

The following file contains two documents:

- A memorandum to the Joint Budget Committee members dated March 7, 2012. This memorandum provides information about those items within the February 15, 2012, figure setting document (second bullet below) on which the Committee has not yet acted.
- A "figure setting" packet dated February 15, 2012, concerning Judicial Branch budget requests for FY 2011-12 and FY 2012-13.

MEMORANDUM

TO: Chairman Gerou and Joint Budget Committee Members

FROM: Carolyn Kampman (303-866-4959)

SUBJECT: Staff “Comebacks” Concerning the Judicial Branch

DATE: March 7, 2012

The Joint Budget Committee acted on the Judicial Department’s FY 2012-13 budget request February 15, 2012. The Committee has not yet taken action, however, on the following items:

Courts/Probation

- Judicial R-1: Compensation Realignment [see pages 1 through 4 of this packet]
- Section (2) (D) Ralph L. Carr Justice Center, including Judicial R-7 [pages 4 through 8]
- Section (3) Trial Courts, including Judicial R-2 (Protective Proceedings) and R-3 (Pro Se Case Managers) [pages 8 through 24]

Office of the State Public Defender

- OSPD R-1 (Attorney Pay Parity) [pages 25 through 28]
- OSPD R-3 (Refinance Denver Sobriety Court) [pages 28 through 31]

Where applicable, staff has included additional information that has been provided by the Judicial Branch in response to Committee inquiries related to these outstanding items.

Judicial R-1: Compensation Realignment

EXCERPT FROM FEBRUARY 15, 2012 FIGURE SETTING DOCUMENT:

The Department requests a total of \$1,352,600, including \$1,042,920 cash funds and \$309,680 General Fund, to realign compensation for two administrative job classes: Court Judicial Assistants (CJA) and Support Services. The Department proposes an increase in the minimum salary for these two job classes to make it more comparable with similar Executive Branch classifications. To eliminate the General Fund cost of this request, the Department requests a fund source change to the Senior Judge Program line item. Specifically, the Department requests that the General Fund portion of this appropriation be reduced by \$309,680, and be replaced with a \$309,680 cash funds appropriation from the Judicial Stabilization Fund.

Employees in these two job classes generally help maintain the day-to-day operation of the courts and probation, allowing judges and probation officers to effectively do their jobs. The employees

in these two job classes are some of the lowest paid within the Department, and they make up approximately one-third of the Department workforce. In response to growing concerns regarding attrition rates for these two job classifications, the Department conducted a compensation study. The study indicates that the current range minimum salary for these two job classes is 14.0 percent below the Executive Branch range minimum for comparable positions¹. Please note that the most recent study conducted by the Department of Personnel and Employment indicates that current salaries for similar job classes in the Executive Branch are at least 4.1 percent below market salaries².

The Department indicates that in FY 2009-10, the attrition rates for CJAs and support services were both eight percent. One would have expected a relatively high rate of attrition in FY 2009-10 as the Department was required to reduce its workforce by 173 FTE to accomplish targeted budget reductions. However, attrition rates for both job classes increased in FY 2010-11 (to nine percent for CJAs and 11 percent for support services). The Department indicates that the need to recruit, hire, and train replacement employees creates inefficiencies and makes it more challenging to keep day-to-day operations running smoothly. Specifically, most training is conducted on-the-job, so productivity is lost for both the trainer and the trainee. The Department estimates that it costs an average of \$1,800 worth of existing staff time per trainee, or about \$200,000 in total annually.

The Department indicates that the job skills required for these job classes are highly portable. Thus, the Department is concerned that as private sector employment starts to recover, it will see higher rates of turnover for these job classes and it will be more difficult to attract and retain qualified applicants. The Department proposes increasing the low end of the salary range for both job classes by \$350 (15.6 percent), and decreasing the high end of the salary range for Support Services by \$199 so that it parallels the range for CJAs. The requested funds would be sufficient to bring all employees's salaries up to the proposed range minimum (\$31,140 per year), and to provide a 3.3 percent salary increase for all other staff, up to the proposed range maximum. Any employees currently paid more than the proposed range maximum for Support Services would have their salary frozen.

¹ The comparable Executive Branch used for this analysis include: Computer Operator I and II; Data Entry Operator I and II; Data Specialist; and Administrative Assistant I, II, and III. The average minimum range for these positions is \$2,593.

² The Annual Compensation Survey Report for FY 2012-13 (dated August 1, 2011, prepared by the Department of Personnel and Administration) compares the *average state salary midpoints* with average market midpoints for the Administrative Support and Related occupational group. This comparison indicates that Executive Branch pay would need to increase by 4.1 percent to align with the market. This same report indicates that when the *weighted average salaries* for this occupational group of state employees are compared to the weighted average of market salaries, the gap is 16.0 percent.

R-1: Salary Ranges		
Year	Low	High
Court Judicial Assistant		
Current salary range	\$2,245	\$4,049
Proposed salary range	2,595	4,049
Support Services		
Current salary range	2,243	4,248
Proposed salary range	2,595	4,049

The Department points out that the current range minimum salaries for these positions (just under \$27,000) is not substantially higher than the federal poverty level of \$22,350 for a family of four. Over the last three years, the Department has seen an increasing number of its employees qualifying for the State's medical subsidy program, and many judicial districts have started informal food banks in response to their employees being unable to meet their most basic food needs. Further, many locations are reporting that some employees are having to hold one or two additional jobs to make ends meet.

***Recommendation.* Staff recommends approving the request for three primary reasons.**

First, the proposed salary adjustments are necessary to make the salaries for these administrative positions comparable to similar positions in the Executive Branch, thereby ensuring that state employees are treated in a similar manner. Pursuant to Section 5 (3) of Article VI of the State Constitution and Section 13-3-105, C.R.S., the Supreme Court is to "prescribe, by rule, a personnel classification plan for all courts of record to be funded by the state". This personnel classification and compensation plan is to include, for each position or class of positions, the qualifications, duties to be performed, and pay ranges. The Supreme Court rules are also to prescribe the amount, terms, and conditions of sick leave and vacation time for court personnel, the hours of work, and other conditions of employment. This provision indicates that the Supreme Court shall take into consideration the compensation plans of the Executive and Legislative Branches:

"To the end that all state employees are treated generally in a similar manner, the supreme court, in promulgating rules as set forth in this section, shall 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."

Second, the proposed salary adjustments are necessary to ensure that courts operate in a productive and efficient manner. The Department indicated that the turnover rate for these two job classes (11.0 percent in FY 2010-11) is running at about twice the rate as other non-judge job classes that have

over 50 employees. This segment of the court workforce has been most impacted by the significant workforce reductions that have been required in recent years to reduce state expenditures. In light of these reductions, it's important that the remaining staff are as productive as possible. The job skills required for these positions are highly portable, and the current disparity between Judicial Branch salaries and those of the Executive Branch and the private sector increases the rate of attrition; this, in turn, increases court costs and inefficiencies related to hiring and training new employees.

Third, the new Chief Justice, following discussions with judges and employees in judicial districts across the state, has prioritized this decision item as the first among nine requests for FY 2012-13. This indicates a high level of concern about the salary disparity that currently exists for some of the lowest paid employees in the Branch who make up approximately one-third of the workforce.

Section (2)(D) Ralph L. Carr Justice Center, including Judicial R-7

The Committee has not yet taken action on any line items in this section.

New Information Requested by Representative Gerou: The State Court Administrator's Office (SCAO) responded to two questions concerning the three individuals who were previously employed by the SCAO to manage the Judicial Heritage complex. These positions, and the associated funding, were eliminated in FY 2010-11 when the facilities were demolished.

1. What happened to the three individuals who were last funded in FY 2009-10 through the Judicial/Heritage Program line item?

The three individuals that were responsible for maintaining the Judicial Heritage Complex were part of the 173.0 FTE reduction that the Courts and Probation did in FY2010 to save the state general fund. Of the three positions, one retired and the other two were assisted in finding alternate employment opportunities within the private sector.

2. What kind of legal "bumping rights", if any, do Judicial employees have?

Section 13-3-105, C.R.S., requires the Courts and Probation to establish its own personnel rules and distinguishes Courts and Probation from Executive branch classified employees. There is no authority for Courts and Probation employees to bump into Executive Branch positions nor was there an opportunity to bump into other Courts and Probation positions. The personnel system for the Courts and Probation does not allow for bumping rights.

EXCERPT FROM FEBRUARY 15, 2012 FIGURE SETTING DOCUMENT:

(2) COURTS ADMINISTRATION

(D) Ralph L. Carr Colorado Judicial Center

This Long Bill subsection includes appropriations related to the operations of the new Judicial Center, schedule to be completed in early 2013.

Judicial R-7: Ralph L. Carr Justice Center

The Department has submitted a FY 2012-13 budget request that is intended to establish the appropriate Long Bill structure and spending authority to support operations of the Ralph L. Carr Colorado Judicial Center upon construction completion in early 2013. As proposed, this section of the Long Bill would provide a total of \$4,165,479 from the Justice Center Cash Fund to cover five types of expenditures, described below.

- *Contract Services (\$2,072,700)*. The Department anticipates entering into several contracts with private vendors related to building operations. The largest contract (\$887,000) is for 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 anticipates contract services totaling \$985,000 for various services, including custodial, maintenance contracts and supplies, grounds maintenance, and the copy center. Finally, the Department anticipates a contract totaling \$200,700 for Standard Parking to operate and maintain the parking garage (located between the ING building and the Colorado History Museum) which opened in December 2011. [The Committee previously approved a FY 2011-12 appropriation to cover the partial year costs of the parking garage operations.]
- *Controlled Maintenance (\$1,000,000)*. 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. Consistent with this intent, the Department requests an annual appropriation from the Justice Center Fund to set aside moneys for controlled maintenance needs.
- *Colorado State Patrol Services (\$583,563, including \$296,000 in existing funding)*. Currently, both the Judicial Department and the Department of Law receive appropriations to pay the Colorado State Patrol for security services in the buildings they occupy. The proposed security for the new Justice Center, based on estimates provided by the Colorado State Patrol, includes a total of 15.0 FTE (11.0 FTE security officers, 3.0 FTE troopers, and 1.0 FTE supervisor). This represents an increase of 10.0 FTE above the 5.0 FTE currently funded by the two departments. This coverage would provide for weapons screening at two public entrances during business hours (each of the magnetometers would be staffed by two security guards and one trooper for ten hours daily), 24-hour roving coverage, and the staffing of an information/security desk.

The Judicial Department proposes that the Department of Law maintain the appropriation for security in its current building for FY 2012-13, and the Judicial Department's appropriation be increased to cover the additional costs of security in the Judicial Center for FY 2012-13. The request is based on the assumption that security would begin at the Judicial Center January 1, 2013, requiring an additional \$287,563 for 10.0 new positions for six months. The Colorado State Patrol has submitted a corresponding request for FY 2012-13.

- *Utilities (\$270,000)*. Electricity, gas, water, and sewer expenditures for the Justice Center will be monitored and managed by the Building Manager. The Department estimates that these costs will total \$270,000 in FY 2012-13, based on professional standards and costs of similarly-sized buildings in the Denver metropolitan area.
- *Facility Staff (\$239,216 and 2.0 FTE)*. Prior to its demolition, the Judicial Department previously received an appropriation for the maintenance and operations of the Judicial Heritage Complex. This appropriation (\$749,176 and 3.0 FTE) was eliminated in FY 2010-11. The Department requests funding to support 2.0 FTE to manage and oversee the operational and engineering aspects of the Center. The Judicial Department is responsible for all operations of the new facility.

A Building Manager would be responsible for handling all tenant inquiries, and coordinating maintenance work among building staff, vendors, and contractors. The Building Manager will oversee the shared services within the Center, such as a copy center, mail room, food services, fitness center, and conference/training facility. The Building Manager will monitor performance of all third party vendor contracts, and will review price quotes for the procurement of parts, services, and labor for the building.

A Building Engineer would be 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 would direct the activities of a six-person contract engineering staff.

The request does not include any adjustments to appropriations for leased space; all agencies that will become tenants of the Judicial Center have reflected a full 12 months of ongoing leased space appropriations for FY 2012-13. While it is likely that some tenants will move into the Judicial Center prior to July 1, 2013, the Department does not plan to request changes to these appropriations until FY 2013-14.

Recommendation. Staff recommends providing the cash funds spending authority, as requested, with the following modifications:

- Consistent with Legislative Council Staff fiscal note policy, staff excludes \$12,364 for supplemental PERA contributions (AED and SAED); and
- Staff's recommendation reduces the General Fund appropriation for General Courts Administration by \$296,870 (\$870 more than the request) to more accurately reflect the portion of the FY 2011-12 appropriation that was designated for State Patrol services.

Summary of Recommendation for JUD R-7: Ralph L. Carr Justice Center				
	GF	CF	TOTAL	FTE
<u>Courts Administration</u>				
<i>Administration and Technology</i>				
General Courts Administration (existing funding for State Patrol)	(\$296,870)	\$0	(\$296,870)	0.0
<i>Central Appropriations</i>				
S.B. 04-257 AED	0	0	0	
S.B. 06-235 SAED	<u>0</u>	<u>0</u>	<u>0</u>	
Subtotal	0	0	0	
Ralph L. Carr Colorado Judicial Center				
<i>Personal Services</i> [NEW LINE ITEM]:				
State Patrol services (increase of \$286,693)	0	583,563	583,563	0.0
Facility staff	0	234,856	234,856	2.0
Other contract services	<u>0</u>	<u>200,000</u>	<u>200,000</u>	<u>0.0</u>
Subtotal	0	1,018,419	1,018,419	2.0
<i>Operating Expenses:</i>				
Contract with Cushman-Wakefield	0	887,000	887,000	
Contract to operate parking garage	0	200,700	200,700	
Other contract services	0	785,000	785,000	
Utilities	0	270,000	270,000	
Operating expenses for facility staff (includes \$2,460 in one-time capital outlay expenses)	<u>0</u>	<u>4,360</u>	<u>4,360</u>	

Summary of Recommendation for JUD R-7: Ralph L. Carr Justice Center				
	GF	CF	TOTAL	FTE
Subtotal	0	2,147,060	2,147,060	
<i>Controlled Maintenance</i> [NEW LINE ITEM]	0	1,000,000	1,000,000	
Total Requested Changes	(\$296,870)	\$4,165,479	\$3,868,609	2.0

Section (3) Trial Courts, including Judicial R-2 (Protective Proceedings) and R-3 (Pro Se Case Managers)

The Committee has not yet taken action on any line items in this section.

EXCERPT FROM FEBRUARY 15, 2012 FIGURE SETTING DOCUMENT:

(3) TRIAL COURTS

State trial courts 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 terms³.

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 water⁴.

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,

³ Article VI, Sections 9 through 12 of the Colorado Constitution; Section 13-5-101 et seq., C.R.S.

⁴ Sections 37-92-203 and 204, C.R.S.

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 terms⁵.

Trial Court Programs

Description. 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 provides an overview of the staffing composition for the Trial Court Programs line item.

Trial Court Programs: Staffing Summary				
Position Description	FY 2010-11 Actual	FY 2011-12 Approp.	FY 2012-13 Request	FY 2012-13 Recomm.
District Court Judges (H.B. 07-1054)	168.5	175.0	176.0	176.0
County Court Judges (H.B. 07-1054)	88.4	90.2	91.2	91.2
Magistrates & Water Referees (JUD R-2)	58.5	64.3	64.8	64.8
Law Clerks/ Bailiffs/ Legal Research Attorneys (H.B. 07-1054)	73.6	174.1	175.1	175.1
Court Reporters (H.B. 07-1054)	95.4	175.2	176.2	176.2
Clerks' Offices (H.B. 07-1054; JUD R- 2; JUD R-3)	1,017.3	961.9	996.9	996.9
Temporary Reduction in Staff Added for Conservation Easement Cases (H.B. 11-1300)	n/a	(4.0)	0.0	0.0
Dispute Resolution	0.6	3.1	3.1	3.1
Administrative/ Office Support	91.7	88.8	88.8	88.8
Family Preservation	<u>21.2</u>	<u>22.0</u>	<u>22.0</u>	<u>22.0</u>
TOTAL	1,615.2	1,750.6	1,794.1	1,794.1

⁵ Article VI, Sections 16 and 17 of the Colorado Constitution; Section 13-6-101 et seq., C.R.S.

Request. The Department requests \$123,843,048 and 1,794.1 FTE for this line item for FY 2012-13. The request for this line item is affected by JUD R-2 (Protective Proceedings), JUD R-3 (Pro Se Case Managers), JUD R-6 (Judicial Education and Training), and the implementation of H.B. 07-1054.

Judicial R-2: Protective Proceedings

The Department requests a total of \$1,414,177 cash funds from the Judicial Stabilization Fund for 21.5 FTE to address recommendations made by the Office of the State Auditor (OSA) in its 2011 report entitled "Judicial Branch Oversight of Guardianships and Conservatorships". [For more information about the recommendations included in this audit report, see the FY 2012-13 JBC Staff Budget Briefing for the Judicial Branch, dated November 30, 2011, page 22.]

Background Information - Protective Proceedings

"Protective proceedings" are probate cases in which a guardian or conservator has been appointed, or in which the court has approved a single transaction as an alternative to a conservatorship. *Conservators* are appointed to oversee the financial affairs of a protected person. *Guardians* are appointed to oversee the health, safety, and welfare of an incapacitated person. The Department estimates that there are over 38,000 protective proceedings cases open statewide. The courts are responsible for monitoring each of these cases.

Background Information - Resources to Address 2006 SAO Audit

The Department previously requested resources in FY 2008-09 (\$188,000 General Fund and 3.0 FTE) to implement recommendations of the Protective Proceedings Task Force, which was established following a 2006 SAO report concerning protective proceedings. While this request was approved, the Department did not fill these positions in order to help balance the State budget. Over the course of FY 2009-10, the Department reduced its courts and probation workforce by 173.0 FTE (including the 2.0 FTE that were approved).

FY 2012-13 Request

The 2011 OSA report recommends a level of monitoring, supervision, investigation, and follow-up for which the Department is not currently staffed. The Department is requesting funding to support an additional 18.0 FTE general protective proceeding support staff, 3.0 FTE protective proceeding staff with specialized expertise, and an additional half-time magistrate (0.5 FTE).

In 2010, the Department began a pilot program to research and implement best practices for monitoring protective proceedings cases. Two State Court Administrator's Office employees, classified as probate examiners, have been working with seven judicial districts that represent about two-thirds of all open protective proceedings cases. These examiners have been responsible for:

- monitoring the filing of guardian and conservator reports by tracking review dates;
- identifying cases that were not being monitored because review dates were missing;
- issuing delay prevention orders notifying delinquent guardians and conservators to immediately file their reports;
- referring non-responding guardians and conservators to the judicial districts for follow-up; and
- developing best business practices regarding these tasks.

The two probate examiners processed approximately 15,000 cases during a 12-month period.

The Department's request includes three staffing components:

- Add 18.0 FTE protective proceeding specialists to review the contents and assess the reasonableness of guardian and conservator reports. This staffing level is based on a survey of probate judges and their staff to determine the average time required to review reports: 30 minutes per review for most reports, and 90 minutes for more complex reports. The Department then applied a 20 percent reduction to account for the efficiency gained by assigning this responsibility to employees who are dedicated to the task and accounting for the limited time existing district staff spend reviewing these reports. These FTE would be allocated among judicial districts proportionally based on both protective proceeding caseloads and districts' overall trial court staffing levels.
- Add 2.0 FTE to perform in-depth audits on the most complex and high-risk conservatorship cases. These two new positions would augment the existing 2.0 FTE examiners already at the State Court Administrator's Office (who conducted the pilot program). These staff would audit approximately 800 cases per year (about two percent of all cases), verifying statements made in the conservator's reports and reviewing supporting documentation. These four staff will examine cases referred by the courts, as well as a random sampling of cases. In addition, these four staff would:
 - assist in developing standards for court staff's review of less complex cases and train court staff on such standards;
 - provide guidance to the courts to assess the reasonableness and appropriateness of expenditures when reviewing reports; and
 - assist in evaluating the overall performance of professional guardians and conservators, including public administrators.
- Add 1.0 FTE protective proceeding investigator to provide support and technical assistance to judicial districts by investigating the whereabouts of missing guardians and conservators and locating missing assets. Based on the number of missing guardians and conservators

identified in the pilot program, an estimated 3,500 fiduciaries statewide, at least one investigator is needed.

- Increase the magistrate position in the Denver Probate Court from 0.25 FTE to 0.75 FTE – an increase of 0.5 FTE. In most judicial districts, probate and protective proceedings are one of many case types heard by the district court, representing about one percent of all cases. In contrast, the Denver Probate Court is established in the State Constitution to hear probate and mental health cases exclusively. In Denver Probate Court, protective proceedings represent 13 percent of all cases. Due to its small size, the Denver Probate Court’s ability to implement the OSA recommendations by reprioritizing and relocating staff is extremely limited. The Denver Probate Court is currently staffed at 70 percent of full staffing need – the second lowest staffing level of any court statewide. While the audit recommendations will be labor intensive for every district to implement, they impact the Denver Probate Court disproportionately.

Staff Recommendation. **Staff recommends approving the request.** The Judicial Branch has implemented a number of the OSA report recommendations through the issuance of a Chief Justice Directive, revisions to court manuals and forms, and internal administrative changes. The Branch plans to implement several additional recommendations by December 2012 by incorporating certain capabilities in the new case management system that is under development. The remaining recommendations require additional resources. The requested resources will allow the Branch to ensure that courts obtain all required reports from guardians and conservators, and to strengthen the courts’ guardian and conservator report review process.

The dollar amount recommended by staff is \$65,927 lower than the request for two reasons:

- Consistent with Legislative Council Staff fiscal note policy, staff has excluded funding for supplemental PERA contributions (AED and SAED).
- Staff’s recommendation includes only one printer for the 3.0 FTE that will be housed in the State Court Administrator’s Office (rather than three printers).

Staff’s recommendation is detailed in the table below.

<i>Recommendation for Judicial R-2: Protective Proceedings</i>	
Line Item and Description	FY 12-13
<u>Courts Administration</u>	
<i>Administration and Technology</i>	
General Courts Administration - Personal Services	\$207,817
FTE	3.0

<i>Recommendation for Judicial R-2: Protective Proceedings</i>	
Line Item and Description	FY 12-13
General Courts Administration - Operating Expenses	<u>2,850</u>
Subtotal	210,667
<i>Central Appropriations</i>	
AED	0
SAED	<u>0</u>
Subtotal	0
<i>Centrally Administered Programs</i>	
Courthouse Capital/ Infrastructure Maintenance (one-time expenses)	130,593
<u>Trial Courts</u>	
Trial Court Programs - Personal Services	\$987,540
FTE	18.5
Trial Court Programs - Operating Expenses	<u>19,450</u>
Subtotal	1,006,990
Total Recommendation - Cash Funds	1,348,250
FTE	21.5

Judicial R-3: Pro Se Case Managers

The Department requests \$840,676 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. The request includes \$780,016 for 12.0 FTE *pro se* case managers to coordinate and provide services, and \$60,660 in equipment and materials.

The Department indicates that over the past fifteen years a shift has occurred, in that citizens generally now expect to be able to fully participate in a court case without the services of an attorney. At the same time, the court system has shifted to processes that rely heavily on technology and the Internet. As a result, the need to provide one-on-one procedural assistance to *pro se* parties has increased and the courts have not been able to keep up with the demand. The Department's request represents an "initial investment" to expand the full range of services that self-represented parties need to be able to effectively represent themselves through all phases of a court case, from initial filing to final order. [Staff notes that this request does not reflect any additional resources in FY 2013-14, so staff would anticipate submission of another decision item in the future if and when the Department sees the need for additional resources to expand such services.] The Department indicates that this expansion of services is necessary so that procedural hurdles and missteps don't get in the way of justice being done in every case.

The numbers of *pro se* cases have increased in four areas. First, the largest increase has occurred in domestic relations cases, which include child custody, child support, and divorce proceedings. Specifically, since FY 1999-00, the court system has experienced a 60 percent increase in the number of domestic cases filed where neither party is represented by an attorney. The Department indicated that in June 2010, nearly 80 percent of domestic relations cases involved a self-represented party.

Second, since 2006 the numbers of general civil cases (mainly collections cases) and probate cases filed in district court by *pro se* parties have increased by 25 percent and 14 percent, respectively. The Department indicated that in June 2010, 58 percent of district court civil cases and 59 percent of county court civil cases involved a self-represented party; 35 percent of probate cases involved a self-represented party. Finally, victims of domestic violence need assistance when filing protection orders. In the Denver metropolitan area, a program called "Project Safeguard" provides assistance to these victims, usually through the sheriff's departments. However, this program is not available outside the Denver area.

Pro se parties 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;
- failing to properly 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 Department's request is designed to better serve *pro se* litigants in three ways. First, the Department plans to deploy the equivalent of 12.0 FTE *pro se* case managers in judicial districts. The new staff will be allocated among judicial districts based on a number of factors, including: (a) the number of staff currently funded and the overall staffing adequacy; (b) the number of *pro se* case filings and the percentage of cases that are *pro se*; and (c) the availability of space and the ability to open a *pro se* center in a court location. The *pro se* case managers will be expected to help in all areas where individual litigants have questions, including:

- providing assistance in completing 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.

Second, the Department requests funding to begin to deploy public access terminals in courthouses to allow parties to file cases on-site. This will become critical in January 2013 when the Department implements its in-house e-filing system, allowing *pro se* parties the option of electronically filing cases⁶. The Department will also make printed versions of commonly used judicial forms available, along with legal research and practice materials (court rules, statutes, practice manuals, etc.). The Department also intends to improve districts' coordination with local libraries to assess local needs and provide research materials and forms to locations where they are in high demand.

Third, the *pro se* case managers will act as a community liaison to maximize resources available to *pro se* litigants. Specifically, these case managers will work with local library staff to provide access to court forms and legal materials, as well as access to electronic resources. In addition, these case managers will work with local attorneys and clinics that offer *pro bono* legal services to make their services available in the courthouse and/or at local libraries.

The Department indicates that a few *pro se* centers exist in Colorado, but they are grossly under-resourced. These centers do, however, provide a model of what an effective center could look like. For example, the 17th judicial district opened a center in January 2011, offering nine hours of staff assistance each week and access to a few computer terminals. In August 2011 this center provided services to 221 individuals, 119 of whom came in on domestic relations cases. The center indicates that they frequently have to turn people away or close due to other pressing court business.

Recommendation. Staff recommends approving the request. This request is an innovative way for the court system to change business practices to serve the needs of a growing number of *pro se* 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 *pro se* 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

⁶ The Department's concerns related to e-filing are two-fold. First, it is anticipated that *pro se* parties will need some technical and procedural assistance in using the electronic system. If a *pro se* litigant elects to file by paper, he/she will still need assistance from the clerk to access paper copies of court pleadings, thereby perpetuating the inefficiencies that the Department hopes to achieve by implementing electronic filing for these cases. Second, the Department is concerned that some *pro se* litigants, absent adequate assistance, may overwhelm the courts with unnecessary filings under the assumption that if they file several documents they will, by trial and error, get the proper document filed.

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."

The requested resources should help to ensure *pro se* 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.

Staff agrees that the timing of this request is critical. To date, *pro se* parties have not had the option of using Colorado's e-filing system. The e-filing system that the Department is currently developing is scheduled to be deployed during the next fiscal year, and the new system will allow *pro se* parties to file documents electronically. By making technical and procedural assistance available to these litigants, the Department can encourage the use of the e-filing system, thereby achieving the anticipated administrative efficiencies.

The dollar amount recommended by staff is \$35,617 lower than the request. Consistent with Legislative Council Staff fiscal note policy, staff has excluded funding for supplemental PERA contributions (AED and SAED). Staff's recommendation is detailed in the table below.

<i>Recommendation for Judicial R-3: Pro Se Case Managers</i>	
Line Item and Description	FY 12-13
<u>Courts Administration</u>	
<i>Central Appropriations</i>	
AED	0
SAED	<u>0</u>
Subtotal	0
<i>Centrally Administered Programs</i>	
Courthouse Capital/ Infrastructure Maintenance (one-time expenses)	56,436
<u>Trial Courts</u>	
Trial Court Programs - Personal Services	\$676,563
FTE	12.0
Trial Court Programs - Operating Expenses (including \$950/FTE for telephone and supplies, \$1,500 supplies for each center, \$825 in legal reference materials, and \$2,730 one-time costs for a computer, software, and printer)	<u>72,060</u>
Subtotal	748,623

<i>Recommendation for Judicial R-3: Pro Se Case Managers</i>	
Line Item and Description	FY 12-13
Total Recommendation - Cash Funds	805,059
FTE	12.0

Implementation of H.B. 07-1054

House Bill 07-1054 created 43 new judgeships to be phased in over three years, beginning in FY 2007-08. The act also increased court-related fees starting July 1, 2007 to pay for most court-related implementation costs. The initial implementation schedule detailing the timing of each new judgeship is included in Appendix A.

For FY 2009-10, H.B. 07-1054 anticipated adding the final 12 district court judges and three county court judges on July 1, 2009. The salaries for the judges and associated staff, as well as operating and capital outlay expenses, would be supported by the Judicial Stabilization Fund. However, in light of the General Fund revenue shortfall, these new judgeships have been delayed. The resulting one-time cash fund savings were utilized to cover other appropriate one-time expenditures that would otherwise require General Fund (primarily courthouse furnishings).

Ten of the final 12 new district judgeships and two of the final three new county court judgeships were filled on January 1, 2011; and one of the final 12 new district judges was filled July 1, 2011. The request is predicated on the remaining two district court and county court judgeships being filled July 1, 2012. Table 1 details these final judgeships by county and district, and Table 2 details the request by type of cost. Please note that the following table only covers funding for trial courts, excluding funding for the Office of the State Public Defender that is related to the implementation of H.B. 07-1054.

TABLE 1 Summary of "3rd Year" Implementation of H.B. 07-1054					
Judicial District/ County		Number of New Judges	Date New Judgeship is Filled	FY 2012-13 Request	
				Funding	FTE
District Courts					
1	Jefferson, Gilpin*	1	7/1/12	\$382,581	5.0
County Courts					
	Jefferson	1	7/1/12	279,670	4.0
Statewide Total		2		662,251	9.0

* House Bill 12-1073, which passed third reading in the House 2/9/12, allocates the new district court judgeship currently authorized for the 1st judicial district to the 6th judicial district (Archuleta, La Plata, and San Juan counties). Based on FY 2010-11 case filing data, the 6th judicial district has the lowest trial court judge staffing levels in Colorado – 66.2 percent of full staffing. Please note that the associated costs for these new judgeships remain the same under H.B. 12-1073.

TABLE 2 Summary of Request for FY 2012-13				
Personal Services	Employee Benefits*	Operating Expenses	Total	FTE
\$570,680	\$76,671	\$14,900	\$662,251	9.0

* Includes \$46,764 for health, life, and dental insurance benefits, \$22,128 for S.B. 04-257 amortization equalization disbursement (AED), \$7,330 for S.B. 06-235 for supplemental AED, and \$449 for short-term disability.

Recommendation. Staff recommends approving the request for \$585,580 for this line item (including \$570,680 for personal services and \$14,900 for operating expenses) for the final 2 judgeships authorized by H.B. 07-1054.

Staff's overall recommendation for this line item is pending application of the common policy concerning a base reduction in funding for personal services. The following table details those elements of staff's recommendation that may be provided at this time, prior to application of the Committee's recently adopted common policy related to a personal services base reduction. Staff will apply the Committee's base reduction policy to finalize the appropriation for this line item.

However, **staff recommends that the salaries of judges be excluded from the base reduction.** Pursuant to Section 18 of Article VI of the State Constitution: "Justices and judges of courts of record shall receive such compensation as may be provided by law, which may be increased but may not be decreased during their term of office and shall receive such pension or retirement benefits as may be provided by law." Judgeships are unlikely to be held vacant for any significant period of time, and the salary would remain unchanged should there be turnover in the position.

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Summary of Recommendation: Trial Court Programs						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2011-12 Long Bill	\$91,703,004	\$21,128,306	\$1,100,000	\$0	\$113,931,310	1,748.6
H.B. 11-1300	570,521	0	0	0	570,521	6.0
S.B. 11-076	(2,158,252)	(460,058)	0	0	(2,618,310)	0.0
FY 2011-12 Supplemental	<u>(450,000)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>(450,000)</u>	<u>(4.0)</u>
Subtotal: FY 2011-12 Appropriation	89,665,273	20,668,248	1,100,000	0	111,433,521	1,750.6
Annualize FY 2011-12 DI#1 (Judicial Network Infrastructure and Staff) – net \$0 General Fund and cash funds impact for the Branch in total	597,793	(597,793)	0	0	0	0.0
Reverse FY 2011-12 Supplemental	450,000	0	0	0	450,000	4.0
Fund source adjustment between personal services and operating expenses	199,999	(199,999)	0	0	0	0.0
Reinstate FY 2011-12 reduction in employer's PERA contribution (S.B. 11-076)	2,158,252	460,058	0	0	2,618,310	0.0
Salary Survey awarded in FY 2011-12	0	0	0	0	0	0.0
80% of Performance-based Pay awarded in FY 2011-12	0	0	0	0	0	0.0
H.B. 07-1054: Add staff related to final 2 judgeships filled in 2012	0	570,680	0	0	570,680	9.0
JUD R-2: Protective Proceedings	0	987,540	0	0	987,540	18.5
JUD R-3: Pro Se Case Managers	0	676,563	0	0	676,563	12.0
Base reduction					<u>Pending</u>	
Subtotal: Personal Services					Pending	1,794.1
Operating Expenses:						
FY 2011-12 Long Bill	234,297	6,833,109	0	0	7,067,406	
H.B. 11-1300	<u>19,950</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>19,950</u>	
Subtotal: FY 2011-12 Appropriation	254,247	6,833,109	0	0	7,087,356	
Fund source adjustment	(199,999)	199,999	0	0	0	

Summary of Recommendation: Trial Court Programs						
	GF	CF	RF	FF	TOTAL	FTE
H.B. 07-1054: Add staff related to final 2 judgeships filled in 2012	0	14,900	0	0	14,900	
JUD R-2: Protective Proceedings	0	19,450	0	0	19,450	
JUD R-3: Pro Se Case Managers	0	72,060	0	0	72,060	
JUD R-6: Judicial Education and Training	<u>(54,248)</u>	<u>(243,752)</u>	<u>0</u>	<u>0</u>	<u>(298,000)</u>	
Subtotal: Operating Expenses	0	6,895,766	0	0	6,895,766	
Staff Recommendation					Pending	1,794.1

Court Costs, Jury Costs, and Court-appointed Counsel

Description. "Mandated costs" are costs associated with activities, events, and services that accompany court cases that are required in statute and/or the U.S. and Colorado 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 State Court Administrator's Office that provides funding for mandated costs. This line item provides funding for three types of costs, described below.

- *Court-appointed Counsel* (\$12,376,147 expended in FY 2010-11). This line item includes funding to cover fees and expenses for court-appointed counsel and other representatives for children and indigent persons. While the Department's three independent agencies provide legal representation for adults and children in certain matters, this appropriation covers the costs of providing representation for indigent parties who:
 - Are respondent parents in dependency and neglect actions;
 - 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).

- *Jury Costs* (\$1,876,998 expended in FY 2010-11). This line item includes funding to cover fees and expenses for jurors. Pursuant to Sections 13-71-125 through 13-71-131, C.R.S., jurors

must be compensated \$50 daily⁷, 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.

- *Court Costs* (\$1,219,203 expended in FY 2010-11). Similar to mandated costs incurred by other judicial 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 State Court Administrator's Office, these costs primarily include the following:
 - evaluations/ expert witness fees (\$935,168 expended in FY 2010-11);
 - transcripts (\$180,452);
 - discovery and process fees (\$25,549);
 - forms (\$22,500); and
 - other (\$55,534).

Request. The Department requests a continuation level of funding for FY 2012-13 (\$15,594,352).

Recommendation. **Staff recommends approving the request** to ensure that parties are appropriately represented and receive due process as their cases move through the courts, and that jurors are compensated as required. Please note that this appropriation has not changed since FY 2008-09. In FY 2009-10, actual expenditures exceeded the appropriation by \$247,615; in FY 2010-11, actual expenditures were \$122,005 below the appropriation. Cash funds are from various fees, cost recoveries, and grants.

District Attorney Mandated Costs

Background Information. Colorado's district attorneys' offices (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:

- The Department of Law's budget includes an appropriation for "District Attorneys' Salaries" (\$2,479,796 for FY 2011-12).
- The Judicial Department's budget includes an appropriation for "District Attorney Mandated Costs" (\$2,198,494 for FY 2011-12). This line item is described below.

⁷ This dollar amount has not changed since at least 1989.

- The Department of Corrections' budget includes an appropriation for "Payments to District Attorneys" for costs associated with prosecuting a crime alleged to have been committed by a person in the custody of the Department (\$144,108 for FY 2011-12).
- 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 2011-12).

In addition, the General Assembly appropriates funds to the Office of the State Public Defender, the Office of the Alternate Defense Counsel, the State Court Administrator's Office, and the Office of the Child's Representative to cover the costs of obtaining discoverable materials⁸. In FY 2010-11, these offices spent a total of \$2,122,666 for discovery. The majority of these expenditures were paid to reimburse DAs.

