

The following file contains two documents:

- A memorandum to the Joint Budget Committee members dated March 11, 2010 concerning funding for security services for the Supreme Court and the Court of Appeals.
- A packet dated February 11, 2010, concerning Judicial Department's FY 2010-11 budget request.

MEMORANDUM

TO: Joint Budget Committee Members

FROM: Carolyn Kampman (303-866-4959)

SUBJECT: Staff “Comeback” Concerning Court Security Services

DATE: March 11, 2010

The Joint Budget Committee acted on the Judicial Department’s FY 2010-11 budget request February 11, 2010. The Committee approved a General Fund appropriation of \$310,927 for the purchase of security services from the Department of Public Safety (DPS) for the Supreme Court and the Court of Appeals. Subsequently, staff received information from the DPS indicating that this appropriation would exceed the amount that will be necessary to support the 3.5 security FTE for FY 2010-11.

Staff thus requests that the Committee reconsider its previous action on this component of the General Courts Administration line item. **Based on updated information, staff recommends an appropriation of \$286,114 General Fund for the purchase of security services from DPS for the Supreme Court and the Court of Appeals.** This revised recommendation would reduce appropriations to the Judicial Department by \$24,813 General Fund.

**COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE**



FY 2010-11 STAFF FIGURE SETTING

JUDICIAL BRANCH

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

**Prepared By:
Carolyn Kampman, JBC Staff
February 11, 2010**

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**JUDICIAL BRANCH
FY 2010-11 STAFF FIGURE SETTING**

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

TABLE OF CONTENTS

	Numbers Pages	Narrative
Summaries and Overviews		
Branch Organization	n/a	26
Summary of Major Recommendations Included in This Packet	n/a	26
Judicial Decision Item #1 - Budget Reductions	n/a	27
H.B. 07-1054 (New Judges) - Proposed Delay	n/a	30
Proposed Long Bill Reorganization	n/a	32
Supreme Court/ Court of Appeals	1	36
Courts Administration		
Administration/ ADMINISTRATION AND TECHNOLOGY	3	40
Administrative Special Purpose/ CENTRAL APPROPRIATIONS	6	51
CENTRALLY ADMINISTERED PROGRAMS	9	59
Integrated Information Services	12	60
Trial Courts	14	67
Probation and Related Services	17	90
Public Defender	20	101
Alternate Defense Counsel	22	116
Office of the Child's Representative	24	124
Appendix A: Summary of H.B. 07-1054 Judge Increases		
Appendix B: Furnishings for County Courthouse Facility Projects		

Fiscal Year 2010-11 Joint Budget Committee Staff Figure Setting
Judicial Department
NUMBERS PAGES

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
JUDICIAL DEPARTMENT						
Chief Justice Mary Mullarkey						
(1) SUPREME COURT/COURT OF APPEALS						
The primary functions of the Supreme Court include: general supervisory control of lower courts; appellate review of lower court judgements; original jurisdiction for certain constitutional and other cases; and rule-making for the state court system. The Court of Appeals is the initial jurisdiction for appeals from district courts and certain state agencies. Cash fund sources include various fees and cost recoveries.						
Appellate Court Programs		11,205,403	11,833,524	11,313,755	11,086,903	JUD DI #1
FTE		<u>141.8</u>	<u>146.0</u>	<u>136.0</u>	<u>136.0</u>	
General Fund		10,150,428	10,747,137 S	10,229,360	10,035,031	BA - Reorg.
FTE		128.3	132.5	122.5	122.5	
Cash Funds		1,054,975	1,086,387	1,084,395	1,051,872	
FTE		13.5	13.5	13.5	13.5	
Personal Services	9,689,358	Included in				
FTE	<u>129.9</u>	Appellate Court				
General Fund	9,629,698	Programs line				
FTE	129.9	item (above)				
Cash Funds	59,660					
Operating Expenses	<u>207,290</u>	Included in				
General Fund	147,630	Appellate Court				
Cash Funds	59,660	Programs line item				
Capital Outlay	<u>0</u>	<u>213,640</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	0	0	0	0	0	
Cash Funds	0	213,640	0	0	0	
Attorney Regulation Committees - CF a/	6,083,891	5,527,576	6,000,000 S	4,700,000	6,000,000	
FTE b/	40.5	40.5	40.5	40.5	40.5	

Fiscal Year 2010-11 Joint Budget Committee Staff Figure Setting
Judicial Department
NUMBERS PAGES

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
Continuing Legal Education - CF a/ FTE b/	369,682 4.0	353,169 4.0	370,000 S 4.0	325,000 4.0	370,000 4.0	
Law Examiner Board - CF a/ FTE b/	895,662 8.2	897,853 8.2	900,000 S 8.2	850,000 8.2	900,000 8.2	
Law Library - CF a/	440,131	482,316	500,000	500,000	500,000	
TOTAL - Supreme Court/ Court of Appeals	17,686,014	18,679,957	19,603,524	17,688,755	18,856,903	
FTE	<u>182.6</u>	<u>194.5</u>	<u>198.7</u>	<u>188.7</u>	<u>188.7</u>	
General Fund	9,777,328	10,150,428	10,747,137	10,229,360	10,035,031	
FTE	129.9	128.3	132.5	122.5	122.5	
Cash Funds	7,908,686	8,529,529	8,856,387	7,459,395	8,821,872	
FTE	52.7	66.2	66.2	66.2	66.2	

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 2007-08 and 2008-09 reflect appropriated, rather than actual, levels.

Fiscal Year 2010-11 Joint Budget Committee Staff Figure Setting
Judicial Department
NUMBERS PAGES

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	Change
	Actual	Actual	Appropriation	Request	Staff Recomm. Requests
(2) COURTS ADMINISTRATION					
(A) Administration [Proposed new subsection title: ADMINISTRATION AND TECHNOLOGY]					
This subdivision supports the Office of the State Court Administrator, which coordinates and controls budgeting, research, data processing and management services for the Judicial Department, and provides training, technical assistance and other support services. Cash fund sources include various fees and cost recoveries. Reappropriated funds include indirect cost recoveries and a transfer from the Department of Higher Education.					
Proposed new line item: GENERAL COURTS ADMINISTRATION				16,505,986	16,019,234 BA - Reorg.
FTE				<u>192.5</u>	<u>188.5</u>
General Fund				13,106,080	12,655,560
FTE				173.5	169.5
Cash Funds				1,831,828	1,825,845
FTE				19.0	19.0
Reappropriated Funds				1,568,078	1,537,829
Personal Services [Proposed to be consolidated in above new line item]	4,935,270	5,025,436	5,435,753	15,597,626	15,118,570 JUD DI #1; BA - Reorg.
FTE	<u>60.6</u>	<u>59.4</u>	<u>64.1</u>	<u>192.5</u>	<u>188.5</u>
General Fund	3,823,254	3,914,540	3,982,836	12,403,370	11,959,207
FTE	60.6	59.4	64.1	173.5	169.5
Cash Funds	0	0	147,274	1,626,178	1,621,534
FTE	0.0	0.0	0.0	19.0	19.0
Cash Funds Exempt/ Reappr. Funds	1,112,016	1,110,896	1,305,643	1,568,078	1,537,829
Operating Expenses [Proposed to be consolidated in above new line item]	<u>368,135</u>	<u>370,918</u>	<u>360,481</u>	<u>908,360</u>	<u>900,664</u> JUD DI #1; BA - Reorg.
General Fund	367,984	370,396	359,481 S	702,710	696,353
Cash Funds	151	522	1,000	205,650	204,311
Capital Outlay - GF	7,042	6,220	0	0	0

Fiscal Year 2010-11 Joint Budget Committee Staff Figure Setting
Judicial Department
NUMBERS PAGES

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
Information Technology Infrastructure				4,269,146	4,269,146	
General Fund				403,094	403,094	
Cash Funds				3,866,052	3,866,052	
Judicial/Heritage Program	588,441	737,801	749,176	0	0	
FTE	3.0	3.0	3.0	0.0	0.0	
General Fund	317,852	504,903	503,260	0	0	
FTE	3.0	3.0	3.0	0.0	0.0	
Cash Funds Exempt/ Reappr. Funds	270,589	232,898	245,916	0	0	
Family Friendly Court Program [Proposed to be moved to new Centrally Administered Programs subsection]	366,217	339,806	375,000	0	0	BA - Reorg.
FTE	0.5	0.5	0.5	0.0	0.0	
Cash Funds	339,668	339,806	375,000	0	0	
FTE	0.5	0.5	0.5	0.0	0.0	
Cash Funds Exempt/ Reappr. Funds	26,549	0	0	0	0	
Office of Judicial Performance Evaluation [Proposed to be moved to new Centrally Administered Programs subsection] - CF	812,151	809,712	920,955	0	0	BA - Reorg.
FTE	1.0	1.7	2.0	0.0	0.0	
Courthouse Capital/ Infrastructure Maintenance [Proposed to be moved to new Centrally Administered Programs subsection]	948,680	1,000,000	3,100,000	0	0	JUD DI #1; BA - Reorg.
General Fund	948,680	1,000,000	0	S 0	0	
Cash Funds	0	0	3,100,000	0	0	
Courthouse Security [Proposed to be moved to new Centrally Administered Programs subsection] - CF	344,307	1,813,352	3,670,622	S 0	0	JUD DI #3; BA - Reorg.
FTE	1.0	1.0	1.0	0.0	0.0	

Fiscal Year 2010-11 Joint Budget Committee Staff Figure Setting
Judicial Department
NUMBERS PAGES

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
Family Violence Justice Grants [Proposed to be moved to new Centrally Administered Programs subsection]	<u>495,000</u>	<u>746,640</u>	<u>893,430</u>	<u>0</u>	<u>0</u>	BA - Reorg.
General Fund	495,000	746,640	750,000	0	0	
Cash Funds	0	0	143,430	0	0	
Statewide Indirect Cost Assessment	<u>104,846</u>	<u>124,593</u>	<u>83,252</u>	<u>117,200</u>	Pending	
Cash Funds	99,438	124,593	77,832	110,292		
Cash Funds Exempt/ Reappr. Funds	5,408	0	0	3,219		
Federal Funds	0	0	5,420	3,689		
Departmental Indirect Cost Assessment - CF	1,007,170	986,303	1,242,659	1,253,437	Pending	
SUBTOTAL - Administration/ Administration and Technology	9,977,259	11,960,781	16,831,328	17,876,623	16,019,234	
FTE	<u>65.1</u>	<u>64.6</u>	<u>70.6</u>	<u>192.5</u>	<u>188.5</u>	
General Fund	5,959,812	6,542,699	5,595,577	13,106,080	12,655,560	
FTE	63.6	62.4	67.1	173.5	169.5	
Cash Funds	2,602,885	4,074,288	9,678,772	3,195,557	1,825,845	
FTE	1.5	2.2	3.5	19.0	19.0	
Cash Funds Exempt/ Reappr. Funds	1,414,562	1,343,794	1,551,559	1,571,297	1,537,829	
Federal Funds	0	0	5,420	3,689	0	

Fiscal Year 2010-11 Joint Budget Committee Staff Figure Setting
Judicial Department
NUMBERS PAGES

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
(B) Administrative Special Purpose [Proposed new subsection title: CENTRAL APPROPRIATIONS]						
This subdivision includes centrally appropriated line items (which generally exclude funding associated with the three independent agencies) and ancillary programs. Cash fund sources include various court fees and fines, royalties from the sale of pattern jury instructions, and employee parking fees. Reappropriated funds include Victims and Witnesses Assistance and Law Enforcement funds transferred from the Trial Courts division, and federal funds transferred from the Department of Human Services.						
Health, Life, and Dental	<u>12,399,519</u>	<u>16,106,295</u>	<u>17,916,821</u>	<u>17,363,540</u>	<u>17,877,252</u>	JUD DI #1
General Fund	11,708,733	13,905,933	16,077,590	\$ 15,653,229	16,166,941	
Cash Funds	690,786	2,200,362	1,839,231	1,710,311	1,710,311	
Short-term Disability	<u>209,399</u>	<u>200,386</u>	<u>228,097</u>	<u>313,448</u>	Pending	
General Fund	186,059	166,112	192,515	\$ 277,956		
Cash Funds	23,340	34,274	35,582	35,492		
S.B. 04-257 Amortization Equalization Disbursement	<u>1,885,200</u>	<u>3,014,203</u>	<u>3,917,429</u>	<u>4,793,595</u>	Pending	
General Fund	1,669,756	2,592,370	3,458,308	4,244,055		
Cash Funds	215,444	421,833	459,121	549,540		
S.B. 06-235 Supplemental Amortization Equalization Disbursement	<u>343,055</u>	<u>1,369,816</u>	<u>2,411,398</u>	<u>3,464,196</u>	Pending	
General Fund	298,170	1,172,082	2,124,448	3,063,490		
Cash Funds	44,885	197,734	286,950	400,706		
Salary Survey	<u>9,530,403</u>	<u>10,285,486</u>	0	0	0	
General Fund	8,998,492	9,410,617	0	0	0	
Cash Funds	531,911	874,869	0	0	0	
Anniversary Increases	<u>1,958,269</u>	<u>2,052,664</u>	0	0	0	
General Fund	1,847,001	1,828,268	0	0	0	
Cash Funds	111,268	224,396	0	0	0	

Fiscal Year 2010-11 Joint Budget Committee Staff Figure Setting
Judicial Department
NUMBERS PAGES

