

The following file contains two documents:

- A memorandum to the Joint Budget Committee members dated March 18, 2011 concerning a staff "comeback" for the General Courts Administration line item.
- A memorandum to the Joint Budget Committee members dated March 16, 2011 concerning funding for Trial Courts and the Independent Ethics Commission (for which the Committee has not yet taken action), as well as staff "comebacks" for five centrally appropriated line items.
- A packet dated February 17, 2011, concerning Judicial Department's FY 2011-12 budget request.

M E M O R A N D U M

TO: Joint Budget Committee Members

FROM: Carolyn Kampman (303-866-4959)

SUBJECT: Staff “Comebacks” Concerning Judicial’s Indirect Cost Recoveries

DATE: March 18, 2011

The Joint Budget Committee acted on the Judicial Department’s FY 2011-12 budget request February 17, 2011. **Staff requests that the Committee reconsider its previous action on the General Courts Administration line item to correct staff errors related to funding sources.** Specifically, staff failed to reverse a mid-year adjustment for FY 2010-11 that recognized higher than anticipated indirect cost recoveries. Staff then made a second, larger adjustment to reflect an increase in indirect cost recoveries for FY 2011-12. As a result, staff’s initial recommendation for FY 2011-12 overstated the amount of indirect cost recoveries, and reflected too little General Fund. The revised recommendation, below, corrects this error.

General Courts Administration - Revised Staff Recommendation				
	FY 2010-11 Approp.	FY 2011-12		
		Initial Recomm.	Revised Recomm.	Change
General Courts Administration	\$15,670,321	\$15,689,243	\$15,689,243	\$0
FTE	<u>188.4</u>	<u>190.4</u>	<u>190.4</u>	<u>0.0</u>
General Fund	12,292,978	11,566,046	11,756,335	190,289
FTE	167.4	168.4	168.4	0.0
Cash Funds	1,825,845	1,882,296	1,882,296	0
FTE	19.0	20.0	20.0	0.0
Reappropriated Funds	1,551,498	2,240,901	2,050,612	(190,289)
FTE	2.0	2.0	2.0	0.0

MEMORANDUM

TO: Joint Budget Committee Members

FROM: Carolyn Kampman (303-866-4959)

SUBJECT: Staff “Comebacks” Concerning Trial Courts, Independent Ethics Commission, and Certain Centrally Appropriated Line Items

DATE: March 16, 2011

The Joint Budget Committee acted on the Judicial Department’s FY 2011-12 budget request February 17, 2011. The Committee has not yet taken action, however, on two sections of the Department’s budget:

- Trial Courts (see pages 1 through 8 of this packet)
- Independent Ethics Commission (pages 8 through 12)

In addition, staff requests that the Committee reconsider its previous action on five centrally appropriated line items (pages 12 and 13):

- Short-term Disability (for courts and probation)
- S.B. 04-257 Amortization Equalization Disbursement (for courts and probation)
- S.B. 06-235 Supplemental Amortization Equalization Disbursement (for courts and probation)
- Health, Life, and Dental (for both Public Defender and Alternate Defense Counsel)

Finally, starting on page 13, staff has included additional information that has been provided by the Department in response to Committee inquiries concerning DI #1 (Judicial Network Infrastructure and Support), payments for interpreters for the deaf and hard of hearing, and the implementation of H.B. 10-1347 (concerning DUI penalties). No further action is required related to these items.

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

(3) TRIAL COURTS

This section provides funding for district courts in 22 judicial districts, water courts, and county courts. The following table details the relevant line items, the current appropriation, and the request and recommendation for FY 2011-12. Following the table, staff has included a brief description of each line item, the request, and the recommendation.

TRIAL COURTS - SUMMARY			
	FY 2010-11 Appropriation	FY 2011-12 Request	FY 2011-12 Recomm.
Trial Court Programs	\$115,103,834	\$123,046,134	\$118,965,987
FTE	<u>1,696.6</u>	<u>1,807.6</u>	<u>1,757.6</u>
General Fund	90,116,629	92,184,678	90,404,972
Cash Funds	24,022,205	29,761,456	27,461,015
Reappropriated Funds	965,000	1,100,000	1,100,000
Court Costs, Jury Costs, and Court- appointed Counsel	<u>15,594,352</u>	<u>15,594,352</u>	<u>15,594,352</u>
General Fund	15,109,352	15,109,352	15,109,352
Cash Funds	485,000	485,000	485,000
District Attorney Mandated Costs	<u>2,130,324</u>	<u>2,220,863</u>	<u>2,198,494</u>
General Fund	2,005,324	2,095,863	2,073,494
Cash Funds	125,000	125,000	125,000
Federal Funds and Other Grants	2,900,000	2,900,000	2,900,000
FTE	<u>14.0</u>	<u>14.0</u>	<u>14.0</u>
Cash Funds	975,000	975,000	975,000
Reappropriated Funds	300,000	300,000	300,000
Federal Funds	1,625,000	1,625,000	1,625,000
TOTAL - Trial Courts	135,728,510	143,761,349	139,658,833
FTE	<u>1,710.6</u>	<u>1,821.6</u>	<u>1,771.6</u>
General Fund	107,231,305	109,389,893	107,587,818
Cash Funds	25,607,205	31,346,456	29,046,015
Reappropriated Funds	1,265,000	1,400,000	1,400,000
Federal Funds	1,625,000	1,625,000	1,625,000

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.

FY 2010-11 Request for Mid-year Adjustment. The Department has submitted a request to reduce its current year appropriations by a total of **\$1,000,000 General Fund and 22.4 FTE, including \$300,000 and 6.5 FTE for this line item** and \$700,000 and 15.9 FTE for the Probation Programs line item. This one-time reduction is due to greater than anticipated delays in filling vacant positions. The Department has been holding vacant positions open in order to achieve the expenditure reductions implemented by the General Assembly. Judicial districts across the state have been working to hire and train employees to fill those vacant positions that have not been eliminated, but this process is taking longer than anticipated. Thus, the Chief Justice chose to make the General Assembly aware of the situation and allow it to recognize the one-time savings that will occur in FY 2010-11.

Recommendation: FY 2010-11. Staff recommends approving the requested one-time reduction for Trial Court Programs.

FY 2011-12 Request. The Department requests **\$123,046,134 and 1,807.6 FTE for this line item for FY 2011-12.** The request for this line item is affected by the implementation of H.B. 07-1054 (discussed below), JUD DI#1 (Judicial Network Infrastructure and Staff), and JUD DI#2 (Trial Court and Appellate Court Staff).

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 implementation costs. Ten of the final 12 new district judges and two of the final three new county court judges were filled on January 1, 2011; the remaining two district court judges and one county court judge will be filled July 1, 2011¹. As detailed in the following table, the FY 2011-12 request thus includes a full year of funding for judges and staff that were added January 1, 2011, as well as a full year of funding for the final three judgeships that will be filled July 1, 2011.

¹Please note that S.B. 11-028 (which has been signed into law) allocates one of the new district court judgeships to the 7th judicial district (Delta, Gunnison, Hinsdale, Montrose, Ouray, San Miguel). Based on FY 2009-10 case filing data, the 7th judicial district has the lowest district court judge staffing level in Colorado – just under 60 percent of full staffing. The associated costs for these new judgeships remain the same.

Summary of Implementation Costs for FY 2011-12					
	Personal Services	Operating Expenses	Capital Outlay	Total	FTE
Funding Provided in FY 2010-11	\$1,933,124	\$45,900	\$850,000	\$2,829,024	29.0
Cost of full implementation in FY 2011-12	4,758,201	114,450	0	4,872,651	72.0
Annual Change in Appropriations	2,825,077	68,550	(850,000)	2,043,627	43.0

Staff recommends approving the request to add \$2,893,627 for this line item (including \$2,825,077 for personal services and \$68,550 for operating expenses) for the final 15 judgeships authorized by H.B. 07-1054.

Recommendation. **Staff recommends appropriating a total of \$118,965,987 and 1,757.6 FTE for the Trial Courts Program line item for FY 2011-12**, as detailed in the table below. The sources of the cash funds are the Judicial Stabilization Fund and various fees and cost recoveries. The recommendation is \$4,080,147 lower than the request due to (1) staff's continuation of the reduced employer PERA contribution rate; and (2) JUD DI #2 - Trial Court and Appellate Staff, discussed below.

While staff did recommend approving the Department's request to restore a portion of the appellate court staff positions that were eliminated last Session, staff does not recommend approving the request to restore a portion of the trial court positions that were eliminated. Staff recognizes that base appropriations for trial court operations have been reduced significantly in recent years (more than \$5 million, resulting in an eight percent staff reduction), resulting in trial courts operating at 80 percent of full staffing. However, the General Assembly has added resources for those judicial districts deemed most in need by adding 40 new judges since FY 2007-08, and the General Assembly has authorized the Department to develop both an in-house public access system and an in-house e-filing system. Given various implementation delays, the impacts of these initiatives have not yet been fully realized.

Staff also notes that the overall court staffing need, based on the Department's weighted caseload model, has remained essentially steady since FY 2006-07. While civil and domestic relations filings have increased, criminal filings have decreased. Thus, although the courts are not currently operating at full staffing levels, at least the overall staffing need is not increasing (causing the staffing shortfall to continue to grow).

In addition, given the significant number of vacancies that the Department has kept open in the last two years to reduce expenditures, it is not clear judicial districts would be able to fill all of the

positions requested by the Department. The Department's request for Trial Court Programs represents a \$7.9 million (6.9 percent) increase in funding (compared to the adjusted FY 2010-11 appropriation level), including 111.0 FTE. Staff thus recommends denying the portion of this request related to trial courts for now. Staff's intent is to allow the Department to fill all of the authorized positions for FY 2011-12, including all of the new positions added pursuant to H.B. 07-1054. By this time next year, more information should be available indicating whether the implementation of H.B. 07-1054 is mitigating the impact of recent staffing reductions in trial courts.

Summary of Recommendation: Trial Court Programs						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2010-11 Long Bill	\$90,508,255	\$17,242,746	\$965,000	\$0	\$108,716,001	1,711.5
FY 10-11 Supplemental (including additional mid-year reduction recommended in this packet)	<u>(625,923)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>(625,923)</u>	<u>(14.9)</u>
Subtotal: FY 2010-11 Appropriation	89,882,332	17,242,746	965,000	0	108,090,078	1,696.6
Reverse FY 10-11 Supplemental	625,923	0	0	0	625,923	14.9
Salary Survey awarded in FY 10-11	0	0	0	0	0	0.0
80% of Performance-based Pay awarded in FY 10-11	0	0	0	0	0	0.0
IV-D Adjustment	0	0	135,000	0	135,000	0.0
Reinstate FY 2010-11 reduction in employer's PERA contribution (2.5%)	2,214,457	407,448	0	0	2,621,905	0.0
H.B. 07-1054: Annualize funding for final 15 judgeships	0	2,825,077	0	0	2,825,077	43.0
Budget Amendment - Transfer Office of Dispute Resolution back from General Courts Administration line item	204,008	0	0	0	204,008	3.1
JUD DI#1 - Judicial Network Infrastructure and Support	(597,793)	597,793	0	0	0	0.0
JUD DI#2 - Trial Court and Appellate Court Staff	0	0	0	0	0	0.0
Base reduction (0.0%)	0	0	0	0	0	0.0
Reduction in employer's PERA contribution (2.5%)	<u>(2,158,252)</u>	<u>(460,058)</u>	<u>0</u>	<u>0</u>	<u>(2,618,310)</u>	<u>0.0</u>
Subtotal: Personal Services	90,170,675	20,613,006	1,100,000	0	111,883,681	1,757.6

Summary of Recommendation: Trial Court Programs						
	GF	CF	RF	FF	TOTAL	FTE
Operating Expenses:						
FY 2010-11 Long Bill	244,297	6,779,459	0	0	7,023,756	
FY 10-11 Supplemental	<u>(10,000)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>(10,000)</u>	
Subtotal: FY 2010-11 Appropriation	234,297	6,779,459	0	0	7,013,756	0.0
H.B. 07-1054: Annualize funding for final 15 judgeships	0	68,550	0	0	68,550	
JUD DI#2 - Trial Court and Appellate Court Staff	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	
Subtotal: Operating Expenses	234,297	6,848,009	0	0	7,082,306	0.0
Staff Recommendation	\$90,404,972	\$27,461,015	\$1,100,000	\$0	\$118,965,987	1,757.6

Court Costs, Jury Costs, and Court-appointed Counsel

Description. This line item provides funding for three types of costs:

- *Court Costs* - Transcripts, expert and other witness fees and expenses, interpreters, psychological evaluations, sheriffs' fees, subpoenas, and other costs mandated by statute.
- *Jury Costs* - Fees and expenses for jurors, and printing, preparing, and mailing summons.
- *Court-appointed Counsel* - Fees and expenses for court-appointed counsel and other representatives for children and indigent persons (who are not represented through the other independent agencies).

Request. The Department requests a continuation level of funding for FY 2011-12 (\$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 actual expenditures in FY 2009-10 exceeded the amount requested for FY 2011-12. Cash funds are from various fees, cost recoveries, and grants.

District Attorney Mandated Costs

Description. This line item provides state funding to reimburse DA's for costs incurred for prosecution of state matters, as required by state statute. Based on FY 2009-10 expenditure data provided by the Colorado District Attorneys' Council (CDAC), district attorneys' mandated costs consist of the following:

- Witness fees and travel expenses (\$644,534 or 31 percent of costs in FY 2009-10)
- Mailing subpoenas (\$519,198 or 25 percent)
- Expert witness fees and travel expenses (\$413,994 or 20 percent of costs in FY 2009-10)
- Service of process (\$320,792 or 16 percent)
- Court reporter fees for transcripts (\$170,237 or 8 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					
2011-12 Request	2,095,863	125,000	2,220,863					

* Includes reduction of \$17,300 pursuant to H.B. 10-1291.

Request. The CDAC requests \$2,220,863 for FY 2011-12, which represents a \$90,359 (4.3 percent) increase compared to FY 2010-11. The request is based on actual expenditures incurred in the last three fiscal years.

Recommendation. **Staff recommends appropriating \$2,198,494 for FY 2011-12.** The FY 2010-11 appropriation matches the amount that was requested, which was based on the average expenditures incurred from FY 2006-07 through FY 2009-10 (\$2,147,624). This appropriation was reduced by \$17,300 pursuant to H.B. 10-1291 (this act eliminated the daily fee that witnesses received for

attending court). Staff agrees with the approach taken by the CDAC in calculating the request. However, based on actual reported expenditures (detailed in the above table), the compound annual growth rate in expenditures over the last three fiscal years (from FY 2006-07 to FY 2009-10) is 3.2 percent, rather than 4.3 percent. Thus, staff recommends a \$68,170 (3.2 percent) increase in the appropriation. Cash funds are from various fees, cost recoveries, and grants.

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 people that are working under the various grants.

Request. The Department requests a continuation level of spending authority for FY 2011-12.

Recommendation. **Staff recommends approving the request for \$2,900,000 and 14.0 FTE for FY 2010-11**, 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.

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

(8) INDEPENDENT ETHICS COMMISSION

This new section includes funding for the Independent Ethics Commission. The following table details the relevant line items, the current appropriation, and the request and recommendation for FY 2011-12.

INDEPENDENT ETHICS COMMISSION - SUMMARY			
	FY 2010-11 Appropriation a/	FY 2011-12 Request	FY 2011-12 Recomm.
Personal Services	\$175,799	\$203,224	\$175,799
FTE	2.0	2.0	2.0
Health, Life, and Dental	4,437	4,437	4,437
Short-term Disability	250	310	285
S.B. 04-257 Amortization Equalization Disbursement	3,867	5,099	4,458
S.B. 06-235 Supplemental Amortization Equalization Disbursement	2,820	4,098	3,558
Operating Expenses	28,578	15,807	15,807

INDEPENDENT ETHICS COMMISSION - SUMMARY			
	FY 2010-11 Appropriation a/	FY 2011-12 Request	FY 2011-12 Recomm.
Legal Services	67,842	67,842	Pending
<i>Hours</i>	<i>900.0</i>	<i>900.0</i>	<i>900.0</i>
TOTAL - GF	283,593	300,817	Pending
FTE	2.0	2.0	2.0

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.

Personal Services

Description. This line item provides funding for the 2.0 FTE that support the IEC.

Request. The IEC requests \$203,224 General Fund and 2.0 FTE for FY 2011-12. This request is impacted by IEC DI#1, discussed below.

IEC Decision Item #1: Salary Adjustment for Executive Director

The IEC requests \$24,491 to increase the salary for its Executive Director. Specifically, the request includes a \$20,964 salary increase (from \$75,036 to \$96,000), along with associated funding for PERA, Medicare, and short-term disability (a total of \$3,527).

Background Information. In September 2008, the newly formed IEC submitted an Interim Supplemental Request for FY 2008-09 for: (a) funding to increase the annual salary for the IEC Executive Director position from \$62,000 to \$72,492 (to a General Professional VI); and (b) funding for a second IEC staff position at the level of a General Professional (GP) IV. The IEC anticipated the second staff person taking the lead on some of the less complicated cases, performing some of the legal research and investigations, maintaining the website, maintaining case files, and responding to records requests. At that time, the Joint Budget Committee approved a staff recommendation to approve the requested salary increase for the Executive Director, and to approve a slightly smaller amount for the second FTE (a GP III). Subsequently, the FY 2009-10 Long Bill included funding to cover annual salaries of \$72,492 and \$56,796 for these two staff positions.

Due to the revenue shortfall and the hiring freeze, the IEC delayed filling the second staff position, and delayed increasing the Executive Director's salary until April 2009 when it was established at \$75,032. The budget request indicates that as the IEC matured, it became clear that the Executive Director needs to be an attorney, and thus the salary should be commensurate with that of assistant attorneys general and other attorneys in state government with similar experience. The IEC had hoped to address this situation in FY 2009-10 through vacancy savings and a reallocation of the second staff position.

However, in FY 2009-10 an individual "bumped" into the Executive Director's GP VI position as a result of layoffs that were occurring, and the individual serving as Executive Director then bumped into the vacant IEC GPIII position (with no change in salary). This individual is an attorney and continues to serve as the Executive Director for the IEC, so her position was reallocated to a GP VI in May 2010. The employee who bumped into the higher position maintained his previous salary of \$86,100, and now serves as the Communication Director for the IEC. This has resulted in a salary structure that pays the Executive Director \$11,064 (12.9 percent) less than the individual she supervises.

With respect to the IEC budget, when the IEC was transferred to the Judicial Branch, the amount of funding that was transferred from the DPA was based on salary levels that existed in FY 2009-10, and thus included the additional funding necessary to pay a higher than anticipated salary for the second staff position. Thus, DPA has had to reduce expenditures in other portions of its budget to offset the costs associated with this bumping process.

Request. The IEC requests funding to increase the Executive Director's salary from \$75,036 to \$96,000, an increase of 27.9 percent. The IEC requested that the Judicial Department's Human Resources staff conduct a formal compensation analysis to determine the appropriate salary range for the IEC Executive Director. This analysis determined that the IEC Director salary should be consistent with other similar Executive Director positions within the Judicial Department², and thus earn up to \$128,592 per year. If the IEC's budget request is approved, the IEC Executive Director's salary would be within Judicial's salary range for Supervisors. The request would also address the fairness issue that is now present due to the bumping process, and establish the IEC Executive Director's salary 11.5 percent higher than the salary of the individual she supervises. The Judicial analysis indicates that a supervisor should make an average of five to ten percent more than the persons he/she supervises.

Recommendation. Staff recommends denying this request for additional funding. Staff agrees that the IEC Executive Director should be an attorney, and the salary should be commensurate with that of other senior level attorneys in state government. However, the IEC had previously planned to use a portion of the funding appropriated for the second IEC staff position (which was vacant at the time) to pay a higher salary to the Executive Director. The IEC has the discretion and authority to determine the number and nature of the staff positions necessary for it to carry out its duties. The current appropriation is actually higher than what was requested to fund the positions outlined by

² The report specifically references similar positions in the Judicial Discipline Commission and the Office of Judicial Performance Evaluation. These individuals report directly to a commission, they serve at the pleasure of a commission, and they each have budgetary, administrative, and policy implementation responsibilities.

the IEC in the Fall of 2008. Thus, it appears that the IEC has the authority to address the issues raised through this request without additional funding.

The IEC is now an independent agency within the Judicial Branch. Subject to available appropriations, the IEC is statutorily authorized to "employ such staff as it deems necessary to enable it to carry out its [constitutional and statutory] functions."³ The act that transferred the IEC to the Judicial Branch stated that, "Any state employee on the staff of the commission as of June 10, 2010, shall be transferred with the agency and shall become an employee of the agency."⁴ Thus, the employees of the IEC are no longer part of the state classified system, and the IEC is not subject to the Judicial Department's personnel rules. The IEC has the authority to adopt its own personnel rules. It is staff's understanding that the IEC has the authority to determine whether its staff positions are at-will, subject to annual contract, etc.

In summary, staff recommends appropriating \$175,799 General Fund and 2.0 FTE for this line item, as detailed in the table below. The recommendation is \$27,425 lower than the request due to IEC DI #1 and the continuation of a reduced employer PERA contribution. As this agency only employs 2.0 FTE and these positions remain filled, staff is not recommending a 1.5 percent reduction in base personal services funding for this agency.

IEC Table 1: Summary of Recommendation for Personal Services		
	GF	FTE
Personal Services:		
FY 2010-11 Appropriation (Personal Services portion)	\$175,799	2.0
Eliminate temporary reduction in employer PERA contribution rate (increase from 7.65% to 10.15%)	4,028	0.0
Salary Survey awarded in FY 10-11	0	0.0
80% of Performance-based Pay awarded in FY 10-11	0	0.0
Base reduction (0.0%)	0	0.0
IEC Decision Item #1: Salary Adjustment for Executive Director	0	0.0
Reduction in employer's PERA contribution (2.5%)	<u>(4,028)</u>	<u>0.0</u>
Personal Services Recommendation	175,799	2.0

³ Section 24-18.5-101 (7), C.R.S.

⁴ Section 24-18.5-101 (10), C.R.S.

Health Life and Dental

The IEC requests a total of \$4,437 General Fund for FY 2011-12. **Staff recommends approving the request, consistent with Committee policy.**

Short-term Disability

The IEC requests \$310 General Fund for this purpose for FY 2011-12. **Staff recommends an appropriation of \$285, consistent with the Committee policy.** Staff's recommendation excludes funding associated with IEC DI #1.

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

The IEC requests \$5,099 General Fund for FY 2011-12. **Staff recommends appropriating \$4,458, consistent with Committee policy.**

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

The IEC requests \$4,098 General Fund for FY 2011-12. **Staff recommends appropriating \$3,558, consistent with Committee policy.**

Operating Expenses

The IEC requests a continuation level of funding for operating expenses (\$15,807). **Staff recommends approving the request, consistent with Committee policy.** The recommendation eliminates the one-time increase of \$12,771 that was approved for FY 2010-11.

Legal Services

The IEC requests \$67,842 General Fund to purchase 900 hours of services in FY 2011-12. **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.

Staff requests that the Committee reconsider its previous action on three centrally appropriated line items associated with court and probation staff, as well as two centrally appropriated line items for the Public Defender and the Alternate Defense Counsel.

Centrally Appropriated Line Items - Revised Staff Recommendations				
	Request	Initial Recomm.	Revised Recomm.	Change
Courts Administration, Central Appropriations:				
Short-term Disability	\$344,697	\$294,734	\$349,969	\$55,235
General Fund	282,272	244,404	288,404	44,000
Cash Funds	62,425	50,330	61,565	11,235

Centrally Appropriated Line Items - Revised Staff Recommendations				
	Request	Initial Recomm.	Revised Recomm.	Change
S.B. 04-257 Amortization Equalization Disbursement (AED)	<u>5,622,027</u>	<u>4,616,441</u>	<u>5,390,629</u>	<u>774,188</u>
General Fund	4,593,835	3,820,255	4,432,991	612,736
Cash Funds	1,028,192	796,186	957,638	161,452
S.B. 06-235 Supplemental Amortization Equalization Disbursement (SAED)	<u>4,492,992</u>	<u>3,689,091</u>	<u>4,266,752</u>	<u>577,661</u>
General Fund	3,666,766	3,049,301	3,504,486	455,185
Cash Funds	826,226	639,790	762,266	122,476
Public Defender:				
Health, Life, and Dental - GF	4,589,644	4,589,644	4,590,352	708
Alternate Defense Counsel:				
Health, Life, and Dental - GF	73,457	73,457	80,682	7,225

The recommendations for the first three line items in the above table have been revised to correct calculation errors. The revised recommendations correctly apply Committee policies and the PERA Judicial Division contribution changes in S.B. 10-001. Staff's recommendation for Short-term Disability is higher than the request because the request was based on the previous rate of 0.170 percent, rather than 0.177 percent. Staff's recommendations for AED and SAED are both lower than the Department's request because staff only recommended partial funding for two decision items (DI #2 - Trial Court and Appellate Court Staff and DI #5 - Maintain and Expand Problem-solving Courts).

The recommendations for the last two line items in the above table have been revised to exclude adjustments reflected in agency requests related to a statutory change concerning benefits for part-time employees.

Finally, staff has included below additional information that has been provided by the Department in response to Committee inquiries concerning DI#1 (Judicial Network Infrastructure and Support), payments for interpreters for the deaf and hard of hearing, and the implementation of H.B. 10-1347 (concerning DUI penalties). No further action is required related to these items.

1. (Sen. Lambert) Why is the Dept asking for \$450,000 to increase bandwidth?

This recurring annual cost is to upgrade 54 circuits to accommodate significantly increased bandwidth usage. Thirty four of the circuits are being increased from a 1Mbps UBR ATM Circuit to a much faster 1.5 Mbps MPLS (Multi-Protocol Label Switching) CBR (Committed Bandwidth Rate) circuit. Another 17 circuits are being upgraded from a 1Mbps UBR (Uncommitted Bandwidth Rate) ATM (Asynchronous Transfer Mode) Circuits to a 3Mbps MPLS CBR circuit--this is a \$250/month increase per circuit (approximately \$51,000 annually). There are another six circuits have gone from a 1Mbps UBR ATM circuit to a 6Mbps MPLS CBR circuit--this is an increase of \$900/month per circuit (approximately \$65,000 annually). Finally, there are four circuits going from a 1Mbps UBR ATM circuit to a 9Mbps MPLS CBR circuit--this is an increase of \$1,300/month per circuit (approximately \$63,000 annually).

In order to migrate the above circuits from the ATM to the MPLS, we need to also upgrade the ATM cloud going to GGCC to an MPLS Cloud going to GGCC. The MPLS circuit increase is \$6,900/month (approximately \$83,000 annually).

In addition, the Judicial Branch is migrating 25 circuits from the 719 MNT domain to the Judicial network. This cost is approximately \$300/circuit/month (\$90,000 annually). With this migration, the Judicial Department should see a decrease in its MNT/GGCC costs. It is expected that OIT will be responsible for reflecting any related budget reduction based on this migration.

To enhance business continuity (COOP) and disaster recovery, the Judicial Branch has its backup machines at e-Fort. The Judicial Branch is becoming more and more dependent on electronic court records, and thus the importance of having redundant circuits and COOP/Disaster Recovery is mandated. To facilitate this process, the request includes two 200Mbps MOE(Metro Optical Ethernet)/MPLS circuits to e-Fort. The MOE e-Fort Circuit is approximately \$1,400/monthly and the MPLS e-fort circuit is approximately \$6,900/month. The total cost of these upgrades is approximately \$100,000 annually and will serve to protect electronic court data.