District Attorney Mandated Costs. This line item provides state funding to reimburse 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.⁹, when the defendant is acquitted or when the defendant is convicted and the court determines he is unable to pay them." Pursuant to Section 18-1.3-701 (2), C.R.S., when a person is convicted of an offense or a juvenile is adjudicated, the Court shall give judgement in favor of the State, the prosecuting attorney, or the law enforcement agency and against the offender or juvenile for the amount of the costs of prosecution. Section 16-18-101, C.R.S., specifies the types of expenditures that may be included under this provision.

Based on FY 2010-11 expenditure data provided by the Colorado District Attorneys' Council (CDAC)¹⁰, DAs' mandated costs consist of the following:

- Witness fees and travel expenses (\$595,680 or 29 percent of costs in FY 2010-11)
- Mailing subpoenas (\$554,749 or 27 percent)
- Expert witness fees and travel expenses (\$380,416 or 18 percent)

⁸ 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.

⁹ 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".

¹⁰ The CDAC is a quasi-government agency, supported by assessments charged to each member's office (through an intergovernmental agreement).

- Service of process (\$336,437 or 16 percent)
- Court reporter fees for transcripts (\$188,957 or nine percent)

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*	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					
2012-13 Request	2,139,449	125,000	2,264,449					

* Appropriation reduced by \$17,300 pursuant to H.B. 10-1291.

Prior to FY 2000-01, funding for DAs' mandated costs was included within the "Mandated Costs" line item appropriation to the Judicial Department. In 1999, an ad hoc committee on mandated costs released a report recommending that responsibility for managing court costs be transferred to the entities that incur them. Thus, beginning in FY 2000-01, the General Assembly has provided a separate appropriation for DAs' mandated costs. This line item has been accompanied by a footnote or a request for information (e.g., RFI #1 for FY 2011-12) indicating that DAs in each judicial district are responsible for allocations made by an oversight committee (currently the CDAC). Any increases in the line item are to be requested and justified in writing by the CDAC, rather than the Judicial Department.

The CDAC allocates funds among the 22 judicial districts (including those districts that are not members of the CDAC) based on historical spending. However, the CDAC holds back a portion of the appropriation (typically \$300,000). District Attorneys submit information quarterly concerning costs incurred, as well as projections of annual expenditures. The CDAC has a special process for requesting additional funds above the allocated amount. In order to limit state expenditures, the CDAC has required DAs to continue to follow the old Chief Justice Directive 87-01, which limited expert witness fees. Fees paid in excess of the limits established in this Directive are only reimbursed if funds remain available at the end of the fiscal year. In FY 2010-11, \$15,593 of DAs' expenditures were not reimbursed due to this policy.

Request. The CDAC requests \$2,264,449 for FY 2012-13, which represents a \$65,955 (3.0 percent) increase compared to FY 2011-12.

Recommendation. **Staff recommends approving the requested increase.** In the last two fiscal years, this line item fallen short of covering DAs' reimbursable mandated costs (by \$106,453 and \$29,613, respectively). However, staff recommends a different mix of fund sources than that requested by the CDAC. The source of cash funds for this line item is cost recoveries collected by the Judicial Branch on behalf of DAs. These are amounts that the court orders defendants to pay, based on information provided by DAs. This line item allows these cost recoveries to be used to pay a portion of the DAs' mandated costs; revenues that exceed this appropriation are credited to the General Fund at the end of the fiscal year. This cash funds appropriation has been \$125,000 for a number of years. However, in the last four fiscal years, actual recoveries has exceeded this appropriation, resulting in year-end reversions ranging from \$5,674 in FY 2007-08 to \$38,482 in FY 2010-11. Staff thus recommends increasing the cash funds portion of the appropriation by \$15,000 to better reflect likely cost recoveries. Actual recoveries have exceeded the recommended appropriation level (\$140,000) in each of the last three fiscal years.

Federal Funds and Other Grants

Description. 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 for FY 2012-13 (\$2,900,000 and 14.0 FTE), including \$975,000 cash funds, \$300,000 reappropriated funds, and \$1,625,000 federal funds. The source of reappropriated funds is federal funds transferred from the Departments of Human Services and Public Safety.

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

Office of the State Public Defender R-1 (Attorney Pay Parity)

New Information Requested by Representative Levy: The Office of the State Public Defender (OSPD) was asked to break out this request using the five job classifications on page 93 of staff's figure setting document. The OSPD provided the following response:

The OSPD has submitted its 2012-13 Priority 1 Decision Item request for Attorney Pay Parity to specifically address the need to maintain and improve the overall competence of its attorneys. The request includes funds specifically targeted to go to the most critical experienced staff whom we rely upon to:

- carry our most complex, difficult, resource intensive cases;
- absorb a disproportionate share of the caseload while developing attorneys become more experienced and skilled in their jobs;
- train, supervise, mentor developing attorneys; and
- perform quality control of all other caseload.

The targeted attorneys include: Intermediate attorneys, Senior attorneys and Supervisory attorneys.

Benchmark Title	OSPD R-1				Total
	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	
Managing Attorney/ Office Head	\$0	\$530,223	\$582,817	\$48,774	\$1,161,814
Supervising Attorney	165,744	182,494	183,879	15,386	547,503
Senior Attorney	251,626	23,088	0	0	274,714
Intermediate Staff Attorney	490,345	44,992	0	0	535,337
Entry-level Staff Attorney	0	157,232	172,827	14,459	344,518
Total	907,715	938,029	939,523	78,619	2,863,886

In the above table, Members of the JBC can see how funds have been requested and planned for implementation in a targeted way by year according to position level. Intermediate attorneys and Senior attorneys are addressed and fully resolved in the first year, with some annualization of the 12th month in the second year as a result of the June pay date shift. Supervisory attorneys are targeted over all 3 years, with some annualization of the 12th month in the 2015-16 year as a result of the June pay date shift. Entry-level and managing attorneys are addressed during years 2 and 3, with some annualization of the 12th month in the 2015-16 year as a result of the June

pay date shift. The costs above reflect gross salary increases plus all associated POTS calculations (the full cost across all line items).

EXCERPT FROM FEBRUARY 15, 2012 FIGURE SETTING DOCUMENT:

Request. The OSPD requests an increase of \$2,863,900 General Fund over the next three fiscal years, starting with \$907,715 in FY 2012-13, to bring its attorney salaries in line with market pay practices. A 2010 study conducted by Fox Lawson & Associates for the OSPD surveyed 34 organizations concerning their current attorney salary data; surveyed organizations included the Department of Law, select District Attorney offices, select city and county attorney offices, and federal law offices located in Denver. [The Department of Law has a similar study conducted by this firm annually.] The study concluded that OSPD's attorney salaries are, on average, 9.5 percent below prevailing market rates¹¹. Table 2 provides a comparison of OSPD actual salaries and overall market salaries, categorized by job classification.

OSPD Table 2: 2010 Salary Survey Report (October 2010)			
Benchmark Title	OSPD Average	Overall Market Average	Percent Difference
Managing Attorney/ Office Head	\$110,052	\$137,864	25.3%
Supervising Attorney	103,339	108,530	5.0%
Senior Attorney	92,563	93,459	1.0%
Intermediate Staff Attorney	68,477	73,413	7.2%
Entry-level Staff Attorney	55,135	57,065	3.5%
Average			9.5%

The OSPD indicates that this pay disparity compounds other factors that make it difficult for the OSPD to adequately defend its clients in court. These other factors include a shortfall in the number of staff based on the number and types of active cases, and rising attrition rates. While the annual attrition rate for attorneys declined from 22.8 percent in FY 2006-07 to 9.3 percent in FY 2009-10, this rate increased in FY 2010-11 to 11.6 percent.

A high rate of attrition has lead to an inappropriate proportion of experienced attorneys. Specifically, in order to provide reasonable and effective legal representation, the OSPD has established a goal of limiting the proportion of entry level attorneys (who carry a full caseload but

¹¹ Please note that this calculation did not take into account the impact of legislation requiring state employees to contribute an additional 2.5 percent of their salaries to PERA.

require close supervision) to 30 percent. As indicated in Table 3, more than half of OSPD attorneys are at the beginning level, 16 percent are at the "journey" level (attorneys who handle a full caseload of varying complexity under minimal supervision), and 28 percent are at the "career" level (including managing attorneys, supervising attorneys, and senior attorneys who are experts in all aspects and all levels of complexity of law, procedure, and casework). Although there was a slight improvement in FY 2010-11, the general trend is away from the stated target.

OSPD Table 3: Percent of Attorneys at Journey and Career Levels						
Case Type	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	Target
Beginning	46.5%	52.9%	54.8%	58.2%	56.0%	30.0%
Journey	21.8%	11.8%	10.5%	9.5%	16.0%	
Career	31.7%	35.4%	34.6%	32.3%	28.0%	
Journey and Career	53.5%	47.1%	45.2%	41.8%	44.0%	70.0%

This request is intended to bring attorney salary ranges in line with market pay practices over a three-year period. This request is directly aimed at reducing the overall attrition rate, and reducing the supervisory burden on more experienced staff. The OSPD is concerned that if this salary disparity is not addressed, these trends will continue, jeopardizing the OSPD's ability to achieve its mission of providing effective indigent defense representation comparable to the private bar.

The request proposes the following annual funding increases:

FY 2012-13	\$907,715
FY 2013-14	938,029
FY 2014-15	939,524
FY 2016-17	<u>78,632</u> (annualization due to payday shift)
Total	2,863,900

R-1 Recommendation. Staff recommends approving the request, but staff recommends including the \$860,682 requested for this line item in the Salary Survey line item (consistent with the Judicial decision item R-1). Pursuant to Section 21-1-102 (3), C.R.S., the State Public Defender shall employ and fix the compensation of a Chief Deputy, deputy state public defenders, investigators, and any other employees necessary to discharge the functions of the OSPD. All salaries, however, are reviewed and approved the Colorado Supreme Court. Further, Section 21-1-101 (1), C.R.S., requires the State Public Defender to provide legal services to indigent persons accused of crime that are commensurate with those available to nonindigents.

Based on the October 2010 Fox Lawson & Associates study, OSPD attorney salaries are 9.5 percent below the market, on average. This differential ranges from 1.0 percent (for senior attorneys) to

25.3 percent (for managing attorneys/office heads). The proposed salary adjustments are necessary to make OSPD salaries comparable to similar positions in other public sector law offices.

The OSPD proposes phasing in the salary adjustments over a three-year period, a time frame that is prudent and appropriate given the current state budget situation.

Office of the State Public Defender R-3 (Refinance Denver Sobriety Court)

New Information Requested by Representative Levy: The OSPD was asked what will happen if the funding and staff requested through R-3 is denied. The OSPD provided the following response:

If the court is not funded by the state, Denver will either continue to fund it (something they do NOT wish to do), or our participation will cease under this model. The drug court model will revert to more of a regular court, absent the benefits of the intensive treatment and hearing/review focus. The normal court model will be absent the cost saving benefits of: reduced recidivism and reduced jail beds, and absent the goal of reduced public safety issues in the City and County of Denver. Also, since the City and County of Denver court is autonomous from the State Judicial Branch, it will remain the only Judicial District that is unable to implement the expansion of this specialty court that has already been expanded across most other Districts by the Judicial Department's efforts. This of course would seem an incongruous outcome, because Denver City and County might have the greatest need for this court, just based upon its proportionate share of the state's total population and based upon the impact of the broader metro-area population that passes through Denver on a daily basis, driving up the need for Denver public services.

EXCERPT FROM FEBRUARY 15, 2012 FIGURE SETTING DOCUMENT:

Background Information. Denver's Sobriety Court opened May 24, 2011 to effectively address repeat DUI offenders through a comprehensive system including expedited court case processing, jail and community-based treatment services and court and probation oversight. The model is based on best practices in sobriety courts. The Sobriety Court mission is to provide an efficient, judicially supervised, accountable, systemic process to address addiction, offender success, and recovery. The Sobriety Court serves offenders charged with repeat (2nd, 3rd or more) impaired driving offenses. The goals of Sobriety Court are to:

- provide a comprehensive, expedited and coordinated judicial response to repeat impaired drivers;

- increase community safety through efficient and effective jail to community treatment and monitoring; and
- reduce recidivism for previous DUI offenders through effective treatment and recovery services.

The Sobriety Court was established through efforts of the Crime Prevention and Control Commission, Denver County Court and Probation, Denver District Attorney's Office, the OSPD, the Colorado Defense Bar, the Denver Police Department, the Denver Sheriff Department, and representatives of the Colorado Division of Behavior Health. [For more information about the Denver Sobriety Court, see the written materials prepared by the Office of the State Public Defender for the 12/14/11 hearing with the Joint Budget Committee (pages 51 to 54).]

Request. The OSPD requests an increase of \$243,267 General Fund and 2.5 FTE to continue to provide indigent defense services for the Denver Sobriety Court; this increase is offset by a reduction in available grant funds (\$98,260 cash funds and 1.5 FTE). The City and County of Denver provided an 18-month grant to the OSPD to support this new court through its pilot phase; this grant ends in December 2012. The grant funding originated from Colorado Department of Transportation Office of Traffic Safety Funds.

As with other specialty problem-solving courts, the Denver Sobriety Court emphasizes accountability and intensive monitoring, and thus requires more frequent hearings and meetings compared to traditional proceedings. These courts rely on the combined expertise and collaboration of many parties, including defense counsel. Defense counsel is expected to actively participate in both court proceedings and team meetings, facilitating the treatment process while protecting the participant's due process rights. The goal of this court is to reduce recidivism, prevent other crimes associated with DUI/DWAI, and reduce the use of jail beds.

The Denver Sobriety Court was expected to handle 200 cases in the first year, with cases remaining active for an average of 19 months. Thus, the request assumes an annual caseload of 480 to cover new and continuing cases. The OSPD requests funding for a total of 6.3 FTE, starting in January 2013 (including 3.7 FTE attorneys, 1.3 FTE paralegals, 1.3 FTE administrative support staff). The request reflects only five months of personnel funding based on the paydate shift.

Recommendation. **Staff recommends approving the request, with some modifications.** The docket for this court should be supported in the same manner as those of other district courts. Denver has provided temporary funding to support defense counsel in order to initiate the new court. Public defender staff are required to represent all eligible Sobriety Court offenders at advisement, plea, sentencing, regular review hearings, and revocation hearings. Defense counsel's participation in this process is necessary and appropriate.

The benefits of this type of court (to local government, the courts, and society) are contingent on intensive supervision and treatment protocols in the short-term. In its first six months of operation, the Sobriety Court resulted in 10,087 fewer jail bed days (with an associated savings of \$566,688); and a reduction in case processing time from an average of 84-112 days to an average of 16 days. The Sobriety Court is also tracking recidivism data, treatment costs, and the costs of processing these types of cases, and will report on the full array of costs and benefits in the future.

This recommendation is consistent with previous General Assembly actions to provide funding for defense counsel's participation in the Denver Drug Court and for the expansion of other types of problem-solving courts statewide.

Staff's recommended funding is \$55,301 lower than the Department's request for two primary reasons:

- The OSPD request includes \$52,454 for leased space (\$8,742 per FTE for 6.0 FTE). While staff is recommending the OSPD's overall request for leased space, staff is not recommending it specifically in relation to this decision item. See staff's recommendation for the leased space line item for more information.
- The OSPD request for health, life, and dental benefits is based on \$6,836/FTE, and staff's recommendation is based on \$6,050/FTE, consistent with the Legislative Council Staff 2012 fiscal note policy.

Table 4 details the recommendation for FY 2012-13, as well as the related costs for FY 2013-14.

Table 4: Staff Recommendation for OSPD R-3 (Refinance for Denver Sobriety Court)		
Line Item and Description	FY 12-13	FY 13-14
	Request for Funding Beginning 1/1/13	Incremental Cost to Annualize Funding
Personal Services (5 months only due to paydate shift)	\$133,001	\$186,202
FTE	2.5	3.8
Health, Life, and Dental (\$6,050/FTE) for 6.0 FTE for 6 months	18,150	18,150
Short-term Disability (0.177% of salaries for 5 months)	88	207
AED (3.4% of salaries for 5 months)	1,688	3,984
SAED (3.0% of salaries for 5 months)	<u>1,490</u>	<u>3,516</u>
Subtotal: Personal Services and Benefits	154,417	212,060
Operating expenses (\$950/FTE) and travel (\$827/FTE) for 6.0 FTE for 6 months	5,331	5,331

Table 4: Staff Recommendation for OSPD R-3 (Refinance for Denver Sobriety Court)		
Line Item and Description	FY 12-13	FY 13-14
	Request for Funding Beginning 1/1/13	Incremental Cost to Annualize Funding
Capital outlay (\$4,703/FTE) for 6.0 FTE	28,218	(28,218)
Leased space (\$8,742/FTE)	0	0
Total General Fund Recommendation for R-3	187,966	189,173

**COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE**



FY 2012-13 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 15, 2012**

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**JUDICIAL BRANCH
FY 2012-13 STAFF FIGURE SETTING**

JBC WORKING DOCUMENT - ALL DECISIONS SUBJECT TO CHANGE
Staff Recommendation Does Not Represent Committee Decision

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	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
JUDICIAL DEPARTMENT - COURTS AND PROBATION						
Chief Justice Michael L. Bender						
(1) SUPREME COURT/COURT OF APPEALS						
The primary functions of the Supreme Court include: general supervisory control of lower courts; appellate review of lower court judgements; original jurisdiction for certain constitutional and other cases; and rule-making for the state court system. The Court of Appeals is the initial jurisdiction for appeals from district courts and certain state agencies. Cash fund sources include the Judicial Stabilization Cash Fund and various fees and cost recoveries.						
Appellate Court Programs	11,824,879	11,093,005	11,242,796	11,595,223	Pending	
FTE	<u>138.2</u>	<u>134.5</u>	<u>140.0</u>	<u>140.0</u>	<u>140.0</u>	
General Fund	10,748,628	10,045,031	9,932,823	10,260,577		
FTE	124.7	117.0	122.5	122.5	122.5	
Cash Funds	1,076,251	1,047,974	1,309,973	1,334,646		
FTE	13.5	17.5	17.5	17.5	17.5	
Attorney Regulation - CF a/	6,077,482	6,950,882	6,000,000	6,000,000	7,000,000	
FTE	47.8	55.8	40.5	40.5	56.0	
Continuing Legal Education - CF a/	345,628	409,651	370,000	370,000	410,000	
FTE	3.5	3.1	4.0	4.0	4.0	
Law Examiner Board - CF a/	942,214	1,048,817	900,000	900,000	1,050,000	
FTE	6.7	6.3	8.2	8.2	7.0	
Law Library	332,080	390,729	550,000	500,000	500,000	
FTE	<u>0.0</u>	<u>1.5</u>	<u>1.5</u>	<u>1.5</u>	<u>1.5</u>	
Cash Funds a/	332,080	380,628	500,000	500,000	500,000	
FTE	0.0	1.5	1.5	1.5	1.5	
Reappropriated Funds	0	10,101	50,000	0	0	

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	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
TOTAL - Supreme Court/ Court of Appeals	19,522,283	19,893,084	19,062,796	19,365,223	Pending	
FTE	<u>196.2</u>	<u>201.2</u>	<u>194.2</u>	<u>194.2</u>	<u>208.5</u>	
General Fund	10,748,628	10,045,031	9,932,823	10,260,577		
FTE	124.7	117.0	122.5	122.5	122.5	
Cash Funds	8,773,655	9,837,952	9,079,973	9,104,646		
FTE	71.5	84.2	71.7	71.7	86.0	
Reappropriated Funds	0	10,101	50,000	0		

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

(2) COURTS ADMINISTRATION

(A) Administration and Technology

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

General Courts Administration		15,485,771	a/	15,836,751	16,019,777	Pending	
FTE		<u>178.3</u>	a/	<u>190.4</u>	<u>195.4</u>	<u>195.4</u>	
General Fund		12,292,978		11,603,843	11,508,950		JUD R-6, R-7
FTE		159.3		168.4	166.4	166.4	JUD R-6
Cash Funds		1,825,845		1,882,296	2,530,217	A	
FTE		19.0		20.0	27.0	A	JUD R-2
Reappropriated Funds		1,366,948		2,350,612	1,980,610		
FTE		0.0		2.0	2.0	2.0	
Personal Services	8,613,288	b/	See above				
FTE	<u>104.8</u>	b/	line item				
General Fund	7,253,607						
FTE	104.4						
Cash Funds	43,445						
FTE	0.4						
Reappropriated Funds	1,316,236						
FTE	0.0						
Operating Expenses	<u>523,398</u>	b/	See above				
General Fund	479,290		line item				
Cash Funds	44,108						

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	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
Information Technology Infrastructure	<u>2,961,486</u>	<u>4,395,921</u>	<u>5,442,845</u>	<u>5,952,101</u>	<u>5,952,101</u>	
General Fund	353,094	529,869	853,094	403,094	403,094	
Cash Funds	2,608,392	3,866,052	4,589,751 S	5,549,007	5,549,007	JUD R-5
Statewide Indirect Cost Assessment	<u>62,984</u>	<u>113,511</u>	<u>143,285</u>	<u>110,175</u>	<u>110,175</u>	
Cash Funds	62,984	113,511	140,111	98,553	98,553	
Reappropriated Funds	0	0	0	3,390	3,390	
Federal Funds	0	0	3,174	8,232	8,232	
Departmental Indirect Cost Assessment - CF	1,242,659	1,253,437	1,907,327	1,870,435	1,870,435	
Judicial/Heritage Program	680,736	n/a				
FTE	<u>3.0</u>					
General Fund	503,260					
FTE	3.0					
Reappropriated Funds	177,476					
SUBTOTAL - Administration and Technology						
("Administration" prior to FY 2010-11)	14,084,551 b/	21,248,640 a/	23,330,208	23,952,488	Pending	
FTE	<u>107.8</u> b/	<u>178.3</u> a/	<u>190.4</u>	<u>195.4</u>	<u>195.4</u>	
General Fund	8,589,251	12,822,847	12,456,937	11,912,044		
FTE	107.4	159.3	168.4	166.4	166.4	
Cash Funds	4,001,588	7,058,845	8,519,485	10,048,212		
FTE	0.4	19.0	20.0	27.0	27.0	
Reappropriated Funds	1,493,712	1,366,948	2,350,612	1,984,000		
FTE	0.0	0.0	2.0	2.0	2.0	
Federal Funds	0	0	3,174	8,232		

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

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

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	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
(B) Central Appropriations						
This subdivision includes centrally appropriated line items (which generally exclude funding associated with the four independent agencies). Cash fund sources include the Judicial Stabilization Cash Fund, the State Commission on Judicial Performance Cash Fund, the Offender Services Fund, the Judicial Department Information Technology Cash Fund, the Fines Collection Cash Fund, the Drug Offender Surcharge Fund, and the Alcohol and Drug Driving Safety Program Fund, and employee parking fees.						
Health, Life, and Dental	<u>16,393,757</u>	<u>18,067,765</u>	<u>18,959,122</u>	<u>21,239,095</u>	Pending	
General Fund	16,077,590	16,365,672	17,002,669	19,457,269		
Cash Funds	316,167	1,702,093	1,956,453	1,781,826		
Short-term Disability	<u>203,044</u>	<u>297,235</u>	<u>349,520</u>	<u>352,493</u>	<u>349,969</u>	
General Fund	192,515	264,809	287,955	287,796	288,404	
Cash Funds	10,529	32,426	61,565	64,697	61,565	
S.B. 04-257 Amortization Equalization Disbursement	<u>3,464,910</u>	<u>4,526,674</u>	<u>5,368,501</u>	<u>6,086,358</u>	<u>5,588,172</u>	
General Fund	3,458,308	4,043,325	4,410,863	5,022,613	4,454,618	JUD R-4
Cash Funds	6,602	483,349	957,638	1,063,745	1,133,554	JUD R-2, R-3
S.B. 06-235 Supplemental Amortization Equalization Disbursement	<u>2,218,565</u>	<u>3,252,810</u>	<u>4,259,422</u>	<u>4,336,272</u>	<u>4,628,957</u>	
General Fund	2,124,448	2,918,597	3,497,156	3,552,381	3,680,446	JUD R-4
Cash Funds	94,117	334,213	762,266	783,891	948,511	JUD R-2, R-3
Salary Survey	<u>0</u>	<u>0</u>	<u>0</u>	<u>1,352,600</u>	<u>1,352,600</u>	
General Fund	0	0	0	309,680	309,680	JUD R-1
Cash Funds	0	0	0	1,042,920	1,042,920	JUD R-1
Anniversary Increases	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	0	0	0	0	0	
Cash Funds	0	0	0	0	0	
Workers' Compensation - GF	1,623,687	1,647,138	1,672,725	1,865,076	Pending	
Legal Services - GF	157,590	85,966	227,130	227,130	Pending	
Hours	2,090.6	1,171.7	3,000.0	3,000.0	3,000.0	
Purchase of Services from Computer Center - GF	256,998	295,960	510,537	768,375	Pending	
Multiuse Network Payments - GF	334,800	270,664	412,501	534,336	Pending	

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	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
Payment to Risk Management and Property Funds - GF	214,188	65,718	232,018	238,829	Pending	
Vehicle Lease Payments - GF	55,025	59,044	56,345 S	72,221	Pending	
Leased Space	<u>1,207,774</u>	<u>1,262,204</u>	<u>1,285,765</u>	<u>1,323,343</u>	<u>1,323,343</u>	
General Fund	1,083,763	1,129,939	1,114,285	1,151,863	1,151,863	
Cash Funds	124,011	132,265	171,480	171,480	171,480	
Communication Services Payments - GF	10,938	11,377	12,161	54,724 A	Pending	
Lease Purchase - GF	119,878	119,878	119,878	119,878	119,878	
Administrative Purposes	<u>131,913</u>	Transferred to				
General Fund	106,614	General Courts				
Cash Funds	25,299	Admin. line item				
Appellate Reports Publication - GF	55,822	See Appellate Court				
		Pgms.				
SUBTOTAL - Central Appropriations ("Special Purpose" Prior to FY 2010-11)	<u>26,448,889</u>	<u>29,962,433</u>	<u>33,465,625</u>	<u>38,570,730</u>	Pending	
General Fund	25,872,164	27,278,087	29,556,223	33,662,171		
Cash Funds	576,725	2,684,346	3,909,402	4,908,559		

(C) Centrally Administered Programs

This subdivision includes funding and staff associated with specific functions, grant programs, and distributions that are administered by the State Court Administrator's Office. Cash fund sources include the Victims and Witnesses and Law Enforcement Fund, the Crime Victim Compensation Fund, the Judicial Collections Enhancement Fund, the Fines Collection Cash Fund, the Judicial Stabilization Cash Fund, the Court Security Cash Fund, the State Commission on Judicial Performance Cash Fund, the Family Violence Justice Fund, the Family-friendly Court Program Cash Fund, and various fees, cost recoveries, and grants. Reappropriated funds include Victims and Witnesses Assistance and Law Enforcement funds transferred from the Trial Courts section, and federal funds transferred from the Department of Human Services.

Victim Assistance - CF a/	16,373,571	16,159,199	16,375,000	16,375,000	16,375,000	
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	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
Victim Compensation - CF a/	12,175,283	13,123,438	12,175,000	12,175,000	12,175,000	
Collections Investigators	5,081,134	4,960,725	5,082,460	5,179,351	Pending	
FTE	<u>71.3</u>	<u>70.5</u>	<u>83.2</u>	<u>83.2</u>	<u>83.2</u>	
Cash Funds	4,267,516	4,187,416	4,184,919	4,281,810		
FTE	71.3	70.5	83.2	83.2	83.2	
Reappropriated Funds	813,618	773,309	897,541	897,541		
Problem-solving Courts	1,375,160	b/ 2,145,296	2,309,513	2,343,417	Pending	
FTE	<u>18.3</u>	b/ <u>32.2</u>	<u>32.7</u>	<u>32.7</u>	<u>32.7</u>	
Cash Funds	926,231	1,115,633	1,527,389	2,343,417		
FTE	13.6	17.2	21.7	32.7	32.7	
Federal Funds	448,929	1,029,663	782,124	0		
FTE	4.7	15.0	11.0	0.0	0.0	
Language Interpreters	3,174,489	3,245,920	3,633,821	3,671,284	Pending	
FTE	<u>19.9</u>	<u>22.7</u>	<u>25.0</u>	<u>25.0</u>	<u>25.0</u>	
General Fund	3,146,340	3,218,320	3,347,321	3,384,784		
FTE	19.9	22.7	25.0	25.0	25.0	
Cash Funds	28,149	27,600	286,500	286,500		
Courthouse Security - CF	2,778,305	2,966,235	3,864,989	3,864,989	3,864,989	
FTE	1.0	1.0	1.0	1.0	1.0	
Courthouse Capital/ Infrastructure Maintenance	<u>3,064,041</u>	<u>2,432,067</u>	<u>483,526</u>	<u>1,657,386</u>	<u>1,654,386</u>	
General Fund	0	80,791	10,000	S 0	0	
Cash Funds	3,064,041	2,351,276	473,526	1,657,386	1,654,386	JUD R-2, R-3, R-4, R-8
Senior Judge Program	<u>1,943,200</u>	<u>1,592,873</u>	<u>1,500,000</u>	<u>1,500,000</u>	<u>1,500,000</u>	
General Fund	1,943,200	1,592,873	1,500,000	0	0	JUD R-1, R-4
Cash Funds	0	0	0	1,500,000	1,500,000	JUD R-1, R-4
Judicial Education and Training [NEW LINE ITEM] - CF				1,069,536	1,069,536	JUD R-6
FTE				2.0	2.0	JUD R-6
Office of Judicial Performance Evaluation - CF	646,686	705,806	916,353	890,955	Pending	
FTE	1.6	2.0	2.0	2.0	2.0	

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	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
Family Violence Justice Grants	<u>860,912</u>	<u>870,934</u>	<u>675,000</u>	<u>628,430</u>	<u>628,430</u>	
General Fund	750,000	750,000	458,430	458,430	458,430	
Cash Funds	110,912	120,934	216,570	170,000	170,000	
Family Friendly Court Program - CF	319,252	249,549	375,000	375,000	375,000	
FTE	0.5	0.5	0.5	0.5	0.5	
Child Support Enforcement	73,333	81,126	88,864	90,900	Pending	
FTE	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	
General Fund	24,923	27,633	30,212	30,904		
Reappropriated Funds	48,410	53,493	58,652	59,996		
FTE	1.0	1.0	1.0	1.0	1.0	
SUBTOTAL - Centrally Administered Programs	47,865,366 b/	48,533,168	47,479,526	49,821,248	Pending	
FTE	<u>113.6</u> b/	<u>129.9</u>	<u>145.4</u>	<u>147.4</u>	<u>147.4</u>	
General Fund	5,864,463	5,669,617	5,345,963	3,874,118		
FTE	19.9	22.7	25.0	25.0	25.0	
Cash Funds	40,689,946	41,007,086	40,395,246	44,989,593		
FTE	88.0	91.2	108.4	121.4	121.4	
Reappropriated Funds	862,028	826,802	956,193	957,537		
FTE	1.0	1.0	1.0	1.0	1.0	
Federal Funds	448,929	1,029,663	782,124	0		
FTE	4.7	15.0	11.0	0.0	0.0	

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

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

**Fiscal Year 2012-13 Joint Budget Committee Staff Figure Setting
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	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
(D) Ralph L. Carr Colorado Judicial Center [NEW SUBSECTION]						
This subdivision would include 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.						
Personal Services [NEW LINE ITEM] - CF				1,018,419	1,018,419	JUD R-7
FTE				2.0	2.0	JUD R-7
Operating Expenses - CF			120,105 S	2,147,060	2,147,060	JUD R-7
Controlled Maintenance [NEW LINE ITEM] - CF				1,000,000	1,000,000	JUD R-7
<hr/>						
SUBTOTAL - Ralph L. Carr Colorado Judicial Center - CF			120,105	4,165,479	4,165,479	
FTE			0.0	2.0	2.0	
<hr/>						
TOTAL - Courts Administration	88,398,806	99,744,241 a/	104,395,464	116,509,945		Pending
FTE	<u>221.4</u>	<u>308.2</u> a/	<u>335.8</u>	<u>344.8</u>		<u>344.8</u>
General Fund	40,325,878	45,770,551	47,359,123	49,448,333		
FTE	127.3	182.0	193.4	191.4		191.4
Cash Funds	45,268,259	50,750,277	52,944,238	64,111,843		
FTE	88.4	110.2	128.4	150.4		150.4
Reappropriated Funds	2,355,740	2,193,750	3,306,805	2,941,537		
FTE	1.0	1.0	3.0	3.0		3.0
Federal Funds	448,929	1,029,663	785,298	8,232		
FTE	4.7	15.0	11.0	0.0		0.0

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

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	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
(3) TRIAL COURTS						
Trial courts consist of district courts in 22 judicial districts, water courts, and county courts. <i>District courts:</i> preside over felony criminal matters, civil claims, juvenile matters, probate, mental health, and divorce proceedings; handle appeals from municipal and county courts; and review decisions of administrative boards and agencies. <i>Water courts</i> have exclusive jurisdiction over cases involving the determination of water rights and the use and administration of water. <i>County courts:</i> 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	121,443,399 a/	114,677,763 b/	118,520,878	123,632,381		Pending
FTE	<u>1,671.0</u> a/	<u>1,615.2</u> b/	<u>1,750.6</u>	<u>1,794.1</u>		<u>1,794.1</u>
General Fund	97,755,849	90,070,969	89,919,520 S	93,071,317		
FTE	1,407.5	1,345.3	1,431.8 S	1,435.8		1,435.8 JUD R-6
Cash Funds	22,651,044	23,572,951	27,501,358	29,461,064 A		6 JUD R-2, R-3, R-
FTE	263.5	269.9	318.8	358.3 A		358.3 JUD R-2, R-3
Reappropriated Funds	1,036,506	1,033,843	1,100,000	1,100,000		
Capital Outlay	<u>1,015,079</u>	<u>0</u>	<u>0</u>	<u>0</u>		<u>0</u>
General Fund	0	0	0	0		0
Cash Funds	1,015,079	0	0	0		0
Court Costs, Jury Costs, and Court-appointed Counsel	<u>15,841,967</u>	<u>15,472,347</u>	<u>15,594,352</u>	<u>15,594,352</u>		<u>15,594,352</u>
General Fund	15,649,308	15,319,142	15,109,352	15,109,352		15,109,352
Cash Funds	192,659	153,205	485,000	485,000		485,000
District Attorney Mandated Costs	<u>2,226,050</u>	<u>2,130,507</u>	<u>2,198,494</u>	<u>2,264,449</u>		<u>2,264,449</u>
General Fund	2,101,050	2,005,507	2,073,494	2,139,449		2,124,449
Cash Funds	125,000	125,000	125,000	125,000		140,000
Federal Funds and Other Grants	1,337,344	1,506,856	2,900,000	2,900,000		2,900,000
FTE c/	<u>14.0</u>	<u>14.0</u>	<u>14.0</u>	<u>14.0</u>		<u>14.0</u>
Cash Funds	254,272	366,130	975,000	975,000		975,000
FTE c/	3.0	3.0	3.0	3.0		3.0
Reappropriated Funds	48,385	116,080	300,000	300,000		300,000
FTE c/	6.0	6.0	6.0	6.0		6.0
Federal Funds	1,034,687	1,024,646	1,625,000	1,625,000		1,625,000
FTE c/	5.0	5.0	5.0	5.0		5.0

**Fiscal Year 2012-13 Joint Budget Committee Staff Figure Setting
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	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
TOTAL - Trial Courts	141,863,839 a/	133,787,473 b/	139,213,724	144,391,182		Pending
FTE	<u>1,685.0</u> a/	<u>1,629.2</u> b/	<u>1,764.6</u>	<u>1,808.1</u>		<u>1,808.1</u>
General Fund	115,506,207	107,395,618	107,102,366	110,320,118		
FTE	1,407.5	1,345.3	1,431.8	1,435.8		1,435.8
Cash Funds	24,238,054	24,217,286	29,086,358	31,046,064		
FTE	266.5	272.9	321.8	361.3		361.3
Reappropriated Funds	1,084,891	1,149,923	1,400,000	1,400,000		
FTE	6.0	6.0	6.0	6.0		6.0
Federal Funds	1,034,687	1,024,646	1,625,000	1,625,000		
FTE	5.0	5.0	5.0	5.0		5.0

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

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

c/ FTE figures for FY 2009-10 and 2010-11 reflect appropriated, rather than actual, levels.