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
Workers' Compensation - GF	1,624,563	2,071,929	1,623,687 S	1,795,339	Pending	
Legal Services - GF	195,616	207,517	226,140	226,140	Pending	
Hours	2,715.8	2,763.2	3,000.0	3,000.0	3,000.0	
Purchase of Services from Computer Center [Proposed to be moved from Integrated Information Services subsection] - GF				268,774	Pending	BA - Reorg.
Multiuse Network Payments [Proposed to be moved from Integrated Information Services subsection] - GF				334,800	Pending	BA - Reorg.
Payment to Risk Management and Property Funds -	272,001	341,001	214,188 S	84,755	Pending	
Vehicle Lease Payments - GF	33,363	43,428	55,012 S	57,569	Pending	
Leased Space	<u>789,737</u>	<u>843,850</u>	<u>1,139,515</u>	<u>1,255,283</u>	<u>1,255,283</u>	JUD DI #1
General Fund	754,032	809,675 a/	968,035 S	1,083,803	1,083,803	
Cash Funds	35,705	34,175	171,480 S	171,480	171,480	
Communication Services Payments [Proposed to be moved from Integrated Information Services				10,938	Pending	BA - Reorg.
Lease Purchase - GF	112,766	119,878	119,878	119,878	119,878	
Administrative Purposes [Proposed to be consolidated with other line items]	<u>178,613</u>	<u>163,081</u>	<u>195,554</u>	<u>0</u>	<u>0</u>	BA - Reorg.
General Fund	128,804	120,515	130,554	0	0	
Cash Funds	49,809	42,566	65,000	0	0	

Fiscal Year 2010-11 Joint Budget Committee Staff Figure Setting
Judicial Department
NUMBERS PAGES

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
Retired Judges [Renamed SENIOR JUDGE PROGRAM; Proposed to be moved to new Centrally Administered Programs subsection] - GF	1,695,955	1,917,486 b/	1,894,006	0	0	BA - Reorg.
Appellate Reports Publication [Proposed to be consolidated with Appellate Court Programs line item] - GF	45,535	46,899 c/	37,100	0	0	BA - Reorg.
Child Support Enforcement [Proposed to be moved to new Centrally Administered Programs subsection]	71,610	74,703	90,900	0	0	BA - Reorg.
FTE	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>0.0</u>	<u>0.0</u>	
General Fund	24,254	25,321	30,904	0	0	
Cash Funds Exempt/ Reappr. Funds	47,356	49,382	59,996	0	0	
FTE	1.0	1.0	1.0	0.0	0.0	
Collections Investigators [Proposed to be moved to new Centrally Administered Programs subsection]	4,100,260	4,611,106	5,179,351	0	0	BA - Reorg.
FTE	<u>74.7</u>	<u>72.1</u>	<u>83.2</u>	<u>0.0</u>	<u>0.0</u>	
General Fund	0	0	0	0	0	
Cash Funds	3,456,423	3,886,663	4,281,810	0	0	
FTE	74.7	72.1	83.2	0.0	0.0	
Cash Funds Exempt/ Reappr. Funds	643,837	724,443	897,541	0	0	

Fiscal Year 2010-11 Joint Budget Committee Staff Figure Setting
Judicial Department
NUMBERS PAGES

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
SUBTOTAL - Administrative Special Purpose/ Central Appropriations	35,445,864	43,469,728	35,249,076	30,088,255	19,252,413	
FTE	<u>75.7</u>	<u>73.1</u>	<u>84.2</u>	<u>0.0</u>	<u>0.0</u>	
General Fund	29,595,100	34,779,031	27,152,365	27,220,726	17,370,622	
Cash Funds	5,159,571	7,916,872	7,139,174	2,867,529	1,881,791	
FTE	74.7	72.1	83.2	0.0	0.0	
Cash Funds Exempt/ Reappr. Funds	691,193	773,825	957,537	0	0	
FTE	1.0	1.0	1.0	0.0	0.0	

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

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

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

(C) New proposed subsection: CENTRALLY ADMINISTERED PROGRAMS

This subdivision would include a variety of line items that provide funding for grant programs and for functions that are supported by specific revenue sources. Unless otherwise noted, line items are currently located in Administrative Programs subsection.

Victim Assistance [Proposed to be moved from Trial Courts subsection] - CF

15,095,039 15,095,039 BA - Reorg.

Victim Compensation [Proposed to be moved from Trial Courts subsection] - CF

12,120,121 12,120,121 BA - Reorg.

Collections Investigators

5,171,322 5,084,959 BA - Reorg.

FTE

83.2 83.2

General Fund

0 0

Cash Funds

4,273,781 4,187,418

FTE

83.2 83.2

Reappropriated Funds

897,541 897,541

121,059

Fiscal Year 2010-11 Joint Budget Committee Staff Figure Setting
Judicial Department
NUMBERS PAGES

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	Change	
	Actual	Actual	Appropriation	Request	Staff Recomm. Requests	
Problem-solving Courts				3,380,629	3,501,688	JUD DI #2; BA - Reorg.
FTE				<u>32.2</u>	<u>32.2</u>	
Cash Funds				994,576	1,115,635	
FTE				17.2	17.2	
Federal Funds				2,386,053	2,386,053	
FTE				15.0	15.0	
Language Interpreters [Proposed to be moved from Trial Courts subsection]				3,389,985	3,428,312	BA - Reorg.
FTE				<u>20.0</u>	<u>25.0</u>	
General Fund				3,339,985	3,378,312	
FTE				20.0	25.0	
Cash Funds				50,000	50,000	
Courthouse Security - CF				3,869,622	3,869,622	BA - Reorg.
FTE				1.0	1.0	
Courthouse Capital/ Infrastructure Maintenance				<u>2,800,000</u>	<u>2,800,000</u>	BA - Reorg.
General Fund				0	0	
Cash Funds				2,800,000	2,800,000	
Retired Judges [Renamed SENIOR JUDGE PROGRAM] - GF				1,894,006	1,894,006	BA - Reorg.
Office of Judicial Performance Evaluation - CF				920,955	887,112	BA - Reorg.
FTE				2.0	2.0	
Family Violence Justice Grants				<u>893,430</u>	<u>893,430</u>	BA - Reorg.
General Fund				750,000	750,000	
Cash Funds				143,430	143,430	

Fiscal Year 2010-11 Joint Budget Committee Staff Figure Setting
Judicial Department
NUMBERS PAGES

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	Change	
	Actual	Actual	Appropriation	Request	Staff Recomm. Requests	
Family Friendly Court Program - CF				375,000	375,000	BA - Reorg.
FTE				0.5	0.5	
Child Support Enforcement				90,900	88,864	BA - Reorg.
FTE				<u>1.0</u>	<u>1.0</u>	
General Fund				30,904	30,212	
Reappropriated Funds				59,996	58,652	
FTE				1.0	1.0	
SUBTOTAL - Centrally Administered Programs				50,001,009	50,038,152	
FTE				<u>139.9</u>	<u>144.9</u>	
General Fund				6,014,895	6,052,530	
FTE				20.0	25.0	
Cash Funds				40,642,524	40,643,377	
FTE				103.9	103.9	
Reappropriated Funds				957,537	956,193	
FTE				1.0	1.0	
Federal Funds				2,386,053	2,386,053	
FTE				15.0	15.0	

Fiscal Year 2010-11 Joint Budget Committee Staff Figure Setting
Judicial Department
NUMBERS PAGES

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
(C) Integrated Information Services [This subsection is proposed to be integrated into other subsections]						
This subdivision provides funding to develop and maintain information technology systems used by the courts (including ICON and CICJIS), provide associated staff training, and assure data integrity. Cash fund sources include various fees and other cost recoveries. Reappropriated funds are federal funds transferred from the Department of Public Safety.						
Personal Services [Proposed to be consolidated with other Personal Services line items]	3,044,022	3,224,060	3,531,926	0	0	JUD DI #1; BA - Reorg.
FTE	<u>44.9</u>	<u>43.4</u>	<u>45.9</u>	<u>0.0</u>	<u>0.0</u>	
General Fund	3,011,093	3,187,012	3,270,771	0	0	
FTE	44.9	43.4	44.9	0.0	0.0	
Cash Funds	0	37,048	43,445 S	0	0	
FTE	0.0	0.0	1.0 S	0.0	0.0	
Cash Funds Exempt/ Reappr. Funds	32,929	0	217,710	0	0	
Operating Expenses [Proposed to be consolidated with other Operating Expenses line items]	<u>226,444</u>	<u>327,888</u>	<u>232,140</u>	<u>0</u>	<u>0</u>	JUD DI #1; BA - Reorg.
General Fund	176,444	177,888	154,844 S	0	0	
Cash Funds	50,000	150,000	77,296 S	0	0	
JAVA Conversion - GF	305,037	311,054	0	0	0	
FTE	4.7	5.0	0.0	0.0	0.0	
Capital Outlay	<u>7,042</u>	<u>2,765</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	7,042	2,765	0	0	0	
Cash Funds	0	0	0	0	0	
Purchase of Services from Computer Center [Proposed to be moved to Administration and Technology Programs subsection] - GF	102,454	268,774	256,998 S	0	0	BA - Reorg.
Multiuse Network Payments [Proposed to be moved to Admin. and Tech. Programs subsection] - GF	285,787	334,800	334,800	0	Pending	BA - Reorg.

Fiscal Year 2010-11 Joint Budget Committee Staff Figure Setting
Judicial Department
NUMBERS PAGES

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
Communication Services Payments [Proposed to be moved to Admin. and Tech. Programs subsection] -	10,266	10,938	10,938	0	Pending	BA - Reorg.
Information Technology Infrastructure [Proposed to be moved to Admin. and Tech. Programs subsection]			<u>2,961,486</u>	<u>0</u>	<u>0</u>	JUD DI #1; BA - Reorg.
General Fund			353,094 S	0	0	
Cash Funds			2,608,392	0	0	
Telecommunications Expenses	<u>479,627</u>	<u>525,527</u>	Included in			
General Fund	256,235	310,000	IT Infrastructure			
Cash Funds	223,392	215,527	(above)			
Hardware Replacement	<u>2,250,000</u>	<u>2,580,776</u>	Included in			
General Fund	0	0	IT Infrastructure			
Cash Funds	2,250,000	2,580,776	(above)			
Hardware/Software Maintenance	<u>1,174,424</u>	<u>1,178,094</u>	Included in			
General Fund	1,039,424	1,043,094	IT Infrastructure			
Cash Funds	135,000	135,000	(above)			
SUBTOTAL - Integrated Information Services	7,885,103	8,764,676	7,328,288	0	0	
FTE	<u>49.6</u>	<u>48.4</u>	<u>45.9</u>	<u>0.0</u>	<u>0.0</u>	
General Fund	5,193,782	5,646,325	4,381,445	0	0	
FTE	49.6	48.4	44.9	0.0	0.0	
Cash Funds	2,658,392	3,118,351	2,729,133	0	0	
FTE	0.0	0.0	1.0	0.0	0.0	
Cash Funds Exempt/ Reappr. Funds	32,929	0	217,710	0	0	

Fiscal Year 2010-11 Joint Budget Committee Staff Figure Setting
Judicial Department
NUMBERS PAGES

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
TOTAL - Courts Administration	53,308,226	64,195,185	59,408,692	97,965,887	85,309,799	
FTE	190.4	186.1	200.7	332.4	333.4	
General Fund	40,748,694	46,968,055	37,129,387	46,341,701	36,078,711	
FTE	113.2	110.8	112.0	193.5	194.5	
Cash Funds	10,420,848	15,109,511	19,547,079	46,705,610	44,351,013	
FTE	76.2	74.3	87.7	122.9	122.9	
Cash Funds Exempt/ Reappr. Funds	2,138,684	2,117,619	2,726,806	2,528,834	2,494,022	
FTE	1.0	1.0	1.0	1.0	1.0	
Federal Funds	0	0	5,420	2,389,742	2,386,053	
FTE	0.0	0.0	0.0	15.0	15.0	

(3) TRIAL COURTS

Trial courts consist of district courts (including water courts) and county courts. District courts have general jurisdiction over domestic, civil, and criminal cases, as well as appellate jurisdiction for decisions of county and municipal courts. County courts have jurisdiction over traffic cases and minor criminal and civil cases, as well as appellate jurisdiction for municipal courts. Cash fund sources include various court fees and cost recoveries, Crime Victim Compensation funds, and Victims and Witnesses Assistance and Law Enforcement funds. Reappropriated funds are federal funds transferred from the Departments of Public Safety and Human Services.

Trial Courts Programs [Request reflects proposed transfers to other Personal Services and Operating Expenses line items]

	115,637,931	122,777,437	117,972,246	115,739,758	
FTE	<u>1,751.1</u>	<u>1,791.8</u>	<u>1,711.5</u>	<u>1,711.5</u>	
General Fund	93,620,721	97,899,420 \$	92,474,699	90,752,553	
FTE	1,619.2	1,528.3 \$	1,441.6	1,441.6	
Cash Funds	22,017,210	23,913,017	24,532,547	24,022,206	
FTE	131.9	263.5	269.9	269.9	
Reappropriated Funds	0	965,000	965,000	965,000	
Federal Funds	0	0	0	0	

JUD DI #1, 2;
BA - Reorg.