The upgrade to all these circuits is being pursued in order to ensure public safety through an acceptable level of network processing time. A slow network results in data entry delays in high-volume and criminal courtrooms, delays in revenue collections, delays in probation intake ability and delays in the business of other criminal justice agencies that are reliant on Judicial data.

2. (Sen. Lambert) Would it make more sense to pay for interpreters for the deaf and hard of hearing in the Judicial budget (e.g., include it in the existing "Language Interpreters" line item)?

Payment for interpreters for the deaf and hard of hearing used to be split between Judicial and the Department of Human Services (DHS). This created confusion and discrepancies about who should

pay for services based upon individual circumstances. As part of an ongoing effort to meet the needs of the deaf and hard of hearing community, S.B. 06-061 consolidated all services for this community under the Commission for the Deaf and Hard of Hearing within DHS. The deaf and hard of hearing community strongly felt that the Commission had the expertise to meet its needs and made a concerted effort to support consolidating these governmental services within DHS. As part of this act, the Judicial Department transferred over \$80,000 to the Commission to cover the costs of hearing interpretation.

The Judicial Department is federally mandated under Executive Order 13166 to comply with Title VI of the Civil Rights Act of 1964 which prohibits recipients of federal financial assistance from discriminating based on national origin by, among other things, failing to provide meaningful access to individuals who are limited English proficient (LEP). The Language Interpreter line item covers the cost of providing language interpretation to LEP individuals who require access to the court system. It is not intended to cover the costs of hearing interpretation services.

3. (Rep. Gerou) How is the implementation of H.B. 10-1347 -- is it working? Are savings being achieved as anticipated? Has probation seen an increase in workload as anticipated? Are revenues coming in as anticipated?

a) Savings. There were no anticipated savings associated with H.B. 10-1347. House Bill 10-1338 (Concerning the eligibility for probation of a person who has two or more felony convictions) was projected to provide sufficient savings by reducing the number of individuals sentenced to the Department of Corrections that the costs of H.B. 10-1347 and H.B. 10-1352 could be covered.

b) Workload. The anticipated increase in workload following passage of H.B. 10-1347 was projected to be the result of the reduction in the number (approximately 1,500) of convicted offenders who would no longer receive a sentence to jail only, but rather would now be required to be sentenced to probation. A comparison of the filings for the period of July 1st through January 31st for FY 2009-10 (16,413) and FY 2010-11 (16,877) indicate a 2.8 percent increase in filings and based on a straight line projection there would be an increase of 795 new filings in FY 2010-11. Historically, the number of filings increases over the spring and summer months so the projected increase of 795 is estimated to be very conservative. Due to the fact that not all of the filed cases in the FY 2010-11 comparison time period have reached sentencing a query to determine if work load has increased would significantly undercount the new cases sentenced to probation. A calculation of whether the workload increased as a result of H.B. 10-1347 could more accurately be made after a full year.

c) Revenues. In FY 2009-10 the total revenue resulting from the collections of the optional \$100 Persistent Drunk Driver fee was \$65,000. To date for FY 2010-11 the revenue for the mandatory \$100 fee is \$175,000.

**COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE**



FY 2011-12 STAFF FIGURE SETTING

JUDICIAL BRANCH

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

**Prepared By:
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February 17, 2011**

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**JUDICIAL BRANCH
FY 2011-12 STAFF FIGURE SETTING**

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

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Appendix A: Summary of H.B. 07-1054: Initially Anticipated Schedule of New Judgeships		

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	FY 2008-09 Actual	FY 2009-10 Actual	FY 2010-11 Appropriation	FY 2011-12		Change Requests
				Request	Staff Recomm.	
JUDICIAL DEPARTMENT						
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	11,205,403	11,824,879	11,096,903	11,574,386	11,242,796	
FTE	<u>141.8</u>	<u>138.2</u>	<u>136.0</u>	<u>140.0</u>	<u>140.0</u>	
General Fund	10,150,428	10,748,628	10,045,031 S	10,242,616 A	9,932,823	
FTE	128.3	124.7	122.5	122.5	122.5	
Cash Funds	1,054,975	1,076,251	1,051,872	1,331,770	1,309,973	JUD DI #2
FTE	13.5	13.5	13.5	17.5	17.5	JUD DI #2
Capital Outlay	<u>213,640</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	0	0	0	0	0	
Cash Funds	213,640	0	0	0	0	
Attorney Regulation Committees - CF a/ FTE b/	5,527,576 40.5	6,077,482 40.5	6,000,000 40.5	6,000,000 40.5	6,000,000 40.5	
Continuing Legal Education - CF a/ FTE b/	353,169 4.0	345,628 4.0	370,000 4.0	370,000 4.0	370,000 4.0	
Law Examiner Board - CF a/ FTE b/	897,853 8.2	942,214 8.2	900,000 8.2	900,000 8.2	900,000 8.2	
Law Library	482,316	332,080	512,500	550,000	550,000	
FTE	<u>0.0</u>	<u>0.0</u>	<u>1.5</u>	<u>1.5</u>	<u>1.5</u>	
Cash Funds a/ FTE	482,316 0.0	332,080 0.0	500,000 1.5 S	500,000 1.5 A	500,000 1.5	
Reappropriated Funds	0	0	12,500 S	50,000 A	50,000	

**Fiscal Year 2011-12 Joint Budget Committee Staff Figure Setting
Judicial Department
NUMBERS PAGES**

	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12		Change Requests
	Actual	Actual	Appropriation	Request	Staff Recomm.	
TOTAL - Supreme Court/ Court of Appeals	18,679,957	19,522,283	18,879,403	19,394,386	19,062,796	
FTE	<u>194.5</u>	<u>190.9</u>	<u>190.2</u>	<u>194.2</u>	<u>194.2</u>	
General Fund	10,150,428	10,748,628	10,045,031	10,242,616	9,932,823	
FTE	128.3	124.7	122.5	122.5	122.5	
Cash Funds	8,529,529	8,773,655	8,821,872	9,101,770	9,079,973	
FTE	66.2	66.2	67.7	71.7	71.7	
Reappropriated Funds	0	0	12,500	50,000	50,000	

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

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

(2) COURTS ADMINISTRATION

(A) Administration and Technology

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

General Courts Administration			15,670,321 a/	16,012,930	15,687,881	
FTE			<u>188.4</u> a/	<u>190.4</u>	<u>190.4</u>	
General Fund			12,292,978 S	12,041,691 A	11,564,684	JUD DI #1, 10
FTE			167.4 S	168.4 A	168.4	JUD DI #1
Cash Funds			1,825,845	1,920,628	1,882,296	
FTE			19.0	20.0	20.0	
Reappropriated Funds			1,551,498 S	2,050,611 A	2,240,901	
FTE			2.0 S	2.0 A	2.0	
Personal Services	5,025,436	8,613,288 b/	See above			
FTE	<u>59.4</u>	<u>104.8</u> b/	line item			
General Fund	3,914,540	7,253,607				
FTE	59.4	104.4				
Cash Funds	0	43,445				
FTE	0.0	0.4				
Reappropriated Funds	1,110,896	1,316,236				
FTE	0.0	0.0				

**Fiscal Year 2011-12 Joint Budget Committee Staff Figure Setting
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	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12		Change Requests
	Actual	Actual	Appropriation	Request	Staff Recomm.	
Operating Expenses	<u>370,918</u>	<u>523,398</u> b/	See above			
General Fund	370,396	479,290	line item			
Cash Funds	522	44,108				
Capital Outlay - GF	6,220	0	0	0	0	
Information Technology Infrastructure	See Integrated	<u>2,961,486</u>	<u>4,269,146</u>	<u>4,642,845</u>	<u>4,642,845</u>	
General Fund	Information Svcs.	353,094	403,094	853,094	853,094	JUD DI #1
Cash Funds		2,608,392	3,866,052	3,789,751	3,789,751	
Statewide Indirect Cost Assessment	<u>124,593</u>	<u>62,984</u>	<u>117,200</u>	<u>143,284</u>	<u>143,285</u>	
Cash Funds	124,593	62,984	113,511	136,134	136,135	
Reappropriated Funds	0	0	0	3,976	3,976	
Federal Funds	0	0	3,689	3,174	3,174	
Departmental Indirect Cost Assessment - CF	986,303	1,242,659	1,253,437	1,907,327	1,907,327	
Judicial/Heritage Program	737,801	680,736	n/a			
FTE	<u>3.0</u>	<u>3.0</u>				
General Fund	504,903	503,260				
FTE	3.0	3.0				
Reappropriated Funds	232,898	177,476				
Family Friendly Court Program - CF	See Centrally	See Centrally				
FTE	Admin. Pgms.	Admin. Pgms.				
Office of Judicial Performance Evaluation - CF	See Centrally	See Centrally				
FTE	Admin. Pgms.	Admin. Pgms.				
Courthouse Capital/ Infrastructure Maintenance	See Centrally	See Centrally				
General Fund	Admin. Pgms.	Admin. Pgms.				
Cash Funds						
Courthouse Security - CF	See Centrally	See Centrally				
FTE	Admin. Pgms.	Admin. Pgms.				

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	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12		Change Requests
	Actual	Actual	Appropriation	Request	Staff Recomm.	
Family Violence Justice Grants General Fund Cash Funds	See Centrally Admin. Pgms.	See Centrally Admin. Pgms.				
SUBTOTAL - Administration and Technology ("Administration" prior to FY 2010-11)	7,251,271	14,084,551 b/	21,310,104 a/	22,706,386	22,381,338	
FTE	<u>62.4</u>	<u>107.8</u> b/	<u>188.4</u> a/	<u>190.4</u>	<u>190.4</u>	
General Fund	4,796,059	8,589,251	12,696,072	12,894,785	12,417,778	
FTE	62.4	107.4	167.4	168.4	168.4	
Cash Funds	1,111,418	4,001,588	7,058,845	7,753,840	7,715,509	
FTE	0.0	0.4	19.0	20.0	20.0	
Reappropriated Funds	1,343,794	1,493,712	1,551,498	2,054,587	2,244,877	
FTE	0.0	0.0	2.0	2.0	2.0	
Federal Funds	0	0	3,689	3,174	3,174	

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.

(B) Central Appropriations

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

Health, Life, and Dental	<u>16,106,295</u>	<u>16,393,757</u>	<u>18,096,023</u>	<u>19,474,768</u>	<u>19,005,886</u>	
General Fund	13,905,933	16,077,590	16,365,672	17,049,433	17,049,433	
Cash Funds	2,200,362	316,167	1,730,351	2,425,335	1,956,453	JUD DI #2, 5
Short-term Disability	<u>200,386</u>	<u>203,044</u>	<u>302,799</u>	<u>344,697</u>	<u>294,734</u>	
General Fund	166,112	192,515	264,809	282,272	244,404	
Cash Funds	34,274	10,529	37,990	62,425	50,330	JUD DI #2, 5

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	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12		Change Requests
	Actual	Actual	Appropriation	Request	Staff Recomm.	
S.B. 04-257 Amortization Equalization Disbursement	<u>3,014,203</u>	<u>3,464,910</u>	<u>4,631,574</u>	<u>5,622,027</u>	<u>4,616,441</u>	
General Fund	2,592,370	3,458,308	4,043,325	4,593,835	3,820,255	
Cash Funds	421,833	6,602	588,249	1,028,192	796,186	JUD DI #2, 5
S.B. 06-235 Supplemental Amortization Equalization Disbursement	<u>1,369,816</u>	<u>2,218,565</u>	<u>3,347,529</u>	<u>4,492,992</u>	<u>3,689,091</u>	
General Fund	1,172,082	2,124,448	2,918,597	3,666,766	3,049,301	
Cash Funds	197,734	94,117	428,932	826,226	639,790	JUD DI #2, 5
Salary Survey	<u>10,285,486</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	9,410,617	0	0	0	0	
Cash Funds	874,869	0	0	0	0	
Anniversary Increases	<u>2,052,664</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	1,828,268	0	0	0	0	
Cash Funds	224,396	0	0	0	0	
Workers' Compensation - GF	2,071,929	1,623,687	1,647,138	2,030,749	Pending	
Legal Services - GF	207,517	157,590	220,110	220,110	Pending	
Hours	2,763.2	2,090.6	3,000.0	3,000.0	3,000.0	
Purchase of Services from Computer Center - GF	268,774	256,998	295,960	518,352 A	Pending	
Multiuse Network Payments - GF	334,800	334,800	270,664	411,121	Pending	
Payment to Risk Management and Property Funds - GF	341,001	214,188	65,718	294,450	Pending	
Vehicle Lease Payments - GF	43,428	55,025 a/	59,045 S	56,345	Pending	
Leased Space	<u>843,850</u>	<u>1,207,774</u>	<u>1,255,283</u>	<u>1,285,765</u>	<u>1,285,765</u>	
General Fund	809,675 b/	1,083,763 c/	1,083,803	1,114,285	1,114,285	
Cash Funds	34,175	124,011	171,480	171,480	171,480	
Communication Services Payments - GF	10,938	10,938	11,377	11,599	Pending	
Lease Purchase - GF	119,878	119,878	119,878	119,878	119,878	

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	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12		Change Requests
	Actual	Actual	Appropriation	Request	Staff Recomm.	
Administrative Purposes	<u>163,081</u>	<u>131,913</u>	Transferred to			
General Fund	120,515	106,614	General Courts			
Cash Funds	42,566	25,299	Admin. line item			
Appellate Reports Publication - GF	46,899 d/	55,822 e/	See Appellate Court Pgms.			
Retired Judges - GF	See Centrally Admin. Pgms.	See Centrally Admin. Pgms.				
Child Support Enforcement FTE	See Centrally Admin. Pgms.	See Centrally Admin. Pgms.				
General Fund						
Reappropriated Funds						
FTE						
Collections Investigators FTE	See Centrally Admin. Pgms.	See Centrally Admin. Pgms.				
General Fund						
Cash Funds						
FTE						
Reappropriated Funds						
SUBTOTAL - Central Appropriations ("Special Purpose" Prior to FY 2010-11)	<u>37,480,945</u>	<u>26,448,889</u>	<u>30,323,098</u>	<u>34,882,853</u>	<u>29,011,795</u>	
General Fund	33,450,736	25,872,164	27,366,096	30,369,195	25,397,556	
Cash Funds	4,030,209	576,725	2,957,002	4,513,658	3,614,239	

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

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

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

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

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

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	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12		Change Requests
	Actual	Actual	Appropriation	Request	Staff Recomm.	
(C) Centrally Administered Programs						
This subdivision includes funding and staff associated with specific functions, grant programs, and distributions that are administered by the State Court Administrator's Office. Cash fund sources include the Victims and Witnesses and Law Enforcement Fund, the Crime Victim Compensation Fund, the Judicial Collections Enhancement Fund, the Fines Collection Cash Fund, the Judicial Stabilization Cash Fund, the Court Security Cash Fund, the State Commission on Judicial Performance Cash Fund, the Family Violence Justice Fund, the Family-friendly Court Program Cash Fund, and various fees, cost recoveries, and grants. Reappropriated funds include Victims and Witnesses Assistance and Law Enforcement funds transferred from the Trial Courts section, and federal funds transferred from the Department of Human Services.						
Victim Assistance - CF a/	15,872,570	16,373,571	15,095,039	15,095,039	16,375,000	
Victim Compensation - CF a/	11,538,703	12,175,283	12,120,121	12,120,121	12,175,000	
Collections Investigators	4,611,106	5,081,134	5,084,959	5,171,486	5,082,460	
FTE	<u>72.1</u>	<u>71.3</u>	<u>83.2</u>	<u>83.2</u>	<u>83.2</u>	
General Fund	0	0	0	0	0	
Cash Funds	3,886,663	4,267,516	4,187,418	4,273,945	4,184,919	
FTE	72.1	71.3	83.2	83.2	83.2	
Reappropriated Funds	724,443	813,618	897,541	897,541	897,541	
Problem-solving Courts		1,375,160	b/ 3,501,688	2,724,881	2,309,513	
FTE		<u>18.3</u>	b/ <u>32.2</u>	<u>39.2</u>	<u>32.7</u>	
Cash Funds		926,231	1,115,635	2,609,881	1,527,389	JUD DI #5
FTE		13.6	17.2	39.2	21.7	JUD DI #5
Federal Funds		448,929	2,386,053 c/	115,000 c/	782,124	JUD DI #5
FTE		4.7	15.0	0.0	11.0	JUD DI #5
Language Interpreters	3,390,105	3,174,489	3,428,312	3,928,163	3,633,821	
FTE	<u>22.3</u>	<u>19.9</u>	<u>25.0</u>	<u>25.0</u>	<u>25.0</u>	
General Fund	3,343,467	3,146,340	3,378,312	3,878,163	3,583,821	JUD DI #3
FTE	22.3	19.9	25.0	25.0	25.0	
Cash Funds	46,638	28,149	50,000	50,000	50,000	
Courthouse Security - CF	1,813,352	2,778,305	3,869,622	3,864,989	3,864,989	
FTE	1.0	1.0	1.0	1.0	1.0	

**Fiscal Year 2011-12 Joint Budget Committee Staff Figure Setting
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	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12		Change Requests
	Actual	Actual	Appropriation	Request	Staff Recomm.	
Courthouse Capital/ Infrastructure Maintenance	<u>1,000,000</u>	<u>3,064,041</u>	<u>2,445,791</u>	<u>535,026</u>	<u>473,526</u>	
General Fund	1,000,000	0	80,791	0	0	
Cash Funds	0	3,064,041	2,365,000 S	535,026	473,526	JUD DI #1, 2, 4
Senior Judge Program - GF	1,917,486 d/	1,943,200 e/	1,635,326 S	1,635,326	1,635,326	JUD DI #9
Office of Judicial Performance Evaluation - CF	809,712	646,686	887,112	920,635	916,353	
FTE	1.7	1.6	2.0	2.0	2.0	
Family Violence Justice Grants	<u>746,640</u>	<u>860,912</u>	<u>893,430</u>	<u>910,000</u>	<u>500,000</u>	
General Fund	746,640	750,000	750,000	750,000	283,430	
Cash Funds	0	110,912	143,430	160,000 A	216,570	
Family Friendly Court Program - CF	339,806	319,252	375,000	375,000	375,000	
FTE	0.5	0.5	0.5	0.5	0.5	
Child Support Enforcement	74,703	73,333	88,864	90,730	88,864	
FTE	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	
General Fund	25,321	24,923	30,212	30,846	30,212	
Reappropriated Funds	49,382	48,410	58,652	59,884	58,652	
FTE	1.0	1.0	1.0	1.0	1.0	
SUBTOTAL - Centrally Administered Programs	42,114,183	47,865,366	49,425,264	47,371,396	47,429,852	
FTE	<u>98.6</u>	<u>113.6</u>	<u>144.9</u>	<u>151.9</u>	<u>145.4</u>	
General Fund	7,032,914	5,864,463	5,874,641	6,294,335	5,532,789	
FTE	22.3	19.9	25.0	25.0	25.0	
Cash Funds	34,307,444	40,689,946	40,208,377	40,004,636	40,158,746	
FTE	75.3	88.0	103.9	125.9	108.4	
Reappropriated Funds	773,825	862,028	956,193	957,425	956,193	
FTE	1.0	1.0	1.0	1.0	1.0	
Federal Funds	0	448,929	2,386,053	115,000	782,124	
FTE	0.0	4.7	15.0	0.0	11.0	

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

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

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	FY 2008-09 Actual	FY 2009-10 Actual	FY 2010-11 Appropriation	FY 2011-12 Request	FY 2011-12 Staff Recomm.	Change Requests
<p>c/ On November 3, 2010, the Department learned that the federal Byrne grant period has been extended through June 30, 2012. Based on this extension, the Department now estimates grant expenditures of \$1,155,000 in FY 2010-11 and \$782,124 in FY 2011-12. This expenditure pattern would reduce the cash funds required in FY 2011-12 to \$1,067,806.</p> <p>d/ Includes \$23,656 transferred in from various other line item appropriations.</p> <p>e/ Includes \$49,194 transferred in from various other line item appropriations.</p>						
(C) Integrated Information Services						
Prior to FY 2010-11, this subdivision provided funding to develop and maintain information technology systems used by the courts, provided associated staff training, and assure data integrity. Cash fund sources included various fees and other cost recoveries. Reappropriated funds were federal funds transferred from the Department of Public Safety.						
Personal Services	3,224,060		See "General Courts Admin." in Admin. and Tech.	See "General Courts Admin." in Admin. and Tech.		
FTE	<u>43.4</u>					
General Fund	3,187,012					
FTE	43.4					
Cash Funds	37,048					
FTE	0.0					
Reappropriated Funds	0					
Operating Expenses	<u>327,888</u>		<u>See Admin. & Tech.:</u>	<u>See Admin. & Tech.:</u>		
General Fund	177,888		" Gen. Cts. Admin."	" Gen. Cts. Admin."		
Cash Funds	150,000		"IT Infrastructure"	"IT Infrastructure"		
JAVA Conversion - GF	311,054		0			
FTE	5.0		0.0			
Capital Outlay	<u>2,765</u>		<u>0</u>			
General Fund	2,765		0			
Cash Funds	0		0			
Purchase of Services from Computer Center - GF	See Admin. and Tech.	See Admin. and Tech.	See Admin. and Tech.			
Multiuse Network Payments - GF	See Admin. and Tech.	See Admin. and Tech.	See Admin. and Tech.			

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

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	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12		Change Requests
	Actual	Actual	Appropriation	Request	Staff Recomm.	
TOTAL - Courts Administration	95,007,501	88,398,806	101,058,466 a/	104,960,635	98,822,985	
FTE	<u>209.4</u>	<u>221.4</u>	<u>333.3</u> a/	<u>342.3</u>	<u>335.8</u>	
General Fund	50,322,460	40,325,878	45,936,809	49,558,315	43,348,123	
FTE	133.1	127.3	192.4	193.4	193.4	
Cash Funds	42,567,422	45,268,259	50,224,224	52,272,134	51,488,494	
FTE	75.3	88.4	122.9	145.9	128.4	
Reappropriated Funds	2,117,619	2,355,740	2,507,691	3,012,012	3,201,070	
FTE	1.0	1.0	3.0	3.0	3.0	
Federal Funds	0	448,929	2,389,742	118,174	785,298	
FTE	0.0	4.7	15.0	0.0	11.0	

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

(3) TRIAL COURTS

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

Trial Court Programs	115,637,931	114,457,217 a/	115,103,834 b/	123,046,134	118,965,987	
FTE	<u>1,751.1</u>	<u>1,671.0</u> a/	<u>1,696.6</u> b/	<u>1,807.6</u>	<u>1,757.6</u>	
General Fund	93,620,721	93,400,654	90,116,629 S,f/	92,184,678 A	90,404,972	JUD DI #1
FTE	1,619.2	1,407.5	1,426.7 S,f/	1,444.7 A	1,444.7	
Cash Funds	22,017,210	20,020,057	24,022,205	29,761,456	27,461,015	JUD DI #1, 2
FTE	131.9	263.5	269.9	362.9	312.9	JUD DI #2
Reappropriated Funds	0	1,036,506	965,000	1,100,000	1,100,000	
Capital Outlay	<u>1,450,806</u>	<u>1,015,079</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	0	0	0	0	0	
Cash Funds	1,450,806	1,015,079	0	0	0	

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	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12		Change Requests
	Actual	Actual	Appropriation	Request	Staff Recomm.	
Court Costs, Jury Costs, and Court-appointed Counsel	<u>15,331,788</u>	<u>15,841,967</u>	<u>15,594,352</u>	<u>15,594,352</u>	<u>15,594,352</u>	
General Fund	15,124,817 c/	15,649,308 d/	15,109,352	15,109,352	15,109,352	
Cash Funds	206,971	192,659	485,000	485,000	485,000	
District Attorney Mandated Costs	<u>2,188,785</u>	<u>2,226,050</u>	<u>2,130,324</u>	<u>2,220,863</u>	<u>2,198,494</u>	
General Fund	2,063,785	2,101,050	2,005,324	2,095,863	2,073,494	
Cash Funds	125,000	125,000	125,000	125,000	125,000	
Federal Funds and Other Grants	1,602,789	1,337,344	2,900,000	2,900,000	2,900,000	
FTE e/	<u>8.5</u>	<u>14.0</u>	<u>14.0</u>	<u>14.0</u>	<u>14.0</u>	
Cash Funds	305,991	254,272	975,000	975,000	975,000	
FTE e/	0.0	3.0	3.0	3.0	3.0	
Reappropriated Funds	133,012	48,385	300,000	300,000	300,000	
FTE e/	6.0	6.0	6.0	6.0	6.0	
Federal Funds	1,163,786	1,034,687	1,625,000	1,625,000	1,625,000	
FTE e/	2.5	5.0	5.0	5.0	5.0	
Language Interpreters	See Centrally	See Centrally				
FTE	Admin. Pgms.	Admin. Pgms.				
General Fund						
FTE						
Cash Funds						
Victim Compensation - CF	See Centrally	See Centrally				
	Admin. Pgms.	Admin. Pgms.				
Victim Assistance - CF	See Centrally	See Centrally				
	Admin. Pgms.	Admin. Pgms.				

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	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
TOTAL - Trial Courts	136,212,099	134,877,657	135,728,510	b/	143,761,349	139,658,833
FTE	<u>1,759.6</u>	<u>1,685.0</u>	<u>1,710.6</u>	b/	<u>1,821.6</u>	<u>1,771.6</u>
General Fund	110,809,323	111,151,012	107,231,305		109,389,893	107,587,818
FTE	1,619.2	1,407.5	1,426.7		1,444.7	1,444.7
Cash Funds	24,105,978	21,607,067	25,607,205		31,346,456	29,046,015
FTE	131.9	266.5	272.9		365.9	315.9
Reappropriated Funds	133,012	1,084,891	1,265,000		1,400,000	1,400,000
FTE	6.0	6.0	6.0		6.0	6.0
Federal Funds	1,163,786	1,034,687	1,625,000		1,625,000	1,625,000
FTE	2.5	5.0	5.0		5.0	5.0

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

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

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

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

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

f/ Reflects mid-year reduction of \$300,000 and 6.5 FTE which has not yet been considered or approved by the Joint Budget Committee.