(4) PROBATION AND RELATED SERVICES

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

Probation Programs		68,406,169 a/	73,267,156	75,988,668		Pending
FTE		<u>1,050.2</u> a/	<u>1,130.4</u>	<u>1,149.4</u>		<u>1,149.4</u>
General Fund		61,838,774	62,875,772	65,388,401		JUD R-4
FTE		896.3	976.5	995.5		995.5 JUD R-4
Cash Funds		6,567,395	10,391,384	10,600,267		
FTE		153.9	153.9	153.9		153.9
Personal Services	68,661,106	See above				
FTE	<u>1,038.6</u>	line item				
General Fund	59,025,104					
FTE	884.7					
Cash Funds	9,636,002					
FTE	153.9					

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	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
Operating Expenses	<u>2,398,304</u>	See above				
General Fund	1,988,697	line item				
Cash Funds	409,607					
Offender Treatment and Services	<u>8,658,982</u>	<u>9,989,786</u>	<u>17,499,136</u>	<u>17,499,136</u>	<u>17,799,136</u>	
General Fund	0	0	0	0	300,000	
Cash Funds	8,473,958	9,603,829	10,619,290	10,619,290	10,619,290	
Reappropriated Funds	185,024	385,957	6,879,846	6,879,846	6,879,846	
S.B. 03-318 Community Treatment Funding	<u>2,200,000</u>	<u>2,200,000</u>	<u>2,200,000</u>	<u>2,200,000</u>	<u>2,200,000</u>	
General Fund	2,200,000	2,200,000	2,200,000	2,200,000	2,200,000	
Cash Funds	0	0	0	0	0	
H.B. 10-1352 Appropriation to Drug Offender Surcharge Fund - GF	n/a	1,068,196	6,156,118	6,156,118	6,156,118	
S.B. 91-094 Juvenile Services - RF	1,633,255	1,603,089	1,906,837	2,496,837	2,496,837	JUD R-9
FTE	16.6	15.1	25.0	25.0	25.0	
Day Reporting Services - GF	186,067	206,041	393,078	393,078	Transferred to OT&S above	
Victims Grants - RF	431,481	434,635	650,000	650,000	650,000	
FTE b/	6.0	6.0	6.0	6.0	6.0	
Federal Funds and Other Grants	4,460,495	4,973,611	5,600,000	5,600,000	5,600,000	
FTE b/	<u>33.0</u>	<u>33.0</u>	<u>33.0</u>	<u>33.0</u>	<u>33.0</u>	
Cash Funds	1,094,693	946,292	1,950,000	1,950,000	1,950,000	
FTE b/	2.0	2.0	2.0	2.0	2.0	
Reappropriated Funds	773,008	1,152,461	850,000	850,000	850,000	
FTE b/	18.0	18.0	18.0	18.0	18.0	
Federal Funds	2,592,794	2,874,858	2,800,000	2,800,000	2,800,000	
FTE b/	13.0	13.0	13.0	13.0	13.0	

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	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
TOTAL - Probation and Related Services	88,629,690	88,881,527 a/	107,672,325	110,983,837		Pending
FTE	<u>1,094.2</u>	<u>1,104.3</u> a/	<u>1,194.4</u>	<u>1,213.4</u>		<u>1,213.4</u>
General Fund	63,399,868	65,313,011	71,624,968	74,137,597		
FTE	884.7	896.3	976.5	995.5		995.5
Cash Funds	19,614,260	17,117,516	22,960,674	23,169,557		
FTE	155.9	155.9	155.9	155.9		155.9
Reappropriated Funds	3,022,768	3,576,142	10,286,683	10,876,683		
FTE	40.6	39.1	49.0	49.0		49.0
Federal Funds	2,592,794	2,874,858	2,800,000	2,800,000		
FTE	13.0	13.0	13.0	13.0		13.0

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

b/ FTE figures for FY 2009-10 and 2010-11 reflect appropriated, rather than actual, levels.

TOTAL - Judicial Department (Courts/ Probation)	338,414,618	342,306,325	370,344,309	391,250,187		Pending
FTE	<u>3,196.8</u>	<u>3,242.9</u>	<u>3,489.0</u>	<u>3,560.5</u>		<u>3,574.8</u>
General Fund	229,980,581	228,524,211	236,019,280	244,166,625		
FTE	2,544.2	2,540.6	2,724.2	2,745.2		2,745.2
Cash Funds	97,894,228	101,923,031	114,071,243	127,432,110		
FTE	582.3	623.2	677.8	739.3		753.6
Reappropriated Funds	6,463,399	6,929,916	15,043,488	15,218,220		
FTE	47.6	46.1	58.0	58.0		58.0
Federal Funds	4,076,410	4,929,167	5,210,298	4,433,232		
FTE	22.7	33.0	29.0	18.0		18.0

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	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
(5) OFFICE OF THE STATE PUBLIC DEFENDER						
Douglas Wilson, State Public Defender						
This agency provides legal counsel for indigent defendants in criminal and juvenile delinquency cases where there is a possibility of being jailed or imprisoned. Cash funds consist of training fees paid by private attorneys, grants, and funds received from the City of Denver for contract services related to its drug court. Reappropriated funds are federal funds transferred from the Department of Public Safety.						
Personal Services - GF	37,852,827	38,108,913	42,117,534	44,515,981	Pending	R-3
FTE	518.4	560.7	645.2	652.8	652.8	
Health, Life, and Dental - GF	3,056,218	4,046,851	4,555,942	4,569,936	Pending	OSP R-3
Short-term Disability - GF	50,852	57,220	68,330	70,697	70,078	OSP R-1, R-3
S.B. 04-257 Amortization Equalization Disbursement - GF	650,696	873,686	1,067,990	1,266,026	1,263,662	OSP R-1, R-3
S.B. 06-235 Supplemental Amortization Equalization Disbursement - GF	371,880	630,654	852,431	1,082,967	1,080,882	OSP R-1, R-3
Salary Survey - GF	0	0	0	0	860,682	
Anniversary Increases - GF	0	0	0	0	0	
Operating Expenses	<u>988,518</u>	<u>1,147,956</u>	<u>1,209,206</u>	<u>1,330,881</u>	<u>1,331,367</u>	
General Fund	966,968	1,126,981	1,179,206	1,300,881	1,301,367	OSP R-3
Cash Funds	21,550	20,975	30,000	30,000	30,000	
Purchase of Services from Computer Center - GF	19,579	See Cts. Admin, Admin. & Tech.				
Vehicle Lease Payments - GF	50,688	52,632	78,636 S	109,402	Pending	
Capital Outlay - GF	100,000	233,910	141,090	56,436	51,733	OSP R-3
Leased Space/Utilities - GF	4,490,715	5,895,388	6,017,436	6,122,344	6,122,344	OSP R-3
Automation Plan - GF	1,097,199	1,891,335	894,768	894,768	894,768	

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	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
Contract Services - GF	18,000	18,000	18,000	18,000	18,000	
Mandated Costs - GF	3,092,601	3,516,379	3,884,183 S	3,884,183	3,884,183	
Grants	88,729	99,132	316,520	218,260	218,260	
FTE	<u>2.0</u>	<u>2.0</u>	<u>5.1</u>	<u>3.6</u>	<u>3.6</u>	
Cash Funds	81,558	99,132	316,520	218,260	218,260	OSPD R-3
FTE	1.0	2.0	5.1	3.6	3.6	OSPD R-3
Reappropriated Funds	7,171	0	0	0	0	
FTE	1.0	0.0	0.0	0.0	0.0	
TOTAL - Office of the State Public Defender	51,928,502	56,572,056	61,222,066	64,139,881	Pending	
FTE	<u>520.4</u>	<u>562.7</u>	<u>650.3</u>	<u>656.4</u>	<u>656.4</u>	
General Fund	51,818,223	56,451,949	60,875,546	63,891,621		
FTE	518.4	560.7	645.2	652.8	652.8	
Cash Funds	103,108	120,107	346,520	248,260		
FTE	1.0	2.0	5.1	3.6	3.6	
Reappropriated Funds	7,171	0	0	0		
FTE	1.0	0.0	0.0	0.0	0.0	

(6) OFFICE OF THE ALTERNATE DEFENSE COUNSEL

Lindy Frolich, Alternate Defense Counsel

This 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 - GF	704,510	690,609	690,704	706,089	Pending
FTE	7.5	7.5	7.5	7.5	7.5
Health, Life, and Dental - GF	65,348	72,791	80,682	80,682	Pending
Short-term Disability - GF	941	1,029	1,089	1,089	1,089
S.B. 04-257 Amortization Equalization Disbursement - GF	11,523	13,727	17,026	19,490	19,488
S.B. 06-235 Supplemental Amortization Equalization Disbursement - GF	7,080	9,909	13,590	16,678	16,667

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	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
Salary Survey - GF	0	0	0	0	0	
Performance-based Pay Awards - GF	0	0	0	0	0	
Operating Expenses - GF	65,619	68,844	67,030	67,030	67,030	
Purchase of Services from Computer Center - GF	1,203	See Cts. Admin, Admin. & Tech.				
Leased Space - GF	32,022	36,577	35,880 S	35,880	35,880	
Training and Conferences	<u>40,000</u>	<u>41,000</u>	<u>40,000</u>	<u>40,000</u>	<u>40,000</u>	
General Fund	20,000	21,000	20,000	20,000	20,000	
Cash Funds	20,000	20,000	20,000	20,000	20,000	
Conflict of Interest Contracts - GF	20,760,634	18,132,047	19,841,014 S, a/	20,503,742	20,001,448	OADC R-1
Mandated Costs - GF	1,513,582	1,429,874	1,567,440 S, b/	1,619,796	1,580,114	OADC R-1
TOTAL - Office of the Alternate Defense Counsel	23,202,462	20,496,407	22,354,455	23,090,476	Pending	
FTE	<u>7.5</u>	<u>7.5</u>	<u>7.5</u>	<u>7.5</u>	<u>7.5</u>	
General Fund	23,182,462	20,476,407	22,334,455	23,070,476		
FTE	7.5	7.5	7.5	7.5	7.5	
Cash Funds	20,000	20,000	20,000	20,000		

a/ Reflects mid-year reduction of \$851,147, which has not yet been considered or approved by the Joint Budget Committee.

b/ Reflects mid-year reduction of \$22,408, which has not yet been considered or approved by the Joint Budget Committee.

(7) OFFICE OF THE CHILD'S REPRESENTATIVE

Linda Weinerman, Executive Director

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

Personal Services - GF	1,865,701	1,806,800	1,868,708	1,910,890	Pending
FTE	26.8	26.5	26.9	26.9	26.9
Health, Life, and Dental - GF	139,235	130,716	167,808	167,808	Pending
Short-term Disability - GF	2,512	2,685	2,986	2,986	2,986

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	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
S.B. 04-257 Amortization Equalization Disbursement - GF	31,595	37,502	46,681	52,568	52,428	
S.B. 06-235 Supplemental Amortization Equalization Disbursement - GF	19,384	27,072	37,260	44,960	44,840	
Salary Survey - GF	0	0	0	0	0	
Anniversary Increases - GF	0	0	0	0	0	
Operating Expenses - GF	172,112	204,872	159,929	159,929	159,929	
Capital Outlay - GF	3,517	0	0	0	0	
Purchase of Services from Computer Center - GF	1,553	See Cts. Admin, Admin. & Tech.			See Cts. Admin, Admin. & Tech.	
Leased Space - GF	144,178	147,687	150,380	162,090	162,090	
CASA Contracts - GF	520,000	520,000	475,000	520,000	475,000	OCR R-1
Training - GF	36,999	52,607	38,000	38,000	38,000	
Court Appointed Counsel - GF	15,853,321	16,021,900	15,530,898 S,a/	16,531,560	16,021,900	
Mandated Costs - GF	39,717	29,290	26,228	26,228	26,228	
TOTAL - Office of the Child's Representative - GF	18,829,824	18,981,131	18,503,878	19,617,019	Pending	
FTE	26.8	26.5	26.9	26.9	26.9	

a/ Reflects mid-year reduction of \$1,000,662 which has not yet been considered or approved by the Joint Budget Committee.

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	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
(8) INDEPENDENT ETHICS COMMISSION						
Jane Feldman, Executive Director						
Established through a 2006 constitutional amendment, the Commission is charged with hearing complaints, issuing findings, assessing penalties, and issuing advisory opinions on ethics issues that arise concerning public officers, members of the General Assembly, local government officials, or government employees. The Commission was transferred from the Department of Personnel and Administration and established as an independent agency in the Judicial Branch in FY 2010-11.						
Personal Services - GF	n/a	175,963	a/ 125,799	129,827	Pending	
FTE		2.0	1.0	1.0	1.0	
Health, Life, and Dental - GF	n/a	9,256	a/ 4,437	5,461	Pending	
Short-term Disability - GF	n/a	272	a/ 285	142	142	
S.B. 04-257 Amortization Equalization Disbursement - GF	n/a	3,770	a/ 4,458	2,680	2,376	
S.B. 06-235 Supplemental Amortization Equalization Disbursement - GF	n/a	2,721	a/ 3,558	2,303	2,032	
Salary Survey - GF	n/a	0	0	0	0	
Anniversary Increases - GF	n/a	0	0	0	0	
Operating Expenses - GF	n/a	36,906	a/ 15,807	15,807	15,807	
Legal Services - GF	n/a	34,217	a/ 68,139	68,139	Pending	
Hours		466.4	900.0	900.0	900.0	
TOTAL - Independent Ethics Commission - GF		263,105	222,483	224,359	Pending	
FTE		2.0	1.0	1.0	1.0	

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

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	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
JUDICIAL GRAND TOTAL	432,375,406	438,619,024	472,647,191	498,321,922	Pending	
FTE	<u>3,751.5</u>	<u>3,841.6</u>	<u>4,174.7</u>	<u>4,252.3</u>	<u>4,266.6</u>	
General Fund	323,811,090	324,696,803	337,955,642	350,970,100		
FTE	3,096.9	3,137.3	3,404.8	3,433.4	3,433.4	
Cash Funds	98,017,336	102,063,138	114,437,763	127,700,370		
FTE	583.3	625.2	682.9	742.9	757.2	
Reappropriated Funds	6,470,570	6,929,916	15,043,488	15,218,220		
FTE	48.6	46.1	58.0	58.0	58.0	
Federal Funds	4,076,410	4,929,167	5,210,298	4,433,232		
FTE	22.7	33.0	29.0	18.0	18.0	

A = impacted by a budget amendment submitted after the November 1 request

S = impacted by a supplemental appropriation (mid-year change)

Committee of Reference SMART Act Recommendation Letter for the Department

House Judiciary Committee

Received January 30, 2012

Recommendations

The House Judiciary Committee did not provide a recommendation on the Judicial Branch's FY 2012-13 budget.

Senate Judiciary Committee

Received January 27, 2012

Recommendations

The Senate Judiciary Committee recommended the following changes:

- The Committee expressed support for decision item JUD-1, concerning compensation realignment.
- The Committee expressed support for decision item JUD-2, concerning protective proceedings, and encouraged research into new ideas concerning how to deliver these services in an innovative and efficient manner.
- The Committee expressed support for decision item JUD-3, concerning *pro se* case managers.
- The Committee expressed support for decision item JUD-4, concerning supervision of sex offenders on probation.
- The Committee also expressed support for all of the remaining Judicial Branch decision items (including the independent agencies), within the context of the limited information that the Committee had available as it considered the requests.

Organization of the Judicial Branch

The Judicial Branch is comprised of five agencies, each falling under the jurisdiction of the Colorado Supreme Court. However, each agency is independent, has its own Director, and submits its own budget request with its own prioritized decision items. The *Judicial "Department"* is the largest of the five agencies, and is comprised of the Supreme Court, Court of Appeals, the State Court Administrator's Office, attorney regulation, victims programs, collections programs, Trial Courts, and Probation. The *Office of the State Public Defender* and the *Office of Alternate Defense Counsel* provide legal representation for indigent criminal defendants. Such cases are first assigned to the Office of the State Public Defender, which must refer cases to the Alternate Defense Counsel if there is a 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. Finally, the *Independent Ethics Commission* gives advice and guidance on ethics-related matters concerning public officers, members of the General Assembly, local government officials, or government employees.

Summary of Significant Recommendations Included in this Packet

The following table identifies the most significant changes recommended in this packet for both FY 2011-12 and FY 2012-13.

Summary of Significant Staff Recommendations in this Packet						
Description	Total Funds	General Fund	Cash Funds	Reapprop. Funds	Federal Funds	FTE
FY 2011-12:						
Decrease funding for OCR court appointed counsel	(\$1,000,662)	(\$1,000,662)	\$0	\$0	\$0	0.0
Decrease funding for OADC conflict of interest contracts and mandated costs	(873,555)	(873,555)	0	0	0	0.0
FY 2012-13:						
Reverse increase in employee PERA contribution (S.B. 11-076)	6,053,470	5,181,706	870,420	1,344	0	0.0
Operations of the Ralph L. Carr Colorado Judicial Center (JUD R-7)	3,748,504	(296,870)	4,045,374	0	0	2.0
Courthouse furnishings and infrastructure(JUD R-8)	1,378,000	0	1,378,000	0	0	0.0
Compensation realignment (JUD R-1)	1,352,600	0	1,352,600	0	0	0.0
Implemental SAO recommendations for protective proceedings (JUD R-2)	1,348,250	0	1,348,250	0	0	21.5
Supervision of sex offenders on probation (JUD R-4)	1,204,078	(75,599)	1,279,677	0	0	19.0
Adjust informational appropriations to better reflect expenditures	1,190,000	0	1,190,000	0	0	14.3
Provide funding for judgeships authorized by H.B. 07-1054 (Courts, OSPD)	1,116,666	531,086	585,580	0	0	14.1
Attorney salary parity (OSPD R-1)	907,715	907,715	0	0	0	0.0
<i>Pro se</i> case managers (JUD R-3)	805,059	0	805,059	0	0	12.0
Annualize prior year decision items and reverse one-time funding changes	781,727	715,945	1,005,906	(158,000)	(782,124)	8.0
Increase funding (after mid-year reduction) for OADC conflict of interest contracts and OCR court appointed counsel (OADC R-1)	664,110	664,110	0	0	0	0.0
Judge education and training (JUD R-6)	585,500	(240,284)	825,784	0	0	0.0

(1) SUPREME COURT/COURT OF APPEALS

This section provides funding for the Colorado Supreme Court and the Colorado Appeals Court. 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 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 corpus¹, 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.²

Created by statute, the *Court of Appeals* is generally the first court to hear appeals of judgements 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.³

The following table details the staffing composition for this section of the Long Bill.

Supreme Court/ Court of Appeals: Staffing Summary				
Position Description	FY 2010-11 Actual	FY 2011-12 Estimate	FY 2012-13 Request	FY 2012-13 Recomm.
Supreme Court Justices	7.0	7.0	7.0	7.0
Court of Appeals Judges	22.0	22.0	22.0	22.0
Admin./Support Systems	27.8	29.5	29.5	29.5
Law Clerks	53.6	55.0	55.0	55.0
Staff Attorneys	21.6	23.5	23.5	23.5
Library Personnel	<u>2.5</u>	<u>3.0</u>	<u>3.0</u>	<u>3.0</u>

¹ 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 should be released from custody.

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

³ Section 13-4-101 et seq., C.R.S.

Supreme Court/ Court of Appeals: Staffing Summary				
Position Description	FY 2010-11 Actual	FY 2011-12 Estimate	FY 2012-13 Request	FY 2012-13 Recomm.
Subtotal - Appellate Court Programs line item	134.5	140.0	140.0	140.0
Attorney Regulation Committees	55.8	40.5	40.5	56.0
Continuing Legal Education	3.1	4.0	4.0	4.0
Law Examiner Board	6.3	8.2	8.2	7.0
Law Library	<u>1.5</u>	<u>1.5</u>	<u>1.5</u>	<u>1.5</u>
Subtotal - Other line items	66.7	54.2	54.2	68.5
DIVISION TOTAL	201.2	194.2	194.2	208.5

Appellate Court Programs

Description. 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.

Request. The Department requests \$11,595,223 and 140.0 FTE for this line item for FY 2012-13.

Recommendation. **Staff's overall recommendation for this line item is pending application of the common policy concerning a base reduction in funding for personal services.** The following table details those elements of staff's recommendation that may be provided at this time, prior to application of the Committee's recently adopted common policy related to a personal services base reduction. Staff will apply the Committee's base reduction policy to finalize the appropriation for this line item. However, **staff recommends that the salaries of judges and justices be excluded from the base reduction.** Pursuant to Section 18 of Article VI of the State Constitution: "Justices and judges of courts of record shall receive such compensation as may be provided by law, which may be increased but may not be decreased during their term of office and shall receive such pension or retirement benefits as may be provided by law." Judgeships are unlikely to be held vacant for any significant period of time, and the salary would remain unchanged should there be turnover in the position.

Summary of Recommendation for Appellate Court Programs						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2011-12 Long Bill	\$10,060,415	\$1,240,496	\$0	\$0	\$11,300,911	140.0
S.B. 11-076	<u>(327,754)</u>	<u>(24,673)</u>	<u>0</u>	<u>0</u>	<u>(352,427)</u>	<u>0.0</u>
FY 2011-12 Appropriation	9,732,661	1,215,823	0	0	10,948,484	140.0
Reinstate FY 2011-12 reduction in employer's PERA contribution (S.B. 11-076)	327,754	24,673	0	0	352,427	0.0
Salary Survey awarded in FY 2011-12	0	0	0	0	0	0.0
80% of Performance-based Pay awarded in FY 2011-12	0	0	0	0	0	0.0
Base reduction					<u>Pending</u>	
Subtotal: Personal Services					Pending	140.0
Operating Expenses:						
FY 2011-12 Long Bill	<u>200,162</u>	<u>94,150</u>	<u>0</u>	<u>0</u>	<u>294,312</u>	
Subtotal: Operating Expenses	200,162	94,150	0	0	294,312	
Staff Recommendation					Pending	140.0

Attorney Regulation

Description. 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. This line item is shown for informational purposes only, as these funds are continuously appropriated under the Judicial Branch's constitutional authority.

Request. The Department's request reflects the same level of funding that was included in the FY 2011-12 Long Bill (\$6,000,000 and 40.5 FTE).

Recommendation. **Staff recommends increasing both the dollar amount and the associated FTE in the FY 2012-13 Long Bill to more accurately reflect the expenditures and staffing of this unit.** Specifically, staff recommends reflecting \$7,000,000 and 56.0 FTE.

Continuing Legal Education

Description. The Board of Continuing Legal and Judicial Education administers mandatory continuing legal education for attorneys and judges, including the certification of courses and educational conferences. The program is supported by annual attorney registration fees established by the Colorado Supreme Court. This line item is shown for informational purposes only, as these funds are continuously appropriated under the Judicial Branch's constitutional authority.

Request. The Department's request reflects the same level of funding that was included in the FY 2011-12 Long Bill (\$370,000 and 4.0 FTE).

Recommendation. **Staff recommends increasing the dollar amount in the FY 2012-13 Long Bill to more accurately reflect the expenditures and staffing of this unit.** Specifically, staff recommends reflecting \$410,000 and 4.0 FTE.

State Board of Law Examiners

Description. 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. This line item is shown for informational purposes only, as these funds are continuously appropriated under the Judicial Branch's constitutional authority.

Request. The Department's request reflects the same level of funding that was included in the FY 2011-12 Long Bill (\$900,000 and 8.2 FTE).

Recommendation. **Staff recommends increasing the dollar amount and reducing the associated FTE in the FY 2012-13 Long Bill to more accurately reflect the expenditures and staffing of this unit.** Specifically, staff recommends reflecting \$1,050,000 and 7.0 FTE.

Law Library

Description. The Supreme Court Library is a public library that is currently located in the Denver Newspaper Agency Building. The library is supported by appellate filing and other fees deposited in the Supreme Court Library Fund. This line item is shown for informational purposes only, as these funds are continuously appropriated under the Judicial Branch's constitutional authority. In addition, this line item currently includes reappropriated funds that are transferred from the Department of Law.

Request. The Department's request reflects the same level of cash funding that was appropriated for FY 2011-12 (\$500,000 and 1.5 FTE). The Department's request eliminates \$50,000 reappropriated funds transferred from the Department of Law. The Department has been using these moneys to contract with a temporary staff person to coordinate a joint effort with the Department of Law to implement a plan to share library resources once both Departments are co-located in the Ralph L.

Carr Colorado Judicial Center. This individual has been analyzing and comparing existing library resources in order to prepare the Department of Law's print and electronic library for consolidation.

Recommendation. **Staff recommends approving the Department's request.**

(2) COURTS ADMINISTRATION

The justices of the Supreme Court appoint a State Court Administrator to oversee the daily administration of the Department and provide technical and administrative support to the courts and probation⁴. 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 such as legal and technology services
- (C) "Centrally Administered Programs" - funding supporting specific functions, grant programs, and distributions that are administered by the State Court Administrator's Office
- (D) "Ralph L. Carr Colorado Judicial Center" - spending authority to support operations of the new Judicial Center

(A) Administration and Technology

This subsection funds the activities of the State Court Administrator's Office, 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 and various other cash funds, and indirect cost recoveries.

General Courts Administration

Description. This line item provides funding for personal services and operating expenses for the State Court Administrator's Office' central administrative functions (e.g., human resources, accounting and budget, courts and probation administration and technical assistance, etc.). This line item also supports staff who 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. This line item also includes personal services funding (\$296,870) for the purchase of security services provided by the State Patrol. Finally, this line item provides funding for the costs of the Judicial Nominating Commission and the Jury Instruction

⁴ Article VI, Section 5 (3) of the Colorado Constitution; Section 13-3-101, C.R.S.

Revision Committee, the printing of civil and criminal jury instructions, and the Branch's membership in the National Center for State Courts (NCSC).

General Courts Administration: Staffing Summary				
Position Description	FY 2010-11 Actual	FY 2011-12 Approp.	FY 2012-13 Request	FY 2012-13 Recomm.
<u>General Courts Administration:</u>				
Administration (JUD R-6)	22.9	24.0	22.0	22.0
Probation Services	15.5	16.0	16.0	16.0
Financial Services	22.3	24.0	24.0	24.0
Planning (JUD R-2)	14.7	16.0	19.0	19.0
Human Resources	<u>14.5</u>	<u>19.5</u>	<u>19.5</u>	<u>19.5</u>
Subtotal	89.9	99.5	100.5	100.5
<u>Information Technology Services:</u>				
Administration/ Support	3.0	3.0	3.0	3.0
Programming Services	25.0	26.5	26.5	26.5
Computer Technical Support	29.2	30.4	30.4	30.4
JBITS Court Services	6.2	6.0	6.0	6.0
Programming/ Tech. Supervisors	3.0	2.0	2.0	2.0
Customer Support	4.0	4.0	4.0	4.0
Public Access System/ E-Filing System Project (annualize FY 2010-11 DI #1)	<u>18.0</u>	<u>19.0</u>	<u>23.0</u>	<u>23.0</u>
Subtotal	88.4	90.9	94.9	94.9
TOTAL	178.3	190.4	195.4	195.4

Request. The Department requests \$16,019,777 and 195.4 FTE for this line item for FY 2012-13. The request is impacted by JUD R-2 (Protective Proceedings), JUD R-6 (Judicial Education and Training) and JUD R-7 (Ralph L. Carr Justice Center); these requests are all discussed in other sections of the packet.

Recommendation. **Staff's overall recommendation for this line item is pending application of the common policy concerning a base reduction in funding for personal services.** The following table details those elements of staff's recommendation that may be provided at this time, prior to application of the Committee's recently adopted common policy related to a personal services base

reduction. Staff will apply the Committee's base reduction policy to finalize the appropriation for this line item.

Summary of Recommendation for Administration and Technology, General Courts Administration						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2011-12 Long Bill	\$11,370,524	\$1,711,262	\$2,050,612	\$0	\$15,132,398	190.4
S.B. 11-076	(306,934)	(41,409)	0	0	(348,343)	0.0
FY 2011-12 Supplemental	<u>(158,000)</u>	<u>0</u>	<u>300,000</u>	<u>0</u>	<u>142,000</u>	<u>0.0</u>
Subtotal: FY 2011-12 Appropriation	10,905,590	1,669,853	2,350,612	0	14,926,055	190.4
Annualize FY 2010-11 DI #1 (Implement Public Access System and Develop E-filing System)	0	198,400	0	0	198,400	4.0
Annualize FY 2011-12 DI#1 (Judicial Network Infrastructure and Staff) – net \$0 General Fund and cash funds impact for the Branch in total	(145,893)	145,893	0	0	0	0.0
Partially reverse FY 2011-12 Supplemental adjustments related to indirect cost recoveries	158,000	0	(158,000)	0	0	0.0
Reinstate FY 2011-12 reduction in employer's PERA contribution (S.B. 11-076)	306,934	41,409	0	0	348,343	0.0
Salary Survey awarded in FY 2011-12	0	0	0	0	0	0.0
80% of Performance-based Pay awarded in FY 2011-12	0	0	0	0	0	0.0
Fund source adjustment (indirect costs)	70,002	0	(70,002)	0	0	0.0
Base reduction					Pending	
JUD R-2: Protective Proceedings	0	207,817	0	0	207,817	3.0
JUD R-6: Judicial Education and Training	(147,036)	0	0	0	(147,036)	(2.0)
JUD R-7: Ralph L. Carr Colorado Judicial Center	<u>(296,870)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>(296,870)</u>	<u>0.0</u>
Subtotal: Personal Services					Pending	195.4
Operating Expenses:						
FY 2011-12 Long Bill	698,253	212,443	0	0	910,696	
Annualize FY 2010-11 DI #1 (Implement Public Access System and Develop E-filing System)	0	49,652	0	0	49,652	

Summary of Recommendation for Administration and Technology, General Courts Administration						
	GF	CF	RF	FF	TOTAL	FTE
Annualize FY 2011-12 DI#1 (Judicial Network Infrastructure and Staff) – net \$0 General Fund and cash funds impact for the Branch in total	(1,900)	1,900	0	0	0	
JUD R-2: Protective Proceedings	0	2,850	0	0	2,850	
JUD R-6: Judicial Education and Training	<u>(39,000)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>(39,000)</u>	
Subtotal: Operating Expenses	657,353	266,845	0	0	924,198	
Staff Recommendation					Pending	195.4

Information Technology Infrastructure

Description. 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. For FY 2012-13, the Department requests a total of \$5,952,101 for this line item. This request is impacted by JUD R-5 (Hardware Improvements for E-File), discussed below.

Judicial R-5: Hardware Improvements for E-File

Request. The Department requests a total of \$1,660,000 cash funds from the Judicial Department Information Technology (IT) Cash Fund to purchase IT equipment that is necessary to maintain the reliability and efficiency of the Department's IT infrastructure. The Department intends to purchase and deploy the new hardware over the course of 2012, and has requested authorization to spend \$800,000 in FY 2011-12 [previously approved by the Committee and reflected in H.B. 12-1187] and \$860,000 in FY 2012-13. The timing of this request is based on: (1) the flow of revenues into the Judicial Department IT Cash Fund; (2) the planned statewide implementation of the in-house e-filing system by January 2013; and (3) the anticipated move to the Ralph L. Carr Colorado Judicial Center as early as December 2012.

Source of Funding

The Judicial Department IT Cash Fund, established through a Joint Budget Committee-sponsored bill in 2008, allows the Department to retain fees and cost recoveries related to information technology services, including providing public access to court records and e-filing services. Pursuant to Section 13-32-114 (2), C.R.S., moneys in the Fund may be appropriated to the Department "for any expenses related to the department's information technology needs". The intent was to allow the Department to use fees and cost recoveries to support a portion of the Department's costs of maintaining the underlying IT systems and network, thereby mitigating the need for General Fund support.

Department IT Systems

The Department's IT systems connect 105 court, probation, and administrative locations throughout the state, and ensure the proper and secure storage and exchange of information between judicial employees, state agencies, and the public. The network infrastructure includes statewide data hardware and the associated necessary software, as well as circuits, cabling, routers, switches, hubs, wireless access points, fire walls, and video-conferencing units. Further, the system includes 90 windows-based development, testing, and production servers, which are located at the state shared data center (6th and Kipling), the state disaster recovery facility (E-Fort), and various local jurisdictions.

This IT system allows the Branch to engage in its daily business, including: processing new court case filings, accounting for court payments, and maintaining probation supervision records. This IT system supports 3,500 active users within the courts and probation and provides information to approximately 17 other government agencies. In response to a request from Senator Lambert, the Department prepared an overview of the Branch IT systems, including information about data access and sharing with other entities, illustrations of the system infrastructure, and information about recent and planned system improvements. Staff has included this document as an addendum to this packet.

Use of Requested Funds

The requested funds would be used to purchase two new iSeries servers, and two new storage controller units and related software and equipment.

First, the Department currently has four mid-range iSeries servers; two are large-scale production servers, one is a development server, and one is a disaster recovery/ back-up server. Due to advancements in mid-range server technology, the Department plans to replace the four existing servers with the two new servers. The Department indicates that the industry standard for replacement of server equipment is three to four years. The current servers have been in use for five years and it is essential that they be replaced soon to ensure continuity. The Department would like to upgrade its development server now so that the e-filing system can be developed directly on the most up-to-date technology, thereby avoiding the need to replace the aging server during critical programming stages or within months after the new system is implemented.

Second, the Department’s request would fund new document storage hardware to accommodate the large number of electronic documents that will be stored through the e-filing system. The Department currently has three Net App controller units that store existing data; two are located at the primary data center, and one is located at the State’s disaster recovery center. The current controller units only have a single network connection, which puts the Department at risk of losing data and documents in the event of an equipment failure. The existing units are also under-sized for the volume of data and usage that will be required for the e-filing system. The Department is thus requesting funding to replace the three existing units with two storage controller units which each have two network connections for increased redundancy. The new storage controller units will also have greater capacity to accommodate the documents related to the e-filing project and are generally more appropriate for an organization the size of Judicial.

Recommendation. Consistent with the staff recommendation and Committee action on the companion FY 2011-12 supplemental request, **staff recommends approving this request.** Staff recommends approving the request in order to maintain a reliable and functional IT infrastructure, and to avoid the risk and complexity of migrating the new e-filing system from an aging server to a new server during a critical programming and quality control stage of the project. The requested funds are from fees paid by users who rely on the Department’s IT infrastructure to obtain access to court records and e-filing services. Staff’s overall recommendation for this line item is detailed in the following table.

Summary of Recommendation for Courts Administration, Integrated Information Services, Information Technology Infrastructure					
	GF	CF	RF	FF	TOTAL
FY 2011-12 Long Bill	\$853,094	\$3,789,751	\$0	\$0	\$4,642,845
FY 2011-12 Supplemental	<u>0</u>	<u>800,000</u>	<u>0</u>	<u>0</u>	<u>800,000</u>
FY 2011-12 Appropriation	853,094	4,589,751	0	0	5,442,845
Annualize FY 2010-11 DI #1 (Implement Public Access System and Develop E-filing System)	0	449,256	0	0	449,256
Annualize FY 2011-12 DI#1 (Judicial Network Infrastructure and Staff) – net \$0 General Fund and cash funds impact for the Branch in total	(450,000)	450,000	0	0	0
Reverse FY 2011-12 supplemental	0	(800,000)	0	0	(800,000)
JUD R-5: Hardware and Improvements for E-file	0	860,000	0	0	860,000
Staff Recommendation	403,094	5,549,007	0	0	5,952,101

Statewide Indirect Cost Assessment

Description. 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 costs are primarily related to the DPA’s archive services, DPA’s Office of the State Controller, and the State Treasurer’s Office.

Request. The Department requests an appropriation of \$110,175 for FY 2012-13.

Recommendation. **Staff recommends approving the request, as it is consistent with Committee policy.**

Departmental Indirect Cost Assessment

Description. 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 an appropriation of \$1,870,435 cash funds for FY 2012-13.

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

Judicial/Heritage Program

Prior to FY 2010-11, this line item provided funding for the Judicial Department to provide maintenance and other related services for the Judicial Building (Two E. 14th Avenue) and the Colorado History Museum (1300 Broadway), known as the Judicial Heritage Center.

(2) COURTS ADMINISTRATION
(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 Drug Offender Surcharge Fund, the Alcohol and Drug Driving Safety Program Fund, and the State Commission on Judicial Performance Cash Fund.

Health, Life and Dental

Description. 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 \$21,239,095 for this line item for FY 2012-13.

Recommendation. **Staff's recommendation for this line item is pending Committee policy.** Staff will ultimately reflect Committee policy in the appropriation for this line item. In addition, staff recommends including \$54,450 General Fund for the 9.0 FTE additional staff required to complete implementation of H.B. 07-1054. Given that the two new judgeships would be filled on July 1, 2012, staff recommends including funding for the associated employee benefits for FY 2012-13.

Short-term Disability

Description. 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.

Request. The Department requests \$352,493 for this purpose for FY 2012-13.

Recommendation. **Staff recommends an appropriation of \$349,969 for this line item.** This amount includes \$349,520 consistent with the Committee policy (the lesser of the FY 2012-13 request or the FY 2011-12 appropriation), plus \$449 General Fund for the 9.0 FTE additional staff required to complete implementation of H.B. 07-1054. Given that the two new judgeships would be filled on July 1, 2012, staff recommends including funding for the associated employee benefits for FY 2012-13.

The following table summarizes all five of staff's recommendations related to Short-term Disability benefits. Overall, staff's recommendation is \$143 General Fund lower than the amount approved by the Committee when establishing common policies for compensation-related benefits. This is because the request for the Independent Ethics Commission is \$143 lower than the amount appropriated for FY 2011-12 (due to the decrease of 1.0 FTE from FY 2011-12 to FY 2012-13). Overall, the common policy results in appropriations that are \$4,891 lower than the amounts requested, as the base salary figures are from a December 2011 snapshot (which reflects vacant positions that existed at that time, rather than a "full-fill" projection used for purposes of the Branch's request).

Summary of Short-term Disability Recommendations					
	GF	CF	RF	FF	TOTAL
Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation	\$288,404	\$61,565	\$0	\$0	\$349,969
Office of the State Public Defender	70,078	0	0	0	70,078
Office of the Alternate Defense Counsel	1,089	0	0	0	1,089
Office of the Child's Representative	2,986				2,986

Summary of Short-term Disability Recommendations					
	GF	CF	RF	FF	TOTAL
Independent Ethics Commission	142	0	0	0	142
Staff Recommendation	\$362,699	\$61,565	\$0	\$0	\$424,264

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

Description. 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 a total of \$6,086,358 for FY 2012-13.

Recommendation. **Staff recommends an appropriation of \$5,588,172 for this line item.** This amount includes \$5,566,044 consistent with the Committee policy [3.0 percent of base salaries for CY 2012 and 3.4 percent of base salaries for CY 2013], plus \$22,128 General Fund for the 9.0 FTE additional staff required to complete implementation of H.B. 07-1054. Given that the two new judgeships would be filled on July 1, 2012, staff recommends including funding for the associated employee benefits for FY 2012-13.