Fiscal Year 2010-11 Joint Budget Committee Staff Figure Setting
Judicial Department
NUMBERS PAGES

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
Personal Services	101,784,289	Included in				
FTE	<u>1,682.5</u>	Trial Courts				
General Fund	90,667,630	Programs line				
FTE	1,550.6	item (above)				
Cash Funds	9,764,874					
FTE	131.9					
Reappropriated Funds						
Federal Funds	1,351,785					
Operating Expenses	<u>6,646,246</u>	Included in Trial				
General Fund	150,877	Courts Programs				
Cash Funds	6,495,369	line item (above)				
Capital Outlay	<u>866,829</u>	<u>1,450,806</u>	<u>1,291,171</u>	<u>0</u>	<u>0</u>	
General Fund	141,023	0	0 S	0	0	
Cash Funds	725,806	1,450,806	1,291,171	0	0	
Court Costs, Jury Costs, and Court-appointed Counsel	<u>13,426,103</u>	<u>15,331,788</u>	<u>15,594,352</u>	<u>15,594,352</u>	<u>15,594,352</u>	
General Fund	13,249,563	15,124,817 a/	15,109,352	15,109,352	15,109,352	
Cash Funds	176,540	206,971	485,000	485,000	485,000	
Language Interpreters [Proposed to be moved to new Centrally Administered Programs subsection]	3,235,466	3,390,105	3,396,568	0	0	BA - Reorg.
FTE	<u>25.0</u>	<u>22.3</u>	<u>25.0</u>	<u>0.0</u>	<u>0.0</u>	
General Fund	3,225,714	3,343,467	3,346,568	0	0	
FTE	25.0	22.3	25.0 S	0.0	0.0	
Cash Funds	9,752	46,638	50,000	0	0	
District Attorney Mandated Costs	<u>2,223,648</u>	<u>2,188,785</u>	<u>2,226,052</u>	<u>2,147,624</u>	<u>2,147,624</u>	
General Fund	2,092,974	2,063,785	2,101,052	2,022,624	2,022,624	
Cash Funds	130,674	125,000	125,000	125,000	125,000	

Fiscal Year 2010-11 Joint Budget Committee Staff Figure Setting
Judicial Department
NUMBERS PAGES

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
Sex Offender Surcharge Fund Program - GF	24,988	0	0	0	0	
Victim Compensation [Proposed to be moved to new Centrally Administered Programs subsection] - CF b/	10,314,242	11,538,703	12,120,121	0	0	BA - Reorg.
Victim Assistance [Proposed to be moved to new Centrally Administered Programs subsection] - CF b/	14,314,518	15,872,570	15,095,039	0	0	BA - Reorg.
Federal Funds and Other Grants	1,085,401	1,602,789	2,900,000	2,900,000	2,900,000	
FTE c/	<u>10.9</u>	<u>8.5</u>	<u>14.0</u>	<u>14.0</u>	<u>14.0</u>	
Cash Funds	419,650	305,991	975,000 S	975,000	975,000	BA
FTE c/	3.0	0.0	3.0	3.0	3.0	
Cash Funds Exempt/ Reappr. Funds	85,095	133,012	300,000	300,000	300,000	
FTE c/	1.8	6.0	6.0	6.0	6.0	
Federal Funds	580,656	1,163,786	1,625,000	1,625,000	1,625,000	
FTE c/	6.1	2.5	5.0	5.0	5.0	
TOTAL - Trial Courts	153,921,730	167,013,477	175,400,740	138,614,222	136,381,734	
FTE	<u>1,718.4</u>	<u>1,781.9</u>	<u>1,830.8</u>	<u>1,725.5</u>	<u>1,725.5</u>	
General Fund	109,552,769	114,152,790	118,456,392	109,606,675	107,884,529	
FTE	1,575.6	1,641.5	1,553.3	1,441.6	1,441.6	
Cash Funds	42,351,425	51,563,889	54,054,348	26,117,547	25,607,206	
FTE	134.9	131.9	266.5	272.9	272.9	
Cash Funds Exempt/ Reappr. Funds	85,095	133,012	1,265,000	1,265,000	1,265,000	
FTE	1.8	6.0	6.0	6.0	6.0	
Federal Funds	1,932,441	1,163,786	1,625,000	1,625,000	1,625,000	
FTE	6.1	2.5	5.0	5.0	5.0	

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

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

c/ FTE figures for FY 2007-08 and 2008-09 reflect appropriated, rather than actual, levels.

Fiscal Year 2010-11 Joint Budget Committee Staff Figure Setting
Judicial Department
NUMBERS PAGES

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
(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.						
Proposed new line item: PROBATION PROGRAMS						
[Also proposed transfers to other Personal Services and						
Operating Expenses line items]						
				67,053,220	72,386,470	
FTE				<u>1,021.6</u>	<u>1,114.6</u>	
General Fund				56,589,371	61,934,965	
FTE				867.7	960.7	
Cash Funds				10,463,849	10,451,505	
FTE				153.9	153.9	
Personal Services	60,889,029	68,108,725	68,663,731	64,045,887	69,379,137	JUD DI #1
FTE	<u>1,031.3</u>	<u>1,081.2</u>	<u>1,079.7</u>	<u>1,021.6</u>	<u>1,114.6</u>	
General Fund	52,000,053	58,805,464	59,025,104 S	54,400,887	59,746,481	
FTE	877.4	927.3	925.8 S	867.7	960.7	
Cash Funds	8,888,976	9,303,261	9,638,627	9,645,000	9,632,656	
FTE	153.9	153.9	153.9	153.9	153.9	
Operating Expenses	<u>2,594,272</u>	<u>2,589,368</u>	<u>2,807,546</u>	<u>3,007,333</u>	<u>3,007,333</u>	JUD DI #1
General Fund	2,244,603	2,262,118	1,988,697 S	2,188,484	2,188,484	
Cash Funds	349,669	327,250	818,849	818,849	818,849	
Capital Outlay - GF	381,564	168,604	0 S	0	0	
Offender Treatment and Services	<u>5,769,105</u>	<u>6,750,220</u>	<u>10,932,023</u>	<u>10,932,023</u>	<u>10,932,023</u>	
General Fund	487,193	0	0	0	0	
Cash Funds	3,656,855	6,697,671	10,619,290	10,619,290	10,619,290	

Fiscal Year 2010-11 Joint Budget Committee Staff Figure Setting
Judicial Department
NUMBERS PAGES

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
Cash Funds Exempt/ Reappr. Funds	1,625,057	52,549	312,733	312,733	312,733	
S.B. 03-318 Community Treatment Funding - GF	2,200,000	2,200,000	2,200,000	2,200,000	2,200,000	
S.B. 91-94 Juvenile Services - CFE/RF	1,663,595	1,629,184	1,906,837	1,906,837	1,906,837	
FTE	25.0	25.0	25.0	25.0	25.0	
Day Reporting Services - GF	n/a	n/a	393,078	393,078	393,078	
Victims Grants - CFE/RF	333,988	433,029	650,000	650,000	650,000	
FTE	17.3	17.3	6.0	6.0	6.0	
Federal Funds and Other Grants	2,895,079	3,529,754	5,600,000	5,600,000	5,600,000	
FTE a/	<u>34.8</u>	<u>32.3</u>	<u>33.0</u>	<u>33.0</u>	<u>33.0</u>	
Cash Funds	1,330,103	1,011,041	1,950,000 S	1,950,000	1,950,000	BA
FTE a/	6.5	2.0	2.0	2.0	2.0	
Cash Funds Exempt/ Reappr. Funds	532,778	822,563	850,000	850,000	850,000	
FTE a/	10.9	17.8	18.0	18.0	18.0	
Federal Funds	1,032,198	1,696,150	2,800,000	2,800,000	2,800,000	
FTE a/	17.4	12.5	13.0	13.0	13.0	

Fiscal Year 2010-11 Joint Budget Committee Staff Figure Setting
Judicial Department
NUMBERS PAGES

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
TOTAL - Probation	76,726,632	85,408,884	93,153,215	88,735,158	94,068,408	
FTE	<u>1,108.4</u>	<u>1,155.8</u>	<u>1,143.7</u>	<u>1,085.6</u>	<u>1,178.6</u>	
General Fund	57,313,413	63,436,186	63,606,879	59,182,449	64,528,043	
FTE	877.4	927.3	925.8	867.7	960.7	
Cash Funds	14,225,603	17,339,223	23,026,766	23,033,139	23,020,795	
FTE	160.4	155.9	155.9	155.9	155.9	
Cash Funds Exempt/ Reappr. Funds	4,155,418	2,937,325	3,719,570	3,719,570	3,719,570	
FTE	53.2	60.1	49.0	49.0	49.0	
Federal Funds	1,032,198	1,696,150	2,800,000	2,800,000	2,800,000	
FTE	17.4	12.5	13.0	13.0	13.0	

a/ FTE figures for FY 2007-08 and 2008-09 reflected appropriated, rather than actual, levels.

TOTAL - Judicial Department	301,642,602	335,297,503	347,566,171	343,004,022	334,616,845	
FTE	<u>3,199.8</u>	<u>3,318.3</u>	<u>3,373.9</u>	<u>3,332.2</u>	<u>3,426.2</u>	
General Fund	217,392,204	234,707,459	229,939,795	225,360,185	218,526,314	
FTE	2,696.1	2,807.9	2,723.6	2,625.3	2,719.3	
Cash Funds	74,906,562	92,542,152	105,484,580	103,315,691	101,800,886	
FTE	424.2	428.3	576.3	617.9	617.9	
CFE/RF	6,379,197	5,187,956	7,711,376	7,513,404	7,478,592	
FTE	56.0	67.1	56.0	56.0	56.0	
Federal Funds	2,964,639	2,859,936	4,430,420	6,814,742	6,811,053	
FTE	23.5	15.0	18.0	33.0	33.0	

Fiscal Year 2010-11 Joint Budget Committee Staff Figure Setting
Judicial Department
NUMBERS PAGES

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
(5) PUBLIC DEFENDER						
Douglas Wilson, State Public Defender						
This agency provides legal counsel for indigent defendants in criminal and juvenile delinquency cases where there is a possibility of being jailed or imprisoned. Cash funds consist of training fees paid by private attorneys, grants, and funds received from the City of Denver for contract services related to its drug court. Reappropriated funds are federal funds transferred from the Department of Public Safety.						
Personal Services	32,776,520	35,641,348	37,890,338	40,989,256	40,275,687	PD DI-
FTE	<u>424.9</u>	<u>510.3</u>	<u>537.6</u>	<u>650.9</u>	<u>608.1</u>	Targeted One-
General Fund	32,551,520	35,416,348	37,890,338 S	40,989,256	40,275,687	time
FTE	420.9	506.3	537.6 S	650.9 a/	608.1	Reductions
Cash Funds	225,000	225,000	0	0	0	
FTE	4.0	4.0	0.0	0.0	0.0	
Health, Life, and Dental - GF	1,806,462	2,642,260	3,056,218 S	3,998,464	3,998,464	PD DI-TOR
Short-term Disability	<u>31,517</u>	<u>40,831</u>	<u>50,852</u>	<u>56,896</u>	<u>57,220</u>	
General Fund	31,517	40,814	50,852 S	56,896	57,220	PD DI-TOR
Cash Funds	0	17	0	0	0	
S.B. 04-257 Amortization Equalization Disbursement	<u>282,846</u>	<u>492,072</u>	<u>650,696</u>	<u>869,869</u>	<u>873,686</u>	
General Fund	282,846	491,865	650,696 S	869,869	873,686	PD DI-TOR
Cash Funds	0	207	0	0	0	
S.B. 06-235 Supplemental Amortization Equalization Disbursement	<u>50,508</u>	<u>222,483</u>	<u>371,880</u>	<u>628,536</u>	<u>630,654</u>	
General Fund	50,508	222,386	371,880 S	628,536	630,654	PD DI-TOR
Cash Funds	0	97	0	0	0	
Salary Survey	<u>934,562</u>	<u>1,342,685</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	934,562	1,331,059	0	0	0	
Cash Funds	0	11,626	0	0	0	

Fiscal Year 2010-11 Joint Budget Committee Staff Figure Setting
Judicial Department
NUMBERS PAGES

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
Anniversary Increases	<u>403,490</u>	<u>477,544</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	403,490	473,418	0	0	0	
Cash Funds	0	4,126	0	0	0	
Operating Expenses	<u>1,531,800</u>	<u>1,169,809</u>	<u>1,004,468</u>	<u>1,142,466</u>	<u>1,152,301</u>	
General Fund	1,514,300	1,152,309	974,468 S	1,112,466	1,122,301	PD DI-TOR
Cash Funds	17,500	17,500	30,000	30,000	30,000	
Purchase of Services from Computer Center - GF	18,453	19,579	19,579	19,579	Pending	
Multiuse Network Payments - GF	235,797	0	0	0	0	
Vehicle Lease Payments - GF	35,189	47,764	51,053 S	50,688	Pending	
Capital Outlay - GF	243,405	62,760	100,000 S	218,316	233,910	PD DI-TOR
Leased Space/Utilities - GF	3,312,971	4,105,017	4,615,715 S	5,842,301	5,755,388	
Automation Plan - GF	1,087,746	1,084,390	683,170 S	673,335	673,335	PD DI-TOR
Contract Services - GF	462	18,000	18,000	18,000	18,000	
Mandated Costs - GF	3,143,259	2,954,166	3,340,586 S	3,384,999	3,466,792	PD DI-TOR
Grants	81,788	40,647	103,745	120,000	120,000	
FTE	<u>0.0</u>	<u>0.0</u>	<u>2.0</u>	<u>2.0</u>	<u>2.0</u>	
Cash Funds	0	0	96,245 S	120,000	120,000	
FTE	0.0	0.0	2.0 S	2.0	2.0	
Cash Funds Exempt/ Reappr. Funds	81,788	40,647	7,500	0	0	
FTE	0.0	0.0	0.0	0.0	0.0	

**Fiscal Year 2010-11 Joint Budget Committee Staff Figure Setting
Judicial Department
NUMBERS PAGES**

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
TOTAL - Public Defender	45,976,775	50,361,355	51,956,300	58,012,705	57,255,437	
FTE	424.9	510.3	539.6	652.9	610.1	
General Fund	45,652,487	50,062,135	51,822,555	57,862,705	57,105,437	
FTE	420.9	506.3	537.6	650.9 a/	608.1	
Cash Funds	242,500	258,573	126,245	150,000	150,000	
FTE	4.0	4.0	2.0	2.0	2.0	
Cash Funds Exempt/ Reappr. Funds	81,788	40,647	7,500	0	0	

a/ The Public Defender has submitted a decision item that proposes waiting four months to hire 40.1 FTE to address the public defender impact of adding 28 judgeships in FY 2007-08 and FY 2008-09. Another 34.5 FTE associated with the remaining 15 new judgeships would be delayed until FY 2011-12. This proposal thus reduces the staffing request associated with H.B. 07-1054 from 74.6 FTE to 26.7 FTE, a reduction of 47.9 FTE that is not reflected in this decision item request.