(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			72,290,279	a/	74,891,474	73,419,435	
FTE			<u>1,107.6</u>	a/	<u>1,131.9</u>	<u>1,131.9</u>	
General Fund			61,838,774	S,c/	64,247,435	62,875,772	JUD DI #8
FTE			953.7	S,c/	978.0	976.5	JUD DI #8
Cash Funds			10,451,505		10,644,039	10,543,663	JUD DI #8
FTE			153.9		153.9	155.4	JUD DI #8

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	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12		Change Requests
	Actual	Actual	Appropriation	Request	Staff Recomm.	
Personal Services	68,108,725	68,661,106	See above			
FTE	<u>1,081.2</u>	<u>1,038.6</u>	line item			
General Fund	58,805,464	59,025,104				
FTE	927.3	884.7				
Cash Funds	9,303,261	9,636,002				
FTE	153.9	153.9				
Operating Expenses	<u>2,589,368</u>	<u>2,398,304</u>	See above			
General Fund	2,262,118	1,988,697	line item			
Cash Funds	327,250	409,607				
Capital Outlay - GF	168,604	0	0	0	0	
Offender Treatment and Services	<u>6,750,220</u>	<u>8,658,982</u>	<u>11,181,773</u>	<u>17,499,136</u>	<u>17,499,136</u>	
General Fund	0	0	0	0	0	
Cash Funds	6,697,671	8,473,958	10,869,040	16,719,290 A	10,619,290	JUD DI #6
Reappropriated Funds	52,549	185,024	312,733	779,846 A	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>2,700,000</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	500,000	0	JUD DI #7
H.B. 10-1352 Appropriation to Drug Offender Surcharge Fund - GF	n/a	n/a	468,196 S	6,156,118	6,156,118	
				See Offender Treatment and Services	See Offender Treatment and Services	
H.B. 10-1352 Treatment Services - RF	n/a	n/a	468,196 S			
S.B. 91-94 Juvenile Services - RF	1,629,184	1,633,255	1,906,837	1,906,837	1,906,837	
FTE	25.0	16.6	25.0	25.0	25.0	
Day Reporting Services - GF	n/a	186,067	393,078	393,078	393,078	
Victims Grants - RF	433,029	431,481	650,000	650,000	650,000	
FTE b/	17.3	6.0	6.0	6.0	6.0	

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	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12		Change Requests
	Actual	Actual	Appropriation	Request	Staff Recomm.	
Federal Funds and Other Grants	3,529,754	4,460,495	5,600,000	5,600,000	5,600,000	
FTE b/	<u>32.3</u>	<u>33.0</u>	<u>33.0</u>	<u>33.0</u>	<u>33.0</u>	
Cash Funds	1,011,041	1,094,693	1,950,000	1,950,000	1,950,000	
FTE b/	2.0	2.0	2.0	2.0	2.0	
Reappropriated Funds	822,563	773,008	850,000	850,000	850,000	
FTE b/	17.8	18.0	18.0	18.0	18.0	
Federal Funds	1,696,150	2,592,794	2,800,000	2,800,000	2,800,000	
FTE b/	12.5	13.0	13.0	13.0	13.0	
TOTAL - Probation and Related Services	85,408,884	88,629,690	95,158,359 a/	109,796,643	107,824,604	
FTE	<u>1,155.8</u>	<u>1,094.2</u>	<u>1,171.6</u> a/	<u>1,195.9</u>	<u>1,195.9</u>	
General Fund	63,436,186	63,399,868	64,900,048	72,996,631	71,624,968	
FTE	927.3	884.7	953.7	978.0	976.5	
Cash Funds	17,339,223	19,614,260	23,270,545	29,813,329	23,112,953	
FTE	155.9	155.9	155.9	155.9	157.4	
Reappropriated Funds	2,937,325	3,022,768	4,187,766	4,186,683	10,286,683	
FTE	60.1	40.6	49.0	49.0	49.0	
Federal Funds	1,696,150	2,592,794	2,800,000	2,800,000	2,800,000	
FTE	12.5	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 2008-09 and 2009-10 reflected appropriated, rather than actual, levels.

c/ Reflects mid-year reduction of \$700,000 and 15.9 FTE which has not yet been considered or approved by the Joint Budget Committee.

TOTAL - Judicial Department	335,308,441	331,428,436	350,824,738	377,913,013	365,369,218	
FTE	<u>3,319.3</u>	<u>3,191.5</u>	<u>3,405.7</u>	<u>3,554.0</u>	<u>3,497.5</u>	
General Fund	234,718,397	225,625,386	228,113,193	242,187,455	232,493,732	
FTE	2,807.9	2,544.2	2,695.3	2,738.6	2,737.1	
Cash Funds	92,542,152	95,263,241	107,923,846	122,533,689	112,727,435	
FTE	429.3	577.0	619.4	739.4	673.4	
Reappropriated Funds	5,187,956	6,463,399	7,972,957	8,648,695	14,937,753	
FTE	67.1	47.6	58.0	58.0	58.0	
Federal Funds	2,859,936	4,076,410	6,814,742	4,543,174	5,210,298	
FTE	15.0	22.7	33.0	18.0	29.0	

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	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12		Change Requests
	Actual	Actual	Appropriation	Request	Staff Recomm.	
(5) PUBLIC DEFENDER						
Douglas Wilson, State Public Defender						
This agency provides legal counsel for indigent defendants in criminal and juvenile delinquency cases where there is a possibility of being jailed or imprisoned. Cash funds consist of training fees paid by private attorneys, grants, and funds received from the City of Denver for contract services related to its drug court. Reappropriated funds are federal funds transferred from the Department of Public Safety.						
Personal Services	35,641,348	37,852,827	39,580,045	42,353,834	42,323,060	
FTE	<u>510.3</u>	<u>518.4</u>	<u>602.5</u>	<u>650.3</u>	<u>650.3</u>	
General Fund	35,416,348	37,852,827	39,580,045 S	42,353,834	42,323,060	
FTE	506.3	518.4	602.5	650.3	650.3	
Cash Funds	225,000	0	0	0	0	
FTE	4.0	0.0	0.0	0.0	0.0	
Health, Life, and Dental - GF	2,642,260	3,056,218	4,046,851	4,589,644	4,589,644	
Short-term Disability	<u>40,831</u>	<u>50,852</u>	<u>57,220</u>	<u>65,996</u>	<u>68,663</u>	
General Fund	40,814	50,852	57,220	65,996	68,663	
Cash Funds	17	0	0	0	0	
S.B. 04-257 Amortization Equalization Disbursement	<u>492,072</u>	<u>650,696</u>	<u>873,686</u>	<u>1,074,511</u>	<u>1,073,270</u>	
General Fund	491,865	650,696	873,686	1,074,511	1,073,270	
Cash Funds	207	0	0	0	0	
S.B. 06-235 Supplemental Amortization Equalization						
Disbursement	<u>222,483</u>	<u>371,880</u>	<u>630,654</u>	<u>857,876</u>	<u>856,677</u>	
General Fund	222,386	371,880	630,654	857,876	856,677	
Cash Funds	97	0	0	0	0	
Salary Survey	<u>1,342,685</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	1,331,059	0	0	0	0	
Cash Funds	11,626	0	0	0	0	
Anniversary Increases	<u>477,544</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	473,418	0	0	0	0	
Cash Funds	4,126	0	0	0	0	

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	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12		Change Requests
	Actual	Actual	Appropriation	Request	Staff Recomm.	
Operating Expenses	<u>1,169,809</u>	<u>988,518</u>	<u>1,146,981</u>	<u>1,369,157</u>	<u>1,369,157</u>	
General Fund	1,152,309	966,968	1,116,981	1,339,157	1,339,157	OSPD DI #1
Cash Funds	17,500	21,550	30,000	30,000	30,000	
Purchase of Services from Computer Center - GF	19,579	19,579	See Cts. Admin, Admin. & Tech.	See Cts. Admin, Admin. & Tech.		
Vehicle Lease Payments - GF	47,764	50,688	52,632 S	61,948	Pending	OSPD DI #1
Capital Outlay - GF	62,760	100,000	233,910	164,605	164,605	
Leased Space/Utilities - GF	4,105,017	4,490,715	5,755,388	6,061,372	6,061,148	
Automation Plan - GF	1,084,390	1,097,199 a/	673,335	894,768	894,768	
Contract Services - GF	18,000	18,000	18,000	18,000	18,000	
Mandated Costs - GF	2,954,166	3,092,601	3,466,792	3,649,464	3,649,464	
Grants	40,647	88,729	168,000	316,520	316,520	
FTE	<u>0.0</u>	<u>2.0</u>	<u>2.8</u>	<u>5.1</u>	<u>5.1</u>	
Cash Funds	0	81,558	168,000 S	316,520 A	316,520	
FTE	0.0	1.0	2.8 S	5.1 A	5.1	
Reappropriated Funds	40,647	7,171	0	0	0	
FTE	0.0	1.0	0.0	0.0	0.0	
TOTAL - Public Defender	50,361,355	51,928,502	56,703,494	61,477,695	61,384,976	
FTE	<u>510.3</u>	<u>520.4</u>	<u>605.3</u>	<u>655.4</u>	<u>655.4</u>	
General Fund	50,062,135	51,818,223	56,505,494	61,131,175	61,038,456	
FTE	506.3	518.4	602.5	650.3	650.3	
Cash Funds	258,573	103,108	198,000	346,520	346,520	
FTE	4.0	1.0	2.8	5.1	5.1	
Reappropriated Funds	40,647	7,171	0	0	0	
FTE	0.0	1.0	0.0	0.0	0.0	

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

**Fiscal Year 2011-12 Joint Budget Committee Staff Figure Setting
Judicial Department
NUMBERS PAGES**

	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12		Change Requests
	Actual	Actual	Appropriation	Request	Staff Recomm.	
(6) ALTERNATE DEFENSE COUNSEL						
Lindy Frolich, State Alternate Defense Counsel						
This agency provides legal representation for indigent defendants in cases where the Public Defender is precluded from doing so because of an ethical conflict of interest. Cash funds are received from private attorneys and investigators for training.						
Personal Services - GF	659,819	704,510	690,704	704,807	690,704	
FTE	7.5	7.5	7.5	7.5	7.5	
Health, Life, and Dental - GF	47,420	65,348	72,424	73,457	73,457	
Short-term Disability - GF	789	941	954	1,046	1,089	
S.B. 04-257 Amortization Equalization Disbursement - GF	9,233	11,523	14,564	17,026	17,026	
S.B. 06-235 Supplemental Amortization Equalization Disbursement - GF	4,197	7,080	10,513	13,590	13,590	
Salary Survey - GF	29,321	0	0	0	0	
Performance-based Pay Awards - GF	7,323	0	0	0	0	
Operating Expenses	<u>65,840</u>	<u>65,619</u>	<u>67,030</u>	<u>67,030</u>	<u>67,030</u>	
General Fund	65,840	65,619	67,030	67,030	67,030	
Cash Funds	0	0	0	0	0	
Capital Outlay - GF	3,455	0	0	0	0	
Purchase of Services from Computer Center - GF	1,203	1,203	See Cts. Admin, Admin. & Tech.	See Cts. Admin, Admin. & Tech.		
Leased Space - GF	38,351	32,022	39,999	40,544	40,544	
Training and Conferences	<u>28,000</u>	<u>40,000</u>	<u>40,000</u>	<u>40,000</u>	<u>40,000</u>	
General Fund	20,000	20,000	20,000	20,000	20,000	
Cash Funds	8,000	20,000	20,000	20,000	20,000	

**Fiscal Year 2011-12 Joint Budget Committee Staff Figure Setting
Judicial Department
NUMBERS PAGES**

	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12		Change Requests
	Actual	Actual	Appropriation	Request	Staff Recomm.	
Conflict of Interest Contracts - GF	20,692,161	20,760,634	19,762,592 S,a/	21,499,144	21,499,144	OADC DI #1
Mandated Costs - GF	1,589,848	1,513,582	1,577,174 S,b/	1,663,839	1,663,839	
TOTAL - Alternate Defense Counsel	23,176,960	23,202,462	22,275,954	24,120,483	24,106,423	
FTE	7.5	7.5	7.5	7.5	7.5	
General Fund	23,168,960	23,182,462	22,255,954	24,100,483	24,086,423	
FTE	7.5	7.5	7.5	7.5	7.5	
Cash Funds	8,000	20,000	20,000	20,000	20,000	

a/ Reflects mid-year reduction of \$2,194,046 which has not yet been considered or approved by the Joint Budget Committee.

b/ Reflects mid-year reduction of \$86,665 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	1,666,918	1,865,701	1,895,244	1,935,054	1,868,708
FTE	26.8	26.8	26.9	26.9	26.9
Health, Life, and Dental - GF	129,824	139,235	165,272	167,808	167,808
Short-term Disability - GF	2,017	2,512	2,653	2,953	2,986
S.B. 04-257 Amortization Equalization Disbursement - GF	23,983	31,595	40,505	48,060	46,681
S.B. 06-235 Supplemental Amortization Equalization Disbursement - GF	10,889	19,384	29,238	38,362	37,260
Salary Survey - GF	87,642	0	0	0	0
Anniversary Increases - GF	26,554	0	0	0	0
Operating Expenses - GF	197,235	172,112	159,929	159,929	159,929

**Fiscal Year 2011-12 Joint Budget Committee Staff Figure Setting
Judicial Department
NUMBERS PAGES**

	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12		Change Requests
	Actual	Actual	Appropriation	Request	Staff Recomm.	
Capital Outlay - GF	3,280	3,517	0	0	0	
Purchase of Services from Computer Center - GF	1,553	1,553	See Cts. Admin, Admin. & Tech.	See Cts. Admin, Admin. & Tech.	See Cts. Admin, Admin. & Tech.	
Leased Space - GF	162,758	144,178	145,443	150,380	150,380	
CASA Contracts - GF	520,000	520,000	520,000	520,000	100,000	
Training - GF	32,519	36,999	38,000	38,000	38,000	
Court Appointed Counsel - GF	15,725,982 a/	15,853,321	16,273,656	16,531,560	16,531,560	OCR DI #1
Mandated Costs - GF	34,437	39,717	26,228	26,228	26,228	
TOTAL - Office of the Child's Representative - GF	18,625,591	18,829,824	19,296,168	19,618,334	19,129,540	
FTE	26.8	26.8	26.9	26.9	26.9	

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

(8) INDEPENDENT ETHICS COMMISSION

Jane Feldman, Executive Director

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

Personal Services - GF a/ FTE	Included in Dept. of Personnel and Administration	175,799 2.0	203,224 2.0	175,799 2.0	IEC DI #1
Health, Life, and Dental - GF a/		4,437	4,437	4,437	
Short-term Disability - GF a/		250	310	285	
S.B. 04-257 Amortization Equalization Disbursement - GF a/		3,867	5,099	4,458	

**Fiscal Year 2011-12 Joint Budget Committee Staff Figure Setting
Judicial Department
NUMBERS PAGES**

	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12		Change Requests
	Actual	Actual	Appropriation	Request	Staff Recomm.	
S.B. 06-235 Supplemental Amortization Equalization Disbursement - GF a/			2,820	4,098	3,558	
Salary Survey - GF			0	0	0	
Anniversary Increases - GF			0	0	0	
Operating Expenses - GF a/			28,578 S	15,807	15,807	
Legal Services - GF a/ Hours			67,842 900.0	67,842 900.0	Pending 900.0	
TOTAL - Independent Ethics Commission - GF			283,593	300,817	204,344	
FTE			2.0	2.0	2.0	

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.

JUDICIAL GRAND TOTAL	427,472,347	425,389,224	449,383,947	483,430,342	470,194,501	
FTE	<u>3,863.9</u>	<u>3,746.2</u>	<u>4,047.4</u>	<u>4,245.8</u>	<u>4,189.3</u>	
General Fund	326,575,083	319,455,895	326,454,402	347,338,264	336,952,495	
FTE	3,348.5	3,096.9	3,334.2	3,425.3	3,423.8	
Cash Funds	92,808,725	95,386,349	108,141,846	122,900,209	113,093,955	
FTE	433.3	578.0	622.2	744.5	678.5	
Reappropriated Funds	5,228,603	6,470,570	7,972,957	8,648,695	14,937,753	
FTE	67.1	48.6	58.0	58.0	58.0	
Federal Funds	2,859,936	4,076,410	6,814,742	4,543,174	5,210,298	
FTE	15.0	22.7	33.0	18.0	29.0	

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

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

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 recommendations in this packet would reduce FY 2010-11 appropriations by \$3 million General Fund. For FY 2011-12, staff's recommendations would increase total funding for the Department by about \$25 million, including \$14 million General Fund (assuming pending items are funded at the requested levels). Of the recommended increase:

- \$18 million (including \$9 million General Fund) is required to implement prior year legislation;
- \$5 million General Fund restores temporary reductions in funding (including the \$3 million of reductions recommended in this packet); and
- \$2 million is required to increase employee benefits consistent with current law and Committee policies.

Staff's recommendations are \$10 million lower than the Department's request (including \$7 million General Fund), primarily due to the continuation of a reduced employer PERA contribution rate.¹ The table on the following page identifies the most significant recommendations included in this packet.

¹ The request generally reflected one month of a reduced PERA rate, consistent with current law.

Summary of Significant Staff Recommendations in this Packet						
Description	Total Funds	General Fund	Cash Funds	Reapprop. Funds	Federal Funds	FTE
FY 2010-11:						
Decrease funding for OADC conflict of interest contracts and mandated costs	(\$2,280,711)	(\$2,280,711)	\$0	\$0	\$0	0.0
Reduce funding for court and probation staff based on delays in filling vacant positions	(1,000,000)	(1,000,000)	0	0	0	(22.4)
FY 2011-12:						
Annualize 2010 legislation (H.B 10-1338, H.B. 10-1347, and H.B. 10-1352)	\$11,997,564	\$5,680,201	(\$249,750)	\$6,567,113	\$0	0.0
Provide funding for judgeships authorized by H.B. 07-1054 (Courts, OSPD)	5,849,323	2,955,696	2,893,627	0	0	90.8
Restore one-time FY 2010-11 reductions (Administration, Courts, Probation, OSPD, OADC, IEC)	5,079,414	5,079,414	0	0	0	41.3
Increase funding for employee benefits	2,137,378	1,652,887	484,491	0	0	0.0
Upgrade and support Judicial network infrastructure and staff	605,399	0	605,399	0	0	2.0
Partially restore staff for Court of Appeals	286,083	0	286,083	0	0	4.0
Increase rate for certified Spanish language interpreters	236,500	236,500	0	0	0	0.0
Reduce funding for grant programs	(813,430)	(886,570)	73,140	0	0	0.0
Maintain base funding for adult drug courts following conclusion of federal grant	(1,043,448)	0	560,481	0	(1,603,929)	0.5
Eliminate one-time funding for courthouse furnishings	(1,891,474)	0	(1,891,474)	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 corpus², cases involving adjudication of water rights, summary proceedings initiated under the Elections Code, and prosecutorial appeals concerning search and seizure questions in pending criminal proceedings. The Supreme Court also oversees the regulation of attorneys and the practice of law. The Supreme Court is composed of seven justices who serve renewable 10-year terms. The Chief Justice, selected by the justices of the Court, is the executive head of the Department.³

Created by statute, the *Court of Appeals* is generally the first court to hear appeals of 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.⁴

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

Supreme Court/ Court of Appeals: Staffing Summary				
Position Description	FY 2009-10 Actual	FY 2010-11 Estimate	FY 2011-12 Request	FY 2011-12 Recomm.
Supreme Court Justices	7.0	7.0	7.0	7.0
Court of Appeals Judges	22.1	22.0	22.0	22.0
Admin./Support Systems (DI#2)	29.8	28.0	30.0	30.0
Law Clerks	52.6	54.0	54.0	54.0
Staff Attorneys (DI#2)	22.8	21.6	23.6	23.6
Library Personnel	<u>3.9</u>	<u>3.4</u>	<u>3.4</u>	<u>3.4</u>

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

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

⁴ Section 13-4-101 et seq., C.R.S.

Supreme Court/ Court of Appeals: Staffing Summary				
Position Description	FY 2009-10 Actual	FY 2010-11 Estimate	FY 2011-12 Request	FY 2011-12 Recomm.
Subtotal - Appellate Court Programs line item	138.2	136.0	140.0	140.0
Attorney Regulation Committees	40.5	40.5	40.5	40.5
Continuing Legal Education	4.0	4.0	4.0	4.0
Law Examiner Board	8.2	8.2	8.2	8.2
Law Library	<u>0.0</u>	<u>1.5</u>	<u>1.5</u>	<u>1.5</u>
Subtotal - Other line items	52.7	54.2	54.2	54.2
DIVISION TOTAL	190.9	190.2	194.2	194.2

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 \$11,574,386 and 140.0 FTE for this line item. This request is impacted by JUD DI #2, discussed below.

Judicial Decision Item #2: Trial Court and Appellate Staff

The Department is requesting \$2,706,096 cash funds from the Judicial Stabilization Fund to restore 54.0 FTE in county, district, and appellate courts. Existing staffing shortages are resulting in shorter business hours, longer lines, and reduced public access to records. In the longer term, staffing shortages will increase the average length of time to resolve cases and result in case backlogs. Without additional staff, the Department indicates that it will fall to 93 percent of full staffing in FY 2011-12. While this request will not achieve 100 percent staffing levels, it will prevent further erosion of clerical support functions. The following table details the components of this request.

Summary of Decision Item #2 Request: Trial Court and Appellate Staff		
	CF	FTE
<u>Supreme Court/ Court of Appeals</u>		
Appellate Court Programs	\$248,259	4.0

Summary of Decision Item #2 Request: Trial Court and Appellate Staff		
	CF	FTE
<u>Courts Administration</u>		
<i>Central Appropriations</i>		
Health, Life, and Dental	444,204	0.0
Short-term Disability	3,120	0.0
Amortization Equalization Disbursement (AED)	51,392	0.0
Supplemental AED	41,298	0.0
<i>Centrally Administered Programs</i>		
Courthouse Capital/ Infrastructure Maintenance	66,420	
<u>Trial Courts</u>		
Trial Court Programs	1,851,403	50.0
Total Requested Changes	\$2,706,096	54.0

Last Session, the General Assembly reduced appropriations for county, district, and appellate courts by \$5.9 million and 158.0 FTE as part of the budget balancing process. This represents about a 10 percent reduction in support staff positions. To ensure core functioning of the state’s trial and appellate courts, the Department is requesting spending authority to restore about one-third of these positions.

The Department has maximized limited resources and streamlined procedures wherever feasible to cope with staffing reductions while ensuring timely case processing. For example:

- Colorado was the first state in the nation to automate the issuance of arrest warrants. This project was completed in partnership with the other agencies that participate in the Colorado Integrated Criminal Justice Information System (CICJIS)⁵. What was once a time-intensive process that required a turnaround time of two to three days has become a paper on demand system in which a warrant is active in real time upon entry by a clerk into the Branch’s case management system (ICON/Eclipse). In addition to improving public safety, automating the issuance of arrest warrants has decreased the amount of clerical time associated with preparing warrants.

⁵ CICJIS is an integrated computer information system that links five state-level criminal justice agencies - the Colorado Judicial Branch, Colorado Bureau of Investigation, Colorado District Attorney’s Counsel, Colorado Department of Corrections, and the Division of Youth Corrections within the Colorado Department of Human Services.

- Colorado's Electronic filing (E-filing) system allows attorneys to file new cases, along with subsequent pleadings, through the Internet, thereby reducing the amount of clerical time required to process these documents. E-filing is available in county and district court civil cases, domestic relations cases, probate cases, and water cases, along with several non-criminal case types in the Court of Appeals. The Department is currently developing an in-house e-filing system that will expand e-filing to criminal case types and allow parties without an attorney ("pro se" litigants) to e-file as well.
- Individuals who owe fines, fees, or restitution can make payments through the Internet. Online payment is available in traffic, misdemeanor, and felony cases, as well as for money owed in civil cases. The online payment system reduces foot traffic in the courts, requires fewer clerical resources than in-person payments, and allows the courts to distribute restitution payments to victims more quickly.

Despite these, and other efforts, staff reductions have negatively affected court business. First, courts have reduced business hours, reduced resources available to respond to telephone inquiries, and reduced capacity to respond to research requests in order to focus resources on core case processing activities (e.g., data entry, filing, case management, and office support for judges and magistrates). Shorter business hours are less convenient for the public, and those who cannot get questions answered via the phone will often come in to get questions answered, further exacerbating the problem.

Further, the economic downturn has increased the number of pro se litigants. For example, while the number of domestic relations cases has increased by 10 percent over the last ten years, the number of pro se domestic relations cases has increased by 60 percent. Pro se litigants require more procedural assistance from court staff. If court staff do not have the time to adequately answer a pro se litigants questions, the individual will come to court unprepared, increasing the likelihood of hearings being continued and delaying resolution of the case.

Recommendation. **Staff recommends approving a portion of this request.** Specifically, **staff recommends approving the funding and staff requested for the Court of Appeals.** In FY 2010-11, appropriations for the Appellate Courts was reduced by 3.8 percent, resulting in the loss of 7.0 FTE and a seven percent staffing reduction. This staffing reduction has been exacerbated by a doubling in the number of unemployment appeals from the Industrial Claims Appeals Office. These cases are expedited by statute, and thus require attorney resources to be redirected from civil and criminal cases. These cases also involve a large number of self-represented litigants and require disproportionate resources from the Clerk's Office.

Based on FY 2009-10 filings, the Court of Appeals is currently staffed at 73 percent of need relative to staff attorneys, and at 63 percent of need in the Clerk's Office. The number of pending cases has increased by 10.6 percent over FY 2008-09 levels; as of January 1, 2011 there were 2,827 pending cases, which represent a 2.4 percent increase in the last six months alone. The deficiency in staffing resources is causing a variety of delays (e.g., processing electronic filings, issuing substantive orders,

notifying litigants and lower courts of case filings, and issuing mandates returning jurisdiction to the trial courts, and attorneys), and litigants are experiencing significant frustration due to the increase in the time spent on hold to speak with a Clerk's Office staff member.

Staff does not recommend approving the portion of the request related to trial courts at this time. Staff recognizes that base appropriations for trial court operations have been reduced significantly in recent years (more than \$5 million, resulting in an eight percent staff reduction). The Department indicates that these cuts resulted in trial courts operating at 80 percent of full staffing. The Department indicates that prior to the current economic downturn, civil and felony criminal cases were meeting the goals for timely case processing⁶. Currently, timeliness goals are not being met in either case type, and the civil backlog is double the recommended level.

However, the General Assembly has added resources for those judicial districts deemed most in need by adding 40 new judges since FY 2007-08. With the exception of the final three judges, funding for all of the judges and associated court staff was provided as of January 2011; based on staff's recommendations in this packet, the remaining three judges and associated staff will be funded beginning July 2011. The General Assembly has also authorized the Department to develop and implement an in-house public access system and begin developing an in-house e-filing system. Given various implementation delays, the impacts of these initiatives has not yet been fully realized.

Staff also notes that the overall court staffing need, based on the Department's weighted caseload model, has remained essentially steady since FY 2006-07. While civil and domestic relations filings have increased, criminal filings have decreased. Thus, although the courts are not currently operating at full staffing levels, at least the overall staffing need is not increasing (causing the staffing shortfall to continue to grow).

In addition, given the significant number of vacancies that the Department has kept open in the last two years to reduce expenditures, it is not clear judicial districts would be able to fill all of the positions requested by the Department. The Department's request for Trial Court Programs represents a \$7.9 million (6.9 percent) increase in funding (compared to the adjusted FY 2010-11 appropriation level), including 111.0 FTE. Staff thus recommends denying the portion of this request related to trial courts for now. Staff's intent is to allow the Department to fill all of the authorized positions for FY 2011-12, including all of the new positions added pursuant to H.B. 07-1054. By this time next year, more information should be available indicating whether the implementation of H.B. 07-1054 is mitigating the impact of recent staffing reductions in trial courts.

In summary, staff recommends appropriating a total of \$11,242,796 and 140.0 FTE for Appellate Court Programs, as detailed in the following table. The recommendation is \$331,590 lower than the request, due to continuation of the reduced employer PERA contribution.

⁶ Per Chief Justice Directive 08-05, these goals are: (1) no more than 10 percent of civil cases open for more than one year; and (2) no more than 5 percent of felony criminal cases open for more than one year.

Summary of Recommendation for Appellate Court Programs						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2010-11 Long Bill	\$9,844,869	\$961,522	\$0	\$0	\$10,806,391	136.0
Salary Survey awarded in FY 10-11	0	0	0	0	0	0.0
80% of Performance-based Pay awarded in FY 10-11	0	0	0	0	0	0.0
Reinstate FY 2010-11 reduction in employer's PERA contribution (2.5%)	215,546	34,515	0	0	250,061	0.0
Base reduction (0.0%)	0	0	0	0	0	0.0
JUD DI #2: Trial Court and Appellate Court Staff	0	244,459	0	0	244,459	4.0
Reduction in employer's FY 2011-12 PERA contribution (2.5%)	<u>(327,754)</u>	<u>(24,673)</u>	<u>0</u>	<u>0</u>	<u>(352,427)</u>	<u>0.0</u>
Subtotal: Personal Services	9,732,661	1,215,823	0	0	10,948,484	140.0
Operating Expenses:						
FY 2010-11 Long Bill	190,162	90,350	0	0	280,512	
FY 2010-11 Supplemental (transfer from Trial Court Programs for publication of appellate opinions)	10,000	0	0	0	10,000	
JUD DI #2: Trial Court and Appellate Court Staff	<u>0</u>	<u>3,800</u>	<u>0</u>	<u>0</u>	<u>3,800</u>	
Subtotal: Operating Expenses	200,162	94,150	0	0	294,312	0.0
Staff Recommendation	\$9,932,823	\$1,309,973	\$0	\$0	\$11,242,796	140.0

Capital Outlay

The Department does not request any funding for capital outlay for the Appellate Courts for FY 2011-12.