The following table summarizes all five of staff's recommendations related to AED. Overall, staff's recommendation is \$2,375 General Fund higher than the amount approved by the Committee when establishing common policies for compensation-related benefits. This is because the calculations underlying the initial recommendation excluded the base salary for the Independent Ethics Commission. Overall, staff's recommendation is \$533,307 lower than the amounts requested, due to the use of base salary figures are from a December 2011 snapshot (which reflects vacant positions that existed at that time, rather than a "full-fill" projection used for purposes of the Branch's request) and the exclusion of funding associated with several decision items.

Summary of AED Recommendations					
	GF	CF	RF	FF	TOTAL
Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation	\$4,454,618	\$1,133,554	\$0	\$0	\$5,588,172
Office of the State Public Defender	1,263,662	0	0	0	1,263,662
Office of the Alternate Defense Counsel	19,488	0	0	0	19,488
Office of the Child's Representative	52,428				52,428

Summary of AED Recommendations					
	GF	CF	RF	FF	TOTAL
Independent Ethics Commission	2,376	0	0	0	2,376
Staff Recommendation	\$5,792,572	\$1,133,554	\$0	\$0	\$6,926,126

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

Description. 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 a total of \$4,336,272 for FY 2012-13.

Recommendation. **Staff recommends an appropriation of \$4,628,957 for this line item.** This amount includes \$4,621,627 consistent with the Committee policy [2.5 percent of base salaries for CY 2012 and 3.0 percent of base salaries for CY 2013], plus \$7,330 General Fund for the 9.0 FTE additional staff required to complete implementation of H.B. 07-1054. Given that the two new judgeships would be filled on July 1, 2012, staff recommends including funding for the associated employee benefits for FY 2012-13.

The following table summarizes all five of staff's recommendations related to SAED. Overall, staff's recommendation is \$1,131,017 lower than the amount approved by the Committee when establishing common policies for compensation-related benefits. This is because the calculations underlying the initial recommendation applied the annual rates applicable for AED, rather than SAED. Overall, the staff's recommendation is \$262,445 higher than the amounts requested. While the recommended amounts for each of the independent agencies are slightly lower than the requested amount, the recommended amount for the courts/probation is \$292,685 higher than the requested amount. While staff's recommendation excludes funding associated with several decision items, the base calculation is higher than the Department's request due to calculation errors reflected in the request.

Summary of SAED Recommendations					
	GF	CF	RF	FF	TOTAL
Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation	\$3,680,446	\$948,511	\$0	\$0	\$4,628,957
Office of the State Public Defender	1,080,882	0	0	0	1,080,882
Office of the Alternate Defense Counsel	16,667	0	0	0	16,667

Summary of SAED Recommendations					
	GF	CF	RF	FF	TOTAL
Office of the Child's Representative	44,840				44,840
Independent Ethics Commission	2,032	0	0	0	2,032
Staff Recommendation	\$4,824,867	\$948,511	\$0	\$0	\$5,773,378

Salary Survey

Description. The Department uses this line item to pay for annual increases akin to salary survey increases in the Executive Branch. One of four such line items, this one provides funds for Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation staff.

Request. The Department requests a total of \$1,352,600 for FY 2012-13. The request reflects JUD R-1 (discussed below).

Judicial R-1: Compensation Realignment

The Department requests a total of \$1,352,600, including \$1,042,920 cash funds and \$309,680 General Fund, to realign compensation for two administrative job classes: Court Judicial Assistants (CJA) and Support Services. The Department proposes an increase in the minimum salary for these two job classes to make it more comparable with similar Executive Branch classifications. To eliminate the General Fund cost of this request, the Department requests a fund source change to the Senior Judge Program line item. Specifically, the Department requests that the General Fund portion of this appropriation be reduced by \$309,680, and be replaced with a \$309,680 cash funds appropriation from the Judicial Stabilization Fund.

Employees in these two job classes generally help maintain the day-to-day operation of the courts and probation, allowing judges and probation officers to effectively do their jobs. The employees in these two job classes are some of the lowest paid within the Department, and they make up approximately one-third of the Department workforce. In response to growing concerns regarding attrition rates for these two job classifications, the Department conducted a compensation study. The study indicates that the current range minimum salary for these two job classes is 14.0 percent below the Executive Branch range minimum for comparable positions⁵. Please note that the most recent study conducted by the Department of Personnel and Employment indicates that current salaries for similar job classes in the Executive Branch are at least 4.1 percent below market salaries⁶.

⁵ The comparable Executive Branch used for this analysis include: Computer Operator I and II; Data Entry Operator I and II; Data Specialist; and Administrative Assistant I, II, and III. The average minimum range for these positions is \$2,593.

⁶ The Annual Compensation Survey Report for FY 2012-13 (dated August 1, 2011, prepared by the Department of Personnel and Administration) compares the *average state salary midpoints* with average

The Department indicates that in FY 2009-10, the attrition rates for CJAs and support services were both eight percent. One would have expected a relatively high rate of attrition in FY 2009-10 as the Department was required to reduce its workforce by 173 FTE to accomplish targeted budget reductions. However, attrition rates for both job classes increased in FY 2010-11 (to nine percent for CJAs and 11 percent for support services). The Department indicates that the need to recruit, hire, and train replacement employees creates inefficiencies and makes it more challenging to keep day-to-day operations running smoothly. Specifically, most training is conducted on-the-job, so productivity is lost for both the trainer and the trainee. The Department estimates that it costs an average of \$1,800 worth of existing staff time per trainee, or about \$200,000 in total annually.

The Department indicates that the job skills required for these job classes are highly portable. Thus, the Department is concerned that as private sector employment starts to recover, it will see higher rates of turnover for these job classes and it will be more difficult to attract and retain qualified applicants. The Department proposes increasing the low end of the salary range for both job classes by \$350 (15.6 percent), and decreasing the high end of the salary range for Support Services by \$199 so that it parallels the range for CJAs. The requested funds would be sufficient to bring all employees’s salaries up to the proposed range minimum (\$31,140 per year), and to provide a 3.3 percent salary increase for all other staff, up to the proposed range maximum. Any employees currently paid more than the proposed range maximum for Support Services would have their salary frozen.

R-1: Salary Ranges		
Year	Low	High
Court Judicial Assistant		
Current salary range	\$2,245	\$4,049
Proposed salary range	2,595	4,049
Support Services		
Current salary range	2,243	4,248
Proposed salary range	2,595	4,049

The Department points out that the current range minimum salaries for these positions (just under \$27,000) is not substantially higher than the federal poverty level of \$22,350 for a family of four. Over the last three years, the Department has seen an increasing number of its employees qualifying for the State’s medical subsidy program, and many judicial districts have started informal food banks in response to their employees being unable to meet their most basic food needs. Further, many

market midpoints for the Administrative Support and Related occupational group. This comparison indicates that Executive Branch pay would need to increase by 4.1 percent to align with the market. This same report indicates that when the *weighted average salaries* for this occupational group of state employees are compared to the weighted average of market salaries, the gap is 16.0 percent.

locations are reporting that some employees are having to hold one or two additional jobs to make ends meet.

***Recommendation.* Staff recommends approving the request for three primary reasons.**

First, the proposed salary adjustments are necessary to make the salaries for these administrative positions comparable to similar positions in the Executive Branch, thereby ensuring that state employees are treated in a similar manner. Pursuant to Section 5 (3) of Article VI of the State Constitution and Section 13-3-105, C.R.S., the Supreme Court is to "prescribe, by rule, a personnel classification plan for all courts of record to be funded by the state". This personnel classification and compensation plan is to include, for each position or class of positions, the qualifications, duties to be performed, and pay ranges. The Supreme Court rules are also to prescribe the amount, terms, and conditions of sick leave and vacation time for court personnel, the hours of work, and other conditions of employment. This provision indicates that the Supreme Court shall take into consideration the compensation plans of the Executive and Legislative Branches:

"To the end that all state employees are treated generally in a similar manner, the supreme court, in promulgating rules as set forth in this section, shall 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."

Second, the proposed salary adjustments are necessary to ensure that courts operate in a productive and efficient manner. The Department indicated that the turnover rate for these two job classes (11.0 percent in FY 2010-11) is running at about twice the rate as other non-judge job classes that have over 50 employees. This segment of the court workforce has been most impacted by the significant workforce reductions that have been required in recent years to reduce state expenditures. In light of these reductions, it's important that the remaining staff are as productive as possible. The job skills required for these positions are highly portable, and the current disparity between Judicial Branch salaries and those of the Executive Branch and the private sector increases the rate of attrition; this, in turn, increases court costs and inefficiencies related to hiring and training new employees.

Third, the new Chief Justice, following discussions with judges and employees in judicial districts across the state, has prioritized this decision item as the first among nine requests for FY 2012-13. This indicates a high level of concern about the salary disparity that currently exists for some of the lowest paid employees in the Branch who make up approximately one-third of the workforce.

Anniversary Increases

Description. The Department uses this line item to pay for annual increases akin to performance-based pay increases in the Executive Branch. One of four such line items, this one provides funds for Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation staff.

Request. The Department did not request any funding for this line item for FY 2012-13.

Recommendation. **Staff recommends approving the request, consistent with Committee policy.**

Workers' Compensation

Description. This line item is used to pay the Branch's estimated share for inclusion in the state's workers' compensation program for state employees. This program is administered by the Department of Personnel and Administration. This line item includes funding for 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.

Request. The Department requests \$1,865,076 General Fund for FY 2012-13.

Recommendation. **Staff's recommendation for workers' compensation is pending a Committee common policy for workers' compensation.** Staff will ultimately reflect Committee policy in the appropriation for this line item.

Legal Services

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

Request. The Department requests \$227,130 General Fund to purchase 3,000 hours of services in FY 2012-13.

Recommendation. **Staff recommends approving the request to provide funding to purchase 3,000 hours of service.** Previously, the Department's annual appropriation was sufficient to purchase 4,227 hours of legal services. In FY 2008-09, the General Assembly reduced this appropriation based on actual expenditures in FY 2006-07 and FY 2007-08. The funding will be calculated after the Committee sets the common policy for the legal services rate.

Purchase of Services from Computer Center

Description. 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. This line item includes funding for 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.

Request. The Department requests \$768,375 General Fund for this purpose for FY 2012-13.

Recommendation. **Staff's recommendation for this line item is pending Committee policy.** Staff will ultimately reflect Committee policy in the appropriation for this line item.

Multiuse Network Payments

Description. This line item is used to pay the Branch's share of the statewide multi-use network. This line item includes funding for 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.

Request. The Department requests \$534,336 General Fund for multi-use network payments for FY 2012-13.

Recommendation. **Staff's recommendation for this line item is pending Committee policy.** Staff will ultimately reflect Committee policy in the appropriation for this line item.

Payment to Risk Management and Property Funds

Description. 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 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.

Request. The Department requests \$238,829 General Fund for this purpose for FY 2012-13.

Recommendation. **The staff recommendation for this line item is pending a common policy approved by the Committee for this line item.** Staff will ultimately reflect Committee policy in the appropriation for this line item.

Vehicle Lease Payments

Description. 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. At their December 2008 hearing, Department staff indicated that the State is saving \$143,192 by using fleet vehicles rather than reimbursing employees for travel in personal vehicles.

Request. The Department requests \$72,221 General Fund for FY 2012-13. The Department's request includes replacement of five full size sedans (asset IDs: 20729, 20732, 20726, 20724, and 20725). All five of these vehicles are projected to well over 100,000 miles by May 2013.

Recommendation. **Staff recommends approving the requested replacement vehicles. The dollar amount of staff's recommendation is pending Committee policy.** Staff will ultimately reflect Committee policy in the appropriation for this line item.

Leased Space

Description. This line item provides funding for leased office space for the State Court Administrator's Office, the Attorney Regulation Committees, Court of Appeals staff, and storage. The Department currently has three leases for a total of 63,518 square feet at three locations in Denver (including: 101 W. Colfax, Grandview, and the Chancery).

Request. The Department requests an appropriation of \$1,323,343 for FY 2012-13. An increase of \$37,578 (2.9 percent) is requested to cover scheduled lease rate increases.

Recommendation. **Staff recommends approving the request,** which includes funding to cover scheduled rate increases for all three leases, with an overall increase in the average rate per square foot from \$17.54 to \$18.13. The source of cash funds is employee parking fees.

Please note that in the Spring of 2010 the Supreme Court and the Court of Appeals were relocated from the Judicial Heritage Complex (bordered by 13th and 14th Streets, Broadway, and Lincoln) to 101 W. Colfax. The costs associated with the relocation and the costs of paying for leased space during construction (which is scheduled to be completed in April 2013), are included as part of the Judicial Center project.

Communication Services Payments

Description. 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. This line item includes funding for 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.

Request. The Department requests \$54,724 General Fund for this purpose for FY 2012-13.

Recommendation. **The staff recommendation on this line items is pending a Committee common policy for communications services.** Staff will ultimately reflect Committee policy in the appropriation for this line item.

Lease Purchase

Description. 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 for FY 2012-13 (\$119,878 General Fund).

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

(2) COURTS ADMINISTRATION

(C) Centrally Administered Programs

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

Victim Assistance and Victim Compensation

Description. 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 most accurately reflect anticipated activity with these accounts.

Request. The Department requests that the appropriations remain the same for FY 2012-13 (\$16,375,000 and \$12,175,000, respectively).

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

Description. Collection investigators are located in each judicial district as required by Section 18-1-105 (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 \$5,179,351 and 83.2 FTE FY 2012-13.

Recommendation. **Staff's overall recommendation for this line item is pending application of the common policy concerning a base reduction in funding for personal services.** The following table details those elements of staff's recommendation that may be provided at this time, prior to application of the Committee's recently adopted common policy related to a personal services base reduction. Staff will apply the Committee's base reduction policy to finalize the appropriation for this line item.

Summary of Recommendation: Collections Investigators						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2011-12 Long Bill	\$0	\$4,014,825	\$0	\$0	\$4,014,825	83.2
S.B. 11-076	<u>0</u>	<u>(96,891)</u>	<u>0</u>	<u>0</u>	<u>(96,891)</u>	<u>0.0</u>
FY 2011-12 Appropriation	0	3,917,934	0	0	3,917,934	83.2
Reinstate FY 2011-12 reduction in employer's PERA contribution (S.B. 11-076)	0	96,891	0	0	96,891	0.0
Salary Survey awarded in FY 2011-12	0	0	0	0	0	0.0
80% of Performance-based Pay awarded in FY 2011-12	0	0	0	0	0	0.0
Base reduction					<u>Pending</u>	
Subtotal: Personal Services					Pending	83.2
Operating Expenses:						
FY 2011-12 Long Bill	0	266,985	0	0	266,985	
VALE Grants	0	0	897,541	0	897,541	
Staff Recommendation					Pending	83.2

Problem-solving Courts

Background Information. Drug court is an innovative alternative to prison with emphasis on accountability and intensive monitoring for drug abusing criminal offenders. Drug 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, drug courts increase the probability of defendants' success by providing ancillary services such as mental health treatment, trauma and family therapy, and job skills training.

Drug 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 who have a substance abuse problem. Also, in an effort to streamline the drug 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.

Adult drug courts have been the subject of more national research than any other drug offender program and continue to demonstrate positive results for the high need and high risk drug offending population. The drug court model the Department seeks to implement consistently statewide (in those judicial districts that choose to implement a drug 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 services⁷).
- 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.

Description. Two years ago, in response to the Committee’s request, the Department requested funding and staff to enhance and expand drug courts that were currently operational and those that were scheduled to be implemented by the end of FY 2008-09. The General Assembly appropriated \$1.3 million (primarily from cash funds) to increase the number of high risk and high need offenders served, and to ensure that these drug courts are operating consistently and effectively in order to maximize the resulting cost savings.

⁷ 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.

The General Assembly has continued to provide state funding for this purpose. In addition, the Department received a federal Byrne grant to continue expanding the capacity of adult drug courts. The grant totaled \$2,386,053, and is available for expenditure through June 30, 2012. The Department has used these funds to expand the capacity of existing adult drug courts from 35 to 50 percent of the target population.

There are currently 62 operational problem-solving treatment courts in Colorado, and 19 of 22 judicial districts have at least one such court. There are currently 21 adult drug courts operating in 14 of the 22 judicial districts⁸. These courts are serving approximately 3,000 drug dependent offenders. Other problem-solving courts, such as family dependency treatment court, mental health court, veterans treatment court, and DUI court are serving an additional 500 individuals at any given time.

The following table details the staffing composition for this line item.

Problem-solving Courts: Staffing Summary				
Position Description	FY 2010-11 Actual	FY 2011-12 Approp.	FY 2012-13 Request	FY 2012-13 Recomm.
Court Judicial Assistance (clerks)	5.2	5.2	5.2	5.2
Magistrates	2.0	2.0	2.0	2.0
Probation Officers	13.1	13.1	13.1	13.1
Problem-Solving Court Coordinators	10.4	10.4	10.4	10.4
Support Services	1.0	1.0	1.0	1.0
Court Programs Analyst	<u>0.5</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>
TOTAL	32.2	32.7	32.7	32.7

Request. The Department requests \$2,343,417 and 32.7 FTE for FY 2012-13.

Recommendation. **Staff’s overall recommendation for this line item is pending application of the common policy concerning a base reduction in funding for personal services.** The following table details those elements of staff’s recommendation that may be provided at this time, prior to application of the Committee’s recently adopted common policy related to a personal services base

⁸ Operational adult drug courts include the following judicial districts and counties: 1st (Jefferson), 2nd (Denver), 4th (El Paso and Teller), 6th (La Plata), 7th (Gunnison, Delta, and Montrose), 8th (Larimer), 9th (Garfield, Pitkin, and Rio Blanco), 11th (Fremont, Park, and Chaffee), 14th (Moffat and Routt), 16th (Otero), 18th (Arapahoe and Douglas), 19th (Weld), 20th (Boulder), and 22nd (Montezuma).

reduction. Staff will apply the Committee's base reduction policy to finalize the appropriation for this line item.

Summary of Recommendation for Problem-solving Courts						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2011-12 Long Bill	\$0	\$1,517,685	\$0	\$772,214	\$2,289,899	32.7
S.B. 11-076	<u>0</u>	<u>(33,904)</u>	<u>0</u>	<u>0</u>	<u>(33,904)</u>	<u>0.0</u>
FY 2011-12 Appropriation	0	1,483,781	0	772,214	2,255,995	32.7
Annualize FY 2011-12 JUD DI #5 (Problem-solving courts)	0	772,214	0	(772,214)	0	0.0
Reinstate FY 2011-12 reduction in employer's PERA contribution (S.B. 11- 076)	0	33,904	0	0	33,904	0.0
Salary Survey awarded in FY 2011-12	0	0	0	0	0	0.0
80% of Performance-based Pay awarded in FY 2011-12	0	0	0	0	0	0.0
Base reduction					<u>Pending</u>	
Subtotal: Personal Services					Pending	32.7
Operating Expenses:						
FY 2011-12 Long Bill	0	43,608	0	9,910	53,518	
Annualize FY 2011-12 JUD DI #5 (Problem-solving courts)	<u>0</u>	<u>9,910</u>	<u>0</u>	<u>(9,910)</u>	<u>0</u>	
Operating Expenses	0	53,518	0	0	53,518	
Total Recommendation					Pending	32.7

If implemented properly, these 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. The General Assembly requested that the Department develop a plan for providing drug courts statewide. This plan continues to allow local judicial districts to determine whether to create an adult drug court, ensures existing drug courts are operating effectively, increases the number of offenders who are eligible and appropriate for drug court who can be offered drug court, and provides state resources in a consistent manner to each judicial district.

Language Interpreters

Description. "Mandated costs" are costs associated with activities, events, and services that accompany court cases that are required in statute and/or the U.S. and Colorado 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 State Court Administrator’s Office that provides funding for mandated costs.

This line item provides funding for foreign language interpreter services for indigent individuals. Sections 13-90-113 and 114, 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). Additionally, 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 in-court proceedings for cases where there is a potential loss of liberty, in cases where children are involved in the court process (e.g., dependency and neglect cases for parents facing termination of their parental rights), in mental health and protection order cases, and in all case types in which indigency has been determined. These services are also provided to facilitate communication outside the judge's presence in order to allow the court proceeding to continue as scheduled (e.g., pre trial conferences between defendants and district attorneys). Accurate language interpreter services 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. Prosecutors and clients' attorneys pay for or provide language interpretation that is necessary for other purposes, such as case preparation and general communication.

This line item supports Department staff in each judicial district, the individual who administers the program, and payments to certified language interpreters who provide contract services. The Department currently pays certified Spanish interpreters \$35 per hour; 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 \$3,671,284 and 25.0 FTE for FY 2012-13. The following table details the history of annual appropriations and expenditures for language interpreter services.

Recent History of Funding for Language Interpreter Services			
Fiscal Year	Appropriation (excluding employee benefits)	Expenditures (including employee benefits)	Annual % Change in Expenditures
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%

Recent History of Funding for Language Interpreter Services			
Fiscal Year	Appropriation (excluding employee benefits)	Expenditures (including employee benefits)	Annual % Change in Expenditures
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%
2010-11	3,428,312	3,456,745	3.3%
2011-12	3,633,821		
2012-13 Request	3,671,284		

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

Given the rapidly increasing demand for language interpreter services from FY 2004-05 to FY 2007-08, the Department worked to reduce costs and maximize services within available resources. The Department has created the Center for Telephone Interpreting (CTI), which allows court personnel to call a central location to receive quality certified interpreter services via telephone. This service is useful for remote areas of the state and for short hearings, as it eliminates the need to pay additional amounts for travel time, travel expenses, and minimum shift requirements. The CTI is not effective for hearings that exceed two hours or evidentiary hearings, where an on-site interpreter is necessary.

The Department has also modified scheduling practices to allow one interpreter to cover more than one courtroom. Dockets have also been adjusted to group same language cases together, when possible. The Department has also shortened the minimum shift for Spanish language interpreter services from eight hours (two four-hour shifts) to two- or three-hour shifts, depending on the court's needs and location.

Recommendation. Staff's overall recommendation for this line item is pending application of the common policy concerning a base reduction in funding for personal services. The following table details those elements of staff's recommendation that may be provided at this time, prior to application of the Committee's recently adopted common policy related to a personal services base reduction. Staff will apply the Committee's base reduction policy to finalize the appropriation for this line item.

Summary of Recommendation for Language Interpreters						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2011-12 Long Bill	\$3,284,784	\$236,500	\$0	\$0	\$3,521,284	25.0

Summary of Recommendation for Language Interpreters						
	GF	CF	RF	FF	TOTAL	FTE
S.B. 11-076	<u>(37,463)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>(37,463)</u>	<u>0.0</u>
FY 2011-12 Appropriation	3,247,321	236,500	0	0	3,483,821	25.0
Reinstate FY 2011-12 reduction in employer's PERA contribution (S.B. 11-076)	37,463	0	0	0	37,463	0.0
Salary Survey awarded in FY 2011-12	0	0	0	0	0	0.0
80% of Performance-based Pay awarded in FY 2011-12	0	0	0	0	0	0.0
Base reduction					<u>Pending</u>	
Subtotal: Personal Services					Pending	25.0
Operating Expenses:						
FY 2011-12 Long Bill	<u>100,000</u>	<u>50,000</u>	<u>0</u>	<u>0</u>	<u>150,000</u>	
Operating Expenses	100,000	50,000	0	0	150,000	
Total Recommendation					Pending	25.0

Courthouse Security

Description. 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 awards⁹.

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

⁹ Section 13-1-201, *et seq.*, C.R.S.

administrative costs. County-level local security teams may apply to the State Court Administrator's Office for grants.

Request. The Department requests \$3,864,989 cash funds and 1.0 FTE for FY 2012-13. The Department intends to maintain sufficient fund balance to continue supporting ongoing personnel grants of \$1,450,000 in FY 2012-13. Remaining funding would be used to provide annual one-time grants for equipment, courthouse emergencies, and training. Remaining funding would be used for a program administration, and indirect costs.

Recommendation. **Staff recommends approving the request.** Staff will apply the Committee's recently adopted common policy related to a base reduction in personal services funding. However, it would not affect the overall appropriation. To the extent that the Department does not expend moneys for administrative costs, additional moneys can be made available for grants. The following table details actual and projected Court Security Cash Fund revenues and expenditures through FY 2013-14.

Court Security Cash Fund: Projected Cash Flow					
	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14
	Actual	Actual	Estimate	Estimate	Estimate
Beginning FY Balance	\$2,447,177	\$2,317,104	\$2,210,971	\$1,616,510	\$1,047,418
Revenues	3,284,138	3,054,014	3,057,068	3,072,353	3,087,715
Expenditures (including indirect costs)	<u>(2,914,211)</u>	<u>(3,160,147)</u>	<u>(3,651,529)</u>	<u>(3,641,445)</u>	<u>(3,641,264)</u>
Ending FY Balance without transfer	\$2,817,104	\$2,210,971	\$1,616,510	\$1,047,418	\$493,869
Transfer to the General Fund	<u>(500,000)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Ending FY Balance after transfer	\$2,317,104	\$2,210,971	\$1,616,510	\$1,047,418	\$493,869
<i>Balance as % of annual expenditures</i>	<i>79.5%</i>	<i>70.0%</i>	<i>44.3%</i>	<i>28.8%</i>	<i>13.6%</i>

Courthouse Capital/ Infrastructure Maintenance

Description. Section 13-3-108, C.R.S., requires each county to provide and maintain adequate courtrooms and other court facilities, and 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." This line item provides funding to fulfill the State's responsibility to furnish court facilities.

Prior to FY 2002-03, the Department received an annual General Fund appropriation for county courthouse furnishings. A footnote limited this appropriation to expenditures on new construction projects and projects involving renovations of existing courthouses only; the appropriation was not

to be used for capital outlay for the regular replacement and modernization of equipment or furnishings.

Historically, the appropriation for this purpose has varied significantly, depending on the number and size of new construction projects. In FY 2005-06, the Courthouse Capital/Infrastructure Maintenance line item was created to meet the on-going capital and infrastructure needs of courthouses and probation programs. The intent was to provide a consistent annual appropriation to assist the Department in its effort to manage the need for capital and infrastructure maintenance. For several fiscal years, this appropriation was set at \$1.0 million General Fund. In FY 2009-10, the General Fund appropriation was eliminated, and 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 recent history of expenditures.

Recent Expenditures/Appropriations for Courthouse Capital/Infrastructure Maintenance	
FY 2000-01	\$5,808,916
FY 2001-02	2,317,321
FY 2002-03	317,302
FY 2003-04	433,463
FY 2004-05	1,027,533
FY 2005-06	910,616
FY 2006-07	1,103,359
FY 2007-08	948,680
FY 2008-09	1,000,000
FY 2009-10	3,064,041
FY 2010-11	2,432,067
Average Annual Expenditure	1,760,300
FY 2011-12 Approp.	483,526
FY 2012-13 Request	1,657,386

Request. The Department requests \$1,657,386 cash funds from the Judicial Stabilization Cash Fund for FY 2012-13. This request is impacted by JUD R-2 (Probate, Protective Proceedings), JUD R-3 (Pro Se Case Managers), JUD R-4 (Sex Offender Supervision Probation Officers), and JUD R-8 (discussed below).

Judicial R-8: Courthouse Furnishings

The Department indicates that for FY 2012-13, it will require a total of \$1,378,000 for courthouse and probation facility furnishings and infrastructure in multiple judicial districts. The following table details the components of the request.

Recent Expenditures/Appropriations for Courthouse Capital/Infrastructure Maintenance			
Districts	Counties	Description	Funding
4 th	El Paso	New phone system required to replace failing system.	\$370,000
19 th	Weld	New phone system to replace services purchased from county.	283,000
7 th	Montrose	Furnish two new courtrooms plus support staff areas added by county.	180,000
18 th	Arapahoe	Furnish a courtroom and meeting rooms added by county.	180,000
2 nd , 3 rd , 5 th , 9 th , 16 th , and 22 nd	Denver, Las Animas, Clear Creek, Garfield, Otero, and Montezuma	Furnish three new courtrooms (Las Animas and Garfield) and remodeled court facilities (Denver, Las Animas, and Otero). Replace and refurbish existing jury seating (Clear Creek, Denver Probate, and Montezuma).	142,000
10 th	Pueblo	Pueblo county has committed to building new trial court and probation facilities at a cost of \$55 to \$60 million. The project is anticipated to be completed in FY 2013-14. For FY 2012-13, the Department must pay contractors for preliminary wiring services on low-voltage audio-visual and communications systems needed in the courtrooms.	100,000
2 nd , 4 th , 5 th , 8 th , 12 th , and 18 th	Denver, El Paso, Summit, Larimer, Alamosa and Arapahoe	Furnish expanded and remodeled probation facilities.	98,000
1 st	Jefferson	Provide courtroom seating to complete third and final phase of the 1st judicial district's courthouse remodel.	<u>25,000</u>
Total			1,378,000

Consistent with the last three fiscal years, the Department proposes using the Judicial Stabilization Cash Fund to eliminate the need for General Fund support of this line item for FY 2012-13.

Recommendation. Staff recommends approving the request for \$1,378,000 cash funds to cover the state share of the costs of furnishing courthouse facilities in FY 2012-13. The following table details the calculation of the recommendation, including amounts related to each decision item.

Summary of Recommendation: Courthouse Capital/ Infrastructure Maintenance					
	GF	CF	RF	FF	TOTAL
FY 2011-12 Long Bill	\$0	\$473,526	\$0	\$0	\$473,526
H.B. 11-1300	62,529	0	0	0	62,529
FY 2011-12 Supplemental (related to H.B. 11-1300)	<u>(52,529)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>(52,529)</u>
Subtotal: FY 2011-12 Appropriation	10,000	473,526	0	0	483,526
Eliminate one-time funding provided for FY 2011-12	(10,000)	(473,526)	0	0	(483,526)
JUD R-2: Protective Proceedings	0	130,593	0	0	130,593
JUD R-3: Pro Se Case Managers	0	56,436	0	0	56,436
JUD R-4: Supervision of Sex Offenders on Probation	0	89,357	0	0	89,357
JUD R-8: Courthouse Capital & Infrastructure Replacement	0	1,378,000	0	0	1,378,000
Staff Recommendation	\$0	\$1,654,386	\$0	\$0	\$1,654,386

Senior Judge Program

Description. 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.

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 2010-11 will be reimbursed by the Branch in FY 2011-12). Travel expenditures are reimbursed in the fiscal year in which they are incurred.

Request. The Department requests an appropriation of \$1,500,000 cash funds from the Judicial Stabilization Cash Fund for FY 2012-13. The Department proposes eliminating the General Fund support for this program in order to offset the costs of two probation-related decision items: JUD R-1 (Compensation Realignment), and JUD R-4 (Sex Offender Supervision Probation Officers).

Recommendation. Staff recommends approving the request. Whether or not the Committee approves one or both of the probation-related decision items, staff recommends shifting support for this program from General Fund to the Judicial Stabilization Cash Fund.

This program is a cost-effective way of managing dockets and covering judges' leave time. The Department has effectively reduced the costs of this program, and the existing appropriation is lower than the amounts expended in the last five fiscal years. The following table provides a history of appropriations and expenditures for this program.

Recent History of Funding for the Senior Judge Program						
Fiscal Year	Appropriation	Expenditures			Annual % Change	Approp.- Expend.
		PERA Payment	Travel/ Other Expenses	Total		
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	-16.9%	42,453
2011-12 approp.**	1,500,000				-5.8%	
2012-13 request**	1,500,000				0.0%	

* Appropriation includes a mid-year increase.

** FY 2011-12 appropriation, as adjusted, and estimated expenditures; FY 2012-13 request.

Judicial Education and Training [NEW LINE ITEM]

The Department requests an appropriation of \$1,069,536 cash funds from the Judicial Stabilization Cash Fund and 2.0 FTE for FY 2012-13. This request reflects JUD R-6 (Judicial Education and Training), discussed below.

Judicial R-6: Judicial Education and Training

The Department requests an additional \$585,500 cash funds from the Judicial Stabilization Fund (including \$124,000 in one-time funding) to address critical education and training needs for judicial officers through an expanded judicial officer training program. The request also includes shifting \$240,284 of existing funding that supports judicial officer training from General Fund to cash funds from the Judicial Stabilization Fund. The Department requests that these existing resources be consolidated with the additional funding requested, and appropriated through a new line item entitled "Judicial Education and Training".

The Department states that Colorado has a successful merit-based judicial officer selection process which results in the appointment of highly qualified, skilled, and ethical individuals. However, these attributes do not necessarily translate into the ability to be an effective judge. In addition to managing a case, caseload, and courtroom personnel, a judge is asked to be a leader in the community and the legal profession. Education and training is integral in providing each judge the necessary knowledge and skills to be as successful as possible.

While judicial officer training has always been a high priority for the Department, training resources have been reduced over the last four years due to reductions in funding for personal services. The Branch was authorized to add 2.0 FTE in FY 2008-09 to enhance judicial officer training (thus expanding the training staff from 2.0 FTE to 4.0 FTE), but these positions were never filled. In addition, the annual judicial conference was eliminated in FY 2009-10 and FY 2010-11. These steps were taken as part of the Department's proposal to reduce 173.0 FTE in fiscal years 2008-09 and 2009-10 to help balance the State budget. This reduction in training resources occurred at the same time that judgeships were added pursuant to H.B. 07-1054.

As of July 1, 2011, the Judicial Department has a total of 317 judicial officers, including:

- seven Supreme Court justices;
- 22 appellate court judges;
- 175 district court judges; and
- 113 county court judges.

Over the past five years, due to turnover, retirements, and newly authorized judgeships, nearly 100 new judges have taken the bench. The Department has focused existing training resources on the needs of the one-third of judges who are new to the bench. Specifically, the Department currently provides a five-day orientation training for new judges which addresses the transition from lawyer to judge. This is 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. The focus on new judge training, however, has come at the expense of developing and expanding judicial education to address emerging issues such as evidence-based sentencing, problem-solving courts, the use of special masters and experts in civil matters, and complex civil litigation.

This request is aimed at addressing the backlog in education and training needs of all judicial officers. Planned programming includes: executive leadership; bench skills; court management; peer coaching; procedural fairness; evidence-based sentencing, and various seminars specific to certain case types. The Department has identified the following most significant training needs to improve the outcomes of cases:

- Probate and Protective Proceedings – specifically addressing the deficiencies identified in the recent audit of protective proceedings

- Family and Juvenile – particularly addressing custody and visitation decisions; ages and stages of child development; use of experts in family matters; and complicated property evaluation and division (including business evaluation)
- Trial Practice/Bench Skills – case and trial management through the life of a case
- Evidence Based Decision-Making and Sentencing – reducing recidivism by applying evidence based principles to decision-making
- Changes in the Law – keeping current with changes in legislation, federal and state court decisions, justice system research and trends, and court technology advances.

The goal of the request is 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. The costs of the expanded curriculum are expected to total \$585,500 in FY 2012-13, and \$461,500 annually thereafter. One-time costs in FY 2012-13 include the use of consultants to help judicial trainers develop curriculum and to develop assessment tools.

Recommendation. **Staff recommends approving the request.** Pursuant to Section 13-3-102 (2), C.R.S., the Chief Justice is required to, "assemble the judges of the courts of record at least once yearly to discuss such recommendations and such other business as will benefit the judiciary and the expedition of the business of the several courts". Judges are required to attend such conferences at state expense, unless excused by illness. While the Department suspended the annual judicial conference in FY 2009-10 and FY 2010-11 due to significant reductions in state funding, this conference was reinstated in the current fiscal year – due in large part to the large number of newly appointed judges. The Department’s request for resources to develop and expand judicial education to address emerging issues is reasonable and appropriate.

Colorado’s judges and justices are required to maintain an active Colorado law license, to pay for their own annual attorney registration fees, and to ensure compliance with Colorado’s continuing legal education (CLE) requirements. However, the Department indicates that there are no CLE providers specifically dedicated to developing and delivering programs that address the knowledge, skills, and abilities of judicial officers. Thus, like the federal court system and most other state court systems, the Department has developed such curriculum internally.

Staff’s recommendation is detailed in the table below.

Recommendation for JUD R-6: Judicial Education and Training				
	GF	CF	TOTAL	FTE
<u>Courts Administration</u>				
<i>Administration and Technology</i>				

Recommendation for JUD R-6: Judicial Education and Training				
	GF	CF	TOTAL	FTE
General Courts Administration:				
Personal services	(147,036)	0	(147,036)	(2.0)
Operating expenses	<u>(39,000)</u>	<u>0</u>	<u>(39,000)</u>	
Subtotal	(186,036)	0	(186,036)	(2.0)
<i>Centrally Administered Programs</i>				
Judicial Education and Training [NEW LINE ITEM]:				
Personal services	0	147,036	147,036	2.0
Operating expenses (including \$124,000 in one-time costs)	<u>0</u>	<u>922,500</u>	<u>922,500</u>	
Subtotal	0	1,069,536	1,069,536	2.0
<u>Trial Courts</u>				
Trial Court Programs - operating expenses	(54,248)	(243,752)	(298,000)	
Total Recommended Changes	(\$240,284)	\$825,784	\$585,500	0.0

Office of Judicial Performance Evaluation

Description. This line item provides funding for the State Commission on Judicial Performance. Pursuant to Section 13-5.5-101, *et seq.*, C.R.S., the State Commission is responsible for developing and administering a system of evaluating judicial performance. 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.