(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	561,708	659,819	706,089	706,089	690,704	
FTE	6.5	7.5	7.5	7.5	7.5	
Health, Life, and Dental - GF	34,369	47,420	62,947	71,469	71,558	
Short-term Disability - GF	643	789	951	954	954	
S.B. 04-257 Amortization Equalization Disbursement -	5,674	9,233	12,063	14,564	14,564	
S.B. 06-235 Supplemental Amortization Equalization Disbursement - GF	1,040	4,197	7,412	10,513	10,513	
Salary Survey - GF	18,422	29,321	0	0	0	

Fiscal Year 2010-11 Joint Budget Committee Staff Figure Setting
Judicial Department
NUMBERS PAGES

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
Performance-based Pay Awards - GF	4,701	7,323	0	0	0	
Operating Expenses	<u>75,857</u>	<u>65,840</u>	<u>67,030</u>	<u>67,030</u>	<u>67,030</u>	
General Fund	75,857	65,840	67,030	67,030	67,030	
Cash Funds	0	0	0	0	0	
Capital Outlay - GF	6,008	3,455	0	0	0	
Purchase of Services from Computer Center - GF	1,537	1,203	1,203	1,203	Pending	
Leased Space - GF	32,772	38,351	38,140	39,999	39,999	
Training and Conferences	<u>28,000</u>	<u>28,000</u>	<u>40,000</u>	<u>40,000</u>	<u>40,000</u>	
General Fund	20,000	20,000	20,000	20,000	20,000	
Cash Funds	8,000	8,000	20,000	20,000	20,000	
Conflict of Interest Contracts - GF	17,925,541	20,692,161	21,092,467	21,956,638	21,956,638	ADC DI #1
Mandated Costs - GF	1,549,840	1,589,848	1,663,839	1,663,839	1,663,839	
TOTAL - Alternate Defense Counsel	20,246,112	23,176,960	23,692,141	24,572,298	24,555,799	
FTE	<u>6.5</u>	<u>7.5</u>	<u>7.5</u>	<u>7.5</u>	<u>7.5</u>	
General Fund	20,238,112	23,168,960	23,672,141	24,552,298	24,535,799	
FTE	6.5	7.5	7.5	7.5	7.5	
Cash Funds	8,000	8,000	20,000	20,000	20,000	

Fiscal Year 2010-11 Joint Budget Committee Staff Figure Setting
Judicial Department
NUMBERS PAGES

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
(7) OFFICE OF THE CHILD'S REPRESENTATIVE						
Linda Weinerman, Interim 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	1,588,608	1,666,918	1,866,763	1,871,946	1,895,244	OCR DI #3
FTE	25.8	26.8	26.8	26.9	26.9	
Health, Life, and Dental - GF	97,102	129,824	163,296	163,296	163,296	
Short-term Disability - GF	1,828	2,017	2,636	2,900	2,653	OCR DI #3
S.B. 04-257 Amortization Equalization Disbursement -	16,559	23,983	33,624	37,473	40,505	OCR DI #3
S.B. 06-235 Supplemental Amortization Equalization Disbursement - GF	2,942	10,889	20,669	25,420	29,238	OCR DI #3
Salary Survey - GF	53,159	87,642	0	0	0	
Anniversary Increases - GF	20,344	26,554	0	0	0	
Operating Expenses - GF	189,705	197,235	151,042	159,929	159,929	OCR DI #2
Capital Outlay - GF	0	3,280	3,998	0	0	
Purchase of Services from Computer Center - GF	1,464	1,553	1,553	1,553	Pending	
Leased Space - GF	136,876	162,758	142,738	145,443	145,443	
CASA Contracts - GF	20,000	520,000	520,000	520,000	520,000	
Training - GF	37,753	32,519	38,000	38,000	38,000	

Fiscal Year 2010-11 Joint Budget Committee Staff Figure Setting
Judicial Department
NUMBERS PAGES

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11		Change
	Actual	Actual	Appropriation	Request	Staff Recomm.	Requests
Court Appointed Counsel - GF	12,428,206	15,725,982 a/	15,409,893	16,408,725	16,273,656	OCR DI #1; BA
Mandated Costs - GF	41,080	34,437	26,228	26,228	26,228	
TOTAL - Office of the Child's Representative - GF	14,635,626	18,625,591	18,380,440	19,400,913	19,294,192	
FTE	25.8	26.8	26.8	26.9	26.9	
a/ Includes over expenditure of \$118,685.						
JUDICIAL GRAND TOTAL	382,501,115	427,461,409	441,595,052	444,989,938	435,722,273	
FTE	3,657.0	3,862.9	3,947.8	4,019.5	4,070.7	
General Fund	297,918,429	326,564,145	323,814,931	327,176,101	319,461,743	
FTE	3,149.3	3,348.5	3,295.5	3,310.6	3,361.8	
Cash Funds	75,157,062	92,808,725	105,630,825	103,485,691	101,970,886	
FTE	428.2	432.3	578.3	619.9	619.9	
Cash Funds Exempt/ Reappr. Funds	6,460,985	5,228,603	7,718,876	7,513,404	7,478,592	
FTE	56.0	67.1	56.0	56.0	56.0	
Federal Funds	2,964,639	2,859,936	4,430,420	6,814,742	6,811,053	
FTE	23.5	15.0	18.0	33.0	33.0	

Organization of the Judicial Branch

The Judicial Branch is comprised of four 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 four 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.

Summary of Significant Recommendations Included in this Packet

The following table provides a summary of the most significant staff recommendations included in this packet. Detailed recommendations for each line item follow.

Summary of Significant Staff Recommendations in this Packet (Excluding Common Policy Items)						
Description	Total Funds	General Fund	Cash Funds	Reapprop. Funds	Federal Funds	FTE
Restore one-time FY 2009-10 reductions (Courts, Probation, OSPD)	\$9,088,079	\$9,088,079	\$0	\$0	\$0	207.4
Restore 1.82% Personal Services reduction	3,889,294	3,466,123	402,902	20,269	0	0.0
Implement H.B. 07-1054 based on further delay in filling final 15 judgeships (Courts, OSPD)	3,794,047	2,549,822	1,244,225	0	0	50.3
Expand capacity of adult drug courts based on federal Byrne grant (Courts, OSPD)	2,626,069	240,016	0	0	2,386,053	20.1
Implement public access system and develop e-filing system	1,923,498	(1,000,000)	2,923,498	0	0	18.0
Increase funding for court appointed counsel (OADC, OCR)	1,755,934	1,755,934	0	0	0	0.0
Reduce Personal Services (staff's recommendation <u>excludes</u> Probation reduction of \$6.8 million and 93.0 FTE)	(10,036,094)	(9,545,423)	(224,486)	(266,185)	0	(173.0)
Reduce employer's PERA contribution (2.5%)	(5,837,819)	(4,992,050)	(814,175)	(31,594)	0	0.0

The Department's budget request includes two items that affect several line items and more than one section of the Long Bill. First, Decision Item #1 is a consolidated request that includes a number of proposed reductions in light of the General Fund revenue shortfall. Staff has described and detailed this request below. Staff recommendations related to the portion of this request concerning the implementation of H.B. 07-1054 (the judges bill) are included within this introductory section; recommendations concerning the remainder of the request are included throughout the document.

The Department has also submitted a Budget Amendment to modify the structure of the Long Bill. Staff's recommendation related to this request is included within this introductory section, with transfer details appearing throughout the document.

Judicial Decision Item #1: Budget Balancing

The Department has submitted a decision item that would reduce FY 2010-11 appropriations by a total of \$16.8 million, including \$18.4 million General Fund. The request also includes a net reduction in personnel of 287.0 FTE, including a reduction of 263.0 FTE in currently authorized positions, a delay in adding 43.0 FTE required to implement H.B. 07-1054, and the addition of 18.0 FTE to continue implementing the in-house public access system and begin development of an in-house e-filing system.

The following table details the components of this consolidated request. A brief description of each component of this request follows.

Summary of Decision Item #1 Request: Budget Balancing						
	GF	CF	RF	TOTAL	FTE	% of FY 09-10 Approp. FTE
Personal Services Reductions:						
Appellate Court Programs	(\$670,112)	(\$11,919)	\$0	(\$682,031)	(10.0)	-6.8%
Courts Administration	(462,310)	(2,726)	(20,269)	(485,305)	(4.0)	-6.2%
Integrated Information Services	(456,214)	0	0	(456,214)	(5.0)	-11.1%
Trial Courts	(6,808,566)	(209,841)	0	(7,018,407)	(151.0)	-8.4%
Probation	(6,578,389)	(178,416)	0	(6,756,805)	(93.0)	-8.6%
Health, Life, and Dental	<u>(1,469,600)</u>	<u>0</u>	<u>0</u>	<u>(1,469,600)</u>		
Subtotal: Personal Services	(16,445,191)	(402,902)	(20,269)	(16,868,362)	(263.0)	-7.8%
Operating Expense Reductions to Offset Leased Space Adjustments:						
				0		
Courts Administration	(15,000)	0	0	(15,000)		

Summary of Decision Item #1 Request: Budget Balancing						
	GF	CF	RF	TOTAL	FTE	% of FY 09-10 Approp. FTE
Integrated Information Services	(80,000)	0	0	(80,000)		
Trial Courts	(99,934)	0	0	(99,934)		
Probation	<u>(99,934)</u>	<u>0</u>	<u>0</u>	<u>(99,934)</u>		
Subtotal: Operating Expenses	(294,868)	0	0	(294,868)		
Subtotal: Personal Services and Operating Expense Reductions	(16,740,059)	(402,902)	(20,269)	(17,163,230)	(263.0)	
Further Delay New Judges:						
Trial Courts - Personal Services	0	(2,825,077)	0	(2,825,077)	(43.0)	
Trial Courts - Operating Expenses	<u>0</u>	<u>(68,550)</u>	<u>0</u>	<u>(68,550)</u>		
Subtotal: Judge Delay	0	(2,893,627)	0	(2,893,627)	(43.0)	
Implement Public Access System (PAS) and Develop E-Filing System (EFS):						
Administration, Personal Services	0	60,016	0	60,016	1.0	
Integrated Information Services (IIS), Personal Services	0	1,451,172	0	1,451,172	18.0	
Integrated Information Services (IIS), Operating Expenses	0	204,650	0	204,650		
IIS, Information Technology Infrastructure	<u>(1,000,000)</u>	<u>1,207,660</u>	<u>0</u>	<u>207,660</u>		
Subtotal: PAS/EFS	(1,000,000)	2,923,498	0	1,923,498	19.0	0.0%
Provide Courthouse Furnishings:						
Courthouse Capital/ Infrastructure Maintenance	(1,000,000)	1,950,000	0	950,000		

Summary of Decision Item #1 Request: Budget Balancing						
	GF	CF	RF	TOTAL	FTE	% of FY 09-10 Approp. FTE
Leased Space:						
Leased Space	294,868	132,240	0	427,108		
Total Requested Changes	(\$18,445,191)	\$1,709,209	(\$20,269)	(\$16,756,251)	(287.0)	0.0%

* The Department's official DI#1 request reflects an increase of \$850,000 cash funds for courthouse furnishings for new judges as part of this decision item. For purposes of presentation, staff has included this increase as part of the basic calculations for the Courthouse Capital/ Infrastructure Maintenance line item. The Department's DI#1 request also included a reduction of \$192,333 and 3.0 FTE associated with facility maintenance at the Judicial/Heritage complex. For purposes of presentation, staff has included these adjustments as part of the basic calculations for the Judicial/Heritage Program line item. Finally, the Department's request included a few transfers between line items (for a total transfer of \$375,432 and 4.0 FTE). For purposes of presentation, staff has included these transfers as part of the series of transfers requested through the Long Bill Reorganization Budget Amendment.

Personal Services and Operating Expense Reductions - The Department has implemented a statewide FTE reduction plan that includes staff reductions for the Supreme Court and Court of Appeals, district and county courts, probation, and courts administration, along with the associated health, life and dental benefit expenses. These reductions would result in a 4.9 percent reduction in appropriations to the Department (excluding the three independent agencies), and a 7.8 percent reduction in FTE (including a 9.0 percent in non-judge staff and an 8.4 percent reduction in probation officers).