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 2010-11 Long Bill (\$6.0 million and 40.5 FTE).

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

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 2010-11 Long Bill (\$370,000 and 4.0 FTE).

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

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 2010-11 Long Bill (\$900,000 and 8.2 FTE).

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

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, pursuant to a mid-year adjustment that was recently approved by the Committee, this line item 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 2010-11 (\$500,000 and 1.5 FTE). In addition, the Department requests that the line item include \$50,000 reappropriated funds transferred from the Department of Law. The Department is 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 Judicial Center. This individual is in the process of 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 probation⁷. The Courts Administration section of the budget is currently comprised of three 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

(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 (\$290,000) 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 Revision Committee, the printing of civil and criminal jury instructions, and the Branch's membership in the National Center for State Courts (NCSC).

⁷ Article VI, Section 5 (3) of the Colorado Constitution; Section 13-3-101, C.R.S.

General Courts Administration: Staffing Summary				
Position Description	FY 2009-10 Actual	FY 2010-11 Approp.	FY 2011-12 Request	FY 2011-12 Recomm.
Administration (BA)	19.9	22.9	21.8	21.8
Court Services	0.0	16.9	16.9	16.9
Probation Services	0.0	17.0	17.0	17.0
Financial Services	21.7	24.0	24.0	24.0
Planning	7.8	8.0	8.0	8.0
Human Resources	11.0	12.0	12.0	12.0
Temporary Mid-year Reduction	<u>0.0</u>	<u>(0.1)</u>	<u>0.0</u>	<u>0.0</u>
Subtotal	60.4	100.7	99.7	99.7
Information Technology Services:				
Administration/ Support (DI#1)	6.7	9.7	10.7	10.7
Programming Services	13.9	23.0	23.0	23.0
Computer Technical Support (DI#1)	13.6	32.0	33.0	33.0
Programming/ Tech. Supervisors	5.8	5.0	5.0	5.0
Customer Support	4.0	0.0	0.0	0.0
Public Access System/ E-Filing System Project (annualization)	<u>0.4</u>	<u>18.0</u>	<u>19.0</u>	<u>19.0</u>
Subtotal	44.4	87.7	90.7	90.7
TOTAL	104.8	188.4	190.4	190.4

Request. The Department requests \$16,012,930 and 190.4 FTE for this line item. The request is impacted by JUD DI#1 (discussed below), a statewide request related to printing, annualization of funding provided for FY 2010-11, and a budget amendment related to the Long Bill reorganization implemented in FY 2010-11.

Judicial DI#1: Judicial Network Infrastructure and Support

The Department requests \$605,399 cash funds from the Judicial Stabilization Fund to cover the initial costs of upgrading their network, including 2.0 FTE to support the network. The ongoing costs associated with the request (\$597,793, beginning in FY 2012-13) would be supported by the Information Technology (IT) Cash Fund. The following table details the components of the request.

Summary of Decision Item #1 Request: Judicial Network Infrastructure and Support				
	GF	CF	TOTAL	FTE
<u>Courts Administration</u>				
<i>Administration and Technology</i>				
General Courts Administration (includes PERA at 10.15%)	\$147,793	\$0	\$147,793	2.0
Information Technology Infrastructure	450,000	0	450,000	0.0
<i>Centrally Administered Programs</i>				
Courthouse Capital/ Infrastructure Maintenance	0	7,606	7,606	0.0
<u>Trial Courts</u>				
Trial Court Programs	(597,793)	597,793	0	0.0
Total Requested Changes	\$0	\$605,399	\$605,399	2.0

The Department indicates that bandwidth demands on the Judicial Branch network have increased significantly over the past decade due to the following:

- the provision of a graphical use interface on the court and probation case management system (ICON/Eclipse);
- the use of digital audio recordings of courtroom proceedings;
- the use of the Internet for research purposes;
- the expansion of electronic filing;
- the use of video-conferencing among courts and other agencies;
- the new in-house Public Access System;
- increasing numbers of real-time data transfers between courts/probation and other entities;
- the use of on-line training opportunities.

The Department relies on the ICON/Eclipse case management system, which links court, probation, and financial information. This system has been crucial for the Branch to maintain service levels while sustaining staffing shortages. In addition, this system interfaces with other agencies, reducing data entry requirements for those agencies and improving public safety with timely transmission of data.

The Department monitors the performance and functionality of the network. Network usage is currently exceeding the acceptable number of bits per second in several locations across the state, and is affecting overall circuit utilization. To maintain the increased functionality offered to Judicial employees and other users, and a user response time of under three seconds, the Department will need to further increase the bandwidth. The Department seeks \$450,000 to cover the costs of increasing 80 locations to 3mb circuits.

The Department's request also includes funding to add 2.0 FTE network support staff. Currently, 3.0 FTE support the network including daily troubleshooting services with various districts, such as: network slowdowns, data exchanges not working with other public safety organizations, wireless access being down, various hardware not interacting properly. These staff also continually assess internal and external security threats to ensure appropriate controls and processes are in place to maximize network security. Finally, these staff must maintain the network by installing network infrastructure for new and remodeled courthouse and probation facilities, and also deploying new technologies to accommodate changes in business practices (e.g., jury scanners, wireless access, video-conferencing equipment, etc.). The Department indicates that for the size and complexity of the Judicial Branch network, a total of 5.0 FTE are required. One of the two requested positions would help monitor, assess, and trouble-shoot to ensure adequate network performance; the second requested position would assist with connecting new and replacement devices in the Denver regional area and ensure that new and remodeled facilities have the appropriate network infrastructure.

The Department intends for the IT Cash Fund to cover the ongoing costs of the network upgrades and added staff. However, cash flow projections indicate that revenues will not be sufficient to support this work until FY 2012-13. Thus, the Department proposes temporarily increasing the appropriation from the Judicial Stabilization Fund to support trial court staff in order to free up a sufficient amount of General Fund to support this request for FY 2011-12. This refinance of the Trial Court Programs line item would be reversed in FY 2012-13, and the IT Cash Fund would support the ongoing costs of this request.

Recommendation. **Staff recommends approving this request.** The Judicial Branch is reliant on its network to process court cases in a timely manner, to collect fines and fees, and to process and supervise offenders sentenced to probation. Other agencies and individuals also rely on the network to file documents with the court and to exchange and review information related to public safety (e.g., police officers and employers performing background checks).

In summary, staff recommends appropriating \$15,687,881 and 190.4 FTE for this line item, as detailed in the following table. The recommendation is \$325,049 lower than the request, due to the continuation of a reduced employer PERA contribution rate.

Summary of Recommendation for Administration and Technology, General Courts Administration						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2010-11 Long Bill	\$11,934,394	\$1,621,534	\$1,537,829	\$0	\$15,093,757	188.5
FY 2010-11 Supplemental (temporary base reduction; indirect cost adjustment; eliminate appropriation of transferred funds)	<u>(337,769)</u>	<u>0</u>	<u>13,669</u>	<u>0</u>	<u>(324,100)</u>	<u>(0.1)</u>
Subtotal: FY 2010-11 Appropriation	11,596,625	1,621,534	1,551,498	0	14,769,657	188.4

Summary of Recommendation for Administration and Technology, General Courts Administration						
	GF	CF	RF	FF	TOTAL	FTE
Restore temporary FY 2010-11 base reduction	150,000	0	0	0	150,000	2.1
Annualize FY 2010-11 DI #1 (Public Access System/ E-filing System)	0	52,800	0	0	52,800	1.0
Salary Survey awarded in FY 10-11	0	0	0	0	0	0.0
80% of Performance-based Pay awarded in FY 10-11	0	0	0	0	0	0.0
Reinstate FY 2010-11 reduction in employer's PERA contribution (2.5%)	144,008	36,928	30,250	0	211,186	0.0
Fund mix adjustment (indirect costs)	(659,153)	0	659,153	0	0	0.0
Base reduction (0.0%)	0	0	0	0	0	0.0
Budget Amendment - Transfer Office of Dispute Resolution back to Trial Court Programs line item	(204,008)	0	0	0	(204,008)	(3.1)
JUD DI #1 - Judicial Network Infrastructure (based on PERA at 10.15%; adjustment is reflected below)	145,893	0	0	0	145,893	2.0
Reduction in employer's FY 2011-12 PERA contribution (2.5%)	<u>(306,934)</u>	<u>(41,409)</u>	<u>0</u>	<u>0</u>	<u>(348,343)</u>	<u>0.0</u>
Subtotal: Personal Services	10,866,431	1,669,853	2,240,901	0	14,777,185	190.4
Operating Expenses:						
FY 2010-11 Long Bill	696,353	204,311	0	0	900,664	
Annualize FY 2010-11 DI #1 (Public Access System/ E-filing System)	0	8,132	0	0	8,132	
JUD DI #1 - Judicial Network Infrastructure	1,900	0	0	0	1,900	
Statewide Request - DPA Printing	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	
Subtotal: Operating Expenses	698,253	212,443	0	0	910,696	
Staff Recommendation	\$11,564,684	\$1,882,296	\$2,240,901	\$0	\$15,687,881	190.4

Capital Outlay

The Department does not request any funding for capital outlay for State Court Administrator's Office for FY 2011-12.

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 (ICON, CICJIS, other systems, and off-the-shelf software packages), 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 2011-12, the Department requests a total of \$4,642,845 for this line item. This request is impacted by JUD DI #1 (Judicial Network Infrastructure and Staff).

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

Summary of Recommendation for Courts Administration, Integrated Information Services, Information Technology Infrastructure					
	GF	CF	RF	FF	TOTAL
FY 2010-11 Long Bill	\$403,094	\$3,866,052	\$0	\$0	\$4,269,146
Annualize FY 2010-11 DI #1 (Public Access System/ E-filing System)	0	(76,301)	0	0	(76,301)
JUD DI#1 (Judicial Network Infrastructure and Support)	450,000	0	0	0	450,000
Staff Recommendation	853,094	3,789,751	0	0	4,642,845

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 \$143,284 for FY 2011-12.

Recommendation. **Staff recommends appropriating \$143,285, 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 Courts Administration section to offset General Fund appropriations.

Request. The Department requests an appropriation of \$1,907,327 cash funds for FY 2011-12. This request represents an increase of \$653,890 or 52.2%. As detailed in the following, the significant increase is primarily due to assessments that will be charged to the IT Cash fund and the various Supreme Court cash funds.

Departmental Indirect Cost Assessment			
	FY 2010-11	FY 2011-12	Annual Change
Offender Services Fund	\$518,267	\$639,618	\$121,351
Information Technology Cash Fund	0	303,471	303,471
Courthouse Security Cash Fund	175,270	213,580	38,310
Alcohol and Drug Driving Safety Program	199,625	209,448	9,823
Supreme Court Cash Funds	0	191,743	191,743
Collection Enhancement Fund	148,133	135,908	(12,225)
Fines Collection Cash Fund	84,041	92,452	8,411
Drug Offender Surcharge Fund	71,176	75,325	4,149
Judicial Performance Fund	40,225	28,350	(11,875)
Family Friendly Court Cash Fund	16,379	11,984	(4,395)
Offender Identification Fund	<u>320</u>	<u>5,449</u>	<u>5,129</u>
Total	1,253,436	1,907,328	653,892

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 \$19,474,768 for this line item for FY 2011-12. This request is impacted by JUD DI #2 (Trial Court and Appellate Court Staff) and JUD DI #5 (Problem-solving Courts). This request is consistent with Committee policy with respect to employer contribution rates for FY 2011-12⁸.

Recommendation. **Staff recommends appropriating \$19,005,886 for FY 2011-12.** The recommendation includes \$32,904 cash funds for DI #2, and \$139,842 cash funds for DI #5.

The following table summarizes all five of staff's recommendations related to Health, Life, and Dental benefits.

Summary of Health, Life and Dental Recommendations					
	GF	CF	RF	FF	TOTAL
Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation	\$17,049,433	\$1,956,453	\$0	\$0	\$19,005,886
Public Defender	4,589,644	0	0	0	4,589,644
Alternate Defense Counsel	73,457	0	0	0	73,457
Office of the Child's Representative	167,808				167,808

⁸ Employer contribution rates approved by the Committee include the following: \$368.42 (employee), \$623.42 (employee + spouse), \$659.66 (employee + children), and \$914.50 (employee + family) for health benefits; \$23.80 (employee), \$39.00 (employee + spouse), \$41.18 (employee + children), and \$56.38 (employee + family) for dental benefits; and \$9.40 for life benefits.

Summary of Health, Life and Dental Recommendations					
	GF	CF	RF	FF	TOTAL
Independent Ethics Commission	4,437	0	0	0	4,437
Staff Recommendation	\$21,884,779	\$1,956,453	\$0	\$0	\$23,841,232

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 \$344,697 for this purpose for FY 2011-12.

Recommendation. **Staff recommends an appropriation of \$294,734, consistent with the Committee policy of applying a rate of 0.177 percent to base salaries.** Staff's recommendation includes funding associated with the annualization of prior year legislation (H.B. 07-1054, H.B. 10-1338, H.B. 10-1347, and H.B. 10-1352), as well as JUD DI #2 (Trial Court and Appellate Court Staff) and JUD DI #5 (Problem-solving Courts).

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 \$5,622,027 for FY 2011-12.

Recommendation. **Staff recommends an appropriation of \$4,616,441, consistent with the Committee policy** [2.6 percent of base salaries for CY 2011 and 3.0 percent of base salaries for CY 2012]. Staff's recommendation includes funding associated with the annualization of prior year legislation (H.B. 07-1054, H.B. 10-1338, H.B. 10-1347, and H.B. 10-1352), as well as JUD DI #2 (Trial Court and Appellate Court Staff) and JUD DI #5 (Problem-solving Courts).

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 \$4,492,992 for FY 2011-12.

Recommendation. **Staff recommends an appropriation of \$3,689,091, consistent with the Committee policy** [2.0 percent of base salaries for CY 2011 and 2.5 percent of base salaries for CY 2012]. Staff's recommendation includes funding associated with the annualization of prior year

legislation (H.B. 07-1054, H.B. 10-1338, H.B. 10-1347, and H.B. 10-1352), as well as JUD DI #2 (Trial Court and Appellate Court Staff) and JUD DI #5 (Problem-solving Courts).

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 did not request any funding for this line item for FY 2010-11.

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. 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 2010-11.

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

Workers' Compensation

Description. This line item is used to pay the Department'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 Public Defender's Office, the Office of the Alternate Defense Counsel, the Office of the Child's Representative, and the Independent Ethics Commission.

Request. The Department requests \$2,030,749 General Fund for FY 2011-12.

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 \$220,110 General Fund to purchase 3,000 hours of services in FY 2011-12.

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 Department'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 Public Defender's Office, the Office of the Alternate Defense Counsel, the Office of the Child's Representative, and the Independent Ethics Commission.

Request. The Department requests \$518,352 General Fund for this purpose for FY 2011-12.

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 Department's share of the statewide multi-use network.

Request. The Department requests \$411,121 General Fund for multi-use network payments for FY 2011-12.

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 Department'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 Public Defender, the Alternate Defense Counsel, the Office of the Child's Representative, and the Independent Ethics Commission.

Request. The Department requests \$294,450 General Fund for this purpose for FY 2011-12.

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 the Branch. 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 \$56,345 General Fund for FY 2011-12. The Department has not requested funding to replace any vehicles.

Recommendation. **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, the Division of Integrated Information Services, and storage. The Department currently has three leases for a total of 57,037 square feet at three locations in Denver (including: 101 W. Colfax, Grandview, and the Chancery).

Request. The Department requests an appropriation of \$1,285,765 for FY 2011-12. An increase of \$30,482 (2.4 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 \$17.10 to \$17.54. The source of cash funds is employee parking fees.

Please note that last Spring 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. 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 Justice Complex project.

Communication Services Payments

Description. This line item provides funding to pay to the Department of Personnel and Administration the Judicial Department's share of the costs associated with operating the public safety communications infrastructure.

Request. The Department requests \$11,599 for this purpose for FY 2011-12.

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 2011-12 (\$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 by statute. 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 2011-12 (\$15,095,039 and \$12,120,121, respectively).

Recommendation. Staff recommends increasing the amounts reflected in the FY 2011-12 Long Bill for both of these line items, and the Long Bill reflect rounded dollar amounts to better express the nature of these line items. Specifically, **based on actual expenditures in FY 2009-10, staff recommends reflecting \$16,375,000 cash funds for Victim Assistance and \$12,175,000 for Victim Compensation.** 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 \$5,171,486 and 83.2 FTE FY 2011-12.

Recommendation. **Staff recommends an appropriation of \$5,082,460 and 83.2 FTE for FY 2011-12**, as detailed in the following table. The recommendation is \$89,026 lower than the request due to the continuation of a reduced employer PERA contribution rate.

Summary of Recommendation: Collections Investigators						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2010-11 Long Bill	\$	3,920,433	\$0	\$0	\$3,920,433	83.2
Salary Survey awarded in FY 10-11	0	0	0	0	0	0.0
80% of Performance-based Pay awarded in FY 10-11	0	0	0	0	0	0.0
Reinstate FY 2010-11 reduction in employer's PERA contribution (2.5%)	0	94,392	0	0	94,392	0.0
Base reduction (0.0%)	0	0	0	0	0	0.0
Reduction in employer's PERA contributions (2.5%)	0	(96,891)	0	0	(96,891)	0.0
Subtotal: Personal Services	0	3,917,934	0	0	3,917,934	83.2
Operating Expenses:						
FY 2009-10 Long Bill	0	266,985	0	0	266,985	
VALE Grants	0	0	897,541	0	897,541	
Staff Recommendation	\$0	\$4,184,919	\$897,541	\$0	\$5,082,460	83.2

Staff's recommendation does not reflect a 1.5 percent base reduction in funding. This line item is supported by grants and moneys collected by these staff. Recoveries are credited to the General Fund.

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 in April 2008:

"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 services⁹).
- 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.

⁹ 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.

- 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.

For FY 2010-11, the General Assembly 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 was originally to be spent from August 2009 through July 2011. However, due to a significant delay in receiving and executing the grant, the Department learned on November 3, 2010 that it has been extended through June 30, 2012. The Department is using these funds to expand the capacity of existing adult drug courts from 35 to 50 percent of the target population.

There are currently 21 adult drug courts operating in 14 of the 22 judicial districts¹⁰; another two districts (3rd - Las Animas and 17th - Adams) are currently planning to implement adult drug courts. For the three months from July 1 through September 30, 2010, there were 1,527 offenders who participated in these courts out of 3,553 high need/ high risk offenders under probation supervision who met drug court eligibility criteria. Thus, 43 percent of the eligible population in these districts were participating in adult drug courts.

In addition, several districts are currently operating or planning to implement other types of problem-solving courts, including Family/Dependency & Neglect Courts, Juvenile Drug Courts, DUI Courts, Adult and Juvenile Mental Health Courts, and a Veterans Court. However, there is currently no separate or additional state funding provided for these types of problem-solving courts.

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

¹⁰ 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).

Problem-solving Courts: Staffing Summary				
Position Description	FY 2009-10 Actual	FY 2010-11 Approp.	FY 2011-12 Request	FY 2011-12 Recomm.
Court Judicial Assistance (Clerks) (DI#5)	4.4	5.4	5.9	5.9
Magistrates (DI#5)	1.9	2.0	2.5	2.0
Probation Officers	6.6	13.5	13.5	13.5
Problem-Solving Court Coordinators (CI#5)	4.8	10.3	16.3	10.3
Support Services	0.6	1.0	1.0	1.0
Court Programs Analyst	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
TOTAL	18.3	32.2	39.2	32.7

Request. The Department requests \$2,724,881 and 39.2 FTE for FY 2011-12. This request is impacted by JUD DI#5, discussed below.

Judicial Decision Item #5: Maintain and Expand Problem-solving Courts

The Department requests \$1,734,930 cash funds from the Judicial Stabilization Cash Fund and an increase of 7.0 FTE to maintain and expand problem-solving courts. The request includes two components.

- The Department requests \$1,202,763 to replace a portion of federal grant funds which is currently supporting 15.5 FTE added in FY 2010-11 to expand the capacity of adult drug and DUI courts.
- The Department's request includes \$532,167 and 6.5 FTE to sustain and enhance Family/Dependency & Neglect (D&N) Courts. The Problem-solving Court Advisory Committee elected to prioritize those types of problem-solving courts that are most prevalent and serve the greatest number of offenders in Colorado, those that are best supported by state and national research, and those that are most likely to produce the greatest return on state resources. Following adult drug courts, the Advisory Committee has identified Family Treatment Drug Courts as the next priority. The Department indicates that a four-year, multi-site, national study found that these courts are more successful than traditional child welfare case processing in helping substance-abusing parents enter and complete treatment and reunify with their children. Children of mothers participating in these courts spent fewer days in out-of-home care and were twice as likely to be reunified with their parents. The request would provide support for the eleven existing courts of this type, providing funding for dedicated coordinators to facilitate expansion and enhancement efforts.

Recommendation. **Staff recommends approving a portion of the request.** Staff's recommendation is intended to maintain existing support for adult drug and DUI courts, but not to add staff at this time to sustain and enhance Family/ D&N Courts. **Specifically, staff recommends increasing the cash funds appropriation by \$420,639 and 4.5 FTE**, as detailed in the table below. As the federal Byrne grant period has been extended through June 30, 2012, the Department now estimates federal grant expenditures of \$1,155,000 in FY 2010-11 and \$782,124 in FY 2011-12. This expenditure pattern would reduce the cash funds required in FY 2011-12.

Summary of Recommendation for JUD DI #5: Problem-solving Courts						
	Request		Recommendation		Difference	
	Dollars	FTE	Dollars	FTE	Dollars	FTE
Problem-solving Courts:						
Personal Services	(\$870,951)	7.0	(\$1,213,015)	0.5	(\$342,064)	(6.5)
Operating Expenses	71,210		29,725		(41,485)	0.0
Total Change to Line Item	<u>(799,741)</u>	<u>7.0</u>	<u>(1,183,290)</u>	<u>0.5</u>	<u>(383,549)</u>	<u>(6.5)</u>
Cash Funds	1,471,312	22.0	420,639	4.5	(1,050,673)	(17.5)
Federal Funds	(2,271,053)	(15.0)	(1,603,929)	(4.0)	667,124	11.0
Health, Life and Dental - CF	197,424		0		(197,424)	
Short-term Disability - CF	2,156		0		(2,156)	
AED - CF	35,505		0		(35,505)	
SAED - CF	28,530		0		(28,530)	
Total	<u>(\$536,126)</u>	<u>7.0</u>	<u>(\$1,183,290)</u>		<u>(\$647,164)</u>	<u>(7.0)</u>
Cash Funds	\$1,734,927	22.0	\$420,639		(\$1,314,288)	(22.0)
Federal Funds	(\$2,271,053)	(15.0)	(\$1,603,929)		\$667,124	15.0

In summary, staff recommends an appropriation of \$2,309,513 and 32.7 FTE, as detailed in the following table. The recommendation is \$415,368 lower than the request, based on staff's recommendation for JUD DI#5 (detailed above) and due to the continuation of the reduced employer PERA employer contribution.

Summary of Recommendation for Problem-solving Courts						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2010-11 Long Bill	\$0	\$1,091,842	\$0	\$2,386,053	\$3,477,895	32.2
Salary Survey awarded in FY 10-11	0	0	0	0	0	0.0

Summary of Recommendation for Problem-solving Courts						
	GF	CF	RF	FF	TOTAL	FTE
80% of Performance-based Pay awarded in FY 10-11	0	0	0	0	0	0.0
Reinstate FY 2010-11 reduction in employer's PERA contribution (2.5%)	0	25,019	0	0	25,019	0.0
Base reduction (0.0%)	0	0	0	0	0	0.0
JUD DI #5: Expand Problem-solving Courts	0	400,824	0	(1,613,839)	(1,213,015)	0.5
Reduction in employer's FY 2011-12 PERA contribution (2.5%)	<u>0</u>	<u>(33,904)</u>	<u>0</u>	<u>0</u>	<u>(33,904)</u>	<u>0.0</u>
Subtotal: Personal Services	0	1,483,781	0	772,214	2,255,995	32.7
Operating Expenses:					0	
FY 2010-11 Long Bill	0	23,793	0	0	23,793	
JUD DI #5: Expand Problem-solving Courts	<u>0</u>	<u>19,815</u>	<u>0</u>	<u>9,910</u>	<u>29,725</u>	
Operating Expenses	0	43,608	0	9,910	53,518	0.0
Total Recommendation	0	1,527,389	0	782,124	2,309,513	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. 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 \$30 per hour; this rate was most recently increased from \$25 to \$30 in 2001. Certified interpreters working in languages other than Spanish are paid at \$45/hour.

Request. The Department requests \$3,928,163 and 25.0 FTE for FY 2011-12. The Department's request is impacted by JUD DI#3, discussed below. 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%
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		
2011-12 Request	3,928,163		

* 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 has 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 Branch 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 Branch 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.

Judicial Decision Item #3: Certified Spanish Interpreter Rate Increase

The Department requests \$473,000 General Fund to increase the hourly rate paid to certified Spanish language interpreters (independent contractors) from \$30 to \$40. The Department maintains a roster of professionally *certified* interpreters who meet minimum professional competency standards, and have achieved a passing score (at least 70 percent) on a nationally recognized oral language interpreter certification exam. A professionally *qualified* interpreter can be used if a certified interpreter is not available; these individuals have met training and minimum oral certification exam requirements, but have not received a passing score.

The Department is seeking an increase in the hourly rate for certified interpreters because it is having trouble attracting and retaining enough certified interpreters for its roster. A recent study determined that Colorado ranks 27th nationally for language interpreter compensation; the average hourly rate nationally is \$47¹¹. Certified interpreters can earn more working for the federal courts, federal agencies, or private entities. Currently Colorado has 57 approved certified Spanish independent contract interpreters and seven independent contract interpreters in other languages (Russian and Vietnamese).

In addition, the U.S. Department of Justice recently issued a memorandum advising all Chief Justices and State Court Administrators that it expects meaningful access to be provided to LEP persons in all court and court-annexed proceedings, whether civil, criminal, or administrative, including those presided over by non-judges. Such services are to be provided in all operations or encounters with court-appointed or supervised personnel or professionals (e.g., criminal defense counsel, child advocates, court psychologists, probation officers, doctors, etc.), whether the contact occurs inside or outside the courtroom. The Department indicates that Colorado is not currently in full compliance with all facets of these requirements, and this request is not sufficient to achieve full compliance. However, maintaining a roster of certified language interpreters is critical to their plan to work toward full compliance.

¹¹ Information the Department provided during their hearing indicated the following rates for surrounding states: Utah - \$36.23; New Mexico - \$40; Nebraska - \$50; and Nevada - \$60 to \$120. Overall, of the 25 states listed in the hearing material, rates paid range from \$32.50 (Oregon) to \$150 (Michigan).

The number of Spanish language interpreters employed by the Department is not sufficient to provide all of the interpreting services statewide. If the Department cannot attract and retain a sufficient number of certified interpreters, courts will need to postpone cases, creating docketing problems. While the courts could utilize non-certified freelance interpreters, this would gravely lower the quality of interpreting services (less than 70 percent accuracy), which could lead to mistrials and frustration on the part of judges, and would put Colorado further out of compliance with federal requirements.