Request. The Department requests \$890,955 cash funds and 2.0 FTE for FY 2012-13.

Recommendation. **Staff's overall recommendation for this line item is pending application of the common policy concerning a base reduction in funding for personal services.** The following table details those elements of staff's recommendation that may be provided at this time, prior to application of the Committee's recently adopted common policy related to a personal services base reduction. Staff will apply the Committee's base reduction policy to finalize the appropriation for this line item.

However, **staff recommends that the salary of the Executive Director of the Office of Judicial Performance Evaluation be excluded from the base reduction.** Pursuant to Section 13-5.5-101.5 (2), C.R.S., the Executive Director's compensation shall be the same as the General Assembly

establishes for a judge of the district court, and "shall not be reduced during the time that a person serves as the executive director." This position is unlikely to be held vacant for any significant period of time, and the salary would remain unchanged should there be turnover in the position.

Summary of Recommendation: Office of Judicial Performance Evaluation						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2011-12 Long Bill	\$0	\$171,560	\$0	\$0	\$171,560	2.0
S.B. 11-076	<u>0</u>	<u>(4,602)</u>	<u>0</u>	<u>0</u>	<u>(4,602)</u>	<u>0.0</u>
FY 2011-12 Appropriation	0	166,958	0	0	166,958	2.0
Reinstate FY 2011-12 reduction in employer's PERA contribution (S.B. 11-076)	0	4,602	0	0	4,602	0.0
Salary Survey awarded in FY 2011-12	0	0	0	0	0	0.0
80% of Performance-based Pay awarded in FY 2011-12	0	0	0	0	0	0.0
Base reduction					<u>Pending</u>	
Subtotal: Personal Services					Pending	2.0
Operating Expenses:						
FY 2011-12 Long Bill	0	749,395	0	0	749,395	
Eliminate funding for biennial public awareness poll	<u>0</u>	<u>(30,000)</u>	<u>0</u>	<u>0</u>	<u>(30,000)</u>	
Subtotal: Operating Expenses	0	719,395	0	0	719,395	
Staff Recommendation					Pending	2.0

Family Violence Justice Grants

Description. 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 Fund¹⁰. Further, S.B. 09-068 (Morse/ McCann) 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)¹¹. 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 an appropriation of \$628,430 for FY 2012-13, including \$458,430 General Fund and \$170,000 cash funds.

Recommendation. **Staff recommends approving the request**, which maintains the existing General Fund appropriation and reflects anticipated cash fund revenues. The following table provides a recent history of appropriations for this program.

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

Family Friendly Court Program

Description. 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.

¹⁰ Section 14-4-107, C.R.S.

¹¹ The other half of fee revenues are credited to the Colorado Domestic Abuse Program Fund, administered by the Department of Human Services.

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 spending authority for FY 2012-13 (\$375,000 and 0.5 FTE).

Recommendation. **Staff recommends approving the request.** Staff will apply the Committee’s recently adopted common policy related to a base reduction in personal services funding. However, it would not affect the overall appropriation. To the extent that the Department does not expend moneys for administrative costs, additional moneys can be made available for grants.

Child Support Enforcement

Description. 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 \$90,900 and 1.0 FTE for FY 2012-13.

Recommendation. **Staff’s overall recommendation for this line item is pending application of the common policy concerning a base reduction in funding for personal services.** The following table details those elements of staff’s recommendation that may be provided at this time, prior to application of the Committee’s recently adopted common policy related to a personal services base reduction. Staff will apply the Committee’s base reduction policy to finalize the appropriation for this line item.

Summary of Recommendation: Child Support Enforcement						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2011-12 Long Bill	\$30,904	\$0	\$59,996	\$0	\$90,900	1.0
S.B. 11-076	<u>(692)</u>	<u>0</u>	<u>(1,344)</u>	<u>0</u>	<u>(2,036)</u>	<u>0.0</u>
FY 2011-12 Appropriation	30,212	0	58,652	0	88,864	1.0
Reinstate FY 2011-12 reduction in employer’s PERA contribution (S.B. 11-076)	692	0	1,344	0	2,036	0.0
Salary Survey awarded in FY 2011-12	0	0	0	0	0	0.0

Summary of Recommendation: Child Support Enforcement						
	GF	CF	RF	FF	TOTAL	FTE
80% of Performance-based Pay awarded in FY 2011-12	0	0	0	0	0	0.0
Base reduction					<u>Pending</u>	
Staff Recommendation					Pending	1.0

(2) COURTS ADMINISTRATION

(D) Ralph L. Carr Colorado Judicial Center

This Long Bill subsection includes appropriations related to the operations of the new Judicial Center, schedule to be completed in early 2013.

Judicial R-7: Ralph L. Carr Justice Center

The Department has submitted a FY 2012-13 budget request that is intended to establish the appropriate Long Bill structure and spending authority to support operations of the Ralph L. Carr Colorado Judicial Center upon construction completion in early 2013. As proposed, this section of the Long Bill would provide a total of \$4,165,479 from the Justice Center Cash Fund to cover five types of expenditures, described below.

- *Contract Services (\$2,072,700)*. The Department anticipates entering into several contracts with private vendors related to building operations. The largest contract (\$887,000) is for 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 anticipates contract services totaling \$985,000 for various services, including custodial, maintenance contracts and supplies, grounds maintenance, and the copy center. Finally, the Department anticipates a contract totaling \$200,700 for Standard Parking to operate and maintain the parking garage (located between the ING building and the Colorado History Museum) which opened in December 2011. [The Committee previously approved a FY 2011-12 appropriation to cover the partial year costs of the parking garage operations.]
- *Controlled Maintenance (\$1,000,000)*. 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. Consistent with this intent, the Department requests an annual appropriation from the Justice Center Fund to set aside moneys for controlled maintenance needs.
- *Colorado State Patrol Services (\$583,563, including \$296,000 in existing funding)*. Currently, both the Judicial Department and the Department of Law receive appropriations to pay the Colorado State Patrol for security services in the buildings they occupy. The

proposed security for the new Justice Center, based on estimates provided by the Colorado State Patrol, includes a total of 15.0 FTE (11.0 FTE security officers, 3.0 FTE troopers, and 1.0 FTE supervisor). This represents an increase of 10.0 FTE above the 5.0 FTE currently funded by the two departments. This coverage would provide for weapons screening at two public entrances during business hours (each of the magnetometers would be staffed by two security guards and one trooper for ten hours daily), 24-hour roving coverage, and the staffing of an information/security desk.

The Judicial Department proposes that the Department of Law maintain the appropriation for security in its current building for FY 2012-13, and the Judicial Department's appropriation be increased to cover the additional costs of security in the Judicial Center for FY 2012-13. The request is based on the assumption that security would begin at the Judicial Center January 1, 2013, requiring an additional \$287,563 for 10.0 new positions for six months. The Colorado State Patrol has submitted a corresponding request for FY 2012-13.

- *Utilities (\$270,000)*. Electricity, gas, water, and sewer expenditures for the Justice Center will be monitored and managed by the Building Manager. The Department estimates that these costs will total \$270,000 in FY 2012-13, based on professional standards and costs of similarly-sized buildings in the Denver metropolitan area.
- *Facility Staff (\$239,216 and 2.0 FTE)*. Prior to its demolition, the Judicial Department previously received an appropriation for the maintenance and operations of the Judicial Heritage Complex. This appropriation (\$749,176 and 3.0 FTE) was eliminated in FY 2010-11. The Department requests funding to support 2.0 FTE to manage and oversee the operational and engineering aspects of the Center. The Judicial Department is responsible for all operations of the new facility.

A Building Manager would be responsible for handling all tenant inquiries, and coordinating maintenance work among building staff, vendors, and contractors. The Building Manager will oversee the shared services within the Center, such as a copy center, mail room, food services, fitness center, and conference/training facility. The Building Manager will monitor performance of all third party vendor contracts, and will review price quotes for the procurement of parts, services, and labor for the building.

A Building Engineer would be 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 would direct the activities of a six-person contract engineering staff.

The request does not include any adjustments to appropriations for leased space; all agencies that will become tenants of the Judicial Center have reflected a full 12 months of ongoing leased space appropriations for FY 2012-13. While it is likely that some tenants will move into the Judicial

Center prior to July 1, 2013, the Department does not plan to request changes to these appropriations until FY 2013-14.

Recommendation. Staff recommends providing the cash funds spending authority, as requested, with the following modifications:

- Consistent with Legislative Council Staff fiscal note policy, staff excludes \$12,364 for supplemental PERA contributions (AED and SAED); and
- Staff’s recommendation reduces the General Fund appropriation for General Courts Administration by \$296,870 (\$870 more than the request) to more accurately reflect the portion of the FY 2011-12 appropriation that was designated for State Patrol services.

Summary of Recommendation for JUD R-7: Ralph L. Carr Justice Center				
	GF	CF	TOTAL	FTE
<u>Courts Administration</u>				
<i>Administration and Technology</i>				
General Courts Administration (existing funding for State Patrol)	(\$296,870)	\$0	(\$296,870)	0.0
<i>Central Appropriations</i>				
S.B. 04-257 AED	0	0	0	
S.B. 06-235 SAED	<u>0</u>	<u>0</u>	<u>0</u>	
Subtotal	0	0	0	
Ralph L. Carr Colorado Judicial Center				
<i>Personal Services</i> [NEW LINE ITEM]:				
State Patrol services (increase of \$286,693)	0	583,563	583,563	0.0
Facility staff	0	234,856	234,856	2.0
Other contract services	<u>0</u>	<u>200,000</u>	<u>200,000</u>	<u>0.0</u>
Subtotal	0	1,018,419	1,018,419	2.0
<i>Operating Expenses:</i>				
Contract with Cushman-Wakefield	0	887,000	887,000	
Contract to operate parking garage	0	200,700	200,700	
Other contract services	0	785,000	785,000	
Utilities	0	270,000	270,000	
Operating expenses for facility staff (includes \$2,460 in one-time capital outlay expenses)	<u>0</u>	<u>4,360</u>	<u>4,360</u>	

Summary of Recommendation for JUD R-7: Ralph L. Carr Justice Center				
	GF	CF	TOTAL	FTE
Subtotal	0	2,147,060	2,147,060	
<i>Controlled Maintenance</i> [NEW LINE ITEM]	0	1,000,000	1,000,000	
Total Requested Changes	(\$296,870)	\$4,165,479	\$3,868,609	2.0

(3) TRIAL COURTS

State trial courts 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 terms¹².

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 water¹³.

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 terms¹⁴.

Trial Court Programs

Description. 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.

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

¹³ Sections 37-92-203 and 204, C.R.S.

¹⁴ Article VI, Sections 16 and 17 of the Colorado Constitution; Section 13-6-101 et seq., C.R.S.

The following table provides an overview of the staffing composition for the Trial Court Programs line item.

Trial Court Programs: Staffing Summary				
Position Description	FY 2010-11 Actual	FY 2011-12 Approp.	FY 2012-13 Request	FY 2012-13 Recomm.
District Court Judges (H.B. 07-1054)	168.5	175.0	176.0	176.0
County Court Judges (H.B. 07-1054)	88.4	90.2	91.2	91.2
Magistrates & Water Referees (JUD R-2)	58.5	64.3	64.8	64.8
Law Clerks/ Bailiffs/ Legal Research Attorneys (H.B. 07-1054)	73.6	174.1	175.1	175.1
Court Reporters (H.B. 07-1054)	95.4	175.2	176.2	176.2
Clerks' Offices (H.B. 07-1054; JUD R-2; JUD R-3)	1,017.3	961.9	996.9	996.9
Temporary Reduction in Staff Added for Conservation Easement Cases (H.B. 11-1300)	n/a	(4.0)	0.0	0.0
Dispute Resolution	0.6	3.1	3.1	3.1
Administrative/ Office Support	91.7	88.8	88.8	88.8
Family Preservation	<u>21.2</u>	<u>22.0</u>	<u>22.0</u>	<u>22.0</u>
TOTAL	1,615.2	1,750.6	1,794.1	1,794.1

Request. **The Department requests \$123,843,048 and 1,794.1 FTE for this line item for FY 2012-13.** The request for this line item is affected by JUD R-2 (Protective Proceedings), JUD R-3 (*Pro Se* Case Managers), JUD R-6 (Judicial Education and Training), and the implementation of H.B. 07-1054.

Judicial R-2: Protective Proceedings

The Department requests a total of \$1,414,177 cash funds from the Judicial Stabilization Fund for 21.5 FTE to address recommendations made by the Office of the State Auditor (OSA) in its 2011 report entitled "Judicial Branch Oversight of Guardianships and Conservatorships". [For more information about the recommendations included in this audit report, see the FY 2012-13 JBC Staff Budget Briefing for the Judicial Branch, dated November 30, 2011, page 22.]

Background Information - Protective Proceedings

"Protective proceedings" are probate cases in which a guardian or conservator has been appointed, or in which the court has approved a single transaction as an alternative to a conservatorship.

Conservators are appointed to oversee the financial affairs of a protected person. *Guardians* are appointed to oversee the health, safety, and welfare of an incapacitated person. The Department estimates that there are over 38,000 protective proceedings cases open statewide. The courts are responsible for monitoring each of these cases.

Background Information - Resources to Address 2006 SAO Audit

The Department previously requested resources in FY 2008-09 (\$188,000 General Fund and 3.0 FTE) to implement recommendations of the Protective Proceedings Task Force, which was established following a 2006 SAO report concerning protective proceedings. While this request was approved, the Department did not fill these positions in order to help balance the State budget. Over the course of FY 2009-10, the Department reduced its courts and probation workforce by 173.0 FTE (including the 2.0 FTE that were approved).

FY 2012-13 Request

The 2011 OSA report recommends a level of monitoring, supervision, investigation, and follow-up for which the Department is not currently staffed. The Department is requesting funding to support an additional 18.0 FTE general protective proceeding support staff, 3.0 FTE protective proceeding staff with specialized expertise, and an additional half-time magistrate (0.5 FTE).

In 2010, the Department began a pilot program to research and implement best practices for monitoring protective proceedings cases. Two State Court Administrator's Office employees, classified as probate examiners, have been working with seven judicial districts that represent about two-thirds of all open protective proceedings cases. These examiners have been responsible for:

- monitoring the filing of guardian and conservator reports by tracking review dates;
- identifying cases that were not being monitored because review dates were missing;
- issuing delay prevention orders notifying delinquent guardians and conservators to immediately file their reports;
- referring non-responding guardians and conservators to the judicial districts for follow-up; and
- developing best business practices regarding these tasks.

The two probate examiners processed approximately 15,000 cases during a 12-month period.

The Department's request includes three staffing components:

- Add 18.0 FTE protective proceeding specialists to review the contents and assess the reasonableness of guardian and conservator reports. This staffing level is based on a survey of probate judges and their staff to determine the average time required to review reports: 30 minutes per review for most reports, and 90 minutes for more complex reports. The Department then applied a 20 percent reduction to account for the efficiency gained by assigning this responsibility to employees who are dedicated to the task and accounting for the limited time existing district staff spend reviewing these reports. These FTE would be

allocated among judicial districts proportionally based on both protective proceeding caseloads and districts' overall trial court staffing levels.

- Add 2.0 FTE to perform in-depth audits on the most complex and high-risk conservatorship cases. These two new positions would augment the existing 2.0 FTE examiners already at the State Court Administrator's Office (who conducted the pilot program). These staff would audit approximately 800 cases per year (about two percent of all cases), verifying statements made in the conservator's reports and reviewing supporting documentation. These four staff will examine cases referred by the courts, as well as a random sampling of cases. In addition, these four staff would:
 - assist in developing standards for court staff's review of less complex cases and train court staff on such standards;
 - provide guidance to the courts to assess the reasonableness and appropriateness of expenditures when reviewing reports; and
 - assist in evaluating the overall performance of professional guardians and conservators, including public administrators.
- Add 1.0 FTE protective proceeding investigator to provide support and technical assistance to judicial districts by investigating the whereabouts of missing guardians and conservators and locating missing assets. Based on the number of missing guardians and conservators identified in the pilot program, an estimated 3,500 fiduciaries statewide, at least one investigator is needed.
- Increase the magistrate position in the Denver Probate Court from 0.25 FTE to 0.75 FTE – an increase of 0.5 FTE. In most judicial districts, probate and protective proceedings are one of many case types heard by the district court, representing about one percent of all cases. In contrast, the Denver Probate Court is established in the State Constitution to hear probate and mental health cases exclusively. In Denver Probate Court, protective proceedings represent 13 percent of all cases. Due to its small size, the Denver Probate Court's ability to implement the OSA recommendations by reprioritizing and relocating staff is extremely limited. The Denver Probate Court is currently staffed at 70 percent of full staffing need – the second lowest staffing level of any court statewide. While the audit recommendations will be labor intensive for every district to implement, they impact the Denver Probate Court disproportionately.

Staff Recommendation. **Staff recommends approving the request.** The Judicial Branch has implemented a number of the OSA report recommendations through the issuance of a Chief Justice Directive, revisions to court manuals and forms, and internal administrative changes. The Branch plans to implement several additional recommendations by December 2012 by incorporating certain capabilities in the new case management system that is under development. The remaining recommendations require additional resources. The requested resources will allow the Branch to

ensure that courts obtain all required reports from guardians and conservators, and to strengthen the courts' guardian and conservator report review process.

The dollar amount recommended by staff is \$65,927 lower than the request for two reasons:

- Consistent with Legislative Council Staff fiscal note policy, staff has excluded funding for supplemental PERA contributions (AED and SAED).
- Staff's recommendation includes only one printer for the 3.0 FTE that will be housed in the State Court Administrator's Office (rather than three printers).

Staff's recommendation is detailed in the table below.

<i>Recommendation for Judicial R-2: Protective Proceedings</i>	
Line Item and Description	FY 12-13
<u>Courts Administration</u>	
<i>Administration and Technology</i>	
General Courts Administration - Personal Services	\$207,817
FTE	3.0
General Courts Administration - Operating Expenses	<u>2,850</u>
Subtotal	210,667
<i>Central Appropriations</i>	
AED	0
SAED	<u>0</u>
Subtotal	0
<i>Centrally Administered Programs</i>	
Courthouse Capital/ Infrastructure Maintenance (one-time expenses)	130,593
<u>Trial Courts</u>	
Trial Court Programs - Personal Services	\$987,540
FTE	18.5
Trial Court Programs - Operating Expenses	<u>19,450</u>
Subtotal	1,006,990
Total Recommendation - Cash Funds	1,348,250
FTE	21.5

Judicial R-3: Pro Se Case Managers

The Department requests \$840,676 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. The

request includes \$780,016 for 12.0 FTE *pro se* case managers to coordinate and provide services, and \$60,660 in equipment and materials.

The Department indicates that over the past fifteen years a shift has occurred, in that citizens generally now expect to be able to fully participate in a court case without the services of an attorney. At the same time, the court system has shifted to processes that rely heavily on technology and the Internet. As a result, the need to provide one-on-one procedural assistance to *pro se* parties has increased and the courts have not been able to keep up with the demand. The Department's request represents an "initial investment" to expand the full range of services that self-represented parties need to be able to effectively represent themselves through all phases of a court case, from initial filing to final order. [Staff notes that this request does not reflect any additional resources in FY 2013-14, so staff would anticipate submission of another decision item in the future if and when the Department sees the need for additional resources to expand such services.] The Department indicates that this expansion of services is necessary so that procedural hurdles and missteps don't get in the way of justice being done in every case.

The numbers of *pro se* cases have increased in four areas. First, the largest increase has occurred in domestic relations cases, which include child custody, child support, and divorce proceedings. Specifically, since FY 1999-00, the court system has experienced a 60 percent increase in the number of domestic cases filed where neither party is represented by an attorney. The Department indicated that in June 2010, nearly 80 percent of domestic relations cases involved a self-represented party.

Second, since 2006 the numbers of general civil cases (mainly collections cases) and probate cases filed in district court by *pro se* parties have increased by 25 percent and 14 percent, respectively. The Department indicated that in June 2010, 58 percent of district court civil cases and 59 percent of county court civil cases involved a self-represented party; 35 percent of probate cases involved a self-represented party. Finally, victims of domestic violence need assistance when filing protection orders. In the Denver metropolitan area, a program called "Project Safeguard" provides assistance to these victims, usually through the sheriff's departments. However, this program is not available outside the Denver area.

Pro se parties 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;
- failing to properly 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 Department's request is designed to better serve *pro se* litigants in three ways. First, the Department plans to deploy the equivalent of 12.0 FTE *pro se* case managers in judicial districts. The new staff will be allocated among judicial districts based on a number of factors, including: (a) the number of staff currently funded and the overall staffing adequacy; (b) the number of *pro se* case filings and the percentage of cases that are *pro se*; and (c) the availability of space and the ability to open a *pro se* center in a court location. The *pro se* case managers will be expected to help in all areas where individual litigants have questions, including:

- providing assistance in completing 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.

Second, the Department requests funding to begin to deploy public access terminals in courthouses to allow parties to file cases on-site. This will become critical in January 2013 when the Department implements its in-house e-filing system, allowing *pro se* parties the option of electronically filing cases¹⁵. The Department will also make printed versions of commonly used judicial forms available, along with legal research and practice materials (court rules, statutes, practice manuals, etc.). The Department also intends to improve districts' coordination with local libraries to assess local needs and provide research materials and forms to locations where they are in high demand.

Third, the *pro se* case managers will act as a community liaison to maximize resources available to *pro se* litigants. Specifically, these case managers will work with local library staff to provide access to court forms and legal materials, as well as access to electronic resources. In addition, these case managers will work with local attorneys and clinics that offer *pro bono* legal services to make their services available in the courthouse and/or at local libraries.

The Department indicates that a few *pro se* centers exist in Colorado, but they are grossly under-resourced. These centers do, however, provide a model of what an effective center could look like. For example, the 17th judicial district opened a center in January 2011, offering nine hours of staff assistance each week and access to a few computer terminals. In August 2011 this center provided services to 221 individuals, 119 of whom came in on domestic relations cases. The center indicates that they frequently have to turn people away or close due to other pressing court business.

¹⁵ The Department's concerns related to e-filing are two-fold. First, it is anticipated that *pro se* parties will need some technical and procedural assistance in using the electronic system. If a *pro se* litigant elects to file by paper, he/she will still need assistance from the clerk to access paper copies of court pleadings, thereby perpetuating the inefficiencies that the Department hopes to achieve by implementing electronic filing for these cases. Second, the Department is concerned that some *pro se* litigants, absent adequate assistance, may overwhelm the courts with unnecessary filings under the assumption that if they file several documents they will, by trial and error, get the proper document filed.

Recommendation. Staff recommends approving the request. This request is an innovative way for the court system to change business practices to serve the needs of a growing number of *pro se* 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 *pro se* 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."

The requested resources should help to ensure *pro se* 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.

Staff agrees that the timing of this request is critical. To date, *pro se* parties have not had the option of using Colorado's e-filing system. The e-filing system that the Department is currently developing is scheduled to be deployed during the next fiscal year, and the new system will allow *pro se* parties to file documents electronically. By making technical and procedural assistance available to these litigants, the Department can encourage the use of the e-filing system, thereby achieving the anticipated administrative efficiencies.

The dollar amount recommended by staff is \$35,617 lower than the request. Consistent with Legislative Council Staff fiscal note policy, staff has excluded funding for supplemental PERA contributions (AED and SAED). Staff's recommendation is detailed in the table below.

<i>Recommendation for Judicial R-3: Pro Se Case Managers</i>	
Line Item and Description	FY 12-13
<u>Courts Administration</u>	
<i>Central Appropriations</i>	
AED	0
SAED	<u>0</u>
Subtotal	0
<i>Centrally Administered Programs</i>	

<i>Recommendation for Judicial R-3: Pro Se Case Managers</i>	
Line Item and Description	FY 12-13
Courthouse Capital/ Infrastructure Maintenance (one-time expenses)	56,436
<u>Trial Courts</u>	
Trial Court Programs - Personal Services	\$676,563
FTE	12.0
Trial Court Programs - Operating Expenses (including \$950/FTE for telephone and supplies, \$1,500 supplies for each center, \$825 in legal reference materials, and \$2,730 one-time costs for a computer, software, and printer)	<u>72,060</u>
Subtotal	748,623
Total Recommendation - Cash Funds	805,059
FTE	12.0

Implementation of H.B. 07-1054

House Bill 07-1054 created 43 new judgeships to be phased in over three years, beginning in FY 2007-08. The act also increased court-related fees starting July 1, 2007 to pay for most court-related implementation costs. The initial implementation schedule detailing the timing of each new judgeship is included in Appendix A.

For FY 2009-10, H.B. 07-1054 anticipated adding the final 12 district court judges and three county court judges on July 1, 2009. The salaries for the judges and associated staff, as well as operating and capital outlay expenses, would be supported by the Judicial Stabilization Fund. However, in light of the General Fund revenue shortfall, these new judgeships have been delayed. The resulting one-time cash fund savings were utilized to cover other appropriate one-time expenditures that would otherwise require General Fund (primarily courthouse furnishings).

Ten of the final 12 new district judgeships and two of the final three new county court judgeships were filled on January 1, 2011; and one of the final 12 new district judges was filled July 1, 2011. The request is predicated on the remaining two district court and county court judgeships being filled July 1, 2012. Table 1 details these final judgeships by county and district, and Table 2 details the request by type of cost. Please note that the following table only covers funding for trial courts, excluding funding for the Office of the State Public Defender that is related to the implementation of H.B. 07-1054.

TABLE 1 Summary of "3rd Year" Implementation of H.B. 07-1054					
Judicial District/ County		Number of New Judges	Date New Judgeship is Filled	FY 2012-13 Request	
				Funding	FTE
District Courts					
1	Jefferson, Gilpin*	1	7/1/12	\$382,581	5.0
County Courts					
	Jefferson	1	7/1/12	279,670	4.0
Statewide Total		2		662,251	9.0

* House Bill 12-1073, which passed third reading in the House 2/9/12, allocates the new district court judgeship currently authorized for the 1st judicial district to the 6th judicial district (Archuleta, La Plata, and San Juan counties). Based on FY 2010-11 case filing data, the 6th judicial district has the lowest trial court judge staffing levels in Colorado – 66.2 percent of full staffing. Please note that the associated costs for these new judgeships remain the same under H.B. 12-1073.

TABLE 2 Summary of Request for FY 2012-13				
Personal Services	Employee Benefits*	Operating Expenses	Total	FTE
\$570,680	\$76,671	\$14,900	\$662,251	9.0

* Includes \$46,764 for health, life, and dental insurance benefits, \$22,128 for S.B. 04-257 amortization equalization disbursement (AED), \$7,330 for S.B. 06-235 for supplemental AED, and \$449 for short-term disability.

Recommendation. Staff recommends approving the request for \$585,580 for this line item (including \$570,680 for personal services and \$14,900 for operating expenses) for the final 2 judgeships authorized by H.B. 07-1054.

Staff's overall recommendation for this line item is pending application of the common policy concerning a base reduction in funding for personal services. The following table details those elements of staff's recommendation that may be provided at this time, prior to application of the Committee's recently adopted common policy related to a personal services base reduction. Staff will apply the Committee's base reduction policy to finalize the appropriation for this line item.

However, staff recommends that the salaries of judges be excluded from the base reduction. Pursuant to Section 18 of Article VI of the State Constitution: "Justices and judges of courts of record shall receive such compensation as may be provided by law, which may be increased but may not be decreased during their term of office and shall receive such pension or retirement benefits as may be provided by law." Judgeships are unlikely to be held vacant for any significant period of time, and the salary would remain unchanged should there be turnover in the position.

Summary of Recommendation: Trial Court Programs						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2011-12 Long Bill	\$91,703,004	\$21,128,306	\$1,100,000	\$0	\$113,931,310	1,748.6
H.B. 11-1300	570,521	0	0	0	570,521	6.0
S.B. 11-076	(2,158,252)	(460,058)	0	0	(2,618,310)	0.0
FY 2011-12 Supplemental	<u>(450,000)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>(450,000)</u>	<u>(4.0)</u>
Subtotal: FY 2011-12 Appropriation	89,665,273	20,668,248	1,100,000	0	111,433,521	1,750.6
Annualize FY 2011-12 DI#1 (Judicial Network Infrastructure and Staff) – net \$0 General Fund and cash funds impact for the Branch in total	597,793	(597,793)	0	0	0	0.0
Reverse FY 2011-12 Supplemental	450,000	0	0	0	450,000	4.0
Fund source adjustment between personal services and operating expenses	199,999	(199,999)	0	0	0	0.0
Reinstate FY 2011-12 reduction in employer's PERA contribution (S.B. 11-076)	2,158,252	460,058	0	0	2,618,310	0.0
Salary Survey awarded in FY 2011-12	0	0	0	0	0	0.0
80% of Performance-based Pay awarded in FY 2011-12	0	0	0	0	0	0.0
H.B. 07-1054: Add staff related to final 2 judgeships filled in 2012	0	570,680	0	0	570,680	9.0
JUD R-2: Protective Proceedings	0	987,540	0	0	987,540	18.5
JUD R-3: Pro Se Case Managers	0	676,563	0	0	676,563	12.0
Base reduction					<u>Pending</u>	
Subtotal: Personal Services					Pending	1,794.1
Operating Expenses:						
FY 2011-12 Long Bill	234,297	6,833,109	0	0	7,067,406	
H.B. 11-1300	<u>19,950</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>19,950</u>	
Subtotal: FY 2011-12 Appropriation	254,247	6,833,109	0	0	7,087,356	
Fund source adjustment	(199,999)	199,999	0	0	0	
H.B. 07-1054: Add staff related to final 2 judgeships filled in 2012	0	14,900	0	0	14,900	
JUD R-2: Protective Proceedings	0	19,450	0	0	19,450	

Summary of Recommendation: Trial Court Programs						
	GF	CF	RF	FF	TOTAL	FTE
JUD R-3: Pro Se Case Managers	0	72,060	0	0	72,060	
JUD R-6: Judicial Education and Training	(54,248)	(243,752)	0	0	(298,000)	
Subtotal: Operating Expenses	0	6,895,766	0	0	6,895,766	
Staff Recommendation					Pending	1,794.1

Court Costs, Jury Costs, and Court-appointed Counsel

Description. "Mandated costs" are costs associated with activities, events, and services that accompany court cases that are required in statute and/or the U.S. and Colorado 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 State Court Administrator's Office that provides funding for mandated costs. This line item provides funding for three types of costs, described below.

- *Court-appointed Counsel (\$12,376,147 expended in FY 2010-11).* This line item includes funding to cover fees and expenses for court-appointed counsel and other representatives for children and indigent persons. While the Department's three independent agencies provide legal representation for adults and children in certain matters, this appropriation covers the costs of providing representation for indigent parties who:
 - Are respondent parents in dependency and neglect actions;
 - 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).

- *Jury Costs (\$1,876,998 expended in FY 2010-11).* This line item includes funding to cover fees and expenses for jurors. Pursuant to Sections 13-71-125 through 13-71-131, C.R.S., jurors must be compensated \$50 daily¹⁶, 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.

¹⁶ This dollar amount has not changed since at least 1989.

- *Court Costs (\$1,219,203 expended in FY 2010-11).* Similar to mandated costs incurred by other judicial 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 State Court Administrator's Office, these costs primarily include the following:
 - evaluations/ expert witness fees (\$935,168 expended in FY 2010-11);
 - transcripts (\$180,452);
 - discovery and process fees (\$25,549);
 - forms (\$22,500); and
 - other (\$55,534).

Request. The Department requests a continuation level of funding for FY 2012-13 (\$15,594,352).

Recommendation. **Staff recommends approving the request** to ensure that parties are appropriately represented and receive due process as their cases move through the courts, and that jurors are compensated as required. Please note that this appropriation has not changed since FY 2008-09. In FY 2009-10, actual expenditures exceeded the appropriation by \$247,615; in FY 2010-11, actual expenditures were \$122,005 below the appropriation. Cash funds are from various fees, cost recoveries, and grants.

District Attorney Mandated Costs

Background Information. Colorado's district attorneys' offices (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:

- The Department of Law's budget includes an appropriation for "District Attorneys' Salaries" (\$2,479,796 for FY 2011-12).
- The Judicial Department's budget includes an appropriation for "District Attorney Mandated Costs" (\$2,198,494 for FY 2011-12). This line item is described below.
- The Department of Corrections' budget includes an appropriation for "Payments to District Attorneys" for costs associated with prosecuting a crime alleged to have been committed by a person in the custody of the Department (\$144,108 for FY 2011-12).
- 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 2011-12).

In addition, the General Assembly appropriates funds to the Office of the State Public Defender, the Office of the Alternate Defense Counsel, the State Court Administrator's Office, and the Office of the Child's Representative to cover the costs of obtaining discoverable materials¹⁷. In FY 2010-11, these offices spent a total of \$2,122,666 for discovery. The majority of these expenditures were paid to reimburse DAs.

District Attorney Mandated Costs. This line item provides state funding to reimburse 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.¹⁸, when the defendant is acquitted or when the defendant is convicted and the court determines he is unable to pay them." Pursuant to Section 18-1.3-701 (2), C.R.S., when a person is convicted of an offense or a juvenile is adjudicated, the Court shall give judgement in favor of the State, the prosecuting attorney, or the law enforcement agency and against the offender or juvenile for the amount of the costs of prosecution. Section 16-18-101, C.R.S., specifies the types of expenditures that may be included under this provision.

Based on FY 2010-11 expenditure data provided by the Colorado District Attorneys' Council (CDAC)¹⁹, DAs' mandated costs consist of the following:

- Witness fees and travel expenses (\$595,680 or 29 percent of costs in FY 2010-11)
- Mailing subpoenas (\$554,749 or 27 percent)
- Expert witness fees and travel expenses (\$380,416 or 18 percent)
- Service of process (\$336,437 or 16 percent)
- Court reporter fees for transcripts (\$188,957 or nine percent)

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

¹⁷ 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.

¹⁸ 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".

¹⁹ The CDAC is a quasi-government agency, supported by assessments charged to each member's office (through an intergovernmental agreement).

District Attorneys' Mandated Costs								
	Appropriation			Actual Expenditures				Over/ (Under) Budget
Fiscal Year	General Fund	Cash Funds	Total	General Fund	Cash Funds	Total	Annual % Change	
2000-01	\$1,938,724	\$0	\$1,938,724	\$1,889,687	\$0	\$1,889,687		(\$49,037)
2001-02	1,938,724	0	1,938,724	1,978,963	0	1,978,963	4.7%	40,239
2002-03	2,025,199	125,000	2,150,199	1,833,410	71,117	1,904,527	-3.8%	(245,672)
2003-04	2,025,199	125,000	2,150,199	1,847,369	59,334	1,906,703	0.1%	(243,496)
2004-05	1,911,899	0	1,911,899	1,911,970	0	1,911,970	0.3%	71
2005-06	1,911,899	0	1,911,899	1,772,849	106,325	1,879,174	-1.7%	(32,725)
2006-07	1,841,899	125,000	1,966,899	1,928,795	99,090	2,027,885	7.9%	60,986
2007-08	1,837,733	125,000	1,962,733	2,092,974	130,674	2,223,648	9.7%	260,915
2008-09	2,101,052	125,000	2,226,052	2,063,785	125,000	2,188,785	-1.6%	(37,267)
2009-10	2,101,052	125,000	2,226,052	2,101,050	125,000	2,226,050	1.7%	(2)
2010-11*	2,005,324	125,000	2,130,324	2,005,507	125,000	2,130,507	-4.3%	183
2011-12	2,073,494	125,000	2,198,494					
2012-13 Request	2,139,449	125,000	2,264,449					

* Appropriation reduced by \$17,300 pursuant to H.B. 10-1291.

Prior to FY 2000-01, funding for DAs' mandated costs was included within the "Mandated Costs" line item appropriation to the Judicial Department. In 1999, an ad hoc committee on mandated costs released a report recommending that responsibility for managing court costs be transferred to the entities that incur them. Thus, beginning in FY 2000-01, the General Assembly has provided a separate appropriation for DAs' mandated costs. This line item has been accompanied by a footnote or a request for information (e.g., RFI #1 for FY 2011-12) indicating that DAs in each judicial district are responsible for allocations made by an oversight committee (currently the CDAC). Any increases in the line item are to be requested and justified in writing by the CDAC, rather than the Judicial Department.

The CDAC allocates funds among the 22 judicial districts (including those districts that are not members of the CDAC) based on historical spending. However, the CDAC holds back a portion of the appropriation (typically \$300,000). District Attorneys submit information quarterly concerning costs incurred, as well as projections of annual expenditures. The CDAC has a special process for requesting additional funds above the allocated amount. In order to limit state expenditures, the CDAC has required DAs to continue to follow the old Chief Justice Directive 87-01, which limited expert witness fees. Fees paid in excess of the limits established in this Directive are only

reimbursed if funds remain available at the end of the fiscal year. In FY 2010-11, \$15,593 of DAs' expenditures were not reimbursed due to this policy.

Request. The CDAC requests \$2,264,449 for FY 2012-13, which represents a \$65,955 (3.0 percent) increase compared to FY 2011-12.