Further Delay New Judges - Existing FY 2009-10 appropriations are based on delaying the final 15 new judgeships created through H.B. 07-1054 by 10 to 12 months. The Department now proposes further delaying these new judgeships, filling 14 of them on January 1, 2011, and the final one (in the 1st judicial district) on July 1, 2011. This request is described in more detail later in this introductory section.

Implement Public Access System and Develop E-Filing System - The Department requests a net increase of \$1.9 million cash funds and 18.0 FTE to implement the public access system (PAS). Implementation of the in-house PAS will provide continuity for users once the existing vendor contract expires, allow for a reduction in user fees, and result in \$1.0 million in General Fund savings related to information technology infrastructure costs.

Provide Courthouse Furnishings - The Department requests an increase of \$950,000 to furnish new and remodeled courthouse and probation facilities that are anticipated to be completed in 14 judicial districts in FY 2010-11. The Department proposes eliminating the existing \$1,000,000 General Fund appropriation, and instead utilizing \$1,950,000 cash funds made available through further delaying the new judgeships authorized in H.B. 07-1054.

Leased Space - The Department's leases for space in the Penn Center and in Denver West expired in June 2009. The Department negotiated a new lease in the Denver Newspaper Agency building,

allowing for a consolidation of staff and significant savings compared to other available locations. The \$294,868 General Fund increase reflects the increase in lease rate compared to the expired leases. The Department proposes offsetting this increase through reductions in other operating expenses. The source of cash funds is parking fees paid by employees. Both the number of available parking spaces and the rate paid by employees increased, so the Department requires an increase in cash funds spending authority to utilize these revenues to offset leased space costs.

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

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 were delayed 10 to 12 months (seven delayed to May 1, 2010, and eight delayed to July 1, 2010). 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).

In light of the ongoing and significant General Fund shortfall, the Department has again worked with the affected judicial districts to prepare a modified implementation schedule. This modified schedule adds ten of the new district judges and two new county court judges on January 1, 2011, and it adds the remaining two district court judges and one county court judge (all in the 1st Judicial District) on 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 2 details the one-time cash fund savings that would result from the proposed delay.

TABLE 1							
Summary of Proposal to Further Delay 3rd Year Implementation of H.B. 07-1054							
Judicial District/ County		Scheduled Judge Increase for 7/1/09	Proposed Timing of Increases (delay)	FY 2010-11		FY 2011-12	
				Funding	FTE	Funding	FTE
District Courts							
1	Jefferson, Gilpin	+2	7/1/11 (12 mos.)	\$850,000	0.0	\$679,972	10.0
2	Denver	+1	1/1/11 (8 mos.)	170,817	2.5	339,986	5.0
		+1	1/1/11 (6 mos.)	170,817	2.5	339,986	5.0

TABLE 1 Summary of Proposal to Further Delay 3rd Year Implementation of H.B. 07-1054							
Judicial District/ County		Scheduled Judge Increase for 7/1/09	Proposed Timing of Increases (delay)	FY 2010-11		FY 2011-12	
				Funding	FTE	Funding	FTE
4	El Paso, Teller	+1	1/1/11 (8 mos.)	170,817	2.5	339,986	5.0
		+1	1/1/11 (6 mos.)	170,817	2.5	339,986	5.0
8	Larimer, Jackson	+1	1/1/11 (6 mos.)	171,640	2.5	339,986	5.0
17	Adams, Broomfield	+1	1/1/11 (8 mos.)	170,817	2.5	339,986	5.0
		+1	1/1/11 (6 mos.)	170,817	2.5	339,986	5.0
18	Arapahoe, Douglas, Elbert, Lincoln	+1	1/1/11 (8 mos.)	171,640	2.5	339,986	5.0
19	Weld	+1	1/1/11 (6 mos.)	171,640	2.5	339,986	5.0
20	Boulder	+1	1/1/11 (6 mos.)	171,640	2.5	339,986	5.0
County Courts							
	Adams	+1	1/1/11 (8 mos.)	133,784	2.0	264,273	4.0
	El Paso	+1	1/1/11 (8 mos.)	133,784	2.0	264,273	4.0
	Jefferson	+1	7/1/11 (12 mos.)	0	0.0	264,273	4.0
Statewide Total		15		2,829,025	29.0	4,872,651	72.0

TABLE 2 Summary of FY 2010-11 Savings Resulting From Proposed Judges Delay					
	Personal Services	Operating Expenses	Capital Outlay	Total	FTE
Cost of full implementation	\$4,758,201	\$114,450	\$850,000	\$5,722,651	72.0
Cost of proposal	<u>1,933,124</u>	<u>45,900</u>	<u>850,000</u>	<u>2,829,024</u>	<u>29.0</u>
Resulting one-time savings	2,825,077	68,550	0	2,893,627	43.0

Under the most recently proposed schedule, ten district court judges and two county court judges would be added January 1, 2011. Based on a request from Jefferson County, two district court judges for the 1st Judicial District and one county court judge would be added July 1, 2011. To date, capital outlay funding has been provided to all judicial districts and counties except Jefferson County. Thus, the proposal would provide capital outlay funding for the 1st Judicial District in FY 2010-11. As indicated in Table 2, above, compared to the costs of adding all 15 judgeships by July 1, 2010, this schedule provides one-time savings of nearly \$2.9 million cash funds. These cash funds would then be used to cover the costs of providing furnishings for various local courthouse projects in FY 2010-11, reducing the General Fund need by the same amount.

Staff recommends approving the request for the third year of implementing H.B. 07-1054 based on a delayed schedule (above). Staff also recommends approving the request to use the resulting savings to cover the requested appropriation for courthouse furnishings.

Please note that the proposed delay in filling the final 15 judgeships will also delay the need for funding and staff required by the State Public Defender's Office in connection with these final 15 judgeships. The State Public Defender's Office has requested, however, funding and staff associated with the 28 judgeships filled to date. Please see the State Public Defender section of this document for a description of this request, along with staff's associated recommendations.

Judicial Budget Amendment: Reorganize Long Bill

The Department has submitted a budget amendment to modify the structure of the Long Bill. The three primary objectives of the proposed changes are described below.

1. The existing Long Bill includes a "Courts Administration" section comprised of three subsections: "Administration", "Administrative Special Purpose", and "Integrated Information Services". The proposal reorganizes line items within this section of the Long Bill into the following three subsections:
 - (A) Administration and Technology - funding and staff associated with central administration of the State's Judicial system, including information technology systems and support;
 - (B) Central Appropriations - funding related to employee benefits, leased space, and services purchased from other agencies such as legal and technology services; and
 - (C) Administrative Programs - line items supporting specific functions, grant programs, and distributions that are administered by the State Court Administrator's Office.
2. The proposal transfers certain funding and staff currently reflected in the Trial Courts and Probation sections of the Long Bill to the Courts Administration section. These funds and positions are centrally administered through the State Court Administrator's Office. Thus, the proposal is intended to better reflect which entity is responsible for managing appropriations.
3. Consistent with funding for Supreme Court, Court of Appeals, and Trial Courts, the proposal consolidates funding for two personal services line items and two operating expense line items into two new program line items, thereby providing the Department with more flexibility to manage appropriations for administration and probation functions. In previous fiscal years, the Department has utilized the flexibility provided through centrally appropriated line items such as Salary Survey and Anniversary to manage its appropriations – particularly in those fiscal years when funding has been reduced significantly in the middle of the year. Given the magnitude of funding reductions sustained by the Department in FY

2009-10, further reductions proposed for FY 2010-11, and the likelihood that no funding will be provided for salary increases in FY 2010-11, the Department seeks this additional flexibility beginning in FY 2010-11.

The following table provides a side-by-side comparison of the existing Long Bill structure (excluding the three independent agencies) and the proposed Long Bill structure. The proposal results in a \$0 and 0.0 FTE net change in appropriations. Staff has detailed specific dollar amounts and FTE that are transferred in and out of each line item throughout this document.

Budget Amendment: Long Bill Reorganization	
Existing Long Bill Structure	Proposed Long Bill Structure
<p>(1) Supreme Court/ Court of Appeals</p> <p>Appellate Court Programs</p> <p>Attorney Regulation Committees</p> <p>Continuing Legal Education</p> <p>Law Examiner Board</p> <p>Law Library</p>	<p>(1) Supreme Court/ Court of Appeals</p> <p>Appellate Court Programs</p> <p>Attorney Regulation Committees</p> <p>Continuing Legal Education</p> <p>Law Examiner Board</p> <p>Law Library</p>
<p>(2) Courts Administration</p> <p>(A) Administration</p> <p>Personal Services</p> <p>Operating Expenses</p> <p>Judicial/ Heritage Program</p> <p>Family Friendly Court Program</p> <p>Office of Judicial Performance Evaluation</p> <p>Courthouse Capital/ Infrastructure Maintenance</p> <p>Courthouse Security</p> <p>Family Violence Justice Grants</p> <p>Statewide Indirect Cost Assessment</p> <p>Departmental Indirect Cost Assessment</p>	<p>(2) Courts Administration</p> <p>(A) Administration and Technology</p> <p>Administrative Program</p> <p>Information Technology Infrastructure</p> <p>Statewide Indirect Cost Assessment</p> <p>Departmental Indirect Cost Assessment</p>
<p>(B) Administrative Special Purpose</p> <p>Health, Life, and Dental</p> <p>Short-term Disability</p>	<p>(B) Central Appropriations</p> <p>Health, Life, and Dental</p> <p>Short-term Disability</p> <p>S.B. 04-257 Amortization Equalization Disbursement</p> <p>S.B. 06-235 Supplemental Amortization Equalization Disbursement</p> <p>Salary Survey</p> <p>Anniversary Increases</p> <p>Workers' Compensation</p> <p>Legal Services</p>

Budget Amendment: Long Bill Reorganization	
Existing Long Bill Structure	Proposed Long Bill Structure
<p>S.B. 04-257 Amortization Equalization Disbursement</p> <p>S.B. 06-235 Supplemental Amortization Equalization Disbursement</p> <p>Salary Survey</p> <p>Anniversary Increases</p> <p>Workers' Compensation</p> <p>Legal Services</p> <p>Payment to Risk Management and Property Funds</p> <p>Vehicle Lease Payments</p> <p>Leased Space</p> <p>Lease Purchase</p> <p>Administrative Purposes</p> <p>Retired Judges</p> <p>Appellate Reports Publication</p> <p>Child Support Enforcement</p> <p>Collections Investigators</p>	<p>Purchase of Services from Computer Center</p> <p>Multiuse Network Payments</p> <p>Payment to Risk Management and Property Funds</p> <p>Vehicle Lease Payments</p> <p>Leased Space</p> <p>Communication Services Payments</p> <p>Lease Purchase</p>
<p>(C) Integrated Information Services</p> <p>Personal Services</p> <p>Operating Expenses</p> <p>Purchase of Services from Computer Center</p> <p>Multiuse Network Payments</p> <p>Information Technology Infrastructure</p>	<p>(C) Administrative Programs</p> <p>Victim Assistance</p> <p>Victim Compensation</p> <p>Collections Investigators</p> <p>Problem-solving Courts</p> <p>Language Interpreters</p> <p>Courthouse Security</p> <p>Courthouse Capital/ Infrastructure Maintenance</p> <p>Senior Judge Program</p> <p>Office of Judicial Performance Evaluation</p> <p>Family Violence Justice Grants</p> <p>Family Friendly Court Program</p> <p>Child Support Enforcement</p>
<p>(3) Trial Courts</p> <p>Personal Services</p> <p>Operating Expenses</p> <p>Court Costs, Jury Costs, and Court-appointed Counsel</p> <p>Language Interpreters</p> <p>District Attorney Mandated Costs</p>	<p>(3) Trial Courts</p> <p>Trial Courts Programs</p> <p>Court Costs, Jury Costs, and Court-appointed Counsel</p> <p>District Attorney Mandated Costs</p> <p>Federal Funds and Other Grants</p>

Budget Amendment: Long Bill Reorganization	
Existing Long Bill Structure	Proposed Long Bill Structure
Victim Compensation Victim Assistance Federal Funds and Other Grants	
(4) Probation and Related Services Personal Services Operating Expenses Offender Treatment and Services S.B. 03-318 Community Treatment Funding S.B. 91-94 Juvenile Services Day Reporting Services Victims Grants Federal Funds and Other Grants	(4) Probation and Related Services Probation Programs Offender Treatment and Services S.B. 03-318 Community Treatment Funding S.B. 91-94 Juvenile Services Day Reporting Services Victims Grants Federal Funds and Other Grants

Staff recommends approving the request to reorganize the Long Bill. The proposed structure organizes line items in a more clear and consistent manner, making it easier to navigate the Long Bill. In addition, it provides the Department with the flexibility to manage their largest appropriations for personal services and operating expenses. This Department has consistently provided the information necessary to monitor actual expenditures related to program line items and to calculate appropriations each fiscal year.

However, staff recommends slightly different subsection titles and line item names than those proposed by the Department, as follows:

- In the Administration and Technology subsection, name the new line item that consolidates funding for personal services and operating expenses “General Courts Administration” (rather than “Administrative Program”).
- Name the new subsection that includes all the line items supporting specific functions, grant programs, and distributions that are administered by the State Court Administrator’s Office “Centrally Administered Programs” (rather than “Administrative Programs”).