Finally, the Department points out that in other states, interpreters have unionized to advocate for their rights. In September 2007, interpreters in California went on a six-weeks strike for compensation reasons.

Recommendation. Staff recommends approving one-half of the requested rate increase for FY 2011-12. The Department indicates that it is having trouble attracting and retaining enough certified interpreters for its roster, but it has not provided data to demonstrate or quantify the impact of the current rate (e.g., How many contract interpreters does the Department need to meet current and projected demands? How often are professionally qualified interpreters currently utilized?). However, given that the rate has not changed for a decade and it is lower than that of any of at least 25 other states, staff believes that it would be prudent to begin to increase the rate in FY 2011-12. In addition, an increase in the rate should help the Department to move toward compliance with the recent U.S. Department of Justice memorandum concerning LEP persons. Staff’s recommendation is based on a \$5 (16.7 percent) rate increase for FY 2011-12.

In summary, staff recommends appropriating a total of \$3,633,821 and 25.0 FTE for FY 2011-12, as detailed in the following table. Cash funds are from various fees, cost recoveries, and grants. The recommendation is \$294,342 lower than the request due to staff’s recommendation on JUD DI#3, the continuation of the reduced employer PERA contribution, and the 1.5 percent base reduction.

Summary of Recommendation for Language Interpreters						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2010-11 Long Bill	\$3,278,312	\$0	\$0	\$0	\$3,278,312	25.0
Salary Survey awarded in FY 10-11	0	0	0	0	0	0.0
80% of Performance-based Pay awarded in FY 10-11	0	0	0	0	0	0.0
Reinstate FY 2010-11 reduction in employer’s PERA contribution (2.5%)	29,292	0	0	0	29,292	0.0
Base reduction (1.5%)	(22,820)	0	0	0	(22,820)	0.0
JUD DI #3: Certified Spanish Interpreter Rate (increase from \$30 to \$35)	236,500	0	0	0	236,500	0.0

Summary of Recommendation for Language Interpreters						
	GF	CF	RF	FF	TOTAL	FTE
Reduction in employer's PERA contribution (2.5%)	<u>(37,463)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>(37,463)</u>	<u>0.0</u>
Subtotal: Personal Services	3,483,821	0	0	0	3,483,821	25.0
Operating Expenses:						
FY 2010-11 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	0.0
Total Recommendation	3,583,821	50,000	0	0	3,633,821	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 awards¹².

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

Request. The Department requests \$3,864,989 cash funds and 1.0 FTE for FY 2011-12. The Department intends to maintain sufficient fund balance to continue supporting ongoing personnel grants of \$1,450,000 in FY 2011-12. Remaining funding would be used to provide annual one-time grants for equipment, courthouse emergencies, and training. Remaining funding would be used for a video conferencing initiative, program administration, and indirect costs.

¹² Section 13-1-201, *et seq.*, C.R.S.

Recommendation. **Staff recommends approving the request.** As this line item only supports 1.0 FTE, staff has not applied a 1.5 percent base personal services reduction. In addition, to the extent that administrative expenditures are reduced due to the continuation of the reduced employer PERA contribution rate, the Department will be able to increase grants to counties. The following table details actual and projected Court Security Cash Fund revenues and expenditures through FY 2012-13.

Court Security Cash Fund: Projected Cash Flow					
	FY 2008-09 Actual	FY 2009-10 Actual	FY 2010-11 Estimate	FY 2011-12 Estimate	FY 2012-13 Estimate
Beginning FY Balance	\$2,363,329	\$2,447,177	\$2,317,104	\$1,537,691	\$740,300
Revenues	3,397,200	3,284,138	3,287,422	3,303,859	3,320,379
Expenditures (including indirect costs)	<u>(1,813,352)</u>	<u>(2,914,211)</u>	<u>(4,066,835)</u>	<u>(4,101,250)</u>	<u>(3,751,250)</u>
Ending FY Balance without transfer	\$3,947,177	\$2,817,104	\$1,537,691	\$740,300	\$309,429
Transfer to the General Fund	<u>(1,500,000)</u>	<u>(500,000)</u>	<u>0</u>	<u>0</u>	<u>0</u>
Ending FY Balance after transfer	\$2,447,177	\$2,317,104	\$1,537,691	\$740,300	\$309,429
<i>Balance as % of annual expenditures</i>	<i>135.0%</i>	<i>79.5%</i>	<i>37.8%</i>	<i>18.1%</i>	<i>8.2%</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 (cash funds)	3,064,041
Average Annual Expenditure	1,693,123
FY 2010-11 Approp. (primarily cash funds)	2,445,791
FY 2011-12 Request (cash funds)	535,026

Request. The Department requests \$535,026 cash funds from the Judicial Stabilization Cash Fund for FY 2011-12. This request is impacted by JUD DI#1 (Judicial Network Infrastructure and Staff), JUD DI#2 (Trial Court and Appellate Court Staff), and JUD DI #4 (discussed below).

Judicial Decision Item #4: Courthouse Furnishings

The Department indicates that for FY 2011-12, it will require a total of \$461,000 for courthouse and probation facility furnishings in three judicial districts (including projects in Chaffee, Adams, Broomfield, and Boulder). Of the amount requested for FY 2011-12, \$435,000 relates to projects for which funding was appropriated for FY 2010-11. These projects have been delayed, so the Department requested (and the Committee approved) eliminating this funding for FY 2010-11. Consistent with the last two 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 2011-12.

Recommendation. **Staff recommends approving the request for \$461,000 cash funds to cover the state share of the costs of furnishing courthouse facilities in FY 2011-12.** The following table details the calculation of the recommendation, including amounts related to DI#1 and DI#2, which are discussed elsewhere in this packet.

Summary of Recommendation: Courthouse Capital/ Infrastructure Maintenance					
	GF	CF	RF	FF	TOTAL
FY 2010-11 Long Bill	\$0	\$2,800,000	\$0	\$0	\$2,800,000
H.B. 10-1338	24,284	0	0	0	24,284
H.B. 10-1347	34,091	0	0	0	34,091
H.B. 10-1352	22,416	0	0	0	22,416
FY 2010-11 Supplemental (for projects delayed to FY 2011-12)	<u>0</u>	<u>(435,000)</u>	<u>0</u>	<u>0</u>	<u>(435,000)</u>
Subtotal: FY 2010-11 Appropriation	80,791	2,365,000	0	0	2,445,791
Eliminate one-time funding provided for FY 2010-11	0	(1,515,000)	0	0	(1,515,000)
H.B. 07-1054 - Eliminate one-time funding for final 15 judgeships	0	(850,000)	0	0	(850,000)
Eliminate one-time funding provided for H.B. 10-1388, H.B. 10-1347, and H.B. 10-1352	(80,791)	0	0	0	(80,791)
JUD DI#1: Network Infrastructure and Support	0	7,606	0	0	7,606
JUD DI#2: Trial Court and Appellate Court Staff (only 4.0 FTE recommended)	0	4,920	0	0	4,920
JUD DI#4: Additional cost of furnishings for new and remodeled facilities	0	461,000	0	0	461,000
Staff Recommendation	\$0	\$473,526	\$0	\$0	\$473,526

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 2009-10 will be reimbursed by the Branch in FY 2010-11). Travel expenditures are reimbursed in the fiscal year in which they are incurred.

Request. The Department requests an appropriation of \$1,635,326 for FY 2011-12. This request is affected by JUD DI#9, discussed below.

Judicial Decision Item #9: Senior Judge Program Reduction

From FY 2002-03 to FY 2008-09, the expenses of the Senior Judge Program more than doubled. Program expenses have historically been difficult to predict, requiring mid-year increases in appropriations for four of the last eight fiscal years. Beginning in FY 2009-10, the Department took actions to reduce the use of senior judges in order to reduce expenditures. The Department has requested an ongoing reduction of \$258,680 General Fund (13.7 percent) for this program, beginning in FY 2010-11. The following table details the appropriation and expenditure history for this program.

Recent History of Funding for the Senior Judge Program						
Fiscal Year	Appropriation	Expenditures			Annual % Change	Approp.-Expend.
		PERA Payment	Travel	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	1,485,326	150,000	1,635,326	-15.8%	0
2011-12**	1,635,326	1,485,326	150,000	1,635,326	0.0%	0

* Appropriation includes a mid-year increase.

** FY 2010-11 appropriation, as adjusted, and estimated expenditures; FY 2011-12 request.

Staff recommends approving the request. The Committee recently approved the requested reduction for FY 2010-11, and staff recommends continuing funding at the reduced level in FY 2011-12. Given that all of the new judgeships authorized by H.B. 07-1054 will be filled in FY 2011-12, it is reasonable to assume the need for this program will remain below those required in the last three fiscal years. This program is a cost-effective way of managing dockets and covering judges' leave time.

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 \$920,635 and 2.0 FTE for FY 2012-12.

Recommendation. **Staff recommends appropriating \$916,353 cash funds and 2.0 FTE**, as detailed in the following table. The Office is supported by the State Commission on Judicial Performance Cash Fund, which consists of docket fees from criminal actions in district courts and traffic violations. The recommendation is \$4,282 lower than the request due to the continuation of the reduced employer PERA contribution.

Summary of Recommendation: Office of Judicial Performance Evaluation						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2010-11 Long Bill	\$0	\$167,717	\$0	\$0	\$167,717	2.0
Salary Survey awarded in FY 2010-11	0	0	0	0	0	0.0
80% of Performance-based Pay awarded in FY 2010-11	0	0	0	0	0	0.0
Reinstate FY 2010-11 reduction in employer's PERA contribution (2.5%)	0	3,843	0	0	3,843	0.0
Base reduction (0.0%)	0	0	0	0	0	0.0
Reduction in employer's FY 2011-12 PERA contribution (2.5%)	<u>0</u>	<u>(4,602)</u>	<u>0</u>	<u>0</u>	<u>(4,602)</u>	<u>0.0</u>
Subtotal: Personal Services	0	166,958	0	0	166,958	2.0
Operating Expenses:						
FY 2010-11 Long Bill	0	719,395	0	0	719,395	
Add 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	749,395	0	0	749,395	
Staff Recommendation	\$0	\$916,353	\$0	\$0	\$916,353	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 Fund¹³. 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)¹⁴. 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 \$910,000 for FY 2011-12, including \$750,000 General Fund and \$160,000 cash funds. In FY 2009-10, actual fee revenues totaled \$153,858 – \$10,428 more than anticipated. In addition, the Department reverted \$32,518 of the cash funds appropriation in S.B. 09-068. Thus, the Department sought to spend down the fund balance by \$40,000 in FY 2010-11 and to increase the annual spending authority to a level more commensurate with anticipated revenues (an increase of \$16,570). If this request had been approved, the Department would have increased the fourth quarterly payment to grantees proportionately.

Recommendation. In January, staff noted that the Committee may want to consider reducing or eliminating the General Fund appropriation for this grant program in FY 2011-12 as part of efforts to address the current revenue shortfall. Thus, the Committee chose to delay action on providing the additional cash funds spending authority to FY 2011-12.

Staff recommends the following:

- **Not making any adjustments to the FY 2010-11 appropriation.**
- **For FY 2011-12, staff recommends appropriating a total of \$216,570 cash funds** (including \$160,000 in anticipated FY 2011-12 revenues and \$56,570 revenue received in FY 2009-10 and FY 2010-11 that remain unspent) **and \$283,430 General Fund, to provide**

¹³ Section 14-4-107, C.R.S.

¹⁴ The other half of fee revenues are credited to the Colorado Domestic Abuse Program Fund, administered by the Department of Human Services.

a total appropriation of \$500,000. During the last economic downturn, the General Assembly eliminated funding for this program (for two fiscal years); the \$500,000 General Fund appropriation was restored in FY 2005-06. In FY 2008-09, the General Assembly approved a Department request to increase the General Fund appropriation for this grant program by \$250,000 (50 percent) to address the demand for affordable legal services. 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 recomm.	283,430	216,570	500,000

The General Assembly has the option of eliminating the General Fund appropriation for this line item, as it did during the last downturn. Staff’s recommendation is designed to (1) return the appropriation level to its historic level of \$500,000, and to (2) utilize available, dedicated cash fund revenues to support a portion of this appropriation.

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.

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 2011-12 (\$375,000 and 0.5 FTE).

Recommendation. Staff recommends approving the request. As this line item only supports 0.5 FTE, staff does not recommend applying a 1.5 percent base reduction in personal services funding. 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 \$90,730 and 1.0 FTE for FY 2011-12.

Recommendation. Staff recommends appropriating a total of \$88,864 and 1.0 FTE, as detailed in the following table. The General Fund appropriation is used to provide a required match for the federal funds, which are transferred from the Department of Human Services. Staff’s recommendation is \$1,866 lower than the Department request due to the continuation of the reduced employer PERA contribution.

Summary of Recommendation: Child Support Enforcement						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2010-11 Long Bill	\$30,212	\$0	\$0	\$58,652	\$88,864	1.0
Salary Survey awarded in FY 2010-11	0	0	0	0	0	0.0
80% of Performance-based Pay awarded in FY 2010-11	0	0	0	0	0	0.0
Reinstate FY 2010-11 reduction in employer’s PERA contribution rate (2.5%)	692	0	0	1,344	2,036	0.0
Base reduction (0.0%)	0	0	0	0	0	0.0
Reduction in employer’s FY 2011-12 PERA contribution (2.5%)	<u>(692)</u>	<u>0</u>	<u>0</u>	<u>(1,344)</u>	<u>(2,036)</u>	<u>0.0</u>
Staff Recommendation	\$30,212	\$0	\$0	\$58,652	\$88,864	1.0

(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 terms¹⁵.

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 water¹⁶.

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 terms¹⁷.

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.

¹⁵ Article VI, Sections 9 through 12 of the Colorado Constitution; Section 13-5-101 et seq., C.R.S.

¹⁶ Sections 37-92-203 and 204, C.R.S.

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

Trial Court Programs: Staffing Summary				
Position Description	FY 2009-10 Actual	FY 2010-11 Approp.	FY 2011-12 Request	FY 2011-12 Recomm.
District Court Judges	164.2	169.0	176.0	176.0
County Court Judges	88.6	89.2	91.2	91.2
Magistrates & Water Referees	61.6	63.9	63.9	63.9
Division Staff	68.6	167.2	174.2	174.2
Court Reporters	99.7	168.5	175.5	175.5
Clerks' Offices (DI#2)	1,033.6	942.6	1,012.6	962.6
Dispute Resolution	8.4	0.0	3.1	3.1
Administrative/ Office Support	122.8	89.1	89.1	89.1
Family Preservation	23.5	22.0	22.0	22.0
Temporary Mid-year Reduction	<u>0.0</u>	<u>(14.9)</u>	<u>0.0</u>	<u>0.0</u>
TOTAL	1,671.0	1,696.6	1,807.6	1,757.6

FY 2010-11 Request for Mid-year Adjustment. The Department has submitted a request to reduce its current year appropriations by a total of \$1,000,000 General Fund and 22.4 FTE, including \$300,000 and 6.5 FTE for this line item and \$700,000 and 15.9 FTE for the Probation Programs line item. This one-time reduction is due to greater than anticipated delays in filling vacant positions. The Department has been holding vacant positions open in order to achieve the expenditure reductions implemented by the General Assembly. Judicial districts across the state have been working to hire and train employees to fill those vacant positions that have not been eliminated, but this process is taking longer than anticipated. Thus, the Chief Justice chose to make the General Assembly aware of the situation and allow it to recognize the one-time savings that will occur in FY 2010-11.

Recommendation: FY 2010-11. Staff recommends approving the requested one-time reduction for Trial Court Programs.

FY 2011-12 Request. The Department requests \$123,046,134 and 1,807.6 FTE for this line item for FY 2011-12. The request for this line item is affected by the implementation of H.B. 07-1054 (discussed below), JUD DI#1 (Judicial Network Infrastructure and Staff), and JUD DI#2 (Trial Court and Appellate Court Staff).

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 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 twice. 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 judges and two of the final three new county court judges were filled on January 1, 2011; the remaining two district court judges and one county court judge will be filled July 1, 2011. Table 1 details this modified implementation schedule, by county and district. Please note that the following table only covers funding for Trial Courts, excluding funding for the State Public Defender’s Office 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 2010-11		FY 2011-12	
				Funding	FTE	Funding	FTE
District Courts							
1	Jefferson, Gilpin*	+2	7/1/11	\$850,000	0.0	\$679,972	10.0
2	Denver	+1	1/1/11	170,817	2.5	339,986	5.0
		+1	1/1/11	170,817	2.5	339,986	5.0
4	El Paso, Teller	+1	1/1/11	170,817	2.5	339,986	5.0
		+1	1/1/11	170,817	2.5	339,986	5.0
8	Larimer, Jackson	+1	1/1/11	171,640	2.5	339,986	5.0
17	Adams, Broomfield	+1	1/1/11	170,817	2.5	339,986	5.0
		+1	1/1/11	170,817	2.5	339,986	5.0
18	Arapahoe, Douglas, Elbert, Lincoln	+1	1/1/11	171,640	2.5	339,986	5.0
19	Weld	+1	1/1/11	171,640	2.5	339,986	5.0
20	Boulder	+1	1/1/11	171,640	2.5	339,986	5.0

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 2010-11		FY 2011-12	
			Funding	FTE	Funding	FTE
County Courts						
Adams	+1	1/1/11	133,784	2.0	264,273	4.0
El Paso	+1	1/1/11	133,784	2.0	264,273	4.0
Jefferson	+1	7/1/11	0	0.0	264,273	4.0
Statewide Total	15		2,829,025	29.0	4,872,651	72.0

* Please note that S.B. 11-028 would allocate one of these new judgeships to the 7th judicial district (Delta, Gunnison, Hinsdale, Montrose, Ouray, San Miguel). Based on FY 2009-10 case filing data, the 7th judicial district has the lowest district court judge staffing level in Colorado – just under 60 percent of full staffing. The associated costs for these new judgeships remain the same, whether or not S.B. 11-028 passes.

TABLE 2 Summary of Implementation Costs for FY 2011-12					
	Personal Services	Operating Expenses	Capital Outlay	Total	FTE
Funding Provided in FY 2010-11	\$1,933,124	\$45,900	\$850,000	\$2,829,024	29.0
Cost of full implementation in FY 2011-12	4,758,201	114,450	0	4,872,651	72.0
Annual Change in Appropriations	2,825,077	68,550	(850,000)	2,043,627	43.0

Staff recommends approving the request for \$2,893,627 for this line item (including \$2,825,077 for personal services and \$68,550 for operating expenses) for the final 15 judgeships authorized by H.B. 07-1054.

Recommendation. Staff recommends appropriating a total of \$118,965,987 and 1,757.6 FTE for the Trial Courts Program line item for FY 2011-12, as detailed in the table below. The sources of the cash funds are the Judicial Stabilization Fund and various fees and cost recoveries. The recommendation is \$4,080,147 lower than the request due to JUD DI #2 and the continuation of a reduced employer PERA contribution rate.

Summary of Recommendation: Trial Court Programs						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2010-11 Long Bill	\$90,508,255	\$17,242,746	\$965,000	\$0	\$108,716,001	1,711.5

Summary of Recommendation: Trial Court Programs						
	GF	CF	RF	FF	TOTAL	FTE
FY 10-11 Supplemental (including additional mid-year reduction recommended in this packet)	(625,923)	0	0	0	(625,923)	(14.9)
Subtotal: FY 2010-11 Appropriation	89,882,332	17,242,746	965,000	0	108,090,078	1,696.6
Reverse FY 10-11 Supplemental	625,923	0	0	0	625,923	14.9
Salary Survey awarded in FY 10-11	0	0	0	0	0	0.0
80% of Performance-based Pay awarded in FY 10-11	0	0	0	0	0	0.0
IV-D Adjustment	0	0	135,000	0	135,000	0.0
Reinstate FY 2010-11 reduction in employer's PERA contribution (2.5%)	2,214,457	407,448	0	0	2,621,905	0.0
H.B. 07-1054: Annualize funding for final 15 judgeships	0	2,825,077	0	0	2,825,077	43.0
Budget Amendment - Transfer Office of Dispute Resolution back from General Courts Administration line item	204,008	0	0	0	204,008	3.1
JUD DI#1 - Judicial Network Infrastructure and Support	(597,793)	597,793	0	0	0	0.0
JUD DI#2 - Trial Court and Appellate Court Staff	0	0	0	0	0	0.0
Base reduction (0.0%)	0	0	0	0	0	0.0
Reduction in employer's PERA contribution (2.5%)	(2,158,252)	(460,058)	0	0	(2,618,310)	0.0
Subtotal: Personal Services	90,170,675	20,613,006	1,100,000	0	111,883,681	1,757.6
Operating Expenses:						
FY 2010-11 Long Bill	244,297	6,779,459	0	0	7,023,756	
FY 10-11 Supplemental	(10,000)	0	0	0	(10,000)	
Subtotal: FY 2010-11 Appropriation	234,297	6,779,459	0	0	7,013,756	0.0
H.B. 07-1054: Annualize funding for final 15 judgeships	0	68,550	0	0	68,550	
JUD DI#2 - Trial Court and Appellate Court Staff	0	0	0	0	0	
Subtotal: Operating Expenses	234,297	6,848,009	0	0	7,082,306	0.0
Staff Recommendation	\$90,404,972	\$27,461,015	\$1,100,000	\$0	\$118,965,987	1,757.6

Capital Outlay

The Department does not request any funding for capital outlay for Trial Courts for FY 2011-12.

Court Costs, Jury Costs, and Court-appointed Counsel

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

- *Court Costs.* 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.
- *Jury Costs.* 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 daily¹⁸, 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-appointed Counsel.* 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).

Request. The Department requests a continuation level of funding for FY 2011-12 (\$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 actual expenditures in FY 2009-10 exceeded the amount requested for FY 2011-12. Cash funds are from various fees, cost recoveries, and grants.

¹⁸ This dollar amount has not changed since at least 1989.

District Attorney Mandated Costs

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

- The Department of Law's budget includes an appropriation for "District Attorneys' Salaries" (\$2,313,828 in the FY 2010-11 Long Bill).
- The Judicial Department's budget includes an appropriation for "District Attorney Mandated Costs" (\$2,130,324 in the FY 2010-11 Long Bill). 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 in FY 2010-11 Long Bill).
- The Department of Public Safety's budget includes an appropriation for "Witness Protection Fund Expenditures" to pay DAs for qualifying expenses related to security personnel, travel expenses, lodging, and other immediate needs (\$83,000 in the FY 2010-11 Long Bill).

Description. This line item provides state funding to reimburse DA's for costs incurred for prosecution of state matters, as required by state statute. Section 16-18-101, C.R.S., states that, "The costs in criminal cases shall be paid by the state pursuant to section 13-3-104, C.R.S.¹⁹, 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 2009-10 expenditure data provided by the CDAC, DAs' mandated costs consist of the following:

- Witness fees and travel expenses (\$644,534 or 31 percent of costs in FY 2009-10)
- Mailing subpoenas (\$519,198 or 25 percent)
- Expert witness fees and travel expenses (\$413,994 or 20 percent of costs in FY 2009-10)
- Service of process (\$320,792 or 16 percent)
- Court reporter fees for transcripts (\$170,237 or 8 percent)

¹⁹ 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".

The most significant cost increases in DA's mandated costs occurred in FY 2006-07 and FY 2007-08. These increases were largely due to rapidly increasing energy costs, which increased the mileage reimbursement rate. As a result, travel-related mandated costs increased by 40 percent from FY 2003-04 to FY 2006-07. 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					
2011-12 Request	2,101,188	125,000	2,226,188					

* Includes reduction of \$17,300 pursuant to H.B. 10-1291.

Prior to FY 2000-01, funding for DA's Mandated Costs was included within the "Mandated Costs" line item appropriation to the Judicial Department. In 1999, an ad hoc committee on mandated costs released a report recommending that responsibility for managing court costs be transferred to the entities that incur them. Thus, beginning in FY 2000-01, the General Assembly has provided a separate appropriation for DA's Mandated Costs. This line item has been accompanied by a footnote or a request for information (e.g., RFI #2 for FY 2010-11) indicating that DAs in each judicial district are responsible for allocations made by an oversight committee (currently the Colorado District Attorneys' Council or CDAC²⁰). Any increases in the line item are to be requested and justified in writing by the CDAC, rather than the Judicial Department.

²⁰ The CDAC is a quasi-government agency, supported by assessments charged to each participating DA's office (through an intergovernmental agreement).

The CDAC allocates funds among judicial districts based on historical spending (using a three-year average). 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 DA's offices to continue to follow the old Chief Justice Directive 87-01, which limits expert witness fees. Fees paid in excess of the limits established in this Directive are only reimbursed if funds remain available at the end of the fiscal year. In FY 2009-10, \$86,495 of DAs' expenditures were not reimbursed due to this policy.

Request. The CDAC requests \$2,220,863 for FY 2011-12, which represents a \$90,359 (4.3 percent) increase compared to FY 2010-11. The request is based on actual expenditures incurred in the last three fiscal years.

Recommendation. **Staff recommends appropriating \$2,198,494 for FY 2011-12.** The FY 2010-11 appropriation matches the amount that was requested, which was based on the average expenditures incurred from FY 2006-07 through FY 2009-10 (\$2,147,624). This appropriation was reduced by \$17,300 pursuant to H.B. 10-1291 (this act eliminated the daily fee that witnesses received for attending court). Staff agrees with the approach taken by the CDAC in calculating the request. However, based on actual reported expenditures (detailed in the above table), the compound annual growth rate in expenditures over the last three fiscal years (from FY 2006-07 to FY 2009-10) is 3.2 percent, rather than 4.3 percent. Thus, staff recommends a \$68,170 (3.2 percent) increase in the appropriation. Cash funds are from various fees, cost recoveries, and grants.

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 people that are working under the various grants.

Request. The Department requests a continuation level of spending authority for FY 2011-12.

Recommendation. **Staff recommends approving the request for \$2,900,000 and 14.0 FTE for FY 2010-11,** 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.

(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 probation²¹. The offender serves a sentence in the community under the supervision of a probation officer, subject to conditions imposed by the court. The length of probation is at the discretion of the court and it may exceed the maximum period of incarceration authorized for the offense of which the defendant is convicted, but it cannot exceed five years for any misdemeanor or petty offense. The conditions of probation should ensure that the defendant will lead a law-abiding life and assist the defendant in doing so. These conditions always include requirements that the defendant:

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

Managed by the Chief Probation Officer in each judicial district, 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.

²¹ Section 18-1.3-202 (1), C.R.S.

Probation Programs: Staffing Summary				
Position Description	FY 2009-10 Actual	FY 2010-11 Approp.	FY 2011-12 Request	FY 2011-12 Recomm.
Chief Probation Officers	25.0	25.0	25.0	25.0
Probation Supervisors	94.0	107.4	107.4	107.4
Probation Officers (DI#8)	742.6	830.8	830.8	830.8
Administrative/ Support	177.0	168.7	168.7	168.7
Temporary Mid-year Reduction	<u>0.0</u>	<u>(24.3)</u>	<u>0.0</u>	<u>0.0</u>
TOTAL	1,038.6	1,107.6	1,131.9	1,131.9

FY 2010-11 Request for Mid-year Adjustment. The Department has submitted a request to reduce its current year appropriations by a total of \$1,000,000 General Fund and 22.4 FTE, including \$300,000 and 6.5 FTE for this line item and \$700,000 and 15.9 FTE for the Probation Programs line item. This one-time reduction is due to greater than anticipated delays in filling vacant positions. The Department previously held vacant positions open in order to achieve the expenditure reductions implemented by the General Assembly. Judicial districts across the state have been working to hire and train employees to fill vacant positions this year (including the new positions added by the General Assembly through separate legislation), but this process is taking longer than anticipated. Thus, the Chief Justice chose to make the General Assembly aware of the situation and allow it to recognize the one-time savings that will occur in FY 2010-11.