Recommendation. **Staff recommends approving the requested increase.** In the last two fiscal years, this line item fallen short of covering DAs' reimbursable mandated costs (by \$106,453 and \$29,613, respectively). However, staff recommends a different mix of fund sources than that requested by the CDAC. The source of cash funds for this line item is cost recoveries collected by the Judicial Branch on behalf of DAs. These are amounts that the court orders defendants to pay, based on information provided by DAs. This line item allows these cost recoveries to be used to pay a portion of the DAs' mandated costs; revenues that exceed this appropriation are credited to the General Fund at the end of the fiscal year. This cash funds appropriation has been \$125,000 for a number of years. However, in the last four fiscal years, actual recoveries has exceeded this appropriation, resulting in year-end reversions ranging from \$5,674 in FY 2007-08 to \$38,482 in FY 2010-11. Staff thus recommends increasing the cash funds portion of the appropriation by \$15,000 to better reflect likely cost recoveries. Actual recoveries have exceeded the recommended appropriation level (\$140,000) in each of the last three fiscal years.

Federal Funds and Other Grants

Description. 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 for FY 2012-13 (\$2,900,000 and 14.0 FTE), including \$975,000 cash funds, \$300,000 reappropriated funds, and \$1,625,000 federal funds. The source of reappropriated funds is federal funds transferred from the Departments of Human Services and Public Safety.

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

(4) PROBATION AND RELATED SERVICES

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 a defendant probation²⁰. 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

²⁰ Section 18-1.3-202 (1), C.R.S.

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, about 1,100 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 -- not the Department's Division of Probation Services. 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.

Cash fund sources include: the Offender Services Fund, the Alcohol and Drug Driving Safety Program Fund, the Drug Offender Surcharge 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 Departments of Education, Human Services, and Public Safety.

Probation Programs

Description. This line item provides funding for both personal services and operating expenses for probation programs in all judicial districts. The following table details the staffing composition for this section of the Long Bill.

Probation Programs: Staffing Summary				
Position Description	FY 2010-11 Actual	FY 2011-12 Approp.	FY 2012-13 Request	FY 2012-13 Recomm.
Chief Probation Officers	24.4	28.0	28.0	28.0
Probation Supervisors	99.4	107.0	107.0	107.0
Probation Officers (JUD R-4)	769.8	827.9	846.9	846.9
Administrative/ Support	<u>156.6</u>	<u>167.5</u>	<u>167.5</u>	<u>167.5</u>
TOTAL	1,050.2	1,130.4	1,149.4	1,149.4

Request. The Department requests \$75,988,668 and 1,149.4 FTE for FY 2012-13. This request is impacted by JUD R-4 (Supervision of Sex Offenders on Probation).

Judicial R-4: Supervision of Sex Offenders on Probation

The Department requests \$1,261,810 (including \$1,172,453 General Fund and \$89,357 cash funds from the Judicial Stabilization Fund) and 19.0 FTE to address staffing shortages in the area of sex offender supervision. To offset the General Fund cost of the request, the Department proposes shifting \$1,190,320 of the funding for the Senior Judge Program from General Fund to the Judicial Stabilization Fund.

As of June 30, 2011, there were a total of 2,566 sex offenders under active supervision by probation. This total included 1,416 offenders in the sex offender intensive supervision program (SOISP), and 1,150 offenders who were convicted of a misdemeanor sex offense or transitioned from SOISP to "regular" probation supervision.

The SOISP was established statutorily in 1998²¹, and the number of offenders in SOISP has grown rapidly since 1999. In the last six years, the number of offenders in SOISP has increased from 853 to 1,416, reflecting a compound annual growth rate of 8.8 percent. This rate of growth reflects both the number of new offenders sentenced to SOISP, and the length of time offenders remain on SOISP. When the program was established, funding was provided for 46.0 FTE probation officers. It was expected that each probation officer would supervise a caseload of no more than 25 offenders, and offenders would complete the program within two years. The Department indicates that it actually requires an average of four years for an offender to successfully complete SOISP conditions and to achieve a risk reduction sufficient to allow for transfer to regular probation supervision. Over the last three years, the ratio of offenders to officers has risen from 25.7 to 30.8; in some locations the SOISP officer is responsible for 40 or more offenders. **The Department requests 11.0 FTE probation officers to achieve full staffing for SOISP and restore the appropriate ratio of 1:25.**

Once an offender completes the SOISP program, he/she will generally remain on probation another six to eight years on regular supervision. The evidence-based containment model continues, post-transition, and requires severely restricted activities, daily contact with the offender, curfew checks, home visitation, employment visitation and monitoring, drug testing as necessary, continuation in treatment until satisfactorily discharged, and polygraph testing. The probation officers who are assigned offenders who were convicted of a misdemeanor sex offense or those transitioning from SOISP undergo that same extensive training as SOISP officers. The Department indicates that the average caseload for these officers is 65 to 80. Based on workload associated with supervising these offenders, the Department states that caseloads should 40 to 45 per officer. **The Department requests 8.0 FTE probation officers to achieve this reduction in the average caseload.**

²¹ See Section 18-1.3-1007 through 1011, C.R.S.

The Department indicates that reduced sex offender supervision caseloads will allow officers more time to address offenders' technical violations. Due to the initial levels of denial and minimization, and the significant number of very specific conditions attached to a sex offense conviction, sex offenders commit a significant number of technical probation violations. To successfully address these violations, probation officers need time to consult with members of the Community Supervision Team and to make necessary supervision adjustments. The Department thus anticipates that the rate of probation revocations due to technical violations will decrease, resulting in fewer offenders sentenced to the Department of Corrections (DOC).

Due to the current budget situation, the Department has not requested the additional supervisory and clerical staff associated with adding probation officers.

Recommendation. Staff recommends approving the request. The success rate for the SOISP program was 46 percent in FY 2010-11 – meaning that in 54 percent of cases probation was terminated. Of the terminated cases, 85 percent were for technical violations (*i.e.*, a new crime was not committed, but the offender violated a condition of probation). Substantial savings occur when sex offenders can be safely supervised by probation officers. Specifically, the annual cost of supervising a sex offender on SOISP is \$4,357; and the average cost of supervising an offender on regular probation is \$1,418 (although the cost of supervising sex offenders on regular probation is likely higher than average). These costs compare to a cost of more than \$32,000 per year per offender in DOC. The Department has demonstrated success in reducing the number and rate of terminations for technical violations in other probation programs; this success is directly correlated to staffing ratios. This request will reduce the average caseload for probation officers who supervise sex offenders, and should allow the Department to improve its success rates with these offenders as well.

The dollar amount recommended by staff is \$57,732 lower than the request. Consistent with Legislative Council Staff fiscal note policy, staff has excluded funding for supplemental PERA contributions (AED and SAED). Staff's recommendation is detailed in the table below.

<i>Recommendation for Judicial R-4: Supervision of Sex Offenders on Probation</i>	
Line Item and Description	FY 12-13
<u>Courts Administration</u>	
<i>Central Appropriations</i>	
AED	0
SAED	<u>0</u>
Subtotal	0
<i>Centrally Administered Programs</i>	
Courthouse Capital/ Infrastructure Maintenance (one-time expenses)	89,357
<u>Probation and Related Services</u>	
Probation Programs - Personal Services	\$1,096,671

<i>Recommendation for Judicial R-4: Supervision of Sex Offenders on Probation</i>	
Line Item and Description	FY 12-13
FTE	19.0
Probation Programs - Operating Expenses (including \$950/FTE for telephone and supplies)	<u>18,050</u>
Subtotal	1,114,721
Subtotal - New Staff	1,204,078
FTE	<u>19.0</u>
General Fund	1,114,721
Cash Funds	89,357
Refinance Senior Judge Program - Total Funds	0
General Fund	(1,190,320)
Cash Funds	1,190,320
Total Recommendation	1,204,078
FTE	<u>19.0</u>
General Fund	(75,599)
Cash Funds	1,279,677

Recommendation. **Staff’s overall recommendation for this line item is pending application of the common policy concerning a base reduction in funding for personal services.** The following table details those elements of staff’s recommendation that may be provided at this time, prior to application of the Committee’s recently adopted common policy related to a personal services base reduction. Staff will apply the Committee’s base reduction policy to finalize the appropriation for this line item.

Summary of Recommendation: Probation, Probation Programs						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2011-12 Long Bill	\$62,068,761	\$9,842,694	\$0	\$0	\$71,911,455	1,130.4
S.B. 11-076	<u>(1,397,908)</u>	<u>(208,883)</u>	<u>0</u>	<u>0</u>	<u>(1,606,791)</u>	
Subtotal: FY 2011-12 Appropriation	60,670,853	9,633,811	0	0	70,304,664	1,130.4
Reinstate FY 2011-12 reduction in employer’s PERA contribution (S.B. 11-076)	1,397,908	208,883	0	0	1,606,791	
Salary Survey awarded in FY 2011-12	0	0	0	0	0	0.0
80% of Performance-based Pay awarded in FY 2011-12	0	0	0	0	0	0.0

Summary of Recommendation: Probation, Probation Programs						
	GF	CF	RF	FF	TOTAL	FTE
JUD R-4: Supervision of Sex Offenders on Probation	1,096,671	0	0	0	1,096,671	19.0
Base reduction					<u>Pending</u>	
Subtotal: Personal Services					Pending	1,149.4
Operating Expenses:						
FY 2011-12 Long Bill	2,204,919	757,574	0	0	2,962,493	
JUD R-4 (Sex Offender Supervision Probation Officers)	<u>18,050</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>18,050</u>	
Subtotal: Operating Expenses	2,222,969	757,574	0	0	2,980,543	
Staff Recommendation					Pending	1,149.4

Offender Treatment and Services

Description. This line item provides block grants to each judicial district based on the 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;
- Mental health treatment;
- Domestic violence treatment;
- Transportation assistance;
- Electronic home monitoring;
- Emergency housing;
- Educational/vocational assistance;
- Restorative justice;
- Global positioning satellite (GPS) tracking;
- Incentives;
- Interpreter services; and
- General medical assistance.

The Department is also using some existing funding to build capacity in rural/under served parts of the state, and to research evidence-based practices.

Cash fund sources include the Offender Services Fund, the Drug Offender Surcharge Fund, the Sex Offender Surcharge Fund, and various fees and cost recoveries. Reappropriated funds include \$6,100,000 from the Drug Offender Surcharge Fund (thereby allowing the Department to spend or distribute the General Fund that is credited to the Drug Offender Surcharge Fund pursuant to H.B. 10-1352), 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 a continuation level of funding (\$17,499,136) for FY 2012-13.

Recommendation. **Staff recommends approving the Department’s request.** In addition, staff’s recommendation reflects the transfer of funding for day reporting services, as described in more detail below.

Summary of Recommendation: Probation, Offender Treatment and Services					
	GF	CF	RF	FF	TOTAL
FY 2011-12 Long Bill	\$0	\$10,619,290	\$6,879,846	\$0	\$17,499,136
FY 2011-12 Appropriation	0	10,619,290	6,879,846	0	17,499,136
Transfer of Day Reporting Services line item	300,000	0	0	0	300,000
Staff Recommendation	300,000	10,619,290	6,879,846	0	17,799,136

Please note that General Fund support for offender treatment and services was eliminated in FY 2008-09. Success for many offenders relies on the ability of the criminal justice system to place the offender in an effective treatment program, and provide financial support for the cost of treatment-related expenses when necessary. Absent this support, more offenders would have their probation revoked and require incarceration. Cash fund revenues are not currently sufficient to allow the Department to provide services at the levels anticipated in the appropriation, so they restrict these funds before allocating them to judicial districts.

S.B. 03-318 Community Treatment Funding

Description. Senate Bill 03-318 reduced the penalties for use and possession of certain controlled substances, and expanded the types of drug offenders who could be eligible for probation. This act contained a provision that would have revoked those sentencing changes if at least \$2.2 million in estimated cost-avoidance was achieved; the intent was to reinvest the moneys saved in community-based substance abuse treatment beginning in FY 2007-08. The General Assembly has annually appropriated \$2.2 million General Fund for such services since FY 2007-08.

The Inter-agency Task Force on Treatment (ITFT) annually allocates the \$2.2 million across judicial districts using a formula based on drug offense filings and population. Local drug offender treatment boards in each judicial district²² distribute these moneys to drug treatment programs based in the judicial district. Each local board must submit information annually to the ITFT and the Judiciary

²² Pursuant to Section 18-19-104, C.R.S., these local boards consist of the District Attorney (or a designee), the Chief Public Defender (or a designee), and a probation officer chosen by the Chief Judge.

Committees concerning expenditures. Any unexpended funds are credited to the Drug Offender Treatment Fund²³.

Request. The Department requests a continuation of the \$2.2 million General Fund appropriation for treatment services.

Recommendation. **Staff recommends approving the request to continue to appropriate \$2,200,000 General Fund for FY 2012-13.** This funding provides treatment resources necessary for many drug offenders to successfully complete probation and avoid incarceration.

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

Description. This line item directs 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. House Bill 10-1352 (Waller/Steadman) made a number of changes to penalties for offenses related to controlled substances. The act was anticipated to reduce the number of offenders sentenced to prison and the length of other offenders' sentences for drug-related crimes, thus reducing state expenditures in the Department of Corrections (DOC). The act was also anticipated to increase the probation workload and decrease workload for the Office of the State Public Defender (OSPD). The act directs the General Assembly to annually appropriate the General Fund savings generated by the act to the DOSF, and requires that such moneys be allocated to cover the costs associated with the treatment of substance abuse or co-occurring disorders of adult offenders who are assessed to be in need of treatment and who are on diversion, on probation, on parole, in community corrections, or in jail.

For FY 2010-11, H.B. 10-1352 appropriated \$1,468,196 General Fund to the Judicial Department to be credited to the DOSF. This appropriation was based on the estimated FY 2010-11 savings to the DOC and the OSPD, offset by increased costs for probation and the Department of Public Safety (for research and reporting requirements). For FY 2011-12, the Long Bill included an appropriation of \$6,156,118 General Fund to be credited to the DOSF. This appropriation was based on the estimated savings for FY 2011-12 that were identified in the Legislative Council Staff fiscal note for H.B. 10-1352.

Request. For FY 2012-13, the Department has requested the same appropriation as for FY 2011-12.

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

The estimated savings for FY 2011-12 were primarily based on a projected reduction in the number of persons incarcerated by the DOC. However, these estimated savings also include impacts to three other agencies. These other impacts, which sum to an increase of \$58,952, are assumed to remain

²³ This fund was created through S.B. 03-318 and established in Section 18-19-103 (5.5), C.R.S.

static after FY 2011-12²⁴. Thus, the factor that will drive changes in this appropriation in FY 2012-13 and subsequent fiscal years is the impact of H.B. 10-1352 to the DOC. The Legislative Council Staff fiscal note for H.B. 10-1352 anticipated the following annual savings to DOC, based on less expensive placements and shorter sentences:

H.B. 10-1352: Estimated Five-Year Impact to Correctional Facilities			
Fiscal Year	Bed Impact	Operating Expenses	Annual Change
2010-11	(108.6)	(\$1,523,589)	(\$1,523,589)
2011-12	(217.1)	(6,215,070)	(4,691,481)
2012-13	(477.8)	(13,649,159)	(7,434,089)
2013-14	(580.2)	(16,576,581)	(2,927,422)
2014-15	(588.9)	(16,825,665)	(249,084)

As indicated above, the savings resulting from H.B. 10-1352 were anticipated to increase by \$7,434,089 in FY 2012-13. Pursuant to Section 18-19-103 (3.5) (b), C.R.S., the General Assembly is required to annually appropriate an amount equal to the savings generated by H.B. 10-1352 to the DOSF. If the fiscal note is accurate, this line item appropriation should increase by \$7.4 million to \$13,590,207. However, this statutory provision also states that this appropriation "shall be made after consideration of the division of criminal justice's annual report [concerning the amount of fiscal savings generated by H.B. 10-1352 in the previous fiscal year]".

As required, the Division of Criminal Justice submitted a report on January 15, 2012. This report analyzes the savings realized in the first 12 months after enactment of H.B. 10-1352 (August 2010 to July 2011), based on comparing the cost of offenders sentenced in the initial 12 month period after the bill's enactment to the cost of offenders in the 12 months prior. This report indicates that during this initial 12 month period, the bill reduced state expenditures by \$854,533; if jail sentences are included, the savings increased to \$952,387. [Please note that these estimates exclude changes in costs associated with court time or district attorney time.] The estimated state savings are \$669,056 (44 percent) lower than the estimates in the above table. The report includes several cautions:

- It is not possible to track offender movements in the criminal justice system with precision, so these results should be viewed with caution.
- For many cases, 12 months is simply not enough time for trial and sentencing to take place. As a result, the number of cases included in the study is not representative of the true population of offenders affected by H.B. 10-1352. In subsequent reports, more time will have passed and thus more cases will be available for analysis.

²⁴ This net reduction includes the following General Fund impacts: a reduction of \$6,215,070 to the DOC (based on a bed impact of -217.1); a reduction of \$264,453 for the Office of the State Public Defender; an increase of \$283,563 for probation; and an increase of \$39,842 for the Department of Public Safety.

- Sentencing is influenced by a variety of factors such as aggravating and mitigating circumstances, criminal history, and plea bargaining. The cost differences observed may not be due entirely to reductions in crime classifications.
- House Bill 10-1352 reduced crime classifications for certain felony and misdemeanor crimes, but sentence ranges overlap across some crime classifications (*e.g.*, the presumptive range for an F-6 is 12 to 18 months; the range for an F-5 is 12 to 36 months).
- Sentences imposed are driven by the most serious crime, among other factors, and the most serious crime is designated by crime classification. As H.B. 10-1352 reduced crime classifications, the frequency in which a H.B. 10-1352 crime is the most serious crime is likely reduced.
- Offenders are often charged with multiple crimes, may have cases in multiple jurisdictions, and may receive concurrent or consecutive sentences. Consequently, tracking offender sentence placements precisely for costing purposes is not possible.
- Despite improvements in records management systems, data errors or omissions likely remain.

Given that data is not yet available from the Division of Criminal Justice to clearly validate the estimated DOC savings identified in the fiscal note for H.B. 10-1352, staff does not recommend increasing or decreasing this appropriation for FY 2012-13.

Staff also recommends providing the same level of spending authority for three Executive Branch departments as in FY 2011-12 for the purpose of providing treatment services to adult offenders who are on diversion, on probation, on parole, in community corrections, or in jail:

Department of Corrections	\$1,400,000
Department of Public Safety	\$1,250,000
Department of Human Services (offenders in jail)	\$1,450,000

S.B. 91-094 Juvenile Services

Description. 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 2011-12, this line item authorizes the Department to receive and spend up to \$1,906,837 (14.6 percent) of the \$13,031,528 that was appropriated to NYC. 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 NYC execute the annual contract.

Request. The Department requests an appropriation of \$2,496,837 and 25.0 FTE for FY 2012-13. This request is impacted by JUD R-9, described below.

Judicial R-9: S.B. 91-094 Spending Authority Increase

The Department requests an increase in the reappropriated funds spending authority to allow the probation departments in two additional judicial districts (10th and 22nd) to assume fiscal responsibility for the S.B.91-094 programs in those districts. The entities currently acting as fiscal agents for S.B. 91-094 funds in the 10th (Pueblo) and 22nd (Dolores and Montezuma) judicial districts (the Pueblo-60 school district and a non-profit agency, respectively) have determined that they no longer want to oversee these programs. The local probation departments have come forward to act as the fiscal agents, beginning in FY 2012-13. The amount of increased spending authority requested is based on existing program expenditures in these two judicial districts.

Recommendation. **Staff recommends approving the request** to reflect the anticipated transfer of S.B. 91-94 moneys to various judicial districts, including the 10th and the 22nd.

Day Reporting Services

Description. This line item was included for the first time in FY 2009-10 Long Bill. 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.

In January 2010, the Judicial Department and the Department of Corrections (DOC) entered into a memorandum of understanding (MOU) concerning this appropriation. This MOU specified that the Judicial Department would annually transfer \$75,000 to the DOC for the provision of day reporting services to parolees.

In FY 2010-11 the Department received a total of \$393,078 and allocated the funds as follows:

- \$243,078 was allocated to individual judicial districts for the purchase of services from a variety of day reporting service providers;

- \$75,000 was allocated for state contracts with two vendors for the provision of statewide and multi-district services;
- and \$75,000 was allocated to the DOC for parole services.

Actual expenditures totaled \$206,039 (52.4 percent of the appropriation), including \$152,823 by individual judicial districts, \$43,283 related to state contracts, and \$9,933 by DOC. For FY 2011-12, the Department allocated \$318,078 to individual districts and \$75,000 for the DOC, opting to discontinue state contracts.

Request. For FY 2012-13, the Department requests a continuation level of funding \$393,078.

Recommendation. **Staff recommends that the Committee continue to appropriate funds for day reporting services, with two adjustments.** To the extent that this funding helps probation and parole officers maintain high risk offenders in the community, it is a cost-effective use of state resources.

First, given the level of actual expenditures in the last two fiscal years, **staff recommends reducing the appropriation to \$300,000 General Fund.** This appropriation was transferred to the Judicial Department in FY 2009-10, and staff understands that it has taken time to establish contracts with providers and establish the appropriate spending authority for the DOC. However, between FY 2009-10 and FY 2010-11, the amount spent by the DOC increased from \$0 to \$9,933, and the amount spent directly by judicial district probation units decreased from \$159,430 to \$152,823. The most significant increase in spending in FY 2010-11 was through the state's Division of Probation Services' provider contracts, increasing from \$26,637 to \$43,283. However, the Division has decided to discontinue these contracts in FY 2011-12 and to allocate more funds directly to judicial districts. Staff's recommended appropriation would still allow both parole and probation units to increase expenditures for day reporting services by more than 45 percent compared to FY 2010-11 expenditures.

Based on spending to date in the current fiscal year, both the Judicial Department and DOC staff agree that they are unlikely to spend the full appropriation. Further, based on information from DOC staff, it appears that the **DOC will require only \$25,000 reappropriated funds for FY 2012-13** (transferred from this line item).

Second, staff recommends that this appropriation be included within the "Offender Treatment and Services" line item. In FY 2006-07, the Joint Budget Committee approved a request to combine various appropriations from the General Fund, Offender Services Cash Fund, Drug Offender Surcharge Fund, and the Sex Offender Surcharge Fund, to create a single line item entitled "Offender Treatment and Services". The purpose of this organizational change was to: (a) provide increased flexibility to local probation departments to allocate funds for treatment and services for indigent offenders or those otherwise unable to pay; and (b) reduce year-end reversions of unspent cash funds.

The Offender Treatment and Services appropriation is now divided among the 22 judicial districts as "block grants" based on the number of FTE and the number of probationers under supervision in each district. Each probation department then develops a local budget for each of the approved treatment and service areas. The local allocation of funds depends on the availability of treatment and services and the particular needs of the local offender population. The Department annually reports on allocations and expenditures, by treatment and type of services [see Appendix C-20 through C-21 in the FY 2012-13 JBC Staff Budget Briefing for the Judicial Branch, dated November 30, 2011].

Staff believes that funding for day reporting services should be treated in the same manner as other offender services, allowing each judicial district 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.

Victims Grants

Description. 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 for FY 2012-13 (\$650,000 reappropriated funds and 6.0 FTE).

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

Federal Funds and Other Grants

Description. 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) for FY 2012-13, 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.**

(5) PUBLIC DEFENDER

The federal²⁵ and state²⁶ 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.

Staff recommends renaming this section of the Long Bill "Office of the State Public Defender" so that it is consistent with the statutory provision that creates the Office [see Section 21-1-101 (1), C.R.S.]. Mr. Doug Wilson, State Public Defender, supports this change.

Personal Services

Description. 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. Table 1 details the staffing composition of these offices.

OSPD Table 1: Public Defender Staffing Summary				
Position Description	FY 2010-11 Actual	FY 2011-12 Approp.	FY 2012-13 Request	FY 2012-13 Recomm.
<u>Central Office</u>				
State Public Defender and Chief Deputies and Administrative Officer	3.4	3.4	3.4	3.4
Statewide Complex Case Management	7.8	9.0	9.6	9.6
Accounting, Payroll, Budget, Planning/Analysis, Procurement, Facilities, Human Resources, and Training	8.0	10.0	10.0	10.0
Information Technology	8.0	9.0	9.0	9.0
Administrative Staff and Senior Management Assistants	<u>3.0</u>	<u>3.0</u>	<u>3.0</u>	<u>3.0</u>
Subtotal - Central Office	30.2	34.4	35.0	35.0

²⁵ U.S. Const. amend. VI (Rights of accused).

²⁶ Colorado Const. art. II, § 16 (Criminal prosecutions - rights of defendant).

OSPD Table 1: Public Defender Staffing Summary				
Position Description	FY 2010-11 Actual	FY 2011-12 Approp.	FY 2012-13 Request	FY 2012-13 Recomm.
<u>Appellate Office</u>				
Office Head	1.0	1.0	1.0	1.0
Appellate Attorneys	32.7	34.7	34.7	34.7
Investigators/ Paralegals	3.2	4.0	4.0	4.0
Administrative Support Staff	4.4	5.0	5.0	5.0
Administrative Staff and Senior Management Assistants	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>
Subtotal - Support Staff	8.6	10.0	10.0	10.0
<i>Ratio of Support Staff to Appellate Attorneys</i>	26.3%	28.8%	28.8%	28.8%
Subtotal - Appellate Office	42.3	45.7	45.7	45.7
Office Heads	21.0	21.0	21.0	21.0
Trial Attorneys (H.B. 07-1054; OSPD R-3)	297.3	352.7	357.1	357.1
Investigators/ Paralegals (H.B. 07-1054; OSPD R-3)	96.6	106.5	108.0	108.0
Administrative Support Staff (H.B. 07-1054; OSPD R-3)	52.3	63.9	65.0	65.0
Office Managers	<u>21.0</u>	<u>21.0</u>	<u>21.0</u>	<u>21.0</u>
Subtotal - Support Staff	169.9	191.4	194.0	194.0
<i>Ratio: Support Staff to Trial Attorneys</i>	57.1%	54.3%	54.3%	54.3%
Subtotal - Regional Trial Offices	488.2	565.1	572.1	572.1
DIVISION TOTAL	560.7	645.2	652.8	652.8

Request. The OSPD requests \$44,515,981 and 652.8 FTE for FY 2012-13. This request is impacted by OSPD R-1 (Attorney Pay Parity), OSPD R-3 (Refinance for Denver Sobriety Court), and the implementation of H.B. 07-1054, discussed below.

OSPD R-1: Attorney Pay Parity

Request. The OSPD requests an increase of \$2,863,900 General Fund over the next three fiscal years, starting with \$907,715 in FY 2012-13, to bring its attorney salaries in line with market pay practices. A 2010 study conducted by Fox Lawson & Associates for the OSPD surveyed 34 organizations concerning their current attorney salary data; surveyed organizations included the Department of Law, select District Attorney offices, select city and county attorney offices, and federal law offices located in Denver. [The Department of Law has a similar study conducted by this

firm annually.] The study concluded that OSPD's attorney salaries are, on average, 9.5 percent below prevailing market rates²⁷. Table 2 provides a comparison of OSPD actual salaries and overall market salaries, categorized by job classification.

OSPD Table 2: 2010 Salary Survey Report (October 2010)			
Benchmark Title	OSPD Average	Overall Market Average	Percent Difference
Managing Attorney/ Office Head	\$110,052	\$137,864	25.3%
Supervising Attorney	103,339	108,530	5.0%
Senior Attorney	92,563	93,459	1.0%
Intermediate Staff Attorney	68,477	73,413	7.2%
Entry-level Staff Attorney	55,135	57,065	3.5%
Average			9.5%

The OSPD indicates that this pay disparity compounds other factors that make it difficult for the OSPD to adequately defend its clients in court. These other factors include a shortfall in the number of staff based on the number and types of active cases, and rising attrition rates. While the annual attrition rate for attorneys declined from 22.8 percent in FY 2006-07 to 9.3 percent in FY 2009-10, this rate increased in FY 2010-11 to 11.6 percent.

A high rate of attrition has led to an inappropriate proportion of experienced attorneys. Specifically, in order to provide reasonable and effective legal representation, the OSPD has established a goal of limiting the proportion of entry level attorneys (who carry a full caseload but require close supervision) to 30 percent. As indicated in Table 3, more than half of OSPD attorneys are at the beginning level, 16 percent are at the "journey" level (attorneys who handle a full caseload of varying complexity under minimal supervision), and 28 percent are at the "career" level (including managing attorneys, supervising attorneys, and senior attorneys who are experts in all aspects and all levels of complexity of law, procedure, and casework). Although there was a slight improvement in FY 2010-11, the general trend is away from the stated target.

²⁷ Please note that this calculation did not take into account the impact of legislation requiring state employees to contribute an additional 2.5 percent of their salaries to PERA.

OSPD Table 3: Percent of Attorneys at Journey and Career Levels						
Case Type	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	Target
Beginning	46.5%	52.9%	54.8%	58.2%	56.0%	30.0%
Journey	21.8%	11.8%	10.5%	9.5%	16.0%	
Career	31.7%	35.4%	34.6%	32.3%	28.0%	
Journey and Career	53.5%	47.1%	45.2%	41.8%	44.0%	70.0%

This request is intended to bring attorney salary ranges in line with market pay practices over a three-year period. This request is directly aimed at reducing the overall attrition rate, and reducing the supervisory burden on more experienced staff. The OSPD is concerned that if this salary disparity is not addressed, these trends will continue, jeopardizing the OSPD's ability to achieve its mission of providing effective indigent defense representation comparable to the private bar.

The request proposes the following annual funding increases:

FY 2012-13	\$907,715
FY 2013-14	938,029
FY 2014-15	939,524
FY 2016-17	<u>78,632</u> (annualization due to paydate shift)
Total	2,863,900

R-1 Recommendation. Staff recommends approving the request, but staff recommends including the \$860,682 requested for this line item in the Salary Survey line item (consistent with the Judicial decision item R-1). Pursuant to Section 21-1-102 (3), C.R.S., the State Public Defender shall employ and fix the compensation of a Chief Deputy, deputy state public defenders, investigators, and any other employees necessary to discharge the functions of the OSPD. All salaries, however, are reviewed and approved the Colorado Supreme Court. Further, Section 21-1-101 (1), C.R.S., requires the State Public Defender to provide legal services to indigent persons accused of crime that are commensurate with those available to nonindigents.

Based on the October 2010 Fox Lawson & Associates study, OSPD attorney salaries are 9.5 percent below the market, on average. This differential ranges from 1.0 percent (for senior attorneys) to 25.3 percent (for managing attorneys/office heads). The proposed salary adjustments are necessary to make OSPD salaries comparable to similar positions in other public sector law offices.

The OSPD proposes phasing in the salary adjustments over a three-year period, a time frame that is prudent and appropriate given the current state budget situation.

OSPD R-3: Refinance for Denver Sobriety Court

Background Information. Denver's Sobriety Court opened May 24, 2011 to effectively address repeat DUI offenders through a comprehensive system including expedited court case processing, jail and community-based treatment services and court and probation oversight. The model is based

on best practices in sobriety courts. The Sobriety Court mission is to provide an efficient, judicially supervised, accountable, systemic process to address addiction, offender success, and recovery. The Sobriety Court serves offenders charged with repeat (2nd, 3rd or more) impaired driving offenses. The goals of Sobriety Court are to:

- provide a comprehensive, expedited and coordinated judicial response to repeat impaired drivers;
- increase community safety through efficient and effective jail to community treatment and monitoring; and
- reduce recidivism for previous DUI offenders through effective treatment and recovery services.

The Sobriety Court was established through efforts of the Crime Prevention and Control Commission, Denver County Court and Probation, Denver District Attorney's Office, the OSPD, the Colorado Defense Bar, the Denver Police Department, the Denver Sheriff Department, and representatives of the Colorado Division of Behavior Health. [For more information about the Denver Sobriety Court, see the written materials prepared by the Office of the State Public Defender for the 12/14/11 hearing with the Joint Budget Committee (pages 51 to 54).]

Request. The OSPD requests an increase of \$243,267 General Fund and 2.5 FTE to continue to provide indigent defense services for the Denver Sobriety Court; this increase is offset by a reduction in available grant funds (\$98,260 cash funds and 1.5 FTE). The City and County of Denver provided an 18-month grant to the OSPD to support this new court through its pilot phase; this grant ends in December 2012. The grant funding originated from Colorado Department of Transportation Office of Traffic Safety Funds.

As with other specialty problem-solving courts, the Denver Sobriety Court emphasizes accountability and intensive monitoring, and thus requires more frequent hearings and meetings compared to traditional proceedings. These courts rely on the combined expertise and collaboration of many parties, including defense counsel. Defense counsel is expected to actively participate in both court proceedings and team meetings, facilitating the treatment process while protecting the participant's due process rights. The goal of this court is to reduce recidivism, prevent other crimes associated with DUI/DWAI, and reduce the use of jail beds.

The Denver Sobriety Court was expected to handle 200 cases in the first year, with cases remaining active for an average of 19 months. Thus, the request assumes an annual caseload of 480 to cover new and continuing cases. The OSPD requests funding for a total of 6.3 FTE, starting in January 2013 (including 3.7 FTE attorneys, 1.3 FTE paralegals, 1.3 FTE administrative support staff). The request reflects only five months of personnel funding based on the paydate shift.

Recommendation. **Staff recommends approving the request, with some modifications.** The docket for this court should be supported in the same manner as those of other district courts. Denver has provided temporary funding to support defense counsel in order to initiate the new court.

Public defender staff are required to represent all eligible Sobriety Court offenders at advisement, plea, sentencing, regular review hearings, and revocation hearings. Defense counsel’s participation in this process is necessary and appropriate.

The benefits of this type of court (to local government, the courts, and society) are contingent on intensive supervision and treatment protocols in the short-term. In its first six months of operation, the Sobriety Court resulted in 10,087 fewer jail bed days (with an associated savings of \$566,688); and a reduction in case processing time from an average of 84-112 days to an average of 16 days. The Sobriety Court is also tracking recidivism data, treatment costs, and the costs of processing these types of cases, and will report on the full array of costs and benefits in the future.

This recommendation is consistent with previous General Assembly actions to provide funding for defense counsel’s participation in the Denver Drug Court and for the expansion of other types of problem-solving courts statewide.

Staff’s recommended funding is \$55,301 lower than the Department’s request for two primary reasons:

- The OSPD request includes \$52,454 for leased space (\$8,742 per FTE for 6.0 FTE). While staff is recommending the OSPD’s overall request for leased space, staff is not recommending it specifically in relation to this decision item. See staff’s recommendation for the leased space line item for more information.
- The OSPD request for health, life, and dental benefits is based on \$6,836/FTE, and staff’s recommendation is based on \$6,050/FTE, consistent with the Legislative Council Staff 2012 fiscal note policy.

Table 4 details the recommendation for FY 2012-13, as well as the related costs for FY 2013-14.

Table 4: Staff Recommendation for OSPD R-3 (Refinance for Denver Sobriety Court)		
Line Item and Description	FY 12-13	FY 13-14
	Request for Funding Beginning 1/1/13	Incremental Cost to Annualize Funding
Personal Services (5 months only due to paydate shift)	\$133,001	\$186,202
FTE	2.5	3.8
Health, Life, and Dental (\$6,050/FTE) for 6.0 FTE for 6 months	18,150	18,150
Short-term Disability (0.177% of salaries for 5 months)	88	207
AED (3.4% of salaries for 5 months)	1,688	3,984
SAED (3.0% of salaries for 5 months)	<u>1,490</u>	<u>3,516</u>
Subtotal: Personal Services and Benefits	154,417	212,060

Table 4: Staff Recommendation for OSPD R-3 (Refinance for Denver Sobriety Court)		
Line Item and Description	FY 12-13	FY 13-14
	Request for Funding Beginning 1/1/13	Incremental Cost to Annualize Funding
Operating expenses (\$950/FTE) and travel (\$827/FTE) for 6.0 FTE for 6 months	5,331	5,331
Capital outlay (\$4,703/FTE) for 6.0 FTE	28,218	(28,218)
Leased space (\$8,742/FTE)	0	0
Total General Fund Recommendation for R-3	187,966	189,173

Implementation of H.B. 07-1054: Third Year of New Judgeships

Request. In FY 2010-11, the OSPD received funding to add the 40.1 FTE needed to cover the workload resulting from the 28 judges added in FY 2007-08 and FY 2008-09 pursuant to H.B. 07-1054. In FY 2011-12, the OSPD received funding to add the 29.3 FTE needed to cover the workload resulting from 13 of the final 15 judges. For FY 2012-13, the OSPD requests the final 5.1 FTE needed to cover the workload resulting from the final two judgeships, which are scheduled to be filled July 1, 2012.

Recommendation. **Staff recommends approving the request, with some modifications.** Staff's recommended funding is \$68,103 lower than the Department's request for several reasons:

- The OSPD request includes \$52,454 for leased space (\$8,742 per FTE for 6.0 FTE). While staff is recommending the OSPD's overall request for leased space, staff is not recommending it specifically in relation to the new staff that will be added pursuant to H.B. 07-1054. See staff's recommendation for the leased space line item for more information.
- The OSPD request includes \$41,017 for health, life, and dental benefits (\$6,836/FTE for 6.0 FTE), and staff recommends providing only \$30,250 (\$6,050 for 5.0 FTE). Per Legislative Council Staff 2012 fiscal note policy, a rate of \$6,050 is applied and no benefits are provided for the 0.1 FTE.
- The OSPD request includes \$28,218 for capital outlay (\$4,703 per FTE for 6.0 FTE), and staff recommends providing only \$23,515 (\$4,703 per FTE for 5.0 FTE). Per Legislative Council Staff 2012 fiscal note policy, a minimum of 0.5 FTE is required to qualify for a pro-rated portion of capital outlay expenses.
- The OSPD request includes \$9,064 for operating and travel expenses (\$1,777 per FTE for 5.1 FTE), and staff recommends providing only \$8,885 (\$1,777 per FTE for 5.0 FTE). Per Legislative Council Staff 2012 fiscal note policy, a minimum of 0.5 FTE is required to qualify for a pro-rated portion of operating expenses.

