estimated Indirect Cost Recoveries from Federal
		Cash Funds	Other Funds	
Supreme Court/Court of Appeals	\$177,001	\$177,001	\$0	
Courts Administration	646,898	640,139	6,759	0
Trial Courts	0	0	0	0
Probation and Related Services	1,103,840	1,103,840	0	0
Amounts Reflected Within Grants Line Items	<u>142,000</u>	<u>0</u>	<u>0</u>	<u>142,000</u>
<b>Total Indirect Cost Assessment for FY 2014-15</b>	<b>2,069,739</b>	<b>1,920,980</b>	<b>6,759</b>	<b>142,000</b>
FY 2013-14 Indirect Cost Assessment	<u>1,916,259</u>	<u>1,762,979</u>	<u>11,280</u>	<u>142,000</u>
<b>Difference (FY 14-15 less FY 13-14)</b>	<b>153,480</b>	<b>158,001</b>	<b>(4,521)</b>	<b>0</b>

## Colorado Problem Solving Treatment Courts

October 9, 2013

Adult Drug Court				
Cap	District	Location	County	Start Date
80	1	Golden	Jefferson	Jun-09
850	2	Denver	Denver	Jul-94
12	3	Walsenburg	Huefano	Oct-13
12	3	Trinidad	Las Animas	Sep-13
125	4	Co Springs	El Paso	Jan-00
36	4	Co Springs	El Paso	Jul-10
15	5	Eagle	Eagle	Oct-09
15	5	Breckenridge	Summit	Oct-10
40 (27)	6	Durango	La Plata	Jan-01
35	7	Delta	Delta	Jan-01
20	7	Gunnison	Gunnison	Aug-00
35	7	Montrose	Montrose	Jan-99
75	8	Ft. Collins	Larimer	Apr-01
35	9	Glenwood	Garfield	Jan-02
	10	Pueblo	Pueblo	Planning
30	11	Salida	Chaffee	Oct-97
10	11	Fairplay	Park	Oct-97
70	11	Canon	Fremont	Oct-97
	13	Sterling	Logan	Oct-13
20	13	Ft. Morgan	Morgan	Feb-12
12	14	Craig	Moffat	Jan-08
12	14	Steamboat	Rout	Feb-10
12	16	La Junta	Otero	Feb-09
30	17	Brighton	Adams	Oct-11
25	18	Arapahoe	Arapahoe	Oct-11
40	19	Greeley	Weld	Sep-08
75	20	Boulder	Boulder	Nov-06
20	22	Cortez	Montezuma	Jan-01
	Total	28	27	

DUI Court				
Cap	District	Location	County	Start Date
300 (167)	2	Denver*	Denver	Jun-11
	3	Trinidad	Las Animas	Feb-14
5	4	Cripple Creek	Teller	Dec-10
35	4	Co Springs	El Paso	Jun-08
25	5	Eagle	Eagle	Oct-09
15	5	Leadville	Lake	Jun-10
20	6	Pagosa	Archeluta	Feb-07
30	8	Ft Collins	Larimer	Jul -10
20	11	Canon City	Fremont	Dec-2011
30	11	Salida	Chafee	Jan-2012
	11	Fairplay	Park	Aug-2013
20	19	Greeley	Weld	Jan-10
60	20	ngmont/Bould	Boulder	Jan-09
20	22	Cortez	Montezuma	May-07
280	Total	14	14	

\* City and County of Denver

Family/D&N Drug Court				
Cap	District	Location	County	Start Date
40	1	Golden	Jefferson	Oct-08
20	2	Denver	Denver	Apr-03
12	3	Trinidad	Las Animas	Aug-11
12	3	Walsenburg	Huefano	Suspended
53	4	Co. Spring	El Paso	Jul-02
10	7	Delta	Delta	Mar-08
0	7	Montrose	Montrose	Nov-09
0	7	Gunnison	Gunnison	Jun-08
20	8	Ft. Collins	Larimer	Jul-08
15	11	Canon	Fremont	Feb-08
12	12	Alamosa	Alamosa	Aug-06
12	17	Brighton	Adams	Nov-04
15	19	Greeley	Weld	Jan-07
20	20	Boulder	Boulder	Dec-06
5	22	Cortez	Montezuma	Jan-11
246	Total	15	15	

Juvenile Drug Court				
Cap	District	Location	County	Start Date
	2	Denver	Denver	Jan-04
	6	Pagosa	Archuleta	Planning
	6	Durango	La Plata	Jan-01
10	7	Gunnison	Gunnison	Aug-00
10	7	Montrose	Montrose	Jan-12
35	8	Ft Collins	Larimer	Apr-98
12	9	Glenwood	Garfield	Aug-10
5	11	Salida	Chaffee	Suspended
5	11	Fairplay	Park	Suspended
10	11	Cannon	Fremont	Oct-97
20	20	Boulder	Boulder	Jan-09
5	22	Cortez	Montezuma	Oct - 08
	Total	12	12	

Juvenile Mental Health Court				
Cap	District	Location	County	Start Date
	1	Golden	Jefferson	Aug-06
	17	Brighton	Adams	Oct-10
	Total	2	2	

Adult Mental Health Court				
Cap	District	Location	County	Start Date
	1	Golden	Jefferson	Planning
100	2	Denver D.	Denver	Oct-06
5	4	Co. Springs	El Paso	Jul-12
10	6	Durango	La Plata	Apr-11
	7	Delta/Montrose		Planning
	8	Ft. Collins	Larimer	Planning
	9	Aspen	Pitkin	Planning
20	10	Pueblo	Pueblo	Dec-12
10	11	Fremont/Park		Jul-11
	17	Brighton	Adams	Planning
45	18	Centennial	Arapahoe	Fall 2009
	19	Greeley	Weld	Planning
	Total	12	12	

Veterans / Trauma Court				
Cap	District	Location	County	Start Date
	1	Golden	Jefferson	Planning
30	2	Denver	Denver	Fall 2011
150	4	Co. Spring	El Paso	Fall 2009
	17	Brighton	Adams	Planning
30	18	Castle Rock	Douglas	Mar-13
	Total	5	5	

CR/DUI Hybrid Court				
Cap	District	Location	County	Start Date
15	9	Aspen	Pitkin	Mar-10
	Total	1	1	

<b>Total</b>	89
<b>Total Operational</b>	78
<b>Total Planning</b>	11

## Colorado Accountability Courts

March 1, 2011

Truancy Court			
District	Location	County	Start Date
2	Denver	Denver	
3	Trinidad	Las Animas	
4	Co. Spring	El Paso	
7	Montrose	Montrose	
10	Pueblo	Pueblo	
16	La Junta	Otero	Oct-09
18	Aurora	Arapahoe	
19	Greeley	Weld	
22	Cortez	Montezuma	
Total	9	9	

Child Support Enforcement Court			
District	Location	County	Start Date
1	Golden	Jefferson	
4	Co. Springs	El Paso	Fall 2012
Total	1	1	

Total	10
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