Recommendation: FY 2010-11. Staff recommends approving the requested one-time reduction for Probation Programs.

Request: FY 2011-12. The Department requests \$74,891,474 and 1,131.9 FTE for FY 2011-12. This request is impacted by DI#8 (described below).

Judicial Decision Item #8: Delay Eliminating Funding to Implement SB 09-241

Senate Bill 09-241 (Morse/S. King) requires every individual arrested for or charged with a felony after September 30, 2010 to provide a DNA sample to the local law enforcement agency as part of the booking process. The Colorado Bureau of Investigation (CBI) is responsible for providing all sampling materials to local law enforcement agencies and for all testing and storage of acquired samples. The act created a surcharge of \$2.50 for every offense, including traffic offenses; surcharge revenues are credited to the Offender Identification Fund to support the required activities.

The fiscal note for the act anticipated that with DNA samples collected at arrest, probation officers would no longer be required to perform a DNA test. The CBI had planned to update its system to

create a field in the Colorado Crime Information Center (CCIC)²² record that would be checked or marked when the DNA sample was received from law enforcement. When an offender was sentenced to probation, the probation officer would check the CCIC record to ensure that the DNA sample had been collected. The probation officer would only collect the DNA sample if it had not already been done. Thus, the act was anticipated to reduce the probation workload by the equivalent of 1.5 FTE probation officers (\$91,004 General Fund) along with associated operating costs related to DNA test kits (\$61,275 cash funds). Consistent with the Legislative Council Staff fiscal note for this act, the Department's FY 2011-12 reflects these reductions.

Through this decision item, however, the Department requests to delay this reduction in funding and staff. In response to a Committee hearing question, the Department of Public Safety indicated that the CBI does not currently have a way to conclusively confirm that a DNA sample taken at the time of arrest is from the same individual who has been convicted and sentenced to probation. The Department contends that this confirmation is necessary to ensure that the DNA profiles of all convicted offenders entered into the national CODIS database are confirmed through a biometric identification methodology. The Department concludes, "Until a technological solution to the problem can be implemented, the CBI believes that DNA must continue to be collected upon both arrest and conviction."

Recommendation. Staff recommends approving this request, but staff recommends funding the full amount from the Offender Identification Fund. The anticipated savings will not be realized until this issue is addressed. Personal services and operating expenses associated with probation staff collecting DNA samples is an appropriate expense from the Offender Identification Fund, and the fund balance is sufficient to cover these expenditures. The Judicial Department indicates that the Department of Public Safety is supportive of this expenditure from the Fund, should it be necessary to continue these activities.

In summary, staff recommends an appropriation of \$73,419,435 and 1,131.9 FTE for this line item FY 2011-12, as detailed in the table below. The recommendation is \$1,472,039 lower than the request due to the continuation of the reduced employer PERA contribution.

Summary of Recommendation: Probation, Probation Programs						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2010-11 Long Bill	\$59,746,481	\$9,632,656	\$0	\$0	\$69,379,137	1,114.6

²² The CCIC is a statewide criminal justice computer system which delivers criminal justice information to law enforcement and criminal justice agencies. The CCIC allows Colorado law enforcement agencies to obtain information such as: statewide and national warrants, criminal history records, driver's license information, missing persons, protected parties, stolen property, sex offenders, and intelligence information.

Summary of Recommendation: Probation, Probation Programs						
	GF	CF	RF	FF	TOTAL	FTE
H.B. 10-1338	275,204	0	0	0	275,204	5.2
H.B. 10-1347	391,492	0	0	0	391,492	7.3
H.B. 10-1352	232,501	0	0	0	232,501	4.8
FY 10-11 Supplemental (including additional mid-year reduction recommended in this packet)	<u>(1,025,923)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>(1,025,923)</u>	<u>(24.3)</u>
Subtotal: FY 2010-11 Appropriation	59,619,755	9,632,656	0	0	69,252,411	1,107.6
Reverse FY 10-11 Supplemental	1,025,923	0	0	0	1,025,923	24.3
Reduce funding per S.B. 09-241	(91,004)	0	0	0	(91,004)	(1.5)
Annualize funding in H.B. 10-1338, H.B. 10-1347 (funding for 12th month due to payday shift) and H.B. 10-1352 (funding for 12 mos. rather than 10 mos.)	107,111	0	0	0	107,111	0.0
Salary Survey awarded in FY 10-11	0	0	0	0	0	0.0
80% of Performance-based Pay awarded in FY 10-11	0	0	0	0	0	0.0
JUD DI#8 - SB 09-241 Delay Annualization	0	91,004	0	0	91,004	1.5
Reinstate FY 2010-11 reduction in employer's PERA contribution (2.5%)	1,406,976	210,037	0	0	1,617,013	0.0
Base reduction (0.0%)	0	0	0	0	0	0.0
Reduction in employer's PERA contribution	<u>(1,397,908)</u>	<u>(208,883)</u>	<u>0</u>	<u>0</u>	<u>(1,606,791)</u>	<u>0.0</u>
Subtotal: Personal Services	60,670,853	9,724,814	0	0	70,395,667	1,131.9
Operating Expenses:						
FY 2010-11 Long Bill	2,188,484	818,849	0	0	3,007,333	
H.B. 10-1338	9,140	0	0	0	9,140	
H.B. 10-1347	12,935	0	0	0	12,935	
H.B. 10-1352	<u>8,460</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>8,460</u>	
Subtotal: FY 2010-11 Appropriation	2,219,019	818,849	0	0	3,037,868	
Reduce funding per S.B. 09-241	0	(61,275)	0	0	(61,275)	
Eliminate one-time funding in H.B. 10-1338, H.B. 10-1347 and H.B. 10-1352	(14,100)	0	0	0	(14,100)	
JUD DI#8 - SB 09-241 Delay Annualization	<u>0</u>	<u>61,275</u>	<u>0</u>	<u>0</u>	<u>61,275</u>	

Summary of Recommendation: Probation, Probation Programs						
	GF	CF	RF	FF	TOTAL	FTE
Subtotal: Operating Expenses	2,204,919	818,849	0	0	3,023,768	0.0
Staff Recommendation	62,875,772	10,543,663	0	0	73,419,435	1,131.9

Staff's recommendation does not include a 1.5 percent base reduction in personal services funding. In light of the revenue shortfall, the Department initially delayed filling vacant positions and proposed further reductions in probation staffing levels in FY 2010-11 to help balance the budget. Staff recommended against reducing staffing levels based on the likelihood that it would result in an overall increase in state expenditures.

A Chief Justice Directive requires the Department to maintain probation resources for pre-sentence investigation services, as well as for supervision of those offenders determined to be at the highest risk of re-offending. Thus, a staffing reduction has the greatest impact on "regular" probation caseloads, which is where 93 percent of adults under state supervision are served. The General Assembly reduced funding for probation staff during the last economic downturn. The result was a significant increase in the rate and number of adult offenders on probation who were sentenced to the Department of Corrections due to a technical violation (an increase from 1,499 in FY 2001-02 to 1,729 in FY 2004-05, representing a 15 percent increase). An excessive caseload limits a probation officer's ability to effectively employ intermediate sanctions in response to offender technical violations or to spend time locating and recovering offenders that abscond from supervision. Absent the ability to impose intermediate sanctions, the probation officer will generally file a motion to revoke probation, resulting in the offender being sentenced to the Department of Corrections (DOC), the Division of Youth Corrections (DYC), or local jail. The cost of housing offenders in these settings is significantly higher than the cost of probation supervision.

Capital Outlay

The Department does not request any funding for capital outlay for Probation for FY 2011-12.

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.

Request. The Department requests a total of \$17,499,136 for FY 2011-12. This request is impacted by JUD DI #6, described below.

Judicial Decision Item #6: H.B. 10-1352 Cash Fund Spending Authority

The Department requests a \$6,100,000 increase in cash fund spending authority for the Offender Treatment and Services line item pursuant to 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 is 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 also anticipated a corresponding increase in workload for Probation and a decrease in 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 Drug Offender Surcharge Fund (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, the act 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). The act did not, however, include a cash funds appropriation authorizing the expenditure of these moneys for treatment services. The supplemental bill for the Judicial Department (S.B. 11-142) modifies the appropriation clause in H.B. 10-1352, decreasing the General Fund appropriation by \$1.0 million and providing the Department with the authority to spend \$468,196 from the DOSF in FY 2010-11.

The Department's FY 2011-12 request includes three components related to this act:

- The Department requests a **General Fund appropriation of \$6,156,118 to the DOSF**, which would appear as a new, separate line item in the FY 2011-12 Long Bill.

- The Department requests a **cash funds appropriation that allows \$6,100,000 to be spent from the DOSF** in FY 2011-12. The Department requests that this spending authority be included in the Offender Treatment and Services line item.
- The Department has provided information concerning the allocation of the \$6,100,000 among state agencies for the purpose of providing treatment services to adult offenders who are on diversion, on probation, on parole, in community corrections, or in jail. Of the total amount requested, \$2,000,000 would be available to the Judicial Department to provide treatment services to offenders on probation. The following **three state agencies will require appropriations authorizing the receipt and expenditure of moneys from the Judicial Department** (from reappropriated funds) in FY 2011-12:

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

Recommendation. **Staff recommends approving all three components of the request, with one modification.** Specifically, staff recommends reflecting the source of the \$6,100,000 requested by the Judicial Department as reappropriated funds, rather than cash funds. These moneys are essentially a duplication of the General Fund appropriation, and should thus be reflected as reappropriated funds.

The requested General Fund appropriation is consistent with the Legislative Council Staff fiscal note for H.B. 10-1352²³. It is appropriate and transparent to reflect the total amount that is anticipated to be spent from the DOSF in one place, and it is reasonable to include it in the same section of the Long Bill where the General Fund appropriation into the DOSF appears (i.e., Judicial). Finally, if the General Assembly intends that treatment services continue to be made available to adult offenders in FY 2011-12, appropriations are necessary to authorize the relevant state agencies to receive and spend DOSF funds.

In summary, staff recommends approving the Department’s request for a total of \$17,499,136, as detailed in the following table. As described above, the recommendation reflects the authority to spend \$6,100,000 as reappropriated funds, rather than cash funds.

Summary of Recommendation: Probation, Offender Treatment and Services					
	GF	CF	RF	FF	TOTAL
FY 2010-11 Long Bill	\$0	\$10,619,290	\$312,733	\$0	\$10,932,023

²³ 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.

Summary of Recommendation: Probation, Offender Treatment and Services					
	GF	CF	RF	FF	TOTAL
HB 10-1347	<u>0</u>	<u>249,750</u>	<u>0</u>	<u>0</u>	<u>249,750</u>
FY 2010-11 Appropriation	0	10,869,040	312,733	0	11,181,773
Annualize H.B. 10-1347 (revenue increase of \$314,438, reduced by \$97,075 per the oversight committee for the Persistent Drunk Driver Cash Fund)	0	217,363	0	0	217,363
Change format of appropriation from Persistent Drunk Driver Cash Fund (H.B. 10-1347) so that it is reflected as a transfer from the Department of Human Services	0	(467,113)	467,113	0	0
Annualize H.B. 19-1352 (spending authority from Drug Offender Surcharge Fund)	0	0	6,100,000	0	6,100,000
Staff Recommendation	0	10,619,290	6,879,846	0	17,499,136

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 sources include the Offender Services Fund, the Drug Offender Surcharge Fund, the Sex Offender Surcharge Fund, and various fees and cost recoveries. Reappropriated funds are transferred from the Department of Human Services to pay a portion of the costs for intervention and treatment services for persistent drunk drivers who are unable to pay.

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 district²⁴ 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

²⁴ 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 Fund²⁵.

Request. The Department requests a continuation of the \$2.2 million General Fund appropriation for treatment services, along with \$500,000 cash funds spending authority (DI #7) as described below.

Judicial Decision Item #7: S.B. 03-318 Cash Fund Spending Authority

The Department requests \$500,000 cash fund spending authority from the Drug Offender Treatment Fund to make moneys that have been reverted in previous fiscal years available for drug and alcohol treatment, education, and testing. The Department indicates that the need for drug and alcohol treatment, education, and testing is substantially higher than available resources.

The balance in the Drug Offender Treatment Fund at the beginning of FY 2008-09 was \$349,592. Unspent General Fund appropriations and interest earnings provided revenues of \$446,452 and \$226,681 to the Fund in FY 2008-09 and FY 2009-10, respectively. Through S.B. 09-208, the General Assembly transferred \$350,000 from this fund to the General Fund in April 2009. The Fund currently has a balance of \$672,725. This fund balance is primarily due to the time required by some districts to establish working relationships with appropriate treatment providers and to set up strong mechanisms for determining treatment needs and allocating resources. In addition, when an offender's status changes and he/she is no longer able to complete all of the intended treatment, funds often remain unspent.

Recommendation. **Staff recommends approving the request to continue to appropriate \$2.2 million General Fund for FY 2011-12.** This funding provides treatment resources necessary for many drug offenders to successfully complete probation and avoid incarceration. **However, staff recommends denying the request for \$500,000 cash funds spending authority.** The Committee introduced a bill to transfer the balance in the Drug Offender Treatment Fund (\$672,725) to the General Fund on June 30, 2011. If this bill is enacted, these funds will not be available for expenditure in FY 2011-12.

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

As described above for JUD DI #6, staff recommends approving the Department's request for a General Fund appropriation of \$6,156,118 to the DOSF, which would appear as a new, separate line item in the FY 2011-12 Long Bill.

S.B. 91-94 Juvenile Services

Description. Each fiscal year, each local juvenile services planning committee develops a plan for the allocation of the Judicial Department's S.B. 91-94 funds within the judicial district. Each plan is first reviewed and approved by the Statewide Advisory Board, which makes recommendations to

²⁵ This fund was created through S.B. 03-318 and established in Section 18-19-103 (5.5), C.R.S.

the Division of Youth Corrections (DYC), within the Department of Human Services (DHS). Senate Bill 91-94 funds are used to fund 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 receives a General Fund appropriation for this program and then contracts with the Judicial Department to provide some of the services. The funds are then expended in the judicial districts according to the pre-approved juvenile services plans. This line item authorizes the Judicial Department to receive and spend these moneys. For example, for FY 2010-11, 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 DYC. The total amount of S.B.91-94 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 DHS execute the annual contract.

Request. The Department requests a continuation level of spending authority (\$1,906,837 and 25.0 FTE) for FY 2011-12.

Recommendation. **Staff recommends approving the request** to reflect the anticipated transfer.

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 transfer \$75,000 to the DOC for the provision of day reporting services to parolees.

In FY 2009-10, the Department allocated this appropriation in three ways:

- \$238,078 was allocated to individual judicial districts for the purchase of services from a variety of day reporting service providers;

- \$80,000 was allocated for state contracts with two vendors for the provision of statewide and multi-district services; and
- and \$75,000 was allocated for DOC for parole services.

Actual expenditures totaled \$186,067 (47.3 percent of the appropriation), including \$159,430 by individual judicial districts, \$26,637 related to state contracts, and \$0 by DOC. The Department indicates that the low level of expenditures were primarily due to the time required to establish contracts with providers, and a delay in the DOC receiving spending authority. For FY 2010-11, the Department allocated \$243,078 to individual districts, \$75,000 for state contracts, and \$75,000 for the DOC.

Request. For FY 2011-12, the Department requests a continuation level of funding \$393,078.

Recommendation. **Staff recommends approving the Department's request.** 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. Staff assumes that DOC will again require an appropriation of \$75,000 reappropriated funds for FY 2011-12 in order to access these funds.

Victims Grants

Description. These grants are used to provide program development, training, grant management, and technical assistance to each of the 23 probation departments 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 2011-12 (\$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 people that are working under the various grants (often in judicial districts).

Request. The Department requests a continuation level of spending authority for FY 2011-12.

Recommendation. **Staff recommends approving the request for \$5,600,000 and 33.0 FTE for FY 2011-12**, including \$1,950,000 cash funds, \$850,000 reappropriated funds (funds transferred from other state agencies), and \$2,800,000 federal funds.

(5) PUBLIC DEFENDER

The federal²⁶ and state²⁷ 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.

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 2009-10 Actual	FY 2010-11 Approp.	FY 2011-12 Request	FY 2011-12 Recomm.
State Public Defender and Chief Deputies and Administrative Officer	3.4	3.4	3.4	3.4
Statewide Complex Case Management	4.0	8.0	9.0	9.0
Accounting, Payroll, Budget, Planning/Analysis, Procurement, Facilities, Human Resources, and Training	8.0	8.5	10.5	10.5
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	26.4	31.9	34.9	34.9
Office Head	1.0	1.0	1.0	1.0
Appellate Attorneys	27.9	33.7	34.7	34.7
Investigators/ Paralegals	3.0	4.0	4.0	4.0

²⁶ U.S. Const. amend. VI (Rights of accused).

²⁷ Colorado Const. art. II, § 16 (Criminal prosecutions - rights of defendant).

OSPD Table 1: Public Defender Staffing Summary				
Position Description	FY 2009-10 Actual	FY 2010-11 Approp.	FY 2011-12 Request	FY 2011-12 Recomm.
Administrative Support Staff	3.7	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	7.7	10.0	10.0	10.0
<i>Ratio of Support Staff to Appellate Attorneys</i>	27.6%	29.7%	28.8%	28.8%
Subtotal - Appellate Office	36.6	44.7	45.7	45.7
Office Head	21.0	21.0	21.0	21.0
Trial Attorneys	278.3	328.0	355.6	355.6
Investigators/ Paralegals	87.6	98.5	107.5	107.5
Administrative Support Staff	47.5	57.4	64.6	64.6
Office Managers	<u>21.0</u>	<u>21.0</u>	<u>21.0</u>	<u>21.0</u>
Subtotal - Support Staff	156.1	176.9	193.1	193.1
<i>Ratio: Support Staff to Trial Attorneys</i>	56.1%	53.9%	54.3%	54.3%
Subtotal - Regional Trial Offices	455.4	525.9	569.7	569.7
DIVISION TOTAL	518.4	602.5	650.3	650.3

Request. The OSPD requests \$42,353,834 and 650.3 FTE for FY 2011-12. This request is impacted by the implementation of H.B. 07-1054, discussed below.

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

Request. The OSPD was originally scheduled to add 40.1 FTE in FY 2009-10 to cover the increased workload resulting from the 28 judges added in FY 2007-08 and FY 2008-09 pursuant to H.B. 07-1054. In light of the General Fund revenue shortfall, these staff were delayed and only funded for eight months in FY 2010-11. Thus, the OSPD requires additional funds in FY 2011-12 (\$925,376) to support a full 12 months of salaries.

In addition, the OSPD requires funding (\$1,373,772) to add the 34.4 FTE needed to cover the workload resulting from the final 15 judges (12 of which were filled January 1, 2011 and three which will be filled on July 1, 2011).

Recommendation. **Staff recommends approving the request.** Staff's recommended funding is slightly lower than the Department's request; the differences are described for each relevant line

item. Table 2 details the recommendation for FY 2011-12, as well as the related costs for FY 2012-13.

OSPD Table 2: Recommendation Related to H.B. 07-1054				
Line Item and Description	FY 11-12			FY 12-13
	Annualize funding related to 28 judges	Provide partial funding related to 15 judges	Total	Annualize funding related to 15 judges
Personal Services	\$925,376	\$1,373,772	\$2,299,148	\$367,302
FTE	13.4	34.4	47.8	0.0
Health, Life, and Dental		240,873	240,873	0
Short-term Disability		2,141	2,141	559
AED		35,298	35,298	9,962
SAED		<u>28,383</u>	<u>28,383</u>	<u>8,338</u>
Subtotal: Personal Services and Benefits	925,376	1,680,467	2,605,843	386,161
Operating expenses and travel	25,768	61,640	87,408	0
Capital outlay (\$4,703/FTE)	(218,316)	164,605	(53,711)	(164,605)
Leased space (\$8,736/FTE)		305,760	305,760	0
Total Recommendation for H.B. 07-1054	732,828	2,212,472	2,945,300	221,556

Recommendation. In summary, staff recommends appropriating **\$42,323,060 General Fund and 650.3 FTE for the Personal Services line item**, as detailed in Table 3. Staff's recommendation is \$30,774 lower than the request, due to the continuation of a reduced employer PERA contribution rate in FY 2011-12.

OSPD Table 3: Summary of Recommendation for Personal Services						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2010-11 Long Bill	\$40,275,687	\$0	\$0	\$0	\$40,275,687	608.1
HB 10-1352	(239,192)	0	0	0	(239,192)	(5.6)
FY 2010-11 Supplemental	<u>(456,450)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>(456,450)</u>	<u>0.0</u>
Subtotal: FY 2010-11 Appropriation	39,580,045	0	0	0	39,580,045	602.5
Reverse FY 2010-11 Supplemental	456,450	0	0	0	456,450	0.0
Annualize funding reduction in H.B. 10-1352 (funding for 12th month due to payday shift)	(19,941)	0	0	0	(19,941)	0.0

OSPD Table 3: Summary of Recommendation for Personal Services						
	GF	CF	RF	FF	TOTAL	FTE
Annualize funding provided in FY 10-11 for expansion of drug courts (funding for 12th month due to paydate shift; PERA rate of 10.15% applied here)	54,273	0	0	0	54,273	0.0
Salary Survey awarded in FY 10-11	0	0	0	0	0	0.0
80% of Performance-based Pay awarded in FY 10-11	0	0	0	0	0	0.0
Reinstate FY 2010-11 reduction in employer's PERA contribution (2.5%)	922,908	0	0	0	922,908	0.0
H.B. 07-1054: Annualize funding for staff related to 28 judgeships filled in FY 07-08 and FY 08-09 (40.1 FTE were funded for 8 mos. in FY 2010-11; PERA rate of 7.65% applied here)	925,376	0	0	0	925,376	13.4
H.B. 07-1054: Add staff related to final 15 judgeships filled in 2011 (11 mos. for attorneys; 12 mos. for investigators, secretaries, and administrative staff; PERA rate of 7.65% applied here)	1,373,772	0	0	0	1,373,772	34.4
Base reduction (0.0%)	0	0	0	0	0	0.0
Reduction in employer's PERA contribution (2.5%; includes changes associated with new staff added above)	<u>(969,823)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>(969,823)</u>	<u>0.0</u>
Personal Services Recommendation	42,323,060	0	0	0	42,323,060	650.3

Please note that staff's recommendation does not include a 1.5 percent reduction in base personal services funding (a reduction of \$647,298). If this reduction is taken, the OSPD would delay or avoid filling new positions. Staff continues to be concerned about the Office's ability to ethically, responsibly, and successfully comply with its constitutional and statutory mission. An individual public defender has an ethical and professional obligation to refuse further Court appointments if his or her caseload is too high to provide competent and diligent representation. In addition, the State Public Defender and his supervisors have a duty to assure that staff attorneys do not have excessive caseloads. If they fail to take steps to remedy this situation, they are committing disciplinary violations.

From FY 1999-00 to FY 2009-10, the Public Defender's trial attorney staffing deficit, based on new case filings, has increased from 21.9 percent to 32.8 percent of minimum staffing standards. When appellate attorneys and support staff are included, the FY 2009-10 staffing deficit was 38.5 percent.

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 \$4,589,644 General Fund for FY 2011-12.

Recommendation. **Staff recommends approving the request, which is consistent with Committee policy.** The recommendation includes \$240,873 for the staff added pursuant to H.B. 07-1054.

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 \$65,996 General Fund for this purpose for FY 2011-12.

Recommendation. **Staff recommends an appropriation of \$68,663, consistent with the Committee policy.** Staff's recommendation includes \$2,141 associated with staff added pursuant to H.B. 07-1054.

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 \$1,074,511 General Fund for FY 2011-12.

Recommendation. **Staff recommends an appropriation of \$1,073,270, consistent with the Committee policy.** Staff's recommendation includes \$35,298 associated with staff added pursuant to H.B. 07-1054.

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 \$857,876 General Fund for FY 2011-12.

Recommendation. **Staff recommends an appropriation of \$856,677, consistent with the Committee policy.** Staff's recommendation includes \$28,383 associated with staff added pursuant to H.B. 07-1054.

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 2011-12.

Recommendation. **Staff recommends approving the request, which is 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 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 2011-12.

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 \$1,369,157 for FY 2011-12. The source of cash funds is registration fees paid by private attorneys at the OSPD's annual training conference.

Recommendation. **Staff recommends approving the request, which is detailed in Table 4. Staff's recommendation includes reinstatement of a one-time reduction in operating expenses, operating expenses for the staff added pursuant to H.B 07-1054, and a reduction associated with OSPD DI #1 (Additional Leased Vehicles).**

OSPD Table 4: Summary of Recommendation for Operating Expenses					
	GF	CF	RF	FF	TOTAL
FY 2010-11 Long Bill	\$1,122,301	\$30,000	\$0	\$0	\$1,152,301
HB 10-1352	<u>(5,320)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>(5,320)</u>
FY 2010-11 Appropriation	1,116,981	30,000	0	0	1,146,981
Restore one-time reduction in funding reflected in FY 2010-11 Long Bill	149,073	0	0	0	149,073
H.B. 07-1054: Annualize funding for staff related to 28 judgeships filled in FY 07-08 and FY 08-09	25,768	0	0	0	25,768

OSPД Table 4: Summary of Recommendation for Operating Expenses					
	GF	CF	RF	FF	TOTAL
H.B. 07-1054: Add staff related to final 15 judgeships filled in 2011)	61,640	0	0	0	61,640
PD DI#1 - Request for Additional Leased Vehicles	(14,305)	0	0	0	(14,305)
Staff Recommendation	1,339,157	30,000	0	0	1,369,157

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 18 vehicles; the OSPD reimburses employees for mileage when using their own vehicles to conduct official business. Fifteen vehicles are used by regional office staff for daily business (driving to a courthouse, visiting clients in jail, interviewing witnesses, etc.). One vehicle is assigned to an investigator who does not have a physical office and whose responsibilities require him to drive statewide throughout the year. Finally, one vehicle is assigned to the central administrative office for statewide support functions (e.g., information technology, audit, facility review, inventory). At their December 2008 hearing, the OSPD indicated that the State is saving about \$70,000 annually by using fleet vehicles rather than reimbursing employees for travel in personal vehicles.

Request. The OSPD requests \$61,948 General Fund for FY 2011-12. This request is impacted by OSPD DI#1, discussed below. The Department has not requested funding to replace any existing vehicles.

Public Defender Decision Item #1: Additional Leased Vehicles

The OSPD has identified eight opportunities among its office locations statewide to acquire state leased vehicles in order to achieve overall savings over current employee mileage reimbursement. The OSPD's budget request reflects an increase of \$9,316 General Fund for the Vehicle Lease Payments line item (to cover four months of lease payments), and a decrease of \$14,305 General Fund for the Operating Expenses line item. This request thus results in a net decrease of \$4,989 General Fund in FY 2011-12, and a decrease of \$14,966 in FY 2012-13.

Specifically, the OSPD has identified eight locations²⁸ where the costs of personal mileage reimbursement exceed the costs of adding a leased vehicle. The request includes five standard sedans and three SUV class vehicles where usage is expected to include mountainous roadways.

Staff recommends approving the OSPD's request to add eight leased vehicles in FY 2011-12.

This includes three SUV class vehicles (k1) and five standard sedan class vehicles (a3). Staff's recommendation for the Operating Expenses line item reflects the requested reduction of \$14,305; staff will reflect the cost of the eight new leased vehicles (four months of expenses, estimated at \$9,316), in this line item once the Committee has been established.