Table 5 details the recommendation for FY 2012-13, as well as the related costs for FY 2013-14.

OSPD Table 5: Recommendation Related to H.B. 07-1054				
Line Item and Description	FY 12-13			FY 13-14
	Annualize funding related to 13 judges	Provide partial funding related to final 2 judges	Total	Incremental Cost to Annualize funding related to 2 judges
Personal Services	\$305,740	\$207,916	\$513,656	\$54,559
FTE		5.1	5.1	0.0
Health, Life, and Dental (\$6,050/FTE)*		30,250	30,250	0
Short-term Disability*		292	292	
AED*		6,034	6,034	0
SAED*		<u>5,187</u>	<u>5,187</u>	<u>0</u>
Subtotal: Personal Services and Benefits	305,740	249,679	555,419	54,559
Operating expenses (\$950/FTE) and travel (\$827/FTE)		8,885	8,885	0
Capital outlay (\$4,703/FTE)	(141,090)	23,515	(117,575)	(23,515)
Leased space (\$8,742/FTE)		0	0	0
Total Recommendation for H.B. 07-1054	164,650	282,079	446,729	31,044

* Given that the two new judgeships would be filled on July 1, 2012, staff recommends including funding for the associated employee benefits for FY 2012-13.

Overall Recommendation. Staff's overall recommendation for this line item is pending application of the common policy concerning a base reduction in funding for personal services. Table 6 details those elements of staff's recommendation that may be provided at this time, prior to application of the Committee's recently adopted common policy related to a personal services base reduction. Staff will apply the Committee's base reduction policy to finalize the appropriation for this line item.

However, staff recommends that the salary of the State Public Defender be excluded from the base reduction. Pursuant to Section 21-1-102 (2), C.R.S., the State Public Defender's compensation "shall be fixed by the general assembly and may not be reduced during the term of his appointment". The salary is equivalent to that of an associate judge of the Court of Appeals. This position is unlikely to be held vacant for any significant period of time, and the salary would remain unchanged should there be turnover in the position.

In addition to the differences described above, staff's recommendation differs from the request because the OSPD requested reinstatement of only 11/12 of the reduction in S.B. 11-076, due to the paydate shift. The Committee policy reinstates the full amount of the reduction in S.B. 11-076, so staff's recommendation being \$78,715 higher.

OSPD Table 6: Summary of Recommendation for Personal Services						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2011-12 Long Bill	\$43,087,357	\$0	\$0	\$0	\$43,087,357	645.2
S.B. 11-076	<u>(969,823)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>(969,823)</u>	
Subtotal: FY 2011-12 Appropriation	42,117,534	0	0	0	42,117,534	645.2
H.B. 07-1054: Annualize funding for staff related to judgeships filled in 2011 (fund all 34.4 FTE for 12 th month due to paydate shift; reflect 12 months of salary paid to new attorneys who have passed the bar exam)	305,740	0	0	0	305,740	0.0
Reinstate FY 2011-12 reduction in employer's PERA contribution (S.B. 11-076)	969,823	0	0	0	969,823	0.0
Salary Survey awarded in FY 2011-12	0	0	0	0	0	0.0
80% of Performance-based Pay awarded in FY 2011-12	0	0	0	0	0	0.0
H.B. 07-1054: Add staff related to final 2 judgeships filled in 2012 (fund 5.1 FTE for 11 mos. due to paydate shift); reflect progression of three salary amounts for new attorneys)	207,916	0	0	0	207,916	5.1
OSPD R-1: Attorney Salary Parity	0	0	0	0	0	0.0
OSPD R-3: Refinance Denver Sobriety Court	133,001	0	0	0	133,001	2.5
Base reduction					<u>Pending</u>	
Staff Recommendation					Pending	652.8

Health, Life, and Dental

Description. 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 \$4,569,936 General Fund for FY 2012-13.

Recommendation. **Staff's recommendation for this line item is pending Committee policy.** Staff will ultimately reflect Committee policy in the appropriation for this line item. In addition, staff recommends including \$30,250 General Fund for the 5.1 FTE additional staff required to complete implementation of H.B. 07-1054. Given that the two new judgeships would be filled on July 1, 2012, staff recommends including funding for the associated employee benefits for FY 2012-13. Staff also recommends including \$18,150 for the staff who will provide continued support for the

Denver Sobriety Court. The dollar amount is lower than the amount requested as staff applied the standard \$6,050 per FTE identified in the 2012 common policies utilized for Legislative Council Staff fiscal notes.

Short-term Disability

Description. 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 \$70,697 General Fund for this purpose for FY 2012-13.

Recommendation. **Staff recommends an appropriation of \$70,078 for this line item.** This amount includes \$68,330 consistent with the Committee policy (the lesser of the FY 2012-13 request or the FY 2011-12 appropriation), plus \$1,368 for OSPD R-1 (Attorney Salary Parity), plus \$292 for the 5.1 FTE additional staff required to complete implementation of H.B. 07-1054, plus \$88 for OSPD R-3 (Refinance for Denver Sobriety Court).

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

Description. 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 \$1,266,026 General Fund for FY 2012-13.

Recommendation. **Staff recommends an appropriation of \$1,263,662 for this line item.** This amount includes \$1,231,351 consistent with the Committee policy, plus \$24,589 for OSPD R-1 (Attorney Salary Parity), plus \$6,034 for the 5.1 FTE additional staff required to complete implementation of H.B. 07-1054, plus \$1,688 for OSPD R-3 (Refinance for Denver Sobriety Court).

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

Description. 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 \$1,082,967 General Fund for FY 2012-13.

Recommendation. **Staff recommends an appropriation of \$1,080,882 for this line item.** This amount includes \$1,053,129 consistent with the Committee policy, plus \$21,076 for OSPD R-1 (Attorney Salary Parity), plus \$5,187 for the 5.1 FTE additional staff required to complete implementation of H.B. 07-1054, plus \$1,490 for OSPD R-3 (Refinance for Denver Sobriety Court).

Salary Survey

Description. The OSPD uses this line item to pay for annual increases akin 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 did not request any funding for this line item for FY 2012-13.

Recommendation. **Staff recommends approving the request, which is consistent with Committee policy. However, staff recommends including the funding requested through OSPD R-1 (Attorney Salary Parity) in this line item,** rather than the Personal Services line item, consistent with a similar Judicial request (R-1).

Anniversary Increases

Description. The Department uses this line item to pay for annual increases akin to performance-based pay increases in the Executive Branch. The second of five such line items, this one provides funds for OSPD staff.

Request. The OSPD did not request any funding for this line item for FY 2012-13.

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

Operating Expenses

Description. This line item provides funding for basic office operating costs, including travel, equipment maintenance, office supplies, telephone, printing, postage, motor pool expenses, etc. This line item also provides funding for the OSPD's training program.

Request. The OSPD requests an appropriation of \$1,330,881 for FY 2012-13. The source of cash funds is registration fees paid by private attorneys at the OSPD’s annual training conference. This request is impacted by OSPD R-3 (Refinance for Denver Sobriety Court) and the implementation of H.B. 07-1054, discussed below.

Recommendation. **Staff recommends appropriating \$1,331,367,** which is detailed in Table 7.

OSPD Table 7: Summary of Recommendation for Operating Expenses					
	GF	CF	RF	FF	TOTAL
FY 2011-12 Long Bill	\$1,179,206	\$30,000	\$0	\$0	\$1,209,206
Annualize FY 2011-12 DI#1 (Additional leased vehicles)	(42,914)	0	0	0	(42,914)
Restore one-time reduction in funding reflected in FY 2011-12 Long Bill	150,859	0	0	0	150,859

OSPD Table 7: Summary of Recommendation for Operating Expenses					
	GF	CF	RF	FF	TOTAL
H.B. 07-1054: Add staff related to final 2 judgeships filled in 2012	8,885	0	0	0	8,885
OSPD R-3: Refinance Denver Sobriety Court	5,331	0	0	0	5,331
Staff Recommendation	1,301,367	30,000	0	0	1,331,367

Purchase of Services from Computer Center

This item previously provided funding for the OSPD's share of statewide computer services provided by the Department of Personnel and Administration, Division of Information Technology. This funding is now provided through a single line item in the Courts Administration, Central Appropriations section.

Vehicle Lease Payments

Description. 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 (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).

Request. The OSPD requests \$109,402 General Fund for FY 2012-13. The OSPD's request includes replacement of five vehicles (asset IDs: 22246, 20806, 22241, 20808, and 22921), including four small passenger 4x4 vehicles, and one mid-size sedan. All five of these vehicles are projected to well over 100,000 miles by May 2013.

Recommendation. **Staff's recommends approving the requested replacement vehicles. The dollar amount of staff's recommendation is pending Committee policy.** Staff will ultimately reflect Committee policy in the appropriation for this line item.

Capital Outlay

Description. 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 \$56,436 General Fund for capital outlay for FY 2012-13.

Recommendation. **Staff recommends appropriating \$51,733,** as detailed in Table 8.

OSPД Table 8: Summary of Recommendation for Capital Outlay					
	GF	CF	RF	FF	TOTAL
FY 2011-12 Long Bill	\$141,090	\$0	\$0	\$0	\$141,090
Eliminate one-time funding for FY 2011-12	(141,090)	0	0	0	(141,090)
H.B. 07-1054: Add staff related to final 2 judgeships filled in 2012	23,515	0	0	0	23,515
OSPД R-3: Refinance Denver Sobriety Court	<u>28,218</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>28,218</u>
Staff Recommendation	51,733	0	0	0	51,733

Leased Space/ Utilities

Description. This line item currently funds leases for a total of 251,950 square feet of leased space in 23 locations statewide. Typically, leases are negotiated for ten years. The OSPД 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 OSPД 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 OSPД requests an appropriation of \$6,122,344 for FY 2012-13. The request indicates that the incremental increase includes \$52,454 to cover additional leased space costs associated with the 5.1 FTE required to complete implementation of H.B. 07-1054, as well as \$52,454 to cover the leased space costs associated with the 2.5 FTE requested for the Denver Sobriety Court.

Recommendation. **Staff recommends approving the request.** However, staff would note that the requested increase (\$104,908) is anticipated to be used to cover the cost of annual lease escalators and lease renewals for offices around the state. Although current lease rates vary significantly around the state, the average rate per square foot is \$20.05. For FY 2012-13, the square footage is anticipated to increase for locations in Brighton, Durango, Grand Junction, and Trinidad, for a statewide total of 268,604 square feet. The average rate per square foot is anticipated to increase slightly to \$20.36 (1.5 percent), based on increases in costs per square foot in various locations.

Automation Plan

Description. This line item funds information technology equipment and software maintenance, supplies, and life cycle replacement (including personal computers, a limited number of laptops, and network printers), the basic office suite software packages, and telecommunications equipment and networking for all OSPД offices and staff.

Request. The OSPД requests a continuation level of funding (\$894,768) for FY 2012-13.

Recommendation. **Staff recommends approving the request,** as detailed in Table 9. This amount is less than the amounts expended annually since at least FY 2007-08. The OSPД has used its

authority, through a Long Bill footnote, to transfer moneys between line items to cover these expenditures in recent years.

OSPD Table 9: Summary of Recommendation for Automation Plan					
	GF	CF	RF	FF	TOTAL
FY 2011-12 Long Bill	\$894,768	\$0	\$0	\$0	\$894,768
Staff Recommendation	894,768	0	0	0	894,768

Contract Services

Description. 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 (\$18,000 General Fund).

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

Mandated Costs

Description. Mandated 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 obtaining transcripts and reimbursing district attorney offices for duplicating discoverable materials. 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). Table 10 provides a breakdown of mandated cost expenditures in the last four fiscal years, as well as projections for fiscal years 2011-12 and 2012-13. Table 11 compares annual mandated costs to the OSPD's caseload.

OSPD Table 10: Mandated Costs Breakdown						
Description	FY 07-08 (actual)	FY 08-09 (actual)	FY 09-10 (actual)	FY 10-11 (actual)	FY 11-12 (adj. approp.)	FY 12-13 (request)
Transcripts <i>annual percent change</i>	\$1,186,376	\$1,238,740 4.4%	\$1,267,820 2.3%	\$1,343,846 6.0%	\$1,511,156 12.5%	\$1,511,156 0.0%
Discovery (paid to DAs) <i>annual percent change</i>	886,112	969,306 9.4%	1,125,966 16.2%	1,514,957 34.5%	1,600,302 5.6%	1,600,302 0.0%
Expert witnesses <i>annual percent change</i>	817,186	504,530 -38.3%	516,403 2.4%	474,661 -8.1%	561,168 18.2%	561,168 0.0%
Travel	150,005	109,567	58,254	74,700	85,693	85,693
Interpreters	85,301	109,563	106,661	93,239	107,802	107,802
Other	18,279	22,461	17,497	14,976	18,062	18,062
Total <i>annual percent change</i>	3,143,259	2,954,167 -6.0%	3,092,601 4.7%	3,516,379 13.7%	3,884,183 10.5%	3,884,183 0.0%

OSPD Table 11: Mandated Costs Per Case						
Description	FY 07-08 (actual)	FY 08-09 (actual)	FY 09-10 (actual)	FY 10-11 (actual)	FY 11-12 (adj. approp.)	FY 12-13 (request)
Total Active Cases	114,103	117,472	120,816	122,949	128,410	134,738
<i>annual percent change</i>	0.0%	3.0%	2.8%	1.8%	4.4%	4.9%
Average Mandated Costs Per Case	\$28	\$25	\$26	\$29	\$30	\$29
<i>annual percent change</i>	-1.8%	-8.7%	1.8%	11.7%	5.8%	-4.7%
Total Mandated Costs	3,143,259	2,954,166	3,092,601	3,516,379	3,884,183	3,884,183

Request. The OSPD requests a continuation level of funding (\$3,884,183 General Fund) for this line item for FY 2012-13.

Recommendation. **Staff recommends approving the request.** More than 80 percent of the costs incurred by the OSPD are for transcripts (where the per page rate is established by the Judicial Department) and discovery (where rates are established by each district attorney's office). While the OSPD has some discretion to determine what documents to request, it has no control over the rates charged.

Grants

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

Request. The FY 2012-13 request for \$218,260 and 3.6 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.

- The remainder of a time-limited grant from Denver County (\$98,260 and 1.6 FTE) to support the Denver Sobriety Court, which serves offenders charged with repeat impaired driving offenses. This court, during the pilot phase, is anticipated to initially treat up to 200 offenders. Funding for this grant comes from the Colorado Department of Transportation Office of Traffic Safety Funds. The OSPD is currently using these funds to support 3.1 FTE (including 2.6 FTE attorneys, 0.4 FTE legal secretaries, and 0.1 FTE central administrative support) to represent offenders participating in the program, including attending regular team meetings with the other individuals and agencies involved in the pilot program. As described in more detail above (see OSPD R-3), this grant ends in December 2012 so the request only reflects six months of funding.

Recommendation. Staff recommends approving the request for \$218,260 cash funds and 3.6 FTE for FY 2012-13, as detailed in Table 12.

OSPD Table 12: Summary of Recommendation for Grants						
	GF	CF	RF	FF	TOTAL	FTE
FY 2011-12 Long Bill	\$0	\$316,520	\$0	\$0	\$316,520	5.1
OSPD R-3: Refinance Denver Sobriety Court	<u>0</u>	<u>(98,260)</u>	<u>0</u>	<u>0</u>	<u>(98,260)</u>	<u>(1.5)</u>
Staff Recommendation	0	218,260	0	0	218,260	3.6

(6) 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 State Public Defender's Office is precluded from doing so because of an ethical conflict of interest²⁸. Common types of conflicts include cases in which the State Public Defender 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. In FY 2007-08, conflict of interest was discovered by the Public Defender's Office in 5.9 percent of all new cases²⁹.

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)

²⁸ Section 21-2-101 *et seq.*, C.R.S.

²⁹ The Spangenberg Group, "Updated Weighted Caseload Study: Colorado Public Defender", February, 2009, page 9.

and reimbursement for expenses necessarily incurred (e.g., expert witnesses, investigators, paralegals, and interpreters). The OADC is to establish a list of qualified attorneys for use by the court in making appointments in conflict cases³⁰.

The OADC is governed by the nine-member Alternate Defense Counsel Commission, whose members are appointed by the Supreme Court. 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 and may not be reduced during his or her five-year term of appointment. OADC staff duties 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.

Staff recommends renaming this section of the Long Bill "Office of the Alternate Defense Counsel" so that it is consistent with the statutory provision that creates the Office [see Section 21-2-101 (1), C.R.S.]. Ms. Lindy Frolich, Director of the Office, supports this change.

Personal Services

Description. This line item provides funding to support a central administrative office in Denver. Table 1 details the staffing composition of the office.

OADC Table 1: Alternate Defense Counsel Staffing Summary					
Position Description	FY 2010-11 Actual	FY 2011-12 Approp.	FY 2012-13 Request	FY 2012-13 Recomm.	
Alternate Defense Counsel (Director of Office)	1.0	1.0	1.0	1.0	1.0
Deputy Director	1.0	1.0	1.0	1.0	1.0
Evaluator/ Trainer Staff Attorney	1.0	1.0	1.0	1.0	1.0
Budget Analyst/ Controller	1.0	1.0	1.0	1.0	1.0
Legal Assistant/ Appellate Paralegal	1.0	1.0	1.0	1.0	1.0
Administrative Support	<u>2.5</u>	<u>2.5</u>	<u>2.5</u>	<u>2.5</u>	<u>2.5</u>
DIVISION TOTAL	7.5	7.5	7.5	7.5	7.5

Request. The OADC requests \$706,089 and 7.5 FTE for FY 2012-13.

³⁰ 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.

Recommendation. Staff’s overall recommendation for this line item is pending application of the common policy concerning a base reduction in funding for personal services. Table 2 details those elements of staff’s recommendation that may be provided at this time, prior to application of the Committee’s recently adopted common policy related to a personal services base reduction. Staff will apply the Committee’s base reduction policy to finalize the appropriation for this line item.

However, **staff recommends that the salary of the Alternate Defense Counsel be excluded from the base reduction.** Pursuant to Section 21-2-102 (2), C.R.S., the Alternate Defense Counsel's compensation "shall be fixed by the general assembly and may not be reduced during the term of his or her appointment". The salary is equivalent to that of a district court judge. This position is unlikely to be held vacant for any significant period of time, and the salary would remain unchanged should there be turnover in the position.

OADC Table 2: Summary of Recommendation for Personal Services						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2011-12 Long Bill	\$706,089	\$0	\$0	\$0	\$706,089	7.5
S.B. 11-076	<u>(15,385)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>(15,385)</u>	
FY 2011-12 Appropriation	690,704	0	0	0	690,704	7.5
Reinstate FY 2011-12 reduction in employer’s PERA contribution (S.B. 11-076)	15,385	0	0	0	15,385	
Salary Survey awarded in FY 2011-12	0	0	0	0	0	0.0
80% of Performance-based Pay awarded in FY 2011-12	0	0	0	0	0	0.0
Base reduction					<u>Pending</u>	
Staff Recommendation					Pending	7.5

Health, Life, and Dental

Description. 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 \$80,682 General Fund for FY 2012-13.

Recommendation. **Staff’s recommendation for this line item is pending Committee policy.** Staff will ultimately reflect Committee policy in the appropriation for this line item.

Short-term Disability

Description. 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 \$1,089 General Fund for this purpose for FY 2012-13.

Recommendation. **Staff recommends approving the request, which is consistent with Committee policy** (the lesser of the FY 2012-13 request or the FY 2011-12 appropriation).

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

Description. 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 \$19,490 General Fund for FY 2012-13.

Recommendation. **Staff recommends an appropriation of \$19,488, consistent with Committee policy.**

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

Description. 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.

Request. The OADC requests \$16,678 General Fund for FY 2012-13.

Recommendation. **Staff recommends an appropriation of \$16,667, consistent with Committee policy.**

Salary Survey

Description. The Department uses this line item to pay for annual increases akin to salary survey increases in the Executive Branch. The third of five such line items, this one provides funds for OADC staff.

Request. The OADC did not request any funding for this line item for FY 2012-13.

Recommendation. **Staff recommends approving the request, consistent with Committee policy.**

Anniversary Increases

Description. The Department uses this line item to pay for annual increases akin to performance-based pay increases in the Executive Branch. The third of five such line items, this one provides funds for OADC staff.

Request. The OADC did not request any funding for this line item for FY 2012-13.

Recommendation. **Staff recommends approving the request, consistent with Committee policy.**

Operating Expenses

Description. This line item provides funding for the operating expenses of the OSPD.

Request. The OADC requests a continuation level of funding (\$67,030) for FY 2012-13.

Recommendation. **Staff recommends approving the request, consistent with Committee policy.**

Purchase of Services From Computer Center

This item provided funding for the OADC's share of statewide computer services provided by the Department of Personnel and Administration, Division of Information Technology. This funding is now provided through a single line item in the Courts Administration, Central Appropriations section.

Leased Space

Description. This line item funds a lease for 1,993 square feet at 1580 Logan Street.

Request. The OADC requests continuation of a \$35,880 General Fund appropriation for FY 2012-13.

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

Training and Conferences

Description. This line item is used to provide training opportunities for contract lawyers, investigators, and paralegals. Training sessions are also open to attorneys from the Public Defender's Office, 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 requests a continuation level of funding (\$40,000) for FY 2012-13, including \$20,000 General Fund and \$20,000 cash funds. The source of cash funds is registration fees and DVD sales.

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

Conflict of Interest Contracts

Description. 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.

***FY 2011-12 Request for Mid-year Adjustment.* The OADC has submitted a request to reduce its current year appropriations by a total of \$873,555 General Fund, including \$851,147 for**

this line item and \$22,408 for the Mandated Costs line item. This one-time reduction is due to a lower than anticipated number of cases, a redistribution of felony case types, and anticipated efficiency in contractor work.

As detailed in Table 3, based on more recent caseload data, the OADC is now projecting a slightly higher overall number of cases this year. However, those areas where the OADC is now projecting a higher number of cases tend to be less costly cases, and those areas where the OADC is now projecting a lower number of cases tend to be more costly cases. Thus, the average cost per case is expected to be lower than anticipated.

OADC Table 3: OADC Caseload (Annual number of cases paid)			
Case Type	FY 2011-12 (initial projections)	FY 2011-12 (updated projections)	Change
Felony			
F1 - Death Penalty	3	3	0
F1 - Other	136	124	(12)
F2 - F3	2,487	2,297	(190)
F4 - F6	<u>3,801</u>	<u>4,169</u>	<u>368</u>
Subtotal: Felony	6,427	6,593	166
Juvenile	1,578	1,312	(266)
Misdemeanor/ DUI/ Traffic	1,976	2,076	100
Appeals	726	735	9
Post-Conviction	478	510	32
Special Proceedings/ Other	<u>995</u>	<u>1,004</u>	<u>9</u>
Total	12,180	12,230	50

Recommendation: FY 2011-12. Staff recommends approving the request. Absent any new death penalty cases or unexpected increase in the number of felony cases in which the OADC representation is required, the OADC's expenditures should decrease as projected in FY 2011-12.

FY 2012-13 Request. The OADC requests \$20,503,742 for FY 2012-13. This request is impacted by OADC R-1, described below.

OADC R-1: Conflict of Interest Contracts and Mandated Costs

The OADC's original budget request for this line item represented a decrease of \$158,471 compared to the original FY 2011-12 appropriation. Given the mid-year adjustment discussed above, the request now represents a \$662,728 increase. Table 4 details caseload history, by type of case, as well as the OADC's current estimates for FY 2011-12 and FY 2012-13. Table 5 provides further caseload details concerning felony cases.

OADC Table 4: OADC Caseload (Annual number of cases paid)							
Case Type	FY 06-07 (actual)	FY 07-08 (actual)	FY 08-09 (actual)	FY 09-10 (actual)	FY 10-11 (actual)	FY 11-12 (rev. est.)	FY 12-13 (proj.)
Felony	8,162	7,169	6,709	6,647	6,292	6,593	6,597
<i>annual percent change</i>	3.2%	-12.2%	-6.4%	-0.9%	-5.3%	4.8%	0.1%
Juvenile	1,621	1,526	1,803	1,808	1,542	1,312	1,442
<i>annual percent change</i>	13.1%	-5.9%	18.2%	0.3%	-14.7%	-14.9%	9.9%
Misdemeanor/ DUI/ Traffic	1,278	1,256	1,654	1,884	1,934	2,076	2,047
<i>annual percent change</i>	15.0%	-1.7%	31.7%	13.9%	2.7%	7.3%	-1.4%
Appeals	660	709	765	725	717	735	727
<i>annual percent change</i>	10.9%	7.4%	7.9%	-5.2%	-1.1%	2.5%	-1.1%
Post-Conviction	506	520	492	489	429	510	487
<i>annual percent change</i>	8.8%	2.8%	-5.4%	-0.6%	-12.3%	18.9%	-4.5%
Special Proceedings/ Other	862	902	1,051	1,041	964	1,004	1,001
<i>annual percent change</i>	8.0%	4.6%	16.5%	-1.0%	-7.4%	4.1%	-0.3%
Total	13,089	12,082	12,474	12,594	11,878	12,230	12,301
<i>annual percent change</i>	6.3%	-7.7%	3.2%	1.0%	-4.8%	3.0%	0.6%

OADC Table 5: OADC Caseload (Annual number of FELONY cases paid)							
Case Type	FY 06-07 (actual)	FY 07-08 (actual)	FY 08-09 (actual)	FY 09-10 (actual)	FY 10-11 (actual)	FY 11-12 (rev. est.)	FY 12-13 (proj.)
Felony 1 - Death Penalty	5	4	4	4	3	3	4
<i>annual percent change</i>	25.0%	-20.0%	0.0%	0.0%	-25.0%	0.0%	33.3%
Felony 1 - Other	128	150	145	145	126	124	128
<i>annual percent change</i>	-14.7%	17.2%	-3.3%	0.0%	-13.1%	-1.6%	3.2%
Felony 2 and 3	2,904	2,642	2,532	2,604	2,409	2,297	2,253
<i>annual percent change</i>	3.0%	-9.0%	-4.2%	2.8%	-7.5%	-4.6%	-1.9%
Felony 4, 5, and 6	5,124	4,372	4,028	3,894	3,754	4,169	4,212
<i>annual percent change</i>	3.8%	-14.7%	-7.9%	-3.3%	-3.6%	11.1%	1.0%
Total	8,161	7,168	6,709	6,647	6,292	6,593	6,597
<i>annual percent change</i>	3.2%	-12.2%	-6.4%	-0.9%	-5.3%	4.8%	0.1%

Table 6 provides a history of the OADC's Conflict of Interest Contract expenditures and the average cost per case from FY 2007-08 through FY 2010-11, along with current projections for FY 2011-12 and FY 2012-13.

OADC Table 6: OADC Conflict of Interest Contract Expenditures						
Description	FY 07-08 (actual)	FY 08-09 (actual)	FY 09-10 (actual)	FY 10-11 (actual)	FY 11-12 (rev. est.)	FY 12-13 (rev. proj.)
Total Cases Paid	12,082	12,474	12,594	11,878	12,230	12,301
<i>annual percent change</i>	-7.7%	3.2%	1.0%	-5.7%	3.0%	0.6%
Average Cost/Case*	\$1,484	\$1,659	\$1,648	\$1,527	\$1,622	\$1,626
<i>annual percent change</i>	-5.9%	11.8%	-0.6%	-7.4%	6.3%	0.2%
Total	17,925,541	20,692,161	20,760,634	18,132,047	19,841,014	20,001,448
<i>annual percent change</i>	10.6%	15.4%	0.3%	-12.7%	9.4%	0.8%

* 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.

Recommendation: FY 2012-13. Based on more recent caseload and cost data analyses provided by the OADC (which is reflected in the above tables), **staff recommends appropriating \$20,001,448 for FY 2012-13.** The OADC's most recent estimates appear to be reasonable based on the available information.

Mandated Costs

Description. Mandated costs are costs associated with activities, events, and services that accompany court cases that are required in statute and/or the U.S. and Colorado 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 (\$599,872 or 42.0 percent of mandated costs in FY 2010-11);
- expert witnesses \$443,237 or 31.0 percent);
- transcripts (\$307,472 or 21.5 percent);
- expert witness travel reimbursement \$39,618 or 2.8 percent);
- interpreters - out of court (\$24,842 or 1.7 percent);and
- PERA contributions for contractors with PERA benefits (\$14,833 or 1.0 percent).

FY 2011-12 Request for Mid-year Adjustment. The OADC has submitted a request to reduce its current year appropriations for this line item by **\$22,408 General Fund.**

Recommendation: FY 2011-12. **Staff recommends approving the request,** which appears reasonable and appropriate.

FY 2012-13 Request. The OADC requests \$1,619,796 General Fund for this line item for FY 2012-13. Table 7 details annual mandated costs in comparison to the number of cases paid.

OADC Table 7: Mandated Costs						
Description	FY 07-08 (actual)	FY 08-09 (actual)	FY 09-10 (actual)	FY 10-11 (actual)	FY 11-12 (rev. est.)	FY 12-13 (rev. proj.)
Total Cases Paid	12,082	12,474	12,594	11,878	12,230	12,301
<i>annual percent change</i>	-7.7%	3.2%	1.0%	-5.7%	3.0%	0.6%
Average Mandated Costs Per Case	\$128	\$127	\$120	\$120	\$128	\$128
<i>annual percent change</i>	34.7%	-0.6%	-5.7%	0.2%	6.5%	0.2%
Total Mandated Costs	1,549,840	1,589,848	1,513,582	1,429,874	1,567,440	1,580,114
<i>annual percent change</i>	24.9%	2.6%	-4.8%	-5.5%	9.6%	0.8%
Conflict of Interest Contract	17,925,541	20,692,161	20,760,634	18,132,047	19,841,014	20,001,448
<i>Mandated Costs as a percent of Total Case Costs</i>	8.0%	7.1%	6.8%	7.3%	7.3%	7.3%

Recommendation: FY 2012-13. Based on more recent caseload and cost data analyses provided by the OADC, **staff recommends appropriating \$1,580,114 for FY 2012-13.** This revised amount seems reasonable as it is based on the average cost per case remaining flat in FY 2012-13.

(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 attorneys³¹ 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

³¹ If the court appoints a *mental health professional* to be a child and family investigator, and the clients are indigent, the State Court Administrator's Office compensates the investigator for their services.

probate matters³². 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 to provide GAL 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, as of January 1, 2011, the OCR is contracting 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 will provide GAL services in new dependency and neglect (D&N) cases in all three divisions of Denver's Juvenile Court, and the remaining office will provide GAL services in new D&N cases and juvenile delinquency cases in Arapahoe County. The OCR will keep a limited number of independent contractors (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. 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.

Personal Services

Description. This line item provides funding to support a central administrative office in Denver, as well as the El Paso county office. Table 1 details the staffing composition of both offices.

³² 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.].

OCR Table 1: Office of the Child's Representative Staffing Summary				
Position Description	FY 2010-11 Actual	FY 2011-12 Approp.	FY 2012-13 Request	FY 2012-13 Recomm.
Executive Director	1.0	1.0	1.0	1.0
Deputy Director	0.0	0.9	0.9	0.9
Staff Attorneys	1.8	1.5	1.5	1.5
Budget/ Billing/ Office Administration	3.0	3.0	3.0	3.0
Training Coordinator/ Indigency Screener	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>
Subtotal - Administrative Office	6.8	7.4	7.4	7.4
Attorneys	12.3	12.8	12.8	12.8
Social Workers/Case Coordinators	4.0	4.1	4.1	4.1
Administrative/Support Staff	<u>3.4</u>	<u>2.6</u>	<u>2.6</u>	<u>2.6</u>
Subtotal - El Paso County Office	19.7	19.5	19.5	19.5
TOTAL	26.5	26.9	26.9	26.9

Request. The OCR requests \$1,910,890 and 26.9 FTE for FY 2012-13.

Recommendation. **Staff's overall recommendation for this line item is pending application of the common policy concerning a base reduction in funding for personal services.** Table 2 details those elements of staff's recommendation that may be provided at this time, prior to application of the Committee's recently adopted common policy related to a personal services base reduction. Staff will apply the Committee's base reduction policy to finalize the appropriation for this line item.

However, **staff recommends that the salary of the OCR Director be excluded from the base reduction.** Pursuant to Section 13-91-104 (3) (a) (III), C.R.S., the Director's compensation "shall be fixed by the general assembly and may not be reduced during the term of the director's appointment". The salary is equivalent to that of a district court judge. This position is unlikely to be held vacant for any significant period of time, and the salary would remain unchanged should there be turnover in the position.

OCR Table 2: Summary of Recommendation for Personal Services						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2011-12 Long Bill	\$1,910,890	\$0	\$0	\$0	\$1,910,890	26.9
S.B. 11-076	<u>(42,182)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>(42,182)</u>	<u>0.0</u>
FY 2011-12	1,868,708	0	0	0	1,868,708	26.9
Reinstate FY 2011-12 reduction in employer's PERA contribution (S.B. 11-076)	42,182	0	0	0	42,182	0.0
Salary Survey awarded in FY 2011-12	0	0	0	0	0	0.0
80% of Performance-based Pay awarded in FY 2011-12	0	0	0	0	0	0.0
Base reduction					<u>Pending</u>	
Staff Recommendation					Pending	26.9

Health Life and Dental

Description. 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 a total of \$167,808 General Fund for FY 2012-13.

Recommendation. **Staff's recommendation for this line item is pending Committee policy.** Staff will ultimately reflect Committee policy in the appropriation for this line item.

Short-term Disability

Description. 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 \$2,986 General Fund for this purpose for FY 2012-13.

Recommendation. **Staff recommends approving the request, which is consistent with Committee policy** (the lesser of the FY 2012-13 request or the FY 2011-12 appropriation).

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

Description. 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 \$52,568 General Fund for FY 2012-13.

Recommendation. **Staff recommends appropriating \$52,428, consistent with Committee policy.**

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

Description. 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 \$44,960 General Fund for FY 2012-13.

Recommendation. **Staff recommends appropriating \$44,840, consistent with Committee policy.**

Salary Survey

Description. The Department uses this line item to pay for annual increases akin 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 did not request any funding for this line item for FY 2012-13.

Recommendation. **Staff recommends approving the request, consistent with Committee policy.**

Anniversary Increases

Description. The Department uses this line item to pay for annual increases akin to performance-based pay increases in the Executive Branch. The fourth of five such line items, this one provides funds for OCR staff.

Request. The OCR did not request any funding for this line item for FY 2012-13.

Recommendation. **Staff recommends approving the request, consistent with Committee policy.**

Operating Expenses

Description. This line item provides funding for operating expenses and information technology asset maintenance in both the Denver and El Paso offices.

Request. The OCR requests a continuation level of funding for operating expenses (\$159,929).

Recommendation. **Staff recommends approving the request, consistent with Committee policy.** The calculation is detailed in Table 3.

OCR Table 3: Summary of Recommendation for Operating Expenses					
	GF	CF	RF	FF	TOTAL
FY 2011-12 Long Bill	\$159,929	\$0	\$0	\$0	\$159,929
Staff Recommendation	159,929	0	0	0	159,929

Capital Outlay

The OCR does not request any funding for capital outlay for FY 2012-13.

Purchase of Services from Computer Center

This item provided funding for the OCR's share of statewide computer services provided by the Department of Personnel and Administration, Division of Information Technology. This funding is now provided through a single line item in the Courts Administration, Central Appropriations section.

Leased Space

Description. This line item funds a lease for 2,300 square feet at 1580 Logan Street in Denver and 8,375 square feet in Colorado Springs.

Request. The OCR requests an appropriation of \$162,090 General Fund for FY 2012-13. An increase of \$11,710 is requested to cover scheduled increases in both lease rates.

Recommendation. **Staff recommends approving the request.** The requested increase is required to cover scheduled lease rate increases (from \$19.00 to \$19.50 per square foot at 1580 Logan Street and from \$11.85 to \$14.00 per square foot in Colorado Springs).

CASA Contracts

Description. Court-appointed special advocates (CASA) are trained volunteers who may be appointed to enhance the quality of representation for children³³. 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; 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;

³³ 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.

- studying the availability of or developing new funding sources for CASA programs;
- allocating moneys appropriated to the Judicial Branch 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 programs³⁴.

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. In 2008, the Joint Budget Committee initiated a \$500,000 increase in the appropriation for this line item. Since FY 2008-09, as detailed in Table 4, Colorado CASA has continued to retain a portion of the funding for general operating costs, but the remainder has been allocated to local CASA Programs.

OCR Table 4: Distribution of General Fund Appropriation for CASA Programs					
	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12
Colorado CASA - General operating	\$20,000	\$120,000	\$100,000	\$100,000	\$91,200
Public relations activities	0	25,000	0	0	0
Allocations to 17 local CASA programs	0	375,000	420,000	420,000	383,800
<i>Allocation per local program</i>	<i>n/a</i>	<i>\$22,059</i>	<i>\$8,018 to \$69,127</i>	<i>\$11,246 to \$56,291</i>	<i>\$9,981 to \$50,909</i>
Total Appropriation	20,000	520,000	520,000	520,000	475,000

Request. The Department requests \$520,000 General Fund for FY 2012-13, including OCR R-1, below.

OCR R-1: Restore CASA Contracts Funding

The OCR requests an increase of \$45,000 to increase the funding for this line item from \$475,000 to \$520,000, restoring a reduction that was implemented in FY 2011-12.