(1) SUPREME COURT/COURT OF APPEALS

This section provides funding for the Colorado Supreme Court and the Colorado Appeals Court. The **Supreme Court** is the court of last resort, and its decisions are binding on the Court of Appeals and all county and district courts. Requests to review decisions of the Court of Appeals constitute the majority of the Supreme Court's filings. The Court also has direct appellate jurisdiction over cases in which a statute has been held to be unconstitutional, cases involving the Public Utilities Commission, writs of habeas corpus¹, cases involving adjudication of water rights, summary proceedings initiated under the Elections Code, and prosecutorial appeals concerning search and seizure questions in pending criminal proceedings. The Supreme Court also oversees the regulation of attorneys and the practice of law. The Supreme Court is composed of seven justices who serve renewable 10-year terms. The Chief Justice, selected by the justices of the Court, is the executive head of the Department. *[Article VI, Sections 2 through 8, Colorado Constitution; Section 13-2-101 et seq., C.R.S.]*

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. *[Section 13-4-101 et seq., C.R.S.]*

Supreme Court/ Court of Appeals: Staffing Summary				
Position Description	FY 2008-09 Actual	FY 2009-10 Approp.	FY 2010-11 Request	FY 2010-11 Recomm.
Supreme Court Justices	7.0	7.0	7.0	7.0
Court of Appeals Judges	21.9	22.0	22.0	22.0
Admin./Support Systems	31.9	33.0	30.0	30.0
Law Clerks	52.3	52.5	48.0	48.0
Staff Attorneys	24.8	27.5	25.0	25.0
Library Personnel	<u>3.9</u>	<u>4.0</u>	<u>4.0</u>	<u>4.0</u>
Subtotal - Appellate Court Programs line item	141.8	146.0	136.0	136.0
Attorney Regulation Committees	40.5	40.5	40.5	40.5

¹ A writ of habeas corpus is a judicial mandate to a prison official ordering that an inmate be brought to the court so it can be determined whether or not that person is imprisoned lawfully and whether or not he should be released from custody.

Supreme Court/ Court of Appeals: Staffing Summary				
Position Description	FY 2008-09 Actual	FY 2009-10 Approp.	FY 2010-11 Request	FY 2010-11 Recomm.
Continuing Legal Education	4.0	4.0	4.0	4.0
Law Examiner Board	<u>8.2</u>	<u>8.2</u>	<u>8.2</u>	<u>8.2</u>
Subtotal - Other line items	52.7	52.7	52.7	52.7
DIVISION TOTAL	194.5	198.7	188.7	188.7

Appellate Court Programs

This line item includes funding for both Personal Services and Operating Expenses. Sources of cash funds include the Judicial Stabilization Cash Fund and various fees and cost recoveries. The Department requests \$11,276,654 and 136.0 FTE for this line item, representing a reduction of \$682,031 (5.9 percent) and 10.0 FTE (6.8 percent). The Department's request also includes, as part of the Long Bill Reorganization, the transfer of \$37,100 for appellate report publications from the Administrative Special Purpose section of the budget to this section.

Staff recommends appropriating a total of \$11,086,903 and 136.0 FTE for Appellate Court Programs, as detailed in the following table. There are two differences between the recommendation and the request:

- The request applies a 0.2 percent base reduction (\$23,209) over and above the reduction requested through Decision Item #1. Consistent with Committee policy, staff has not applied a base reduction.
- Consistent with Committee policy, staff has reduced the employer contribution to PERA by 2.5 percent (a reduction of \$250,061).

Summary of Recommendation for Appellate Court Programs						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2009-10 Long Bill	\$10,609,111	\$996,037	\$0	\$0	\$11,605,148	146.0
Restore 1.82% base reduction	121,416	11,919	0	0	133,335	0.0
Salary Survey awarded in FY 09-10	0	0	0	0	0	0.0
80% of Performance-based Pay awarded in FY 09-10	0	0	0	0	0	0.0
Base reduction (0.0%)	0	0	0	0	0	0.0
JUD DI #1: Personal Services and Operating Expense Reductions	(670,112)	(11,919)	0	0	(682,031)	(10.0)

Summary of Recommendation for Appellate Court Programs						
	GF	CF	RF	FF	TOTAL	FTE
Reduction in employer's PERA contribution (2.5%)	<u>(215,546)</u>	<u>(34,515)</u>	<u>0</u>	<u>0</u>	<u>(250,061)</u>	
Subtotal: Personal Services	9,844,869	961,522	0	0	10,806,391	136.0
Operating Expenses:						
FY 2009-10 Long Bill	153,062	90,350	0	0	243,412	
FY 2009-10 Supplemental (across-the-board operating reduction)	(15,036)	0	0	0	(15,036)	
Reverse FY 2009-10 Supplemental	<u>15,036</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>15,036</u>	
Subtotal	153,062	90,350	0	0	243,412	
<i>Transfer funding for Appellate Reports Publication from Administrative Special Purpose subsection</i>	<u>37,100</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>37,100</u>	
Subtotal: Operating Expenses	190,162	90,350	0	0	280,512	
Staff Recommendation	\$10,035,031	\$1,051,872	\$0	\$0	\$11,086,903	136.0

Capital Outlay

The Department has not requested any funding for capital outlay for FY 2010-11.

Attorney Regulation Committees

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.

The Department's request reflects the same level of funding that was included in the FY 2009-10 Long Bill (\$4.7 million and 40.5 FTE). The Committee recently approved a \$1.3 million increase in the FY 2009-10 appropriation to better reflect actual expenditures. **Staff thus recommends appropriating \$6,000,000 and 40.5 FTE for FY 2010-11.** The source of funding is attorney registration and other fees deposited in the Attorney Registration Fund. These funds are shown for informational purposes only, as they are continuously appropriated. They are part of the Supreme Court's constitutional responsibility for regulating the practice of law in Colorado.

Continuing Legal Education

This program administers mandatory continuing legal education for attorneys and judges, including the certification of courses and educational conferences. The Department's request reflects the same level of funding that was included in the FY 2009-10 Long Bill (\$325,000 and 4.0 FTE). The

Committee recently approved a \$45,000 increase in the FY 2009-10 appropriation to better reflect actual expenditures. **Staff thus recommends appropriating \$370,000 and 4.0 FTE for FY 2010-11.** The source of funding is attorney registration and other fees deposited in the Continuing Legal Education Cash Fund. These funds are shown for informational purposes only, as they are continuously appropriated. They are part of the Supreme Court's constitutional responsibility for regulating the practice of law in Colorado.

Law Examiner Board

The Law Examiner Board administers the Colorado bar exam. The Department's request reflects the same level of funding that was included in the FY 2009-10 Long Bill (\$850,000 and 8.2 FTE). The Committee recently approved a \$50,000 increase in the FY 2009-10 appropriation to better reflect actual expenditures. **Staff thus recommends appropriating \$900,000 and 8.2 FTE for FY 2010-11.** The source of funding is law examination application and other fees deposited in the Law Examiner Board Cash Fund. These funds are shown for informational purposes only, as they are continuously appropriated. They are part of the Supreme Court's constitutional responsibility for regulating the practice of law in Colorado.

Law Library

This line item supports the Supreme Court Library, a public library located in the Judicial Building of the Judicial/Heritage Complex. **Staff recommends approving the requested continuing appropriation of \$500,000 cash funds.** The FTE associated with the library are appropriated through the Appellate Court Programs line item, above. The source of funding is appellate filing and other fees deposited in the Supreme Court Library Fund. These funds are shown for informational purposes only, as they are continuously appropriated. They are part of the Supreme Court's constitutional responsibility for regulating the practice of law in Colorado.

(2) COURTS ADMINISTRATION

The justices of the Supreme Court appoint a State Court Administrator to oversee the daily administration of the Department and provide technical and administrative support to the courts and probation. [Article VI, Section 5 (3) of the Colorado Constitution; Section 13-3-101, C.R.S.] The Courts Administration section of the budget is currently comprised of three subsections: Administration, Administrative Special Purpose, and Integrated Information Services. The Department has submitted a Budget Amendment to reorganize the Long Bill. This proposal reorganizes line items within this section of the Long Bill into the following three subsections:

- (A) “Administration and Technology” - funding and staff associated with central administration of the State’s Judicial system, including information technology systems and support
- (B) “Central Appropriations” - funding related to employee benefits, leased space, and services purchased from other agencies such as legal and technology services
- (C) “Administrative Programs” - line items supporting specific functions, grant programs, and distributions that are administered by the State Court Administrator’s Office

(A) Administration [Proposed new subsection title: ADMINISTRATION AND TECHNOLOGY]

This subsection currently funds the activities of the State Court Administrator's Office, including the following central administrative functions: accounting and budget; human resources; facilities management; procurement; public information; and legal services. This section also currently includes funding for the Judicial Performance Program, family violence grants, and the Family Friendly Courts Program. Unless otherwise noted, line items in this section are supported by General Fund, various cash funds, and indirect cost recoveries.

State Court Administrator's Office: Staffing Summary				
Position Description	FY 2008-09 Actual	FY 2009-10 Approp.	FY 2010-11 Request (before Long Bill Reorg.)	FY 2010-11 Recomm. (before Long Bill Reorg.)
Administration	18.4	17.8	17.5	17.5
Financial Services	21.6	21.8	21.4	21.4
Planning	7.8	12.5	11.5	11.5
Court/ Human Services	<u>11.6</u>	<u>12.0</u>	<u>10.7</u>	<u>10.7</u>
Subtotal - Personal Services line item	59.4	64.1	61.1	61.1
Judicial/Heritage Program	3.0	3.0	0.0	0.0

State Court Administrator's Office: Staffing Summary				
Position Description	FY 2008-09 Actual	FY 2009-10 Approp.	FY 2010-11 Request (before Long Bill Reorg.)	FY 2010-11 Recomm. (before Long Bill Reorg.)
Family Friendly Courts	0.5	0.5	0.5	0.5
Judicial Performance Program	1.7	2.0	2.0	2.0
Courthouse Security	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>
Subtotal - Other line items	6.2	6.5	3.5	3.5
TOTAL	65.6	70.6	64.6	64.6

Proposed new line item: GENERAL COURTS ADMINISTRATION

The Department proposes consolidating the following two line items for personal services and operating expenses into a single program line item, thereby providing the Department with more flexibility to manage these appropriations. Staff recommends approving this request, and thus recommends appropriating a total of \$16,019,234 and 188.5 FTE for this new line item. Staff's detailed recommendations for the personal services and operating expenses portions of this line item follow.

Personal Services

The Department requests \$15,597,626 and 192.5 FTE. **Staff recommends an appropriation of \$15,118,570 and 188.5 FTE for FY 2010-11**, as detailed in the following table. The recommendation is \$479,056 lower than the request, including the following differences:

- The Department's request assumes a 0.2 percent base reduction in funding (a reduction of \$10,872). Consistent with Committee policy, staff has not applied a base reduction.
- Consistent with Committee policy, staff has reduced the employer contribution to PERA by 2.5 percent (\$114,496).
- The remaining difference relates to staff's recommended transfers to this line item, as staff's recommendation reflects the 2.5 percent reduction in the employer's PERA contribution.

Summary of Recommendation for Administration, Personal Services						
	GF	CF	RF	FF	TOTAL	FTE
FY 2009-10 Long Bill	\$3,982,836	\$147,274	\$1,305,643	\$0	\$5,435,753	64.1
Restore 1.82% base reduction	77,624	2,726	20,269	0	100,619	0.0
Salary Survey awarded in FY 09-10	0	0	0	0	0	0.0

Summary of Recommendation for Administration, Personal Services						
	GF	CF	RF	FF	TOTAL	FTE
80% of Performance-based Pay awarded in FY 09-10	0	0	0	0	0	0.0
Fund mix adjustment (indirect costs)	(44,726)	0	44,726	0	0	0.0
JUD DI #1 - Personal Services Reductions	(462,310)	(2,726)	(20,269)	0	(485,305)	(4.0)
JUD DI#1 - Implement public access system and develop e-filing system	0	60,016	0	0	60,016	1.0
Base reduction (0.0%)	0	0	0	0	0	0.0
Reduction in employer's PERA contribution (2.5%)	(79,602)	(4,644)	(30,250)	0	(114,496)	0.0
Subtotal	3,473,822	202,646	1,320,119	0	4,996,587	61.1
<i>Transfer from Judicial/Heritage Program line item for security services provided for Supreme Court and Court of Appeals</i>	310,927	0	0	0	310,927	0.0
<i>Transfer from Integrated Information Services, Personal Services line item (after 2.5% PERA reduction)</i>	2,810,695	1,418,888	217,710	0	4,447,293	57.9
<i>Transfer from Trial courts, Personal Services line item (after 2.5% PERA reduction)</i>	3,184,805	0	0	0	3,184,805	44.5
<i>Transfer from Probation and Related Services, Personal Services line item (after 2.5% PERA reduction)</i>	2,178,958	0	0	0	2,178,958	25.0
Staff Recommendation	\$11,959,207	\$1,621,534	\$1,537,829	\$0	\$15,118,570	188.5

Operating Expenses

The Department requests \$908,360 for this line item for FY 2010-11. **Staff recommends appropriating a total of \$900,664**, as detailed in the following table. Staff's recommendation is \$7,696 lower than the request (including \$6,357 General Fund and \$1,339 cash funds) due to the mail equipment upgrade planned by the Department of Personnel and Administration.