Recommendation. **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 \$164,605 General Fund for capital outlay for FY 2011-12.

Recommendation. **Staff recommends approving the request,** as detailed in Table 5. Staff's recommendation includes \$164,605 to provide capital outlay for the staff added pursuant to H.B. 07-1054.

OSPD Table 5: Summary of Recommendation for Capital Outlay					
	GF	CF	RF	FF	TOTAL
FY 2010-11 Long Bill	\$233,910	\$0	\$0	\$0	\$233,910
Eliminate one-time funding for FY 2010-11	(233,910)	0	0	0	(233,910)
H.B. 07-1054: Add staff related to final 15 judgeships filled in 2011)	164,605	0	0	0	164,605
Staff Recommendation	164,605	0	0	0	164,605

Leased Space/ Utilities

Description. This line item currently funds leases for a total of 230,639 square feet of leased space in 23 locations statewide. Typically, leases are negotiated for ten years. The OSPD estimates future space needs for each office. For offices that are anticipated to grow, the intent is generally to fill the space in approximately seven years, and then expand into common spaces in the final three years of the lease agreement. The OSPD utilizes the State's lease consultant (a vendor selected by the

²⁸ The proposal would add a leased vehicle for the Denver central administrative and appellate offices, as well as at each of the following regional trial offices: Alamosa, Arapahoe, Boulder, Denver, Durango, Golden, and La Junta.

Department of Personnel and Administration) to conduct market surveys and analysis concerning available space and to negotiate lease contracts.

Although current lease rates vary significantly around the state, the average rate per square foot is \$21.35. For FY 2011-12, the square footage is anticipated to increase for locations in Alamosa, Boulder, Brighton, Colorado Springs, Fort Collins, Glenwood Springs, Montrose, Pueblo, and Sterling, for a statewide total of 250,971 square feet. The average rate per square foot is anticipated to decrease slightly to \$21.30 (0.2 percent), based on both increases and decreases in costs per square foot in various locations.

Request. The OSPD requests an appropriation of \$6,061,372 for FY 2011-12. An increase of \$305,984 (5.3 percent) is requested to cover additional leased space costs associated with the 34.4 FTE required to complete implementation of H.B. 07-1054.

Recommendation. **Staff recommends approving the request, with one minor adjustment.** Based on more recent information provided by the OSPD, staff's recommendation includes \$305,760 to cover additional leased space costs associated with the 34.4 FTE required to complete implementation of H.B. 07-1054 (based on \$8,736/FTE rather than \$8,742/FTE). Thus, staff recommends appropriating a total of \$6,061,148 General Fund for FY 2011-12.

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 OSPD offices and staff.

Request. The OSPD requests \$894,768 for FY 2011-12.

Recommendation. **Staff recommends approving the request,** as detailed in Table 6. Staff's recommendation includes restoration of a one-time reduction of \$221,433. In FY 2009-10, the OSPD spent \$414,029 more than the amount appropriated for this line item (using its authority to transfer funding from other line items).

OSPD Table 6: Summary of Recommendation for Automation Plan					
	GF	CF	RF	FF	TOTAL
FY 2010-11 Long Bill	\$673,335	\$0	\$0	\$0	\$673,335
Restore one-time reduction in funding reflected in FY 2010-11 Long Bill	221,433	0	0	0	221,433
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 7 provides a breakdown of mandated cost expenditures in the last four fiscal years, as well as projections for fiscal years 2010-11 and 2011-12. Table 8 compares annual mandated costs to the OSPD's caseload.

OSPD Table 7: Mandated Costs Breakdown						
Description	FY 06-07 (actual)	FY 07-08 (actual)	FY 08-09 (actual)	FY 09-10 (actual)	FY 10-11* (rev. est.)	FY 11-12 (request)
Transcripts	\$1,054,167	\$1,186,376	\$1,238,740	\$1,267,820	\$1,303,915	\$1,343,032
<i>annual percent change</i>		<i>12.5%</i>	<i>4.4%</i>	<i>2.3%</i>	<i>2.8%</i>	<i>3.0%</i>
Discovery (paid to DAs)	761,495	886,112	969,306	1,125,966	1,488,138	1,598,730
<i>annual percent change</i>		<i>16.4%</i>	<i>9.4%</i>	<i>16.2%</i>	<i>32.2%</i>	<i>7.4%</i>
Expert witnesses	569,094	817,186	504,530	516,403	512,313	516,403
<i>annual percent change</i>		<i>43.6%</i>	<i>-38.3%</i>	<i>2.4%</i>	<i>-0.8%</i>	<i>0.8%</i>
Travel	75,818	150,005	109,567	58,254	52,933	61,421
Interpreters	71,545	85,301	109,563	106,661	105,053	110,927
Other	9,499	18,279	22,461	17,497	15,834	19,213
Total	2,541,618	3,143,259	2,954,167	3,092,601	3,478,186	3,649,726
<i>annual percent change</i>		<i>23.7%</i>	<i>-6.0%</i>	<i>4.7%</i>	<i>12.5%</i>	<i>4.9%</i>

* Please note that these revised estimates exceed the FY 2010-11 appropriation by \$11,395.

OSPD Table 8: Mandated Costs Per Case						
Description	FY 06-07 (actual)	FY 07-08 (actual)	FY 08-09 (actual)	FY 09-10 (actual)	FY 10-11 (estim.)	FY 11-12 (estim.)
Total Cases Closed	90,611	90,969	94,421	95,580	100,148	105,496
<i>annual percent change</i>	2.4%	0.4%	3.8%	1.2%	4.8%	5.3%
Average Mandated Costs Per Case	\$28	\$35	\$31	\$32	\$35	\$35
<i>annual percent change</i>	13.9%	23.2%	-9.5%	3.4%	7.3%	-0.4%
Total Mandated Costs	2,541,618	3,143,259	2,954,166	3,092,601	3,478,186	3,649,464
<i>annual percent change</i>	16.6%	23.7%	-6.0%	4.7%	12.5%	4.9%

Request. The OSPD requests \$3,649,464 General Fund for this line item for FY 2011-12. As detailed in Table 7, this request is primarily based on the following:

- *Reimbursements to district attorney offices* will increase by 7.4 percent due to caseload and rate increases. This is a lower annual increase than what has occurred in the last three fiscal years and well below the increase experienced in the current fiscal year.
- *Transcript expenses* will increase by 3.0 percent due to caseload increases.

Recommendation. **Staff recommends approving the request.** Based on projected caseload increases, the amount spent per case would remain about the same as the current year (\$35). More than three-quarters 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 2011-12 request reflects three grants:

- A 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
- A 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 1.0 FTE 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.

- A grant of \$196,520 (supporting 3.1 FTE) from Denver County to support the Denver Sobriety Court, which serves offenders charged with repeat impaired driving offenses. This court is a two-year pilot program that 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 will use 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.

Recommendation. Staff recommends approving the request for \$316,520 cash funds and 5.1 FTE for FY 2011-12, as detailed in Table 9.

OSPD Table 9: Summary of Recommendation for Grants						
	GF	CF	RF	FF	TOTAL	FTE
FY 2010-11 Long Bill	\$0	\$120,000	\$0	\$0	\$120,000	2.0
FY 2010-11 Supplemental	0	48,000	0	0	48,000	0.8
Annualize partial-year grant	<u>0</u>	<u>148,520</u>	<u>0</u>	<u>0</u>	<u>148,520</u>	<u>2.3</u>
Grants Recommendation	0	316,520	0	0	316,520	5.1

(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 interest²⁹. 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 cases³⁰.

The OADC provides legal representation by contracting with licensed attorneys and investigators. Such contracts must provide for reasonable compensation (based on either a fixed fee or hourly rates) and reimbursement for expenses necessarily incurred (e.g., expert witnesses, investigators, paralegals, and interpreters). The OADC is to establish a list of qualified attorneys for use by the court in making appointments in conflict cases³¹.

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.

Personal Services

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

OADC Table 1: Alternate Defense Counsel Staffing Summary				
Position Description	FY 2008-09 Actual	FY 2009-10 Approp.	FY 2010-11 Request	FY 2010-11 Recomm.
Alternate Defense Counsel (Director of Office)	1.0	1.0	1.0	1.0

²⁹ Section 21-2-101 *et seq.*, C.R.S.

³⁰ The Spangenberg Group, "Updated Weighted Caseload Study: Colorado Public Defender", February, 2009, page 9.

³¹ 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.

OADC Table 1: Alternate Defense Counsel Staffing Summary				
Position Description	FY 2008-09 Actual	FY 2009-10 Approp.	FY 2010-11 Request	FY 2010-11 Recomm.
Deputy Director	1.0	1.0	1.0	1.0
Attorney Oversight/ Training	1.0	1.0	1.0	1.0
Budget Analyst/ Controller	1.0	1.0	1.0	1.0
Appellate Case Manager and Paralegal Administrative Assistant	1.5	1.5	1.5	1.5
Administrative Support	<u>2.0</u>	<u>2.0</u>	<u>2.0</u>	<u>2.0</u>
DIVISION TOTAL	7.5	7.5	7.5	7.5

Request. The OADC requests \$704,807 and 7.5 FTE for FY 2011-12.

Recommendation. Staff recommends appropriating \$690,704 General Fund and 7.5 FTE as detailed in the table below. The recommendation is \$14,103 lower than the request due to the continuation of a reduced employer PERA contribution. Staff is not recommending a 1.5 percent reduction in base personal services funding for this agency. This agency only employs 7.5 FTE, and the salaries paid for these positions has not changed in recent years. In FY 2009-10, the OADC reverted \$59 from this line item.

OADC Table 2: Summary of Recommendation for Personal Services						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2010-11 Long Bill	\$690,704	\$0	\$0	\$0	\$690,704	7.5
Salary Survey awarded in FY 10-11	0	0	0	0	0	0.0
80% of Performance-based Pay awarded in FY 10-11	0	0	0	0	0	0.0
Reinstate FY 2010-11 reduction in employer's PERA contribution (2.5%)	15,385	0	0	0	15,385	0.0
Base reduction (0.0%)	0	0	0	0	0	0.0
Reduction in employer's PERA contribution (2.5%)	<u>(15,385)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>(15,385)</u>	
Personal Services Recommendation	690,704	0	0	0	690,704	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 \$73,457 General Fund for FY 2011-12.

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

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 \$1,046 General Fund for this purpose for FY 2011-12.

Recommendation. **Staff recommends appropriating \$1,089, consistent with Committee policy.**

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 \$17,026 General Fund for FY 2011-12.

Recommendation. **Staff recommends approving the request, 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 \$13,590 General Fund for FY 2011-12.

Recommendation. **Staff recommends approving the request, 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 2011-12.

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 2011-12.

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 2011-12.

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

Capital Outlay

The OADC does not request any funding for capital outlay for FY 2011-12.

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 currently funds a lease for 1,993 square feet at 1580 Logan Street.

Request. The OADC requests an appropriation of \$40,544 General Fund for FY 2011-12. An increase of \$545 (1.4 percent) is requested to cover scheduled lease rate increases.

Recommendation. **Staff recommends approving the request**, which includes \$1,800 for lease operating costs (a decrease of \$1,200), and an increase of \$1,745 due to the scheduled increase from \$18.56 to \$19.44 per square foot at 1580 Logan Street.

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 2011-12, 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 2010-11 Request for Mid-year Adjustment. The OADC has submitted a request to reduce its current year appropriations by a total of \$2,280,711 General Fund, including \$2,194,046 for this line item and \$86,665 for the Mandated Costs line item. This one-time reduction is primarily due to reduced costs in felony cases.

- Overall, the OADC is now projecting a caseload of 11,961 rather than 12,766 in FY 2010-11. Last Spring, the OADC was projecting that the number of felony cases would increase by 1.3 percent, juvenile cases would decrease by 6.1 percent, and misdemeanor, DUI, and traffic cases to remain fairly flat. As detailed in Table 3, based on more recent caseload data, the OADC is now projecting a lower number of all case types except misdemeanor, DUI, and traffic cases, which are now projected to increase by 3.6 percent compared to FY 2009-10.

OADC Table 3: OADC Caseload (Annual number of cases paid)			
Case Type	FY 10-11 (initial projections)	FY 10-11 (updated projections)	Change
Felony	7,348	6,575	(773)
Juvenile	1,618	1,299	(319)
Misdemeanor/ DUI/ Traffic	1,398	1,951	553
Appeals	801	701	(100)
Post-Conviction	502	411	(91)
Special Proceedings/ Other	<u>1,099</u>	<u>1,024</u>	<u>(75)</u>
Total	12,766	11,961	(805)

- Last Spring, the OADC had anticipated that the average cost per case would increase by 3.9 percent, primarily due to expenditures related to death penalty cases. Based on more recent caseload and payment data, the OADC is now projecting an overall average cost per case of \$1,652, which is only slightly higher than in FY 2009-10. The OADC is currently contracting with attorneys to represent clients in three death penalty cases in the 18th judicial district: Edward Montour, who is facing a jury trial to determine whether he should be sentenced to life or death; and Robert Ray and Sir Mario Owens, who have both been found guilty of first degree

murder and sentenced to death. Both of the latter cases are now proceeding under the Unitary Appeal Bill. Primarily due to lower than anticipated investigator hours in these cases, the OADC is now projecting the costs of these death penalty cases to be \$378,834 lower than anticipated.

Recommendation: FY 2010-11. 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 2010-11.

FY 2011-12 Request. The OADC requests \$21,499,144 for FY 2011-12. This request is impacted by OADC DI #1, described below.

Office of the Alternate Defense Counsel Decision Item #1: Caseload Redistribution

The OADC did not amend its budget request for FY 2011-12. Thus, the requested funding represents a decrease of \$457,494 compared to the existing FY 2010-11 appropriation, but an increase of \$1,736,552 compared to the reduced level of funding for FY 2010-11 (described above). The OADC's request is based on an estimated 12,627 cases, which is very similar to the number of cases in FY 2009-10. The request includes felony cases at the same level that occurred in FY 2008-09, and juvenile and misdemeanor/ DUI/ traffic cases to decline closer to the levels that occurred in the last two fiscal years. Table 4 details caseload history, by type of case, as well as the OADC's current estimates for FY 2010-11 and FY 2011-12. Table 5 provides further caseload details concerning felony cases.

OADC Table 4: OADC Caseload (Annual number of cases paid)							
Case Type	FY 05-06 (actual)	FY 06-07 (actual)	FY 07-08 (actual)	FY 08-09 (actual)	FY 09-10 (actual)	FY 10-11 (proj.)	FY 11-12 (proj.)
Felony	7,912	8,162	7,169	6,709	6,647	6,575	6,709
<i>annual percent change</i>	<i>11.2%</i>	<i>3.2%</i>	<i>-12.2%</i>	<i>-6.4%</i>	<i>-0.9%</i>	<i>-1.1%</i>	<i>2.0%</i>
Juvenile	1,433	1,621	1,526	1,803	1,808	1,299	1,815
<i>annual percent change</i>	<i>12.5%</i>	<i>13.1%</i>	<i>-5.9%</i>	<i>18.2%</i>	<i>0.3%</i>	<i>-28.2%</i>	<i>39.7%</i>
Misdemeanor/ DUI/ Traffic	1,111	1,278	1,256	1,654	1,884	1,951	1,780
<i>annual percent change</i>	<i>7.3%</i>	<i>15.0%</i>	<i>-1.7%</i>	<i>31.7%</i>	<i>13.9%</i>	<i>3.6%</i>	<i>-8.8%</i>
Appeals	595	660	709	765	725	701	747
<i>annual percent change</i>	<i>10.2%</i>	<i>10.9%</i>	<i>7.4%</i>	<i>7.9%</i>	<i>-5.2%</i>	<i>-3.3%</i>	<i>6.6%</i>
Post-Conviction	465	506	520	492	489	411	495
<i>annual percent change</i>	<i>-0.6%</i>	<i>8.8%</i>	<i>2.8%</i>	<i>-5.4%</i>	<i>-0.6%</i>	<i>-16.0%</i>	<i>20.4%</i>
Special Proceedings/ Other	798	862	902	1,051	1,041	1,024	1,081
<i>annual percent change</i>	<i>18.6%</i>	<i>8.0%</i>	<i>4.6%</i>	<i>16.5%</i>	<i>-1.0%</i>	<i>-1.6%</i>	<i>5.6%</i>
Total	12,314	13,089	12,082	12,474	12,594	11,961	12,627
<i>annual percent change</i>	<i>10.9%</i>	<i>6.3%</i>	<i>-7.7%</i>	<i>3.2%</i>	<i>1.0%</i>	<i>-4.1%</i>	<i>5.6%</i>

OADC Table 5: OADC Caseload (Annual number of FELONY cases paid)							
Case Type	FY 05-06 (actual)	FY 06-07 (actual)	FY 07-08 (actual)	FY 08-09 (actual)	FY 09-10 (actual)	FY 10-11 (proj.)	FY 11-12 (proj.)
Felony 1 - Death Penalty	4	5	4	4	4	3	3
<i>annual percent change</i>	-20.0%	25.0%	-20.0%	0.0%	0.0%	-25.0%	0.0%
Felony 1 - Other	150	128	150	145	145	126	142
<i>annual percent change</i>	12.8%	-14.7%	17.2%	-3.3%	0.0%	-13.1%	12.7%
Felony 2 and 3	2,819	2,904	2,642	2,532	2,604	2,555	2,632
<i>annual percent change</i>	5.9%	3.0%	-9.0%	-4.2%	2.8%	-1.9%	3.0%
Felony 4, 5, and 6	4,938	5,124	4,372	4,028	3,894	3,891	3,932
<i>annual percent change</i>	14.5%	3.8%	-14.7%	-7.9%	-3.3%	-0.1%	1.1%
Total	7,911	8,161	7,168	6,709	6,647	6,575	6,709
<i>annual percent change</i>	11.2%	3.2%	-12.2%	-6.4%	-0.9%	-1.1%	2.0%

The OADC's FY 2011-12 request represents a 3.0 percent increase in the average cost per case compared to its revised estimates for FY 2010-11. Table 6 provides a history of the OADC's Conflict of Interest Contract expenditures and the average cost per case from FY 2006-07 through FY 2009-10, along with current projections for FY 2010-11 and FY 2011-12.

OADC Table 6: OADC Conflict of Interest Contract Expenditures						
Description	FY 06-07 (actual)	FY 07-08 (actual)	FY 08-09 (actual)	FY 09-10 (actual)	FY 10-11 (proj.)	FY 10-11 (proj.)
Total Cases Paid	13,090	12,082	12,474	12,594	11,961	12,627
<i>annual percent change</i>	6.3%	-7.7%	3.2%	1.0%	-5.0%	5.6%
Average Cost/Case*	\$1,621	\$1,526	\$1,659	\$1,648	\$1,652	\$1,703
<i>annual percent change</i>	13.1%	-5.9%	8.7%	-0.6%	0.2%	3.0%
Total	16,201,867	17,925,541	20,692,161	20,760,634	19,762,592	21,499,144
<i>annual percent change</i>	22.0%	10.6%	15.4%	0.3%	-4.8%	8.8%

* 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 2011-12. Staff recommends approving the request. While the number of OADC cases has declined in the current fiscal year, there is no clear indication that such a trend will continue in to FY 2011-12. The projected number of cases and the average cost per case appear reasonable given the history of expenditures for this line item. While an 8.8 percent annual increase appears high, expenditures for this line item are unpredictable and increased by even greater percents in FY 2006-07 through FY 2008-09.

The OADC has demonstrated a commitment to limiting expenditures through a variety of initiatives including the following:

- limiting mileage reimbursement for attorneys
- reducing presumptive contractor fee maximums for certain case types

- experimenting with alternative methods of providing representation (such as using state staff for certain functions or geographic areas and paying a flat rate for certain case types)
- reducing contract attorney costs by contracting with document management and paralegal professionals to reduce discovery costs, and providing a brief and motions bank for use by contract attorneys
- streamlining the OADC appellate cases from inception through transmittal of the record on appeal
- seeking and securing passage of H.B. 08-1264 to grant OADC contract attorneys free access to electronic court records through the public access system

In summary, staff recommends appropriating \$21,499,144 General Fund for this line item for FY 2011-12, as detailed in Table 7.

OADC Table 7: Summary of Recommendation for Conflict of Interest Contracts					
	GF	CF	RF	FF	TOTAL
FY 2010-11 Long Bill	\$21,956,638	\$0	\$0	\$0	\$21,956,638
FY 2010-11 Supplemental (recommended in this packet)	(2,194,046)	0	0	0	(2,194,046)
Restoration of FY 2010-11 Supplemental	2,194,046	0	0	0	2,194,046
ADC DI #1: Caseload Redistribution	(457,494)	0	0	0	(457,494)
Staff Recommendation	21,499,144	0	0	0	21,499,144

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 (\$635,061 or 42.0 percent of mandated costs in FY 2009-10);
- expert witnesses \$415,134 or 27.4 percent);
- transcripts (\$377,435 or 24.9 percent);
- interpreters - out of court (\$42,219 or 2.8 percent);
- expert witness travel reimbursement \$28,488 or 1.9 percent); and
- PERA contributions for contractors with PERA benefits (\$15,245 or 1.0 percent).

FY 2010-11 Request for Mid-year Adjustment. The OADC has submitted a request to reduce its current year appropriations for this line item by \$86,665 General Fund (5.2 percent). This one-time reduction is primarily due to lower than anticipated costs for transcripts.

Recommendation: FY 2010-11. Staff recommends approving the request, which appears reasonable and appropriate.

FY 2011-12 Request. The OADC requests \$1,663,839 General Fund for this line item for FY 2011-12, which includes a restoration of the one-time reduction requested for FY 2011-12 and discussed above. Table 8 details annual mandated costs in comparison to the number of cases paid.

OADC Table 8: Mandated Costs						
Description	FY 06-07 (actual)	FY 07-08 (actual)	FY 08-09 (actual)	FY 09-10 (actual)	FY 10-11 (rev. est.)	FY 11-12 (estim.)
Total Cases Paid	13,090	12,082	12,474	12,594	11,961	12,627
<i>annual percent change</i>	6.3%	-7.7%	3.2%	1.0%	-5.0%	5.6%
Average Mandated Costs Per Case	\$95	\$128	\$127	\$120	\$132	\$132
<i>annual percent change</i>	5.6%	34.7%	-0.4%	-5.7%	9.7%	-0.1%
Total Mandated Costs	1,240,579	1,549,840	1,589,848	1,513,582	1,577,174	1,663,839
<i>annual percent change</i>	<i>12.3%</i>	<i>24.9%</i>	<i>2.6%</i>	<i>-4.8%</i>	<i>4.2%</i>	<i>5.5%</i>
Conflict of Interest Contract	16,201,867	17,925,541	20,692,161	20,760,634	19,762,592	21,499,144
<i>Mandated Costs as a percent of Total Case Costs</i>	7.1%	8.0%	7.3%	6.8%	7.4%	7.2%

Recommendation: FY 2011-12. Staff recommends approving the request. The OADC's request seems reasonable as it is based on the average cost per case remaining flat in FY 2011-12.

(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 attorneys³² appointed to serve as a *child's legal representative child* or as a *child and family investigator* in matters involving parental responsibility when the parties are found to be indigent; and
- enhancing the *court-appointed special advocate* (CASA) program in Colorado.

The OCR provides legal representation for children involved in the court system due to abuse or neglect, delinquency, truancy, high conflict divorce, alcohol or drug abuse, mental health issues, and probate matters³³. The OCR was established as an agency of the Judicial Department by the General Assembly, effective July 1, 2000. Previously, these services were provided by the Judicial Department and supported by appropriations for trial courts and mandated costs.

In most judicial districts, OCR provides legal representation through contract attorneys. The OCR is required to maintain and provide to the courts, on an ongoing basis, a list of qualified attorneys to whom appointments may be given. In the 4th Judicial District (El Paso county only), the OCR employs attorneys 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.

³² 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.

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

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. The following table details the staffing composition of both offices.

OCR Table 1: Office of the Child's Representative Staffing Summary				
Position Description	FY 2009-10 Actual	FY 2010-11 Approp.	FY 2011-12 Request	FY 2011-12 Recomm.
Executive Director	1.0	1.0	1.0	1.0
Deputy Director	0.6	0.6	0.6	0.6
Staff Attorneys	1.8	1.8	1.8	1.8
Budget/ Billing/ Office Administration	2.9	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	7.3	7.4	7.4	7.4
Attorneys	12.8	12.3	12.8	12.8
Social Workers/Case Coordinators	3.7	4.6	4.1	4.1
Administrative/Support Staff	<u>3.0</u>	<u>2.6</u>	<u>2.6</u>	<u>2.6</u>
Subtotal - El Paso County Office	19.5	19.5	19.5	19.5
DIVISION TOTAL	26.8	26.9	26.9	26.9

Request. The OCR requests \$1,935,054 and 26.9 FTE for FY 2011-12.

Recommendation. Staff recommends appropriating \$1,868,708 General Fund and 26.9 FTE for this line item, as detailed in the table below. The recommendation is \$66,346 lower than the request due to: (1) the continuation of a reduced employer PERA contribution; and (2) application of a 1.5 percent reduction in base personal services funding. However, please note that staff has excluded the salary of the Director from this calculation. 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".

OCR Table 2: Summary of Recommendation for Personal Services						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2010-11 Long Bill	\$1,895,244	\$0	\$0	\$0	\$1,895,244	26.9
Salary Survey awarded in FY 10-11	0	0	0	0	0	0.0
80% of Performance-based Pay awarded in FY 10-11	0	0	0	0	0	0.0
Reinstate FY 2010-11 reduction in employer's PERA contribution (2.5%)	42,787	0	0	0	42,787	0.0
Base reduction (1.5%; excludes Director's salary)	(27,141)	0	0	0	(27,141)	0.0
Reduction in employer's PERA contribution (2.5%)	<u>(42,182)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>(42,182)</u>	<u>0.0</u>
Personal Services Recommendation	1,868,708	0	0	0	1,868,708	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 2011-12.

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

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 \$2,953 General Fund for this purpose for FY 2011-12.

Recommendation. Staff recommends appropriating \$2,986, consistent with Committee policy.

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 \$48,060 General Fund for FY 2011-12.

Recommendation. **Staff recommends appropriating \$46,681, 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 \$38,362 General Fund for FY 2011-12.

Recommendation. **Staff recommends appropriating \$37,260, 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. The OCR does not request funding for this purpose for FY 2010-11, which is consistent with Committee policy.

Request. The OCR did not request any funding for this line item for FY 2011-12.

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. The OCR does not request funding for this purpose for FY 2010-11, which is consistent with Committee policy.

Request. The OCR did not request any funding for this line item for FY 2011-12.

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.**

Capital Outlay

The OCR does not request any funding for capital outlay for FY 2011-12.

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 currently funds a lease for 2,300 square feet at 1580 Logan Street in Denver and 9,000 square feet in Colorado Springs.

Request. The OCR requests an appropriation of \$150,380 General Fund for FY 2011-12. An increase of \$4,937 (3.4 percent) is requested to cover scheduled lease rate increases.

Recommendation. **Staff recommends approving the request.** The requested increase is required to cover scheduled lease rate increases (from \$18.50 to \$19.00 per square foot at 1580 Logan Street and from \$11.43 to \$11.85 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 children³⁴. Pursuant to Section 19-1-202, C.R.S., CASA programs may be established in each judicial district pursuant to a memorandum of understanding between the district's chief judge and a community-based CASA program. A CASA volunteer may: conduct an independent investigation regarding the best interests of the child; 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; seek to enhance existing funding sources; ensure the provision and availability of high-quality, accessible training; and allocate moneys appropriated for CASA programs to local CASA programs based on recommendations made by the contract entity.