Recommendation. Last year, in light of the General Fund revenue shortfall, staff recommended appropriating \$100,000 for this line item for FY 2011-12. This recommendation was based on the discretionary nature of this funding, compared to other constitutionally and statutorily required functions within the Judicial Branch and within state government as a whole. The General Assembly

³⁴ 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.

elected to reduce funding for this line item by \$45,000 (rather than \$420,000 as recommended by staff).

This year, in consideration of the General Assembly’s action last year, **staff recommends maintaining the existing \$475,000 General Fund appropriation.** It does seem clear that the increase in state funding in FY 2008-09 allowed local CASA Programs to recruit and support more volunteers, and to thus serve more children who are involved in dependency & neglect (D&N) cases (see Table 5, below). However, in addition to the discretionary nature of this appropriation and the current budget situation, staff cannot justify an increase in funding for this line item for two additional reasons.

First, the number of D&N cases filed has declined since FY 2003-04 by nearly 25 percent (from 4,338 in FY 2003-04 to 3,277 in FY 2010-11). Thus, the over number of cases that could be served by CASA has declined. Second, staff has not been able to identify any data that would indicate that the involvement of a CASA volunteer in a case results in cost savings elsewhere (e.g., fewer hours billed by guardians ad litem (GALs), or reduced length of stay for children in out-of-home care). The time invested by CASA volunteers is likely valuable to the children and families who benefit. But staff cannot recommend increasing this funding in light of the current state budget situation and the significant resource needs for other core state functions.

OCR Table 5: Statewide Data Related to Local CASA Programs					
	2006	2007	2008	2009	2010
Dependency & Neglect cases filed	4,136	3,852	3,883	3,851	3,568
New cases served by CASA	636	670	627	896	883
Percent of new cases served vs. cases filed	15.4%	17.4%	16.1%	23.3%	24.7%
Total number of children served	2,666	2,838	2,935	3,273	3,608
Total volunteers	1,045	1,177	1,174	1,411	1,637
Volunteer hours	81,266	100,034	77,481	158,820	140,618

Source. Case filing data provided by State Court Administrator’s Office. Remaining data provided by Colorado CASA.

Training

Description. 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) for this line item.

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

Court Appointed Counsel

Description. 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".

FY 2011-12 Recommendation for Mid-year Adjustment. Staff recommends reducing the existing appropriation for FY 2011-12 by \$1,000,662 General Fund, based on more recent caseload and cost data analyses provided by the OCR.

As detailed in Table 6, based on more recent caseload data, the OCR is now projecting a slightly higher overall number of cases this year. However, the OCR is also projecting that the average cost per case will be lower than originally anticipated, primarily due to reduced costs for dependency & neglect cases and juvenile delinquency cases. Thus, the OCR has indicated that the existing appropriation can be reduced by \$1,000,662, to \$15,530,898. Staff recommends making this adjustment.

OCR Table 6: Annual Number of Appointments Paid			
Case Type	FY 2011-12 (initial projections)	FY 2011-12 (updated projections)	Change
Dependency & Neglect	8,725	8,766	41
Juvenile Delinquency	4,005	4,130	125
Domestic Relations	463	450	(13)
Truancy	421	416	(5)
Paternity	148	197	49
Probate	75	32	(43)
Other	<u>79</u>	<u>122</u>	<u>43</u>
Total	13,916	14,113	197

FY 2012-13 Request. The OCR requests \$16,531,560 General Fund for FY 2012-13. This request matches the original appropriation for FY 2011-12.

Table 7 details caseload history, by type of case, as well estimates for FY 2011-12 and FY 2012-13. Table 8 provides similar trend information concerning the average cost per case. Please note that

while the figures for FY 2011-12 represent the most current estimates by the OCR, the FY 2012-13 figures represent the estimates that served as the basis for the OCR's November 2011 request.

OCR Table 7: Annual Number of Appointments Paid							
Case Type	FY 06-07 (actual)	FY 07-08 (actual)	FY 08-09 (actual)	FY 09-10 (actual)	FY 10-11 (actual)	FY 11-12 (rev. est.)	FY 12-13 (orig. proj.)
Dependency & Neglect	8,012	8,269	8,906	9,038	8,594	8,766	8,855
<i>annual percent change</i>	5.2%	3.2%	7.7%	1.5%	-4.9%	2.0%	1.0%
Juvenile Delinquency	3,594	3,874	4,423	4,299	3,903	4,130	4,107
<i>annual percent change</i>	3.9%	7.8%	14.2%	-2.8%	-9.2%	5.8%	-0.6%
Domestic Relations	624	606	760	690	450	450	475
<i>annual percent change</i>	-7.3%	-2.9%	25.4%	-9.2%	-34.8%	0.0%	5.6%
Truancy	458	514	475	406	416	416	425
<i>annual percent change</i>	22.5%	12.2%	-7.6%	-14.5%	2.5%	0.0%	2.2%
Paternity	126	108	138	198	146	197	150
<i>annual percent change</i>	17.8%	-14.3%	27.8%	43.5%	-26.3%	34.9%	-23.9%
Probate	105	73	71	64	79	32	70
<i>annual percent change</i>	-23.4%	-30.5%	-2.7%	-9.9%	23.4%	-59.5%	118.8%
All Other Case Types	44	56	70	99	68	122	90
Total	12,963	13,500	14,844	14,794	13,656	14,113	14,173
<i>annual percent change</i>	4.5%	4.1%	10.0%	-0.3%	-7.7%	3.3%	0.4%

OCR Table 8: Annual Costs Per Case							
Case Type	FY 06-07 (actual)	FY 07-08 (actual)	FY 08-09 (actual)	FY 09-10 (actual)	FY 10-11 (actual)	FY 11-12 (rev. est.)	FY 12-13 (orig. proj.)
Dependency & Neglect	\$971	\$1,083	\$1,300	\$1,418	\$1,565	\$1,442	\$1,560
<i>annual percent change</i>	37.4%	11.6%	20.0%	9.1%	10.4%	-7.9%	8.2%
Juvenile Delinquency	\$557	\$656	\$628	\$512	\$474	\$510	\$475
<i>annual percent change</i>	44.4%	17.9%	-4.3%	-18.5%	-7.4%	7.6%	-6.9%
Domestic Relations	\$842	\$901	\$1,055	\$583	\$784	\$809	\$790
<i>annual percent change</i>	30.0%	7.0%	17.1%	-44.7%	34.5%	3.1%	-2.3%
Truancy	\$330	\$330	\$467	\$437	\$372	\$247	\$380
<i>annual percent change</i>	88.8%	0.0%	41.3%	-6.4%	-14.9%	-33.5%	53.6%
Paternity	\$583	\$633	\$725	\$658	\$741	\$707	\$745
<i>annual percent change</i>	-2.9%	8.5%	14.6%	-9.2%	12.6%	-4.6%	5.4%
Probate	\$565	\$1,231	\$1,117	\$637	\$628	\$930	\$630
<i>annual percent change</i>	-24.7%	118.0%	-9.3%	-43.0%	-1.4%	48.0%	-32.2%
All Other Case Types	\$648	\$998	\$664	\$869	\$828	\$1,205	\$825
All cases	\$819	\$921	\$1,051	\$1,072	\$1,173	\$1,100	\$1,166
<i>annual percent change</i>	37.0%	12.4%	14.2%	2.0%	9.4%	-6.2%	6.0%

* 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.

Recommendation: FY 2012-13. Based on more recent caseload and cost data analyses provided by the OADC, **staff recommends appropriating \$16,021,900 for FY 2012-13.** This matches actual expenditures in FY 2010-11. The OCR has indicated that based on the information available at this time, this would appear to be a reasonable level of funding for FY 2012-13. If the estimated caseload for FY 2011-12 (14,113) continues in FY 2012-13, the average cost per case could increase to \$1,135 (3.2 percent); similarly, if the estimated cost per case remains flat at \$1,100, the caseload could increase to 14,565 (3.2 percent).

Mandated Costs

Description. This line item provides funding for 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. For the OCR, these costs include the following:

- expert witnesses (\$17,030 or 58.1 percent of mandated costs in FY 2010-11)
- discovery/ reproduction services (\$9,107 or 31.1 percent)
- interpreters - out of court (\$1,504 or 5.1 percent)
- transcripts (\$1,614 or 5.5 percent)
- process servers (\$35 or 0.1 percent)

Request. The OCR requests a continuation level of funding (\$26,288 General Fund) for FY 2012-13.

Recommendation. **Staff recommends approving the request.** This amount is less than the amounts expended in FY 2007-08 through FY 2010-11, but similar to amounts expended in FY 2004-05 through FY 2006-07. The OCR also has the authority, through a Long Bill footnote, to transfer moneys between line items; this is how the OCR has covered these expenditures in recent years.

(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 2006³⁵. 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.

³⁵ See Article XXIX of the Colorado Constitution and Section 24-18.5-101, C.R.S.

Personal Services

Description. This line item provides funding for the 1.0 FTE that supports the IEC (the Executive Director), as well as about \$46,000 for professional services. The FY 2011-12 appropriation reduced funding for IEC personal services by \$50,000 and 1.0 FTE.

Request. The IEC requests \$129,827 General Fund and 1.0 FTE for FY 2012-13.

Recommendation. **Staff’s overall recommendation for this line item is pending application of the common policy concerning a base reduction in funding for personal services.** Table 1 details those elements of staff’s recommendation that may be provided at this time, prior to application of the Committee’s recently adopted common policy related to a personal services base reduction. Staff will apply the Committee’s base reduction policy to finalize the appropriation for this line item.

IEC Table 1: Summary of Recommendation for Personal Services		
	GF	FTE
Personal Services:		
FY 2011-12 Long Bill	\$129,827	1.0
S.B. 11-076	<u>(4,028)</u>	
FY 2011-12 Appropriation	125,799	1.0
Reinstate FY 2011-12 reduction in employer’s PERA contribution (S.B. 11-076)	4,028	
Salary Survey awarded in FY 2011-12	0	
80% of Performance-based Pay awarded in FY 2011-12	0	
Base reduction (0.0%)	<u>Pending</u>	
Staff Recommendation	Pending	1.0

Health Life and Dental

Description. 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 a total of \$5,461 General Fund for FY 2012-13.

Recommendation. **Staff’s recommendation for this line item is pending Committee policy.** Staff will ultimately reflect Committee policy in the appropriation for this line item.

Short-term Disability

Description. 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 \$142 General Fund for this purpose for FY 2012-13.

Recommendation. **Staff recommends approving the request, which is consistent with Committee policy** (the lesser of the FY 2012-13 request or the FY 2011-12 appropriation).

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

Description. 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 \$2,680 General Fund for FY 2012-13.

Recommendation. **Staff recommends appropriating \$2,376, consistent with Committee policy.**

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

Description. 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 \$2,303 General Fund for FY 2012-13.

Recommendation. **Staff recommends appropriating \$2,032, consistent with Committee policy.**

Salary Survey

Description. The IEC uses this line item to pay for annual increases akin to salary survey increases in the Executive Branch. The fifth of five such line items, this one provides funds for IEC staff.

Request. The IEC did not request any funding for this line item for FY 2012-13.

Recommendation. **Staff recommends approving the request, consistent with Committee policy.**

Anniversary Increases

Description. The IEC uses this line item to pay for annual increases akin to performance-based pay increases in the Executive Branch. The fifth of five such line items, this one provides funds for IEC staff.

Request. The IEC did not request any funding for this line item for FY 2012-13.

Recommendation. **Staff recommends approving the request, consistent with Committee policy.**

Operating Expenses

Description. 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 for operating expenses (\$15,807).

Recommendation. **Staff recommends approving the request, consistent with Committee policy.** The calculation is detailed in Table 2.

IEC Table 2: Summary of Recommendation for Operating Expenses					
	GF	CF	RF	FF	TOTAL
FY 2011-12 Long Bill	<u>\$15,807</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$15,807</u>
Operating Expenses Recommendation	15,807	0	0	0	15,807

Legal Services

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

Request. The IEC requests \$68,139 General Fund to purchase 900 hours of services in FY 2012-13.

Recommendation. **Staff recommends approving the request to provide funding to purchase 900 hours of service.** The funding will be calculated after the Committee sets the common policy for the legal services rate.

Long Bill Footnotes

Staff recommends that the following footnotes be continued:

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

This footnote ensures that the various agencies that receive appropriations from these funds coordinate their annual budget requests related to these funds.

36 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.

In FY 2010-11 this footnote provided the OCR with the authority to transfer up to 2.5 percent of its total FY 2010-11 appropriation between line items. The OCR transferred a total of \$69,920 (0.4 percent) between line items. The following table details the line items affected by such transfers.

Long Bill Line Item	Transfers In/ (Out)
Personal Services	(\$69,920)
Operating Expenses	50,000
Leased Space	2,244
Training	14,613
Mandated Costs	3,063
Net Transfers	0

37 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.

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.

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

38 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.

In FY 2010-11, this footnote provided the Commission with the authority to transfer up to 10.0 percent of its total FY 2010-11 appropriation between line items. The IEC transferred a total of \$4,644 (1.7 percent) between line items. The following table details the line items affected by such transfers.

Long Bill Line Item	Transfers In/ (Out)
Operating Expenses	(\$4,644)
Employee benefits-related central appropriations (primarily Health, Life, and Dental benefits and Short-term Disability)	4,644
Net Transfers	0

Staff recommends that the following footnotes be **continued, as amended**:

33 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 2011-12 FY</u> <u>2012-13 Salary</u>
Chief Justice, Supreme Court	\$142,708
Associate Justice, Supreme Court	139,660
Chief Judge, Court of Appeals	137,201
Associate Judge, Court of Appeals	134,128
District Court Judge, Denver Juvenile Court Judge, and Denver Probate Court Judge	128,598
County Court Judge	123,067

Funding is also provided in the Long Bill to maintain the salary of the Public Defender at the level of an associate judge of the Court 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.

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

Based on the Committee's policy of not providing funding for salary increases for state employees in FY 2012-13, the above footnote is written in the same manner as in FY 2003-04, FY 2009-10, FY 2010-11, and FY 2011-12 (with no increases).

34 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 Public Defender appropriation may be transferred between line items in the Public Defender's Office.

In FY 2010-11, this footnote provided the OSPD with the authority to transfer up to 2.5 percent of its total appropriation between line items. The OSPD transferred the full allowable amount of \$1,417,587 (2.5 percent) between line items. The following table details the line items affected by such transfers.

Long Bill Line Item	Transfers In/ (Out)
Personal Services	(\$1,417,587)
Operating Expenses	10,000
Leased Space/ Utilities	140,000
Automation Plan	1,218,000
Mandated Costs	49,587
Net Transfers	0

35 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 Alternate Defense Counsel appropriation may be transferred between line items in the Alternate Defense Counsel's Office.

In FY 2010-11 this footnote provided the OADC with the authority to transfer up to 2.5 percent of its total FY 2010-11 appropriation between line items. The OADC transferred a total of \$2,814 (less than 0.1 percent) between line items. The following table details the line items affected by such transfers.

Long Bill Line Item	Transfers In/ (Out)
Personal Services	(\$1,093)
Operating Expenses	1,814
Leased Space	(1,721)
Training and Conferences	1,000
Net Transfers	0

Requests for Information

Staff recommends that the following information requests be continued or continued as amended, in the priority order provided below:

- 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.

This footnote ensures that the Colorado District Attorneys' Council (CDAC)³⁶ complies with the State's regular budget process and provides some accountability as to how the appropriation is spent. Staff recommends amending the request to specify that the report be submitted separately from the annual budget request to facilitate Legislative Council Staff's effort to develop a new database of legislative requests for information and agency responses.

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

³⁶ The CDAC is a quasi-government agency, supported by assessments charged to each member's office (through an intergovernmental agreement).

This report provides useful information on the success of the various probation programs.

3 Judicial Department, Probation and Related Services, Offender Treatment and Services

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

In FY 2006-07, the Joint Budget Committee approved a request to combine various appropriations from the General Fund, Offender Services Cash Fund, Drug Offender Surcharge Fund, and the Sex Offender Surcharge Fund, to create a single line item entitled "Offender Treatment and Services." The purpose of this organizational change was to: (a) provide increased flexibility to local probation departments to allocate funds for treatment and services for indigent offenders or those otherwise unable to pay; and (b) reduce year-end reversions of unspent cash funds. This request ensures that the General Assembly is apprised of the actual allocation and expenditure of these funds.

Appendix A

Summary of H.B. 07-1054: Initially Anticipated Schedule of New Judgeships							
Judicial District/ County		FY 06-07	FY 07-08	FY 08-09	FY 09-10	Total Judges	Increase
Court of Appeals							
		19	-	+3	-	22	3
District Courts							
1	Jefferson, Gilpin	12	-	+1	+2	15	3
2	Denver	20	-	+1	+2	23	3
4	El Paso, Teller	19	-	+1	+2	22	3
8	Larimer, Jackson	5	+1	+1	+1	8	3
9	Rio Blanco, Garfield	3	-	+1	-	4	1
10	Pueblo	6	-	+1	-	7	1
11	Park, Chaffee, Fremont, Custer	3	+1	-	-	4	1
12	Saguache, Rio Grande, Mineral, Alamosa, Costilla, Conejos	2	+1	-	-	3	1
14	Moffat, Routt, Grand	2	+1	-	-	3	1
17	Adams, Broomfield	10	+1	+2	+2	15	5
18	Arapahoe, Douglas, Elbert, Lincoln	17	+1	+2	+1	21	4
19	Weld	6	+1	+1	+1	9	3
20	Boulder	8	-	-	+1	9	1
21	Mesa	4	+1	-	-	5	1
22	Dolores, Montezuma	1	+1	-	-	2	1
	District Courts Subtotal	118	9	11	12	150	32

Summary of H.B. 07-1054: Initially Anticipated Schedule of New Judgeships						
Judicial District/ County	FY 06-07	FY 07-08	FY 08-09	FY 09-10	Total Judges	Increase
County Courts						
Adams	6	-	+1	+1	8	2
Arapahoe	7	-	+1	-	8	1
El Paso	8	-	+1	+1	10	2
Jefferson	7	-	+1	+1	9	2
Larimer	4	-	+1	-	5	1
County Courts Subtotal	32	0	5	3	40	8
Statewide Total	169	9	19	15	212	43

Judicial Technology

Reviewing the Role of Technology in the Colorado Judicial Department
January 2012

Overview

The judicial system connects approximately 105 court, probation and administrative locations throughout the state and ensures the proper and secure storage and exchange of information between all judicial employees, state agencies and the public. The network infrastructure includes all statewide data circuits, cabling, routers, switches, hubs, wireless access points, firewalls, and video-conferencing units, as well as the associated software required for the hardware to operate. Further, there are 90 windows-based development, testing and production servers, which are located at the State shared data center (GGCC, 6th and Kipling), the State Disaster Recovery Facility (E-Fort) and various local jurisdictions. All of this hardware, when connected together and operational, makes up the Judicial Branch system and allows for the Branch to engage in its daily business. This includes processing over three quarters of a million new court case filings per year, accounting for nearly 200 million dollars each year in court payments, and keeping supervision records for nearly 50,000 probationers. The Department's IT infrastructure supports 3,500 active users within the courts and probation and provides information to approximately 17 other government agencies.

At one time technology was a peripheral component of court business. Advances in technology have allowed it to become an integral and critical foundation for court business, while also allowing the Department to leverage existing resources to maintain the court record. Some of these matters are vital to public safety while others address access to courts and general court business. ([See Appendix A to view examples of technology use in the Judicial Department.](#))

When implementing technology solutions, the Department's first priority is to provide timely and accurate information to the decision makers. As data sharing technologies have evolved over the years, the Department has partnered with various government agencies in data exchange initiatives so that redundant data entry between agencies is minimized. This helps create more accurate records as well as saves significant time by reducing the need of all agencies involved to re-enter the same data. There are many agencies that Judicial shares data with, including CBI, CDAC, DOC, DYC, DHS, DMV, DOR, and NICS, ([Click here to see a more detailed list of agencies and shared information.](#))

The Department also maintains an Internet, Intranet, Court and Probation Case Management System, Appellate Court Case Management System, Jury Information System, Human Resources modules, Court Appointed Counsel (orders and payments), on-line fine/restitution payment system, electronic traffic citations, truancy data transfers, CICJIS connectivity and transfers, Department of Human Services data sharing, Distrainment Warrant judgment transfers, and many other information sharing applications. These applications are critical for efficient processing of cases and moving people through the judicial system, as well as providing access to court records.

Inter-government Access

Access to court records is paramount. There are more than 13,000 government agency users that have access to court records 24/7/365 via an Internet program that was developed and is maintained by the Judicial Department (Colorado State Courts Data Access System). In the last six months these government users conducted 2,912,303 name searches. During that same time period the two vendors that conduct public access searches did an additional 1,005,829 searches. Not only is this important for maintaining public safety, but these searches were conducted without impacting court staff.

Business Efficiencies

Of equal importance is the administrative and business use of technology. Significant tax dollar savings have been realized with the Judicial Department working towards a paper on demand initiative. The Department is spending less money on file folders, paper, toner, etc. Additionally, electronically stored documents are easier and faster to retrieve than traditional paper files. However, the move towards electronic and digital case processing does not come without significant challenges. As the courts and probation began the transition from paper to electronic records, Internet access and response time became a critical requirement. Response time in rural areas of the state was anything but satisfactory, as judges, court and probation staff could not quickly view websites or documents. Given that all general jurisdiction civil, domestic relations, probate, and water cases are mandatory e-filing statewide, it is critical that the Departments decisions makers are able to access the e-filing website and view the multitude of documents in a timely fashion (3 seconds or less). Until recently, many rural areas throughout the state had extreme difficulties loading webpages due to advances in web technology that require a significant amount of bandwidth to open pages and documents housed within the websites. It often took judges, court and probation staff minutes rather than seconds to view web pages. This was unacceptable for judges reviewing court records during hearings or trials.

Challenges: Bandwidth & Response Time

Rural areas across the state tend to have the most need of video conferencing and video training. However, the network infrastructure did not allow adequate bandwidth to implement these technologies. In an effort to increase bandwidth for case processing and video conferencing needs, the Department began upgrading rural area networks in the summer of 2011. [Appendix C](#) demonstrates the speed improvements in a few of the court locations. What is important to realize is that the “after” download speed identifies a substantial increase in performance in these court locations. Since July 2011, 48 court locations have been upgraded and 18 additional sites will be completed by June of 2012.

Disaster Recovery

The Department’s dependence on technology also means that if critical outages occur (such as hardware failure, natural disaster, etc.), the Department cannot lose any electronically stored information. Therefore, a disaster recovery site (E-Fort) was secured and equipped. This is the same disaster recovery site that many agencies under OIT use.

Statewide Network & Hardware Support

It is equally important that justices, judges, probation officers and court staff have appropriate hardware to accomplish their work. There are approximately 3,500 judicial users (justices, judges, trial court staff and probation staff) and approximately 105 court, probation, and administrative locations that must be supported from a network, hardware, and software perspective. The justices, judges and judicial staff must have computers, reasonable size screen/display, printers and other hardware associated with a computer such as a mouse, keyboard, and various networking needs. Court and probation locations also need routers, wireless routers, cabling, video conferencing hardware, scanners and other peripheral devices to effectively conduct judicial business. In addition to the hardware needs, all judicial laptops and desktops must be equipped with proper software. This includes, but is not limited to, Microsoft Office, Adobe Acrobat or Reader, virus protection, and encryption.

There is also a need for justices, judges and some judicial staff to have mobile devices. This is particularly important for on-call judges, judges and staff that work in multiple locations, probation officers conducting home or work visits, and for managers and staff that must be on call and available whether or not they are at the office.

To accommodate network access and database needs, the Department has servers and storage units that work in conjunction with network traffic, which is routed to the judicial network. All judicial network requests first come in through a firewall and then are processed through the appropriate hardware and software depending on the data or information that is being requested. ([See Appendix B](#))

No longer maintaining paper also means that the judges and court staff must be able to access court records even during times when the Internet may be unavailable. Therefore, backup servers have been placed in strategic locations throughout the state to allow courts to view electronically stored documents if Internet service is down.

E-Filing & Ralph Carr Justice Center

In the spring of 2010, the Legislature approved the Branch to begin work on transitioning the Department's e-filing system from LexisNexis to a system developed internally by the Branch. In the summer of 2010, work began on the new e-filing system—ICCES (Integrated Colorado Courts E-Filing System). On April 11, 2011, the Branch completed initial development of the ICCES Small Claims module and began a pilot in Jefferson County. The program simplifies a filing by walking pro se litigants through a step-by-step process. It is the first program to provide self-represented litigants electronic access to Colorado courts. In July, the pilot expanded to Adams County. Work continues simultaneously to develop limited and general jurisdiction civil, probate, water, and domestic relations case types for both attorneys and collections agencies. To support the new e-filing system, the Department must improve upon its legacy case management system and upgrade critical servers, storage devices, and networking equipment that have surpassed the industry replacement standard of every 3 – 4 years. The Department is also mindful of the hardware architecture changes that will need to take place in the new Ralph Carr Justice Center. Judicial's IT division is working closely with the

building's project manager to ensure that a proper networking and telecom plan is put in place, while also trying to achieve economies of scale. The Ralph Carr network infrastructure will also provide enhanced disaster recovery solutions to the states primary disaster recovery site (E-Fort). See [Appendix D](#) for high-level network architecture of the Ralph Carr Justice Center.

APPENDIX A

Data Access & Sharing

PUBLIC SAFETY

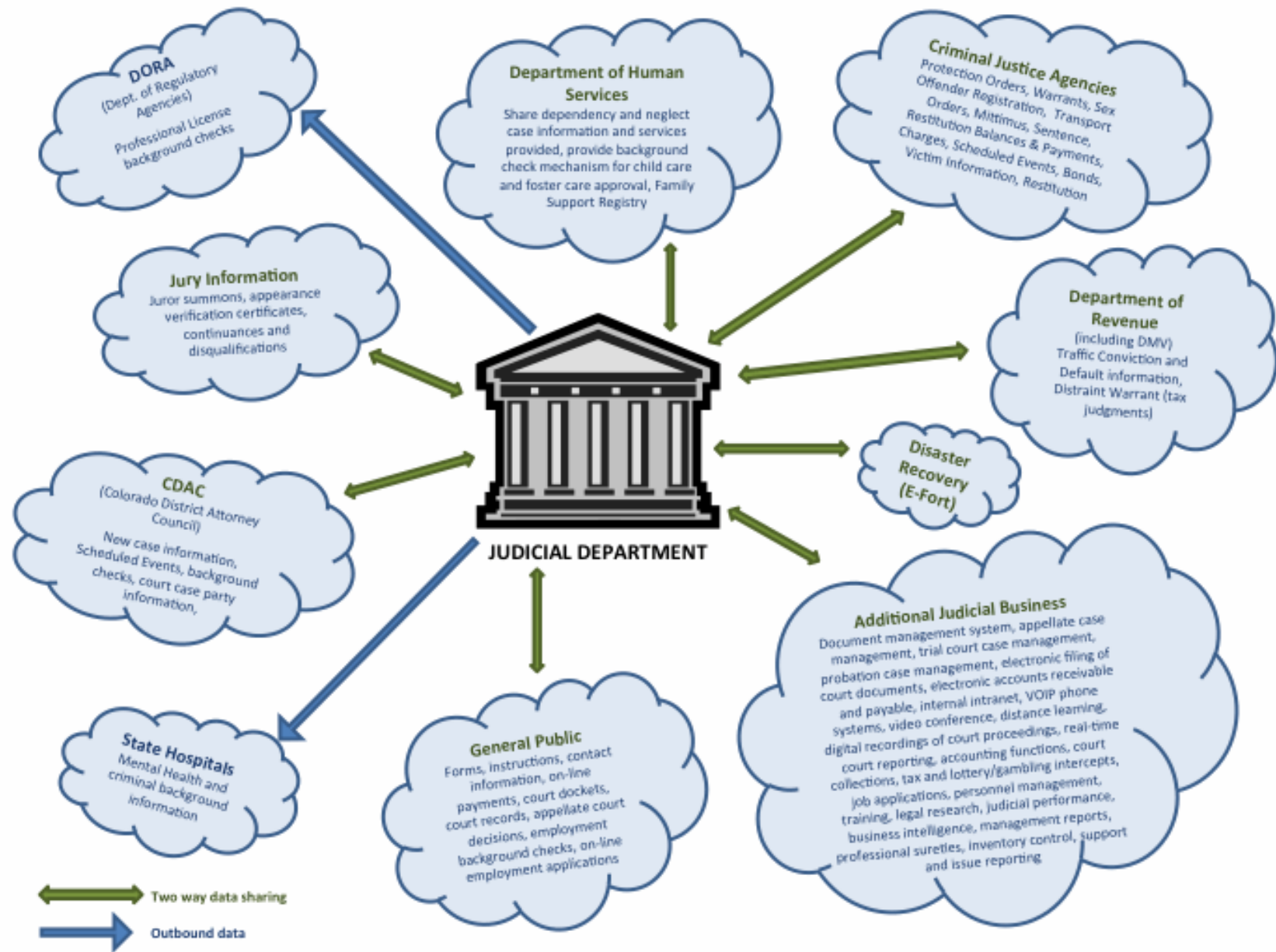
- Electronically share data among criminal justice agencies (such as CBI, DOC, NYC, CDAC, DMV, County Sheriff Departments, etc.)
- Electronically share data among other government agencies (such as Public Defenders, Court Appointed Counsel, County Attorneys, DHS, Vital Statistics, DORA and State Hospitals)
- Remote access to defendant's information when probation officer is making a home check (including criminal history checks and entering updates into the probation record)
- Share information with other states related to Interstate Compact cases, Warrants, Protection Orders, Sex Offenders, Dispositions of cases
- Provide information to National Criminal Justice Agencies
- Courtroom Video Advisements

ACCESS TO COURTS

- Allow defendants to make payments on criminal and traffic cases through the internet
- View court dockets and other appropriate management reports on the internet
- Provide public access to court records via the internet
- Electronically file cases and documents
- Provide forms, instructions and other pro se assistance via the internet
- Electronically provide access to supreme court and court of appeals decisions

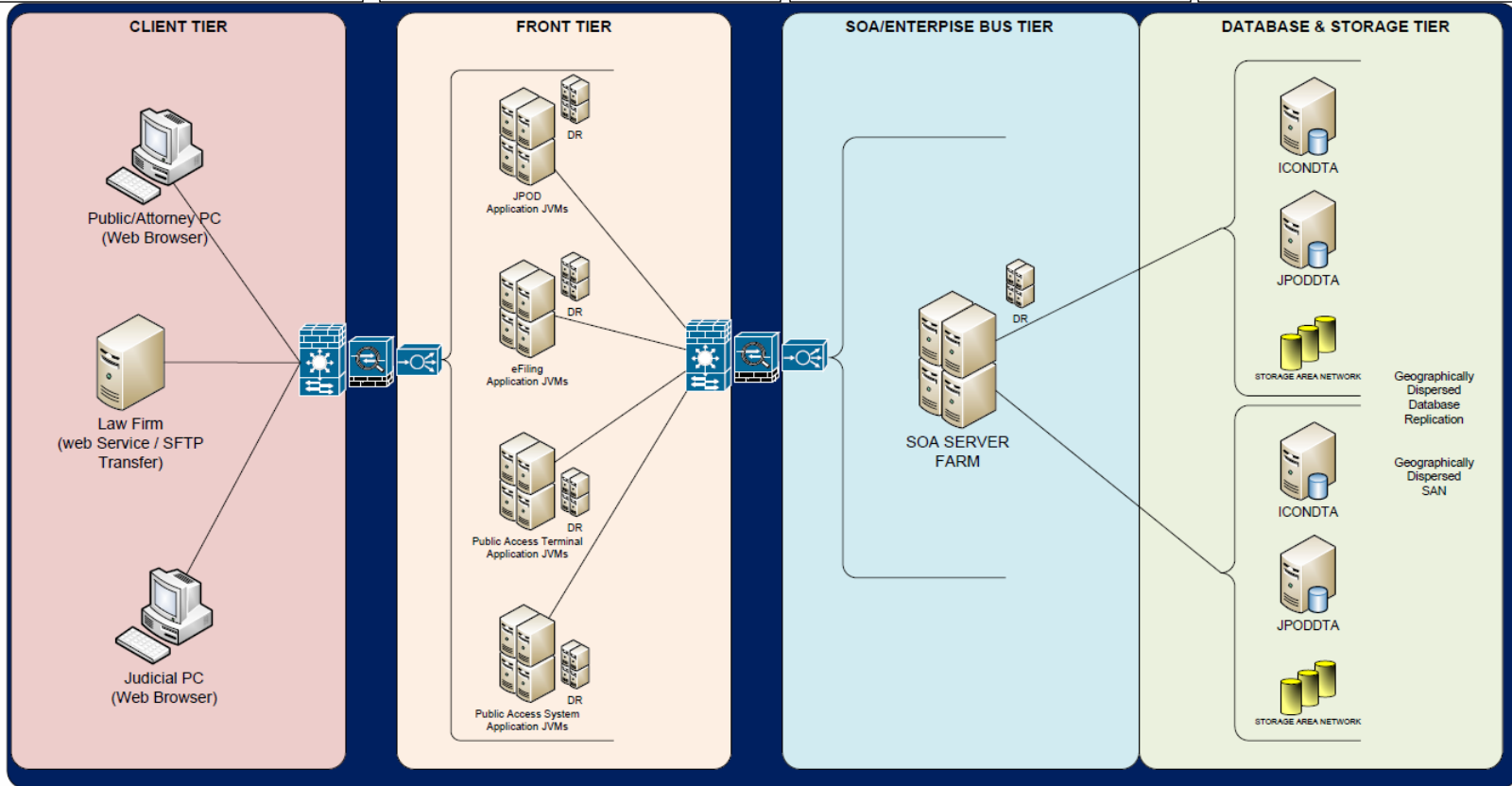
OTHER JUDICIAL BUSINESS

- Appellate and Trial Court Case Management Programs
- Probation Case Management
- Document Management System
- Video conferencing and training
- VoIP phone systems
- Real-time court reporting
- Digital recording of court proceedings
- Accounting and budget functions and reports
- Lottery, gambling and tax intercepts to pay outstanding restitution and court financial obligations
- Job applications and personnel management
- Court Appointed Counsel orders and payments
- Jury and juror management
- Legal research
- Judicial performance
- Business Intelligence, management reports
- Professional Sureties and the On the Board Reports
- Inventory control and support/issue reporting



APPENDIX B

User signs on and places a request for the information that he/she needs or is sending.



CLIENT TIER
Enterprise Architecture

Stateless / Statefull Connections
HTTPS Protocol

FRONT TIER
Enterprise Architecture

Stateless / Statefull Connections
Memory Bandwidth
Transaction Estimates
HTTPS Protocol

SOA/BUS TIER
Enterprise Architecture

Stateless / Statefull DR/BCP Replication
Memory Bandwidth
Transaction Estimates
Native Application Protocol



SYSTEM INFRASTRUCTURE

Three Tier Architecture ServiceFarm

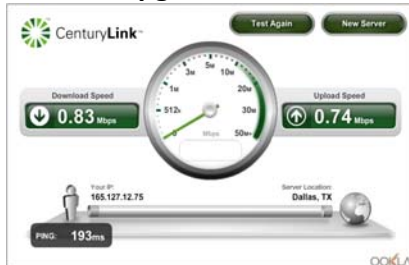
STATE OF COLORADO JUDICIAL DEPARTMENT	SIZE E	DATE JAN 19, 2012	DWG NO 2012-003	REV 1
CONFIDENTIAL	SCALE 1 : 1	JAMES STONER	SHEET	1 OF 1

APPENDIX C

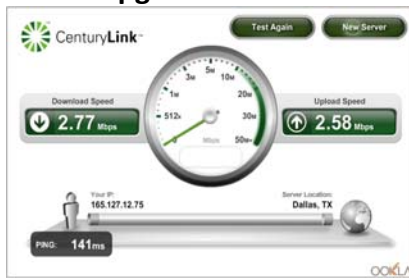
Network enhancements and improvements realized with upgrades performed in the last 8 months.

Craig, CO.

BEFORE Upgrade:

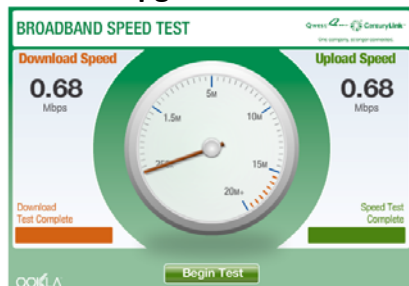


AFTER Upgrade:

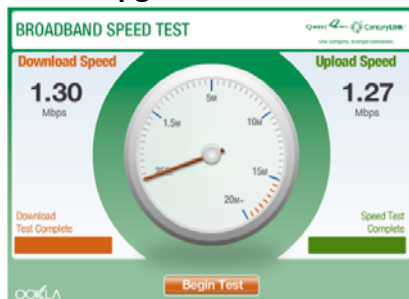


Rifle, CO

BEFORE Upgrade:



AFTER Upgrade:



Loveland, CO

BEFORE Upgrade



AFTER Upgrade



Glenwood, CO

BEFORE Upgrade



AFTER Upgrade:



Note: Mbps – Megabits per second

One megabit is equal to one million bits or 1,000 kilobits. Mbps is used to measure data transfer speeds of high bandwidth connections, such as Ethernet and cable modems.

Most urban court locations run approximately 10 Mbps

APPENDIX D

High-Level Ralph Carr Justice Center Network Design