Summary of Recommendation for Courts Administration, Administration, Operating Expenses					
	GF	CF	RF	FF	TOTAL
FY 2009-10 Long Bill	\$370,106	\$1,000	\$0	\$0	\$371,106
FY 2009-10 Supplemental (mail services/ across-the-board operating reduction)	(10,625)	0	0	0	(10,625)
Reverse FY 2009-10 Supplemental	10,625	0	0	0	10,625

Summary of Recommendation for Courts Administration, Administration, Operating Expenses					
	GF	CF	RF	FF	TOTAL
Mail equipment upgrade - annualization	(6,357)	0	0	0	(6,357)
JUD DI #1 - Operating expenses reductions	<u>(15,000)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>(15,000)</u>
Subtotal	348,749	1,000	0	0	349,749
<i>Transfer from Administrative Purposes line item</i>	<i>130,554</i>	<i>65,000</i>	<i>0</i>	<i>0</i>	<i>195,554</i>
<i>Transfer from Integrated Information Services, Operating Expenses line item</i>	<i>47,604</i>	<i>203,311</i>	<i>0</i>	<i>0</i>	<i>250,915</i>
<i>Transfer from/to Trial courts, Operating Expenses line item</i>	<i>159,446</i>	<i>(65,000)</i>	<i>0</i>	<i>0</i>	<i>94,446</i>
<i>Transfer from Probation and Related Services, Operating Expenses line item</i>	<i>10,000</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>10,000</i>
Staff Recommendation	696,353	204,311	0	0	900,664

Capital Outlay

The Department has not requested funding for capital outlay for FY 2010-11.

Information Technology Infrastructure

Pursuant to a Budget Amendment, the Department requests that funding for this purpose be transferred from the Integrated Information Services (IIS) subsection of the Long Bill to this section. Staff's detailed recommendation for this line item appears below, in the IIS subsection.

Judicial/Heritage Program

The Judicial Department is responsible for maintenance and other related services for the Judicial Building (Two E. 14th Avenue) and the Colorado History Museum (1300 Broadway), collectively known as the Judicial Heritage Center. Every year, the Judicial Branch and the Historical Society have renewed and signed a joint memorandum of understanding which outlines the costs associated with running the facility. The agreement is based on square footage use and reflects payments for custodial services, maintenance costs, personal services costs of the 3.0 FTE maintenance staff, and other operating costs; each agency provides security for its part of the complex. This line item is currently supported by General Fund and reappropriated funds transferred from the Historical Society.

In April 2010 the Supreme Court and the Court of Appeals are scheduled to relocate to 101 W. Colfax (the same building that currently houses the State Court Administrator's Office). Demolition of the Judicial Heritage Complex is scheduled to begin in May 2010, followed by construction of the Ralph L. Carr Justice Complex beginning in September 2010. Thus, the Department will no longer need funding and staff associated with maintenance and custodial services at the Judicial Heritage Center. **Staff recommends approving the request to eliminate this line item for FY 2010-11.** Specifically, staff recommends eliminating \$438,249 and 3.0 FTE associated with building

maintenance and custodial activities. Staff recommends approving the request to transfer the remaining \$310,927 General Fund for the purchase of security services to the new General Courts Administration line item. The following table details these calculations.

Summary of Recommendation: Judicial/Heritage Program						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services and Security Costs (CSP):						
FY 2009-10 Long Bill	\$425,244	\$0	\$81,169	\$0	\$506,413	3.0
Salary Survey awarded in FY 09-10	0	0	0	0	0	0.0
80% of Performance-based Pay awarded in FY 09-10	0	0	0	0	0	0.0
Eliminate funding related to maintenance and custodial services due to relocation of Supreme Court and Court of Appeals in April 2010	(114,317)	0	(81,169)	0	(195,486)	(3.0)
<i>Transfer to new General Courts Administration line item</i>	<u>(310,927)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>(310,927)</u>	<u>0.0</u>
Subtotal: Personal Services	0	0	0	0	0	0.0
Operating Expenses:						
FY 2009-10 Long Bill	78,016	0	164,747	0	242,763	
Eliminate funding related to maintenance and custodial services due to relocation of Supreme Court and Court of Appeals in April 2010	<u>(78,016)</u>	<u>0</u>	<u>(164,747)</u>	<u>0</u>	<u>(242,763)</u>	
Subtotal: Operating Expenses	0	0	0	0	0	
Staff Recommendation	\$0	\$0	\$0	\$0	\$0	0.0

Please note that the Department of Public Safety will require a commensurate appropriation of \$310,927 from reappropriated funds in the State Patrol’s “Executive and Capitol Complex Security Program” line item.

Family-friendly Court Program

The Family-friendly Court Program provides funding for courts to create facilities or services designed to meet the needs of families navigating the court system. The program is funded with a \$1.00 surcharge on traffic violations. Pursuant to Section 13-3-113, C.R.S., the Judicial Department allocates money from the Family-friendly Court Program Cash Fund to judicial districts that apply for funding for the creation, operation, and enhancement of family-friendly court facilities. 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.).

Staff recommends approving the request for a continuing appropriation of \$375,000 cash funds and 0.5 FTE. To the extent that the Department does not expend moneys due to a 2.5 percent reduction in the employer PERA contribution, additional moneys can be made available for grants.

Pursuant to a Budget Amendment, the Department requests that funding for this program be transferred to a new subsection for various Centrally Administered Programs.

Office of Judicial Performance Evaluation

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.

The Department requests \$920,955 and 2.0 FTE for FY 2010-11. **Staff recommends appropriating \$887,112 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 \$33,843 lower than the request, including the following differences:

- Staff’s recommendation excludes \$30,000, which is required every other year for a biennial public awareness poll (per Legislative Council Staff fiscal note for S.B. 08-54).
- Consistent with Committee policy, staff has reduced the employer contribution to PERA by 2.5 percent (\$3,843).

Summary of Recommendation: Office of Judicial Performance Evaluation						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2009-10 Long Bill	\$0	\$171,560	\$0	\$0	\$171,560	2.0
Salary Survey awarded in FY 09-10	0	0	0	0	0	0.0
80% of Performance-based Pay awarded in FY 09-10	0	0	0	0	0	0.0

Summary of Recommendation: Office of Judicial Performance Evaluation						
	GF	CF	RF	FF	TOTAL	FTE
Base reduction (0.0%)	0	0	0	0	0	0.0
Reduction in employer's PERA contribution (2.5%)	<u>0</u>	<u>(3,843)</u>	<u>0</u>	<u>0</u>	<u>(3,843)</u>	<u>0.0</u>
Subtotal: Personal Services	0	167,717	0	0	167,717	2.0
Operating Expenses:						
FY 2009-10 Long Bill	0	749,395	0	0	749,395	
Eliminate funding for biennial public awareness poll (per Legislative Council Staff fiscal note for S.B. 08-54)	<u>0</u>	<u>(30,000)</u>	<u>0</u>	<u>0</u>	<u>(30,000)</u>	
Subtotal: Operating Expenses	0	719,395	0	0	719,395	
Staff Recommendation	\$0	\$887,112	\$0	\$0	\$887,112	2.0

Pursuant to a Budget Amendment, the Department requests that funding for this program be transferred to a new subsection for various Centrally Administered Programs.

Courthouse Capital/ Infrastructure Maintenance

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 the last several fiscal years, this appropriation was set at \$1.0 million. 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
Average Annual Expenditure	1,540,799
FY 2009-10 Adjusted Appropriation	3,100,000
FY 2010-11 Request	2,800,000

Funding for FY 2009-10

Last year, due to the number and size of new construction projects financed at the local level, the Department requested a total of \$4.1 million General Fund for courthouse furnishings for FY 2009-10 – an increase of \$3.1 million. This request was based on spreading the costs of furnishing Denver’s new Justice Center over two fiscal years. In addition, the Department planned to use a portion of the capital outlay funding requested in connection with the third year of implementing H.B. 07-1054 (\$800,000), along with \$521,000 from other existing fund sources to meet an overall estimated need of \$5.4 million.

The General Assembly provided the requested funding, but moneys were provided from the Judicial Stabilization Fund rather than the General Fund. This financing was made possible by delaying the implementation of the last 15 district and county court judgeships to May and July of 2010. The one-time cash funds savings resulting from this delay were allocated to meet the State’s obligation to furnish new and remodeled courthouses.

Last month, as part of an effort to address the ongoing General Fund revenue shortfall, the Department proposed reducing the FY 2009-10 appropriation by \$1.0 million General Fund. The Department’s procurement manager is taking advantage of the current used furniture market to help furnish court and probation facilities at a lower cost.

Judicial Decision Item #1: Budget Balancing

The Department indicates that for FY 2010-11, it will require a total of \$2.8 million for courthouse furnishings. This request includes \$850,000 associated with the implementation of the final 15 judgeships pursuant to H.B. 07-1054, and \$1,950,000 for a variety of local courthouse projects (including projects in Denver, Arapahoe, Jefferson, Broomfield, Chaffee, Larimer, Boulder, Adams, Las Animas, Eagle, and various smaller projects in the 4th, 7th, 15th, and 21st judicial districts). Staff has included, in Appendix B, information provided by the Department detailing these projects and the estimated state share of the costs of furnishing each facility.

As part of Decision Item #1, the Department proposes again using the Judicial Stabilization Cash Fund to eliminate the need for General Fund support of this line item for FY 2010-11. This would be made possible by further delaying the implementation of the final 15 judgeships authorized by H.B. 07-1054.

Staff recommends approving the request for \$2,800,000 cash funds to cover the state share of the costs of furnishing courthouse facilities in FY 2010-11. This recommendation is made in conjunction with a recommendation to delay the new judges authorized by H.B. 07-1054. The following table details the calculation of the recommendation.

Summary of Recommendation: Courthouse Capital/ Infrastructure Maintenance					
	GF	CF	RF	FF	TOTAL
FY 2009-10 Long Bill	\$1,000,000	\$3,100,000	\$0	\$0	\$4,100,000
FY 2009-10 Supplemental	(1,000,000)	0	0	0	(1,000,000)
Reverse FY 2009-10 Supplemental	1,000,000	0	0	0	1,000,000
Eliminate one-time funding provided for FY 2009-10	0	(3,100,000)	0	0	(3,100,000)
H.B. 07-1054 - Third of implementing additional judgeships	0	850,000	0	0	850,000
JUD DI#1: Additional cost of furnishings for new and remodeled facilities	0	950,000	0	0	950,000
JUD DI #1: Refinance appropriation based on further delay of new judgeships	(1,000,000)	1,000,000	0	0	0
Staff Recommendation	\$0	\$2,800,000	\$0	\$0	\$2,800,000

Pursuant to a Budget Amendment, the Department requests that funding for this program be transferred to a new subsection for various Centrally Administered Programs.

Courthouse Security

Senate Bill 07-118 [Section 13-1-201, *et seq.*, C.R.S.] created the Courthouse Security Grant Program to provide grant funds to counties for use in improving courthouse security efforts. Such efforts

include security staffing, security equipment, training, and court security emergency needs. Grants for personnel are limited to those counties with:

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

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

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.

Judicial Decision Item #3: Increased Spending Authority from the Court Security Cash Fund

For FY 2010-11, the Department requests an appropriation of \$3,869,622 for this program, an increase of \$199,000 compared to the adjusted FY 2009-10 appropriation. The Department intends to maintain sufficient fund balance to continue supporting ongoing personnel grants of \$1,450,000 in FY 2010-11 and FY 2011-12. Remaining funding would be used to provide annual one-time grants for equipment (\$1,625,000 for FY 10-11), courthouse emergencies (\$300,000), and training (\$190,423). Remaining funding would be used for a video conferencing initiative, program administration, and indirect costs.

The following table details actual and projected Court Security Cash Fund revenues and expenditures through FY 2011-12.

Court Security Cash Fund: Projected Cash Flow					
	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
	Actual	Actual	Estimate	Estimate	Estimate
Beginning FY Balance	\$0	\$2,363,329	\$2,447,175	\$1,346,885	\$576,111
Revenues	2,707,636	3,397,200	3,207,363	3,287,547	3,369,736
Expenditures (including request for FY 10-11)	<u>(344,307)</u>	<u>(1,813,354)</u>	<u>(3,807,653)</u>	<u>(4,058,321)</u>	<u>(3,705,172)</u>
Ending FY Balance without transfer	\$2,363,329	\$3,947,175	\$1,846,885	\$576,111	\$240,675
Transfer to the General Fund	<u>0</u>	<u>(1,500,000)</u>	<u>(500,000)</u>	<u>0</u>	<u>0</u>

Court Security Cash Fund: Projected Cash Flow					
Ending FY Balance after transfer	\$2,363,329	\$2,447,175	\$1,346,885	\$576,111	\$240,675
<i>Balance as % of annual expenditures</i>	<i>686.4%</i>	<i>135.0%</i>	<i>35.4%</i>	<i>14.2%</i>	<i>6.5%</i>

The Department lists the following court security-related incidents reported by counties in CY 2009:

- 57 threats against judges and court staff;
- three courthouse burglaries;
- one attempted child abduction;
- two cases of arson, including a Chief Judge's vehicle;
- 18 seizures of illegal firearms and ammunition; and
- 18 attempted escapes from custody.

Staff recommends that the Committee approve the Department's request for \$3,869,621 cash funds and 1.0 FTE for this line item FY 2010-11. To the extent that administrative expenditures are reduced due to the 2.5 percent reduction in the employer PERA contribution (\$1,993), the Department will be able to increase grants to counties.

Pursuant to a Budget Amendment, the Department requests that funding for this program be transferred to a new subsection for various Centrally Administered Programs.

Family Violence Justice Grants

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

In addition to General Fund appropriations for this grant program, the State Court Administrator is authorized to receive gifts, grants, and donations for this program; such funds are credited to the Family Violence Justice Fund [see Section 14-4-107, C.R.S.]. Senate Bill 09-68 increased the fees for petitions and responses in divorce proceedings by \$10 each (from \$220 and \$106 respectively) and specified that \$5 each shall be deposited in the Family Violence Justice Fund (providing an estimated \$143,430 in new fund revenues).