³⁴ 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.

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. In 2008, the Joint Budget Committee initiated a \$500,000 increase in the appropriation for this line item.

Request. The Department requests a continuation level of funding for FY 2011-12 (\$520,000).

Recommendation. **In light of the General Fund revenue shortfall, staff recommends appropriating \$100,000 for this purpose for FY 2011-12.** While this level of funding represents a decrease of \$420,000 from the amount that has been appropriated for this purpose since FY 2008-09, it is five times the amount that was appropriated annually in previous fiscal years.

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 for FY 2010-11 (\$38,000).

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".

Request. The OCR requests \$16,531,560 General Fund for FY 2011-12. This request is impacted by OCR DI #1, discussed below.

OCR Decision Item #1: Caseload Increase

The OCR requests an increase of \$257,904 (1.6 percent) for this line item. The request is based on a projected 1.6 percent caseload increase and no change in the overall average cost per case.

Caseload Projections. To project caseload, the OCR looks at recent caseload growth for each case type. Table 3, below, details caseload history by type of case, as well as the OCR's projections for FY 2010-11 and FY 2011-12.

OCR Table 3: 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 (proj.)	FY 11-12 (proj.)
Dependency & Neglect	8,012	8,269	8,906	9,038	9,328	9,466
<i>annual percent change</i>	5.2%	3.2%	7.7%	1.5%	3.2%	1.5%
Juvenile Delinquency	3,594	3,874	4,423	4,299	4,410	4,524
<i>annual percent change</i>	3.9%	7.8%	14.2%	-2.8%	2.6%	2.6%
Domestic Relations	624	606	760	690	670	651
<i>annual percent change</i>	-7.3%	-2.9%	25.4%	-9.2%	-2.9%	-2.8%
Truancy	458	514	475	406	375	347
<i>annual percent change</i>	22.5%	12.2%	-7.6%	-14.5%	-7.6%	-7.5%
Paternity	126	108	138	198	218	224
<i>annual percent change</i>	17.8%	-14.3%	27.8%	43.5%	10.1%	2.8%
Probate	105	73	71	64	62	60
<i>annual percent change</i>	-23.4%	-30.5%	-2.7%	-9.9%	-3.1%	-3.2%
All Other Case Types	44	56	70	99	126	160
Total	12,963	13,500	14,844	14,794	15,189	15,432
<i>annual percent change</i>	4.5%	4.1%	10.0%	-0.3%	2.7%	1.6%

The OCR projects continued decreases in the number of domestic relations cases (-2.8 percent), truancy cases (-7.5 percent), and probate cases (-3.2 percent), and it projects increases in all other case types, ranging from a 1.5 percent increase in D&N cases to an 2.8 percent increase in paternity cases.

D&N Caseload Increase. The OCR notes that although the number of D&N cases filed stabilized in recent years (FY 2006-07 through FY 2008-09), the number of D&N cases for which GALs have been appointed has continued to increase. The OCR contends that this reflects, in part, an increase in the duration of such cases.

The OCR indicates that during this economic downturn, the availability of services for both children and their families has decreased (e.g., substance abuse monitoring, mental health evaluations, and counseling for parents and therapeutic residential treatment services for children). The denial of services that are considered necessary and in the best interests of the child requires increased litigation on behalf of children and families. A D&N case is only closed once a safe, appropriate, and permanent home for the child is legally finalized. In addition, the delay of such services can postpone and potentially impede successful resolution of cases. Generally, motivations, attachments, information, and contacts are highest at the beginning of a case, and the early direction of a case often predicts the long-term trajectory of a case.

Delinquency Caseload Increase. The OCR notes that S.B. 09-268 (a JBC-sponsored bill) appears to have been effective in limiting the appointment of GALs in juvenile delinquency cases (their caseload decreased by 2.8 percent in FY 2009-10, following a 14.2 percent increase the year prior). However, based on input from attorneys, judicial officers, and other stakeholders, the OCR has learned that departments of social services are continuing to limit services they provide teens through D&N cases, leading to an increasing number of juvenile delinquency cases presenting abuse and neglect issues justifying the appointment of a GAL. The OCR thus projects an increase in the number of these cases.

Cost per Case. The average cost per case varies by case type, and it is based on the number of hours billed as well as the hourly rate. Historically, D&N cases have required the most attorney time, and have thus cost the most; truancy cases have been the least expensive. Table 5 details the history of costs per case by type of case, as well as the OCR's projections for FY 2010-11 and FY 2011-12. Costs per case increased significantly in FY 2008-09 for dependency and neglect cases (20 percent), domestic relations cases (17 percent), paternity cases (15 percent), and truancy cases (41 percent). In FY 2009-10, while costs per case for D&N matters increased by another nine percent, average costs per case decreased for all other case types.

The OCR is projecting that the costs per case for most case types will remain constant in FY 2010-11, while continuing to decrease for truancy and probate cases. For FY 2011-12, the average costs per case for all case types are projected to remain stable. Table 4 provides a history of the average cost per case, by case type.

OCR Table 4: Annual Costs Per Case							
Case Type	FY 05-06 (actual)	FY 06-07 (actual)	FY 07-08 (actual)	FY 08-09 (actual)	FY 09-10 (actual)	FY 10-11 (proj.)	FY 11-12 (proj.)
Dependency & Neglect	\$707	\$971	\$1,083	\$1,300	\$1,418	\$1,418	\$1,418
<i>annual percent change</i>	-6.8%	37.4%	11.6%	20.0%	9.1%	0.0%	0.0%
Juvenile Delinquency	\$386	\$557	\$656	\$628	\$512	\$512	\$512
<i>annual percent change</i>	-2.9%	44.4%	17.9%	-4.3%	-18.5%	0.0%	0.0%
Domestic Relations	\$648	\$842	\$901	\$1,055	\$583	\$583	\$583
<i>annual percent change</i>	15.8%	30.0%	7.0%	17.1%	-44.7%	0.0%	0.0%
Truancy	\$175	\$330	\$330	\$467	\$437	\$393	\$393
<i>annual percent change</i>	-29.0%	88.8%	0.0%	41.3%	-6.4%	-10.1%	0.0%
Paternity	\$601	\$583	\$633	\$725	\$658	\$658	\$658
<i>annual percent change</i>	90.5%	-2.9%	8.5%	14.6%	-9.2%	0.0%	0.0%
Probate	\$750	\$565	\$1,231	\$1,117	\$637	\$605	\$605
<i>annual percent change</i>	27.2%	-24.7%	118.0%	-9.3%	-43.0%	-5.0%	0.0%
All Other Case Types	\$743	\$648	\$998	\$664	\$869	\$684	\$684
All cases	\$598	\$819	\$921	\$1,051	\$1,072	\$1,072	\$1,072
<i>annual percent change</i>	-4.0%	37.0%	12.4%	14.2%	2.0%	0.0%	0.0%

* Please note that the average costs per case in FY 2006-07, FY 2007-08, and FY 2008-09 reflect approved increases in hourly rates.

The OCR indicates that despite significant increases in the cost-per-D&N case over the last four fiscal years, it is not requesting funding for any increase in FY 2011-12. First, the OCR believes that it has already achieved substantial improvement in GAL practice, as required by its statutory mandate. Second, the OCR believes that four initiatives will help to stabilize these costs. Specifically:

- The OCR has contracted with three law offices to pilot *multi disciplinary GAL staff offices in Denver and Arapahoe counties* (two of OCR's historically expensive jurisdictions) beginning January 1, 2011. These offices will operate similar to the existing OCR El Paso county office, and will use social workers to perform many of the case investigation and out-of-court management functions that GALs have traditionally provided themselves. The OCR anticipates that this initiative will reduce the costs and increase the quality of GAL services.
- The OCR is implementing the *Kids Voice Integrated Data System*, a case management and data system, in FY 2010-11. This system will enable GALs to more efficiently manage their caseload (e.g., running a report to identify all children who attend the same school), and it will provide the OCR with a data system to evaluate the quality of GAL services.
- The OCR is continuing to implement the *Cornerstone Advocacy model* of GAL practice. This model emphasizes intensive advocacy within the first 60 days of a case focused on four areas: (1) appropriate placement; (2) meaningful and frequent visitation; (3) creative and accessible services; and (4) education/life skills. This model has proven effective elsewhere in increasing family placement, reducing the length of time in out-of-home care, and reducing re-entry rates.

Recommendation. Staff recommends approving the request. The OCR's projection of overall caseload growth (2.7 percent in FY 2010-11 and 1.6 percent in FY 2011-12) is significantly lower than the rates experienced in the last five fiscal years. Specifically, annual caseload growth ranged from 4.1 percent in FY 2007-08 to 10.0 percent in FY 2008-09. Particularly with respect to domestic relations, delinquency, and truancy cases, S.B. 09-268 appears to have had a positive effect on caseload levels. This JBC-sponsored bill:

- clarified that in a domestic relations case both parties' income and assets should be considered for appointments that take place while the parties are still married³⁵;
- required a court to make specific findings that the appointment of a GAL in certain delinquency cases is necessary to serve the child's best interests, and clarifies when the appointment of a GAL in a delinquency case terminates; and

³⁵ In addition, the OCR hired an indigency screener to review and verify parties' reported income and asset data, similar to the process used by the State Public Defender's office.

- limited the court’s discretion to appoint a GAL in a truancy case to those cases in which extraordinary and exceptional circumstances exist.³⁶

These changes, along with the cooperation of judges and magistrates, appear to have had the desired effect of reducing state expenditures associated with these cases.

With respect to the average cost per case, the OCR’s request appears reasonable. The following table details staff’s assumptions concerning caseload and average costs per case for FY 2011-12.

OCR Table 5: Calculation of FY 2011-12 Recommendation						
Case Type	Dependency & Neglect	Juvenile Delinquency	Domestic Relations	Truancy	Probate, Paternity & Other	Total
Caseload	9,466	4,524	651	347	444	15,432
Average Cost Per Case	\$1,418	\$512	\$583	\$393	\$623	\$1,071
Total Costs	\$13,422,788	\$2,316,288	\$379,533	\$136,371	\$276,580	\$16,531,560

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 primarily include the following:

- expert witnesses (\$22,250 or 56.0 percent of mandated costs in FY 2009-10)
- printing/ reproduction services (\$12,186 or 30.7 percent)
- interpreters - out of court (\$3,765 or 9.5 percent)
- transcripts (\$811 or 2.0 percent)
- process servers (\$705 or 1.8 percent)

Request. The OCR requests a continuation level of funding (\$26,288 General Fund) for FY 2011-12.

Recommendation. **Staff recommends approving the request.** This amount is less than the amounts expended in FY 2007-08 through FY 2009-10, but similar to amounts expended in FY 2004-05

³⁶ In addition, through S.B. 09-256, the General Assembly authorized the Department of Education to use funding appropriated for the Expelled and At-risk Student Services Grant Program to award grants for the purpose of reducing the number of truancy cases requiring court involvement. The General Assembly also allocated \$500,000 of the annual required increase in funding for categorical programs to this program to support such grants. The Department of Education awarded a number of grants to schools and school districts in FY 2009-10 for the purpose of reducing the need for court involvement in these cases. Grants were awarded to the following entities for this purpose: Mapleton Public Schools, Aurora Public Schools, Cherry Creek School District, St. Vrain Valley School District, Boulder’s Justice High School, Littleton School District, and Denver Public Schools.

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 2006³⁷. 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.

Personal Services

Description. This line item provides funding for the 2.0 FTE that support the IEC.

Request. The IEC requests \$203,224 General Fund and 2.0 FTE for FY 2011-12. This request is impacted by IEC DI#1, discussed below.

IEC Decision Item #1: Salary Adjustment for Executive Director

The IEC requests \$24,491 to increase the salary for its Executive Director. Specifically, the request includes a \$20,964 salary increase (from \$75,036 to \$96,000), along with associated funding for PERA, Medicare, and short-term disability (a total of \$3,527).

Background Information. In September 2008, the newly formed IEC submitted an Interim Supplemental Request for FY 2008-09 for: (a) funding to increase the annual salary for the IEC Executive Director position from \$62,000 to \$72,492 (to a General Professional VI); and (b) funding for a second IEC staff position at the level of a General Professional (GP) IV. The IEC anticipated the second staff person taking the lead on some of the less complicated cases, performing some of the legal research and investigations, maintaining the website, maintaining case files, and responding to records requests. At that time, the Joint Budget Committee approved a staff recommendation to approve the requested salary increase for the Executive Director, and to approve a slightly smaller amount for the second FTE (a GP III). Subsequently, the FY 2009-10 Long Bill included funding to cover annual salaries of \$72,492 and \$56,796 for these two staff positions.

Due to the revenue shortfall and the hiring freeze, the IEC delayed filling the second staff position, and delayed increasing the Executive Director's salary until April 2009 when it was established at \$75,032. The budget request indicates that as the IEC matured, it became clear that the Executive Director needs to be an attorney, and thus the salary should be commensurate with that of assistant attorneys general and other attorneys in state government with similar experience. The IEC had

³⁷ See Article XXIX of the Colorado Constitution and Section 24-18.5-101, C.R.S.

hoped to address this situation in FY 2009-10 through vacancy savings and a reallocation of the second staff position.

However, in FY 2009-10 an individual "bumped" into the Executive Director's GP VI position as a result of layoffs that were occurring, and the individual serving as Executive Director then bumped into the vacant IEC GPIII position (with no change in salary). This individual is an attorney and continues to serve as the Executive Director for the IEC, so her position was reallocated to a GP VI in May 2010. The employee who bumped into the higher position maintained his previous salary of \$86,100, and now serves as the Communication Director for the IEC. This has resulted in a salary structure that pays the Executive Director \$11,064 (12.9 percent) less than the individual she supervises.

With respect to the IEC budget, when the IEC was transferred to the Judicial Branch, the amount of funding that was transferred from the DPA was based on salary levels that existed in FY 2009-10, and thus included the additional funding necessary to pay a higher than anticipated salary for the second staff position. Thus, DPA has had to reduce expenditures in other portions of its budget to offset the costs associated with this bumping process.

Request. **The IEC requests funding to increase the Executive Director's salary from \$75,036 to \$96,000**, an increase of 27.9 percent. The IEC requested that the Judicial Department's Human Resources staff conduct a formal compensation analysis to determine the appropriate salary range for the IEC Executive Director. This analysis determined that the IEC Director salary should be consistent with other similar Executive Director positions within the Judicial Department³⁸, and thus earn up to \$128,592 per year. If the IEC's budget request is approved, the IEC Executive Director's salary would be within Judicial's salary range for Supervisors. The request would also address the fairness issue that is now present due to the bumping process, and establish the IEC Executive Director's salary 11.5 percent higher than the salary of the individual she supervises. The Judicial analysis indicates that a supervisor should make an average of five to ten percent more than the persons he/she supervises.

Recommendation. **Staff recommends denying this request for additional funding.** Staff agrees that the IEC Executive Director should be an attorney, and the salary should be commensurate with that of other senior level attorneys in state government. However, the IEC had previously planned to use a portion of the funding appropriated for the second IEC staff position (which was vacant at the time) to pay a higher salary to the Executive Director. The IEC has the discretion and authority to determine the number and nature of the staff positions necessary for it to carry out its duties. The current appropriation is actually higher than what was requested to fund the positions outlined by the

³⁸ The report specifically references similar positions in the Judicial Discipline Commission and the Office of Judicial Performance Evaluation. These individuals report directly to a commission, they serve at the pleasure of a commission, and they each have budgetary, administrative, and policy implementation responsibilities.

IEC in the Fall of 2008. Thus, it appears that the IEC has the authority to address the issues raised through this request without additional funding.

Comparable Salaries. For purposes of comparison, staff has compared the current and requested salary levels for the IEC Executive Director to salaries currently paid to attorneys employed by the Department of Law, the Office of the State Public Defender (OSPD), and the Office of Legislative Legal Services (OLLS):

- The current salary for the IEC Executive Director is between the average salaries paid by the Department of Law for an Assistant Attorney General I and a Senior Assistant Attorney General; the requested salary would exceed the average paid for a Senior Assistant Attorney General but fall below the average paid for a 1st Assistant Attorney General.
- The current salary is between the average salaries paid by the OSPD for a Deputy Staff Attorney and a Deputy Senior Attorney; the requested salary would fall between the average salaries paid for a Deputy Senior Attorney and a Deputy Supervising Attorney. [Please note that unlike the Department of Law or OLLS, the OSPD pays salaries to staff who live all over Colorado and not just the Denver metropolitan area.]
- The current salary is at about the mid-point between the average salaries paid by the OLLS for Staff Attorneys (up to six years of experience with OLLS) and Senior Staff Attorneys (six to 20 years of experience with OLLS); the requested salary would exceed the average salary paid for Senior Staff Attorneys but still fall below the average paid to Senior Management Attorneys (15 to 27 years of experience with OLLS).

Market surveys concerning attorneys who are employed by cities and counties in Colorado indicate that attorneys paid at the "senior level" (versus staff or management levels) are expected to lead or mentor other attorneys (73 percent indicated that this was the case), and that attorneys at this level practice a specialized area of law (60 percent). While the IEC Executive Director does not supervise any other attorneys, this individual does practice in a specialized area of statutory and constitutional law. Thus, it would be reasonable for the Commission to raise the salary for this position to a level more commensurate with senior level attorneys working for the Department of Law and OLLS.

IEC Appropriations and Authority. When the IEC first requested additional funding to raise their Executive Director's salary, the IEC anticipated hiring a second staff person to take the lead on some of the less complicated cases, perform some of the legal research and investigations, maintain the website, maintain case files, and respond to records requests. The FY 2009-10 Long Bill included funding to cover annual salaries of \$72,492 and \$56,796 for these two staff positions (a total of \$129,288). Following the events described above and the transfer of the IEC to the Judicial Branch last year, the IEC's budget is currently sufficient to pay salaries of \$86,100 and \$75,036 (a total of \$161,136).

The IEC is now an independent agency within the Judicial Branch. Subject to available appropriations, the IEC is statutorily authorized to "employ such staff as it deems necessary to enable it to carry out its [constitutional and statutory] functions."³⁹ The act that transferred the IEC to the Judicial Branch stated that, "Any state employee on the staff of the commission as of June 10, 2010, shall be transferred with the agency and shall become an employee of the agency."⁴⁰ Thus, the employees of the IEC are no longer part of the state classified system, and the IEC is not subject to the Judicial Department's personnel rules. The IEC has the authority to adopt its own personnel rules. It is staff's understanding that the IEC has the authority to determine whether its staff positions are at-will, subject to annual contract, etc.

In summary, staff recommends appropriating \$175,799 General Fund and 2.0 FTE for this line item, as detailed in the table below. The recommendation is \$27,425 lower than the request due to IEC DI #1 and the continuation of a reduced employer PERA contribution. As this agency only employs 2.0 FTE and these positions remain filled, staff is not recommending a 1.5 percent reduction in base personal services funding for this agency.

IEC Table 1: Summary of Recommendation for Personal Services		
	GF	FTE
Personal Services:		
FY 2010-11 Appropriation (Personal Services portion)	\$175,799	2.0
Eliminate temporary reduction in employer PERA contribution rate (increase from 7.65% to 10.15%)	4,028	0.0
Salary Survey awarded in FY 10-11	0	0.0
80% of Performance-based Pay awarded in FY 10-11	0	0.0
Base reduction (0.0%)	0	0.0
IEC Decision Item #1: Salary Adjustment for Executive Director	0	0.0
Reduction in employer's PERA contribution (2.5%)	<u>(4,028)</u>	<u>0.0</u>
Personal Services Recommendation	175,799	2.0

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 \$4,437 General Fund for FY 2011-12.

³⁹ Section 24-18.5-101 (7), C.R.S.

⁴⁰ Section 24-18.5-101 (10), C.R.S.

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

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 \$310 General Fund for this purpose for FY 2011-12.

Recommendation. **Staff recommends an appropriation of \$285, consistent with the Committee policy.** Staff's recommendation excludes funding associated with IEC DI #1.

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 \$5,099 General Fund for FY 2011-12.

Recommendation. **Staff recommends appropriating \$4,458, 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 \$4,098 General Fund for FY 2011-12.

Recommendation. **Staff recommends appropriating \$3,558, 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 2011-12.

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 2011-12.

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 the following table.

IEC Table 2: Summary of Recommendation for Operating Expenses					
	GF	CF	RF	FF	TOTAL
FY 2010-11 Funding (HB 10-1404)	\$15,807	\$0	\$0	\$0	\$15,807
FY 2010-11 Supplemental (one-time construction costs)	12,771	0	0	0	12,771
Reverse Supplemental	<u>(12,771)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>(12,771)</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 \$67,842 General Fund to purchase 900 hours of services in FY 2011-12.

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:

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

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

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

In FY 2009-10, this footnote provided the OSPD with the authority to transfer up to 2.5 percent (\$1,298,908) of its total FY 2008-09 appropriation (\$51,956,300) between line items. In FY 2009-10, a total of \$414,029 (0.8 percent) was transferred between line items. The following table details the line items affected by such transfers.

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

29 Judicial Department, Alternate Defense Counsel -- In addition to the transfer authority provided in Section 24-75-108 (5), C.R.S., up to 2.5 percent of the total Alternate Defense

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

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

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

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

In FY 2009-10 this footnote provided the OCR with the authority to transfer up to 2.5 percent (\$459,511) of its total FY 2009-10 appropriation (\$18,380,440) between line items. In FY 2009-10, a total of \$35,999 (0.2 percent) was transferred between line items. In addition, the Office of the Alternate Defense Counsel transferred \$449,385 to the OCR as allowed pursuant to Section 24-75-110, C.R.S. The following table details the line items affected by such transfers.

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

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

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

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

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

Long Bill Footnote. This footnote, initially included in the FY 2009-10 Long Bill, authorizes the OCR to utilize up to \$25,000 of the appropriation for Court Appointed Counsel to fund a pilot program for the purpose of evaluating alternatives to the appointment of CFIs and CLR's in domestic relations cases. The evaluation is intended to determine whether the use of alternatives results in equal or better outcomes, and whether it reduces state expenditures.

Description and Status of Pilot Program. The OCR began supporting a pilot program in the 17th judicial district (Adams/Broomfield) to offer Early Neutral Assessment (ENA) to parties in domestic relations cases for FY 2009-10. ENA offers trained two-person teams to help parties understand the strengths and weaknesses of their positions, assisting them to come to an early resolution. This pilot program was initiated in 2007 by Chief Judge Bockman to determine whether this approach would provide a cost effective and quality alternative for families and the courts. The 17th judicial district received a Colorado Judicial Institute grant to bring in experts from Minnesota to train judges, magistrates, family court facilitators, domestic attorneys, mental health experts, and others.

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

parties agree that they want to attend ENA, the session is scheduled within a month of the initial status conference.

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

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

Since September 2008, there have been 65 cases referred to ENA, including 30 dissolution of marriage pre-decree cases, 23 child custody cases, and 12 post-decree parenting time cases. The ENA teams generally agreed on their assessments of the cases and the recommendations they made to parents. Of the 65 cases referred to ENA, 10 ENA evaluations did not take place and three are currently set. To date, 40 of 52 cases that completed ENA (77 percent) reached full agreements and seven cases (13 percent) reached partial agreement. There were five cases where no agreement was reached.

The OCR notes that of the 65 cases referred to ENA, only nine cases were state-paid ENA referred cases. Of the nine cases referred, eight were child custody cases and one was dissolution of marriage pre-decree case. Of these nine ENAs that occurred, eight reached full agreement and one did not.

The following table details OCR expenditures for CFI appointments in Adams County from July 2007 through December 2010. The table also provides expenditure information for ENA cases for the first 19 months of the ENA pilot.

OCR Expenditure and Caseload Data: Adams County Child and Family Investigator Appointments								
Fiscal Year	Expenditures			Number of Cases			Average Cost Per Case	
	CFIs	ENA	Total	CFI	ENA	Total	CFI	ENA
2007-08	\$30,090	N/A	\$30,090	35	N/A	35	\$860	N/A
2008-09	68,006	N/A	68,006	54	N/A	54	1,259	N/A
2009-10	29,103	3,640	32,743	44	7	51	661	520
July - Dec. 2010	4,676	1,040	5,716	13	2	15	360	520

As indicated above, OCR expenditures for CFI appointments more than doubled in FY 2008-09. This increase was attributable to both an increase in the number of cases (54.3 percent) and an increase in the average cost per case (46.4 percent). In FY 2009-10, when the ENA pilot was initiated, the number of cases declined slightly and the average cost per case declined significantly. This trend appears to be continuing in FY 2010-11.

Based on caseload and expenditure data to date, it appears that the ENA pilot is cost-effective. However, the data to date reflects a small number of state-paid ENA cases. The OCR does not plan to expand the pilot project at this time. The court administrator has scheduled a meeting next month with the judges and magistrates to discuss the ENA pilot, including a discussion of the number of state-paid cases that are being referred and whether the pilot program should be expanded.

At this time, the OCR projects expenditures of \$15,000 to \$20,000 for the ENA pilot program in FY 2011-12. The OCR requests that the footnote continue in its current form, allowing up to \$25,000 to be allocated to ENA pilot cases.

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

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

	<u>FY 2010-11</u> <u>2011-12 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 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 thus annually establishes judicial salaries through a footnote in the Long Bill.

Based on the Committee's policy of not providing funding for salary increases for state employees in FY 2011-12, the above footnote is written in the same manner as in FY 2003-04, FY 2009-10, and FY 2010-11 (with no increases). In addition, staff recommends adding language to clarify the current practice of paying Denver Juvenile Court and Probate Court judges at the same rate as District Court judges, as these judges are listed separately in Section 13-30-103 (1), C.R.S.

Staff recommends that the following footnote be **added**:

N JUDICIAL DEPARTMENT, INDEPENDENT ETHICS COMMISSION -- 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.

The Independent Ethics Commission was transferred to the Judicial Branch through H.B. 10-1404. Previously, the appropriations for the Commission consisted of Personal Services, Operating Expenses, and Legal Services; funding for employee benefits were provided through a central line item in the Department's Executive Director's Office. For a program consisting of only 2.0 FTE, staff would normally recommend including a consolidated line item in the Long Bill to provide the program with a reasonable amount of flexibility to manage its resources. However, the Commission is an independent agency within the Judicial Branch, and staff recommends providing appropriations (including centrally appropriated line items) in the same format as those of the other independent agencies. This facilitates legislative staff activities related to establishing and tracking centrally appropriated line items. Staff thus recommends adding this footnote to authorize the Commission to transfer moneys between line items. Similar to the other independent agencies, the Commission's annual budget request will detail expenditures by line item, as well as any transfers that occurred between line items. The above footnote would authorize transfers of up to 10 percent annually, or \$20,434 in FY 2011-12.

Staff recommends that the following footnote be **eliminated**:

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

The Department implemented its in-house public access system on July 1, as originally scheduled.

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. ~~As part of its annual budget request, the~~ THE COLORADO DISTRICT ATTORNEYS' COUNCIL ~~Judicial Department~~ is requested to ~~include~~ SUBMIT AN ANNUAL report BY NOVEMBER 1 ~~by the Colorado District Attorney's Council~~ detailing how the District Attorney Mandated Costs appropriation is spent, how it is distributed, and the steps taken to control these costs.

This footnote ensures that the Colorado District Attorneys' Council (CDAC)⁴¹ 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.

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.

⁴¹ The CDAC is a quasi-government agency, supported by assessments charged to each member's office (through an intergovernmental agreement). The District Attorneys for the 2nd (Denver), 9th (Garfield/Pitkin/Rio Blanco), and 18th (Arapahoe/Douglas/Elbert/Lincoln) judicial districts are not currently members of the CDAC.

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