In FY 2008-09, the General Assembly approved a Department request to increase the General Fund appropriation for this program by \$250,000 to address the demand for affordable legal services. **The Department requests a continuation level of funding for FY 2010-11 (\$750,000 General Fund and \$143,430 cash funds). Staff recommends approving the request.**

Pursuant to a Budget Amendment, the Department requests that funding for this program be transferred to a new subsection for various Centrally Administered Programs.

Statewide Indirect Cost Assessment

Statewide indirect cost assessments are charged to cash and federal programs for statewide overhead costs (such as those generated by the Department of Personnel), and then the assessments are used in administrative divisions to offset General Fund appropriations. **Staff's recommendation for this line item is pending a Committee common policy concerning indirect costs.** Staff will ultimately reflect Committee policy in the appropriation for this line item.

Departmental Indirect Cost Assessment

Departmental indirect cost assessments are charged to cash and federally-funded programs for departmental overhead costs (such as those generated by the Courts Administration Division), and then the assessments are used in Courts Administration Division to offset General Fund appropriations. **Staff's recommendation for this line item is pending a Committee common policy concerning indirect costs.** Staff will ultimately reflect Committee policy in the appropriation for this line item.

(2) COURTS ADMINISTRATION

(B) Administrative Special Purpose [Proposed new subsection title: CENTRAL APPROPRIATIONS]

Unless otherwise noted, for this subdivision, the sources of cash funds include the Judicial Stabilization Cash Fund, the Offender Services 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.

Administrative Special Purpose: Staffing Summary				
Position Description	FY 2008-09 Actual	FY 2009-10 Approp.	FY 2010-11 Request	FY 2010-11 Recomm.
Child Support Enforcement	1.0	1.0	1.0	1.0
Collections Investigators	72.1	83.2	83.2	83.2
TOTAL	73.1	84.2	84.2	84.2

Health, Life and Dental

This is the first of four 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. The Department requests \$17,363,540 for this line item for FY 2010-11. This request includes a reduction of \$1,469,600 General Fund associated with the personal services reductions requested

through DI#1. This request is consistent with Committee policy with respect to employer contribution rates for FY 2010-11².

Staff recommends approving the request with one exception. Consistent with staff's recommendation to not approve the proposed reduction in Probation staff, staff's recommendation excludes a reduction of \$513,712 General Fund. Staff thus recommends an appropriation of \$17,877,252.

The following table summarizes all four 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	\$16,166,941	\$1,710,311	\$0	\$0	\$17,877,252
Public Defender	3,998,464	0	0	0	3,998,464
Alternate Defense Counsel	71,558	0	0	0	71,558
Office of the Child's Representative	163,296	0	0	0	163,296
Staff Recommendation	\$20,400,259	\$1,710,311	\$0	\$0	\$22,110,570

Short-term Disability

This is the first of four 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. The Department requests \$313,448 for this purpose for FY 2010-11. **Staff's recommendation for this line item is pending. Staff requests permission to work with Department staff to calculate the correct amount,** consistent with the Committee policy [applying a rate of 0.155 percent to base salaries] and consistent with Committee action on the Department's various decision items and the implementation of H.B. 07-1054.

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

Pursuant to S.B. 04-257, this line item provides additional funding to increase the state contribution for Public Employees' Retirement Association (PERA). One of four such line items, this one provides

² Employer contribution rates approved by the Committee include the following: \$352.00 (employee), \$594.50 (employee + spouse), \$629.14 (employee + children), and \$871.64 (employee + family) for health benefits; \$19.78 (employee), \$32.16 (employee + spouse), \$33.92 (employee + children), and \$46.32 (employee + family) for dental benefits; and \$9.40 for life benefits.

funds for Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation staff. The Department requests a total of \$4,793,595 for FY 2010-11. **Staff's recommendation for this line item is pending. Staff requests permission to work with Department staff to calculate the correct amount**, consistent with the Committee policy [2.2 percent of base salaries for CY 2010 and 2.6 percent of base salaries for CY 2011] and consistent with Committee action on the Department's various decision items and the implementation of H.B. 07-1054.

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

Pursuant to S.B. 06-235, this line item provides additional funding to increase the state contribution for PERA. One of four such line items, this one provides funds for Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation staff. The Department requests a total of \$3,464,196. **Staff's recommendation for this line item is pending. Staff requests permission to work with Department staff to calculate the correct amount**, consistent with the Committee policy [1.5 percent of base salaries for CY 2010, and 2.0 percent of base salaries for CY 2011] and consistent with Committee action on the Department's various decision items and the implementation of H.B. 07-1054.

Salary Survey

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. The Department did not request any funding for this line item for FY 2010-11. **Staff recommends approving the request, which is consistent with Committee policy.**

Anniversary Increases

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. The Department did not request any funding for this line item for FY 2010-11. **Staff recommends approving the request, which is consistent with Committee policy.**

Workers' Compensation

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, and Office of the Child's Representative. The Department requests \$1,795,339 General Fund for FY 2010-11. **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

This line item provides funding for the Department to purchase legal services from the Department of Law. The Department requests \$226,140 General Fund to purchase 3,000 hours of services in FY

2010-11. **Staff recommends approving the request to provide funding to purchase 3,000 hours of service.** In recent years, 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

Pursuant to a Budget Amendment, the Department requests that funding for this purpose be transferred from the Integrated Information Services (IIS) subsection of the Long Bill to this section. Staff's detailed recommendation for this line item appears below, in the IIS subsection.

Multiuse Network Payments

Pursuant to a Budget Amendment, the Department requests that funding for this purpose be transferred from the Integrated Information Services (IIS) subsection of the Long Bill to this section. Staff's detailed recommendation for this line item appears below, in the IIS subsection.

Payment to Risk Management and Property Funds

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, Alternate Defense Counsel, and Office of the Child's Representative. The Department requests \$84,755 General Fund for this purpose for FY 2010-11. **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

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.

The Department requests \$57,569 General Fund for FY 2010-11. **Staff's recommendation is pending Committee policy.** Staff will ultimately reflect Committee policy in the appropriation for this line item.

Leased Space

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). For FY 2010-11, annual rates per square foot (excluding storage and parking) will range from \$16.50 to \$19.50, with an overall average of \$17.10. Staff recommends the requested appropriation of \$1,255,283, as detailed in the following table. The source of cash funds is employee parking fees.

Summary of Recommendation: Leased Space					
	GF	CF	RF	FF	TOTAL
FY 2009-10 Long Bill	\$788,935	\$39,240	\$0	\$0	\$828,175
FY 2009-10 Supplemental	179,100	132,240	0	0	311,340
Reverse FY 2009-10 Supplemental	(179,100)	(132,240)	0	0	(311,340)
JUD DI #1- Add funding for new lease at DNA building, including cash funds spending authority for employee parking fees	294,868	132,240	0	0	427,108
Staff Recommendation	\$1,083,803	\$171,480	\$0	\$0	\$1,255,283

Please note that in April 2010 the Supreme Court and the Court of Appeals are scheduled to be relocated from the Judicial Heritage Complex (bordered by 13th and 14th Streets, Broadway, and Lincoln) to 101 W. Colfax. Demolition of the Judicial Heritage Complex is scheduled to begin in May 2010, followed by construction of the Ralph L. Carr Justice Complex beginning in September 2010. 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

Pursuant to a Budget Amendment, the Department requests that funding for this purpose be transferred from the Integrated Information Services (IIS) subsection of the Long Bill to this section. Staff's detailed recommendation for this line item appears below, in the IIS subsection.

Lease Purchase

The Judicial Department manages phone systems across the state in most of its 83 locations (in a few locations, the county owns and operates the system and the court and/or probation office pay a monthly usage charge). This line item provides funding for the lease purchase of its telephone systems. **Staff recommends approving the request for a continuation level of funding for this line item (\$119,878 General Fund).**

Administrative Purposes

This line item funds 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). **Staff recommends approving the request for a continuation level of funding (\$195,554).** The source of cash funds is royalties from the sale of pattern jury instructions.

Through a Budget Amendment, the Department requests that funding in this line item be transferred to the new General Courts Administration line item.

Retired Judges (to be renamed SENIOR JUDGE PROGRAM)

Pursuant to Section 24-51-1105, C.R.S., upon written agreement with the Chief Justice prior to retirement, a justice or judge may perform temporary judicial duties for between 60 and 90 days a year without pay. 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 go anywhere in the state to fill a temporary need.

The individual 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 payments of retired judges' additional benefits during the previous fiscal year (i.e., costs incurred in FY 2008-09 will be reimbursed by the Branch in FY 2009-10). Travel expenditures are reimbursed in the fiscal year in which they are incurred.

The Department requests a continuation level of funding (\$1,894,006) for 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)

Recent History of Funding for the Senior Judge Program						
Fiscal Year	Appropriation	Expenditures			Annual % Change	Approp.- Expend.
		PERA Payment	Travel	Total		
2009-10**	1,894,006	1,769,006	125,000	1,894,006	-1.2%	0

* Appropriation includes a supplemental increase.

** Estimated FY 2009-10 expenditures

Staff recommends that the Committee approve the request. This program is a cost-effective way of managing dockets and covering judges' leave time.

Pursuant to a Budget Amendment, the Department requests that funding for this program be transferred to a new subsection for various Centrally Administered Programs and be renamed the "Senior Judge Program".

Appellate Reports Publication

This line item provides 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. These copies are located at various state offices, including district and county judges' offices, county court law libraries, district attorneys' offices, and state libraries. **Staff recommends approving the request for a continuation level of appropriation (\$37,100 General Fund).**

Pursuant to a Budget Amendment, the Department requests that funding for this program be transferred to the Appellate Court Programs line item in the Supreme Court/ Court of Appeals section.

Child Support Enforcement

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

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. Consistent with Committee policy, staff has reduced the employer PERA contribution by 2.5 percent (\$2,036). Staff's recommendation is thus \$2,036 lower than the Department request.

Summary of Recommendation: Child Support Enforcement						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2009-10 Long Bill	\$30,904	\$0	\$0	\$59,996	\$90,900	1.0

Summary of Recommendation: Child Support Enforcement						
	GF	CF	RF	FF	TOTAL	FTE
Salary Survey awarded in FY 09-10	0	0	0	0	0	0.0
80% of Performance-based Pay awarded in FY 09-10	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%)	(692)	0	0	(1,344)	(2,036)	0.0
Staff Recommendation	\$30,212	\$0	\$0	\$58,652	\$88,864	1.0

Pursuant to a Budget Amendment, the Department requests that funding for this program be transferred to a new subsection for various Centrally Administered Programs.

Collections Investigators

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.

The Department's FY 2010-11 request includes a continuation of a \$110,000 increase in reappropriated funds from VALE grants that was approved for FY 2009-10 to better reflect anticipated receipts. These funds are used to help court clerks' offices with increasing the moneys recovered for restitution and victim compensation/ assistance programs.

Staff recommends an appropriation of \$5,084,959 and 83.2 FTE for FY 2010-11, as detailed in the following table. The recommendation includes continuing the FY 2009-10 supplemental increase which allowed the program to utilize more VALE grants for victim assistance and compensation staff. The recommendation is \$86,363 lower than the request, including the following differences:

- The Department's request assumes a 0.2 percent base reduction in funding (a reduction of \$8,029). Consistent with Committee policy, staff has not applied a base reduction.
- Consistent with Committee policy, staff has reduced the employer contribution to PERA by 2.5 percent (\$94,392).

Summary of Recommendation: Collections Investigators						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2009-10 Long Bill	\$	\$4,014,825	\$0	\$0	\$4,014,825	83.2
Salary Survey awarded in FY 09-10	0	0	0	0	0	0.0
80% of Performance-based Pay awarded in FY 09-10	0	0	0	0	0	0.0
Base reduction (0.0%)	0	0	0	0	0	0.0
Reduction in employer's PERA contributions (2.5%)	<u>0</u>	<u>(94,392)</u>	<u>0</u>	<u>0</u>	<u>(94,392)</u>	<u>0.0</u>
Subtotal: Personal Services	0	3,920,433	0	0	3,920,433	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	\$4,187,418	\$897,541	\$0	\$5,084,959	83.2

Pursuant to a Budget Amendment, the Department requests that funding for this program be transferred to a new subsection for various Centrally Administered Programs.

(2) COURTS ADMINISTRATION
(C) Centrally Administered Programs

This new subsection will include the following line items transferred from other sections of the Long Bill:

- Victim Assistance
- Victim Compensation
- Collections Investigators
- Problem-solving Courts
- Language Interpreters
- Courthouse Security
- Senior Judge Program
- Office of Judicial Performance Evaluation
- Family Violence Justice Grants
- Family Friendly Court Program
- Child Support Enforcement

Staff's detailed recommendations for the above line items are included in other areas of this packet.

(2) COURTS ADMINISTRATION

Integrated Information Services

This subsection includes funding for developing and maintaining information technology systems used by the courts in all 22 judicial districts. Currently, these systems include the Integrated Colorado On-line Network (ICON)/Eclipse, a unified, statewide court and probation case management system, as well as the Colorado Integrated Criminal Justice Information System (CICJIS), which is managed in cooperation with the Department of Public Safety. This Division trains court staff on the use of such systems and plays a central role in assuring data integrity. This Division provides all the technology services to the Department, including technical support, and develops new uses for technology to improve efficiency.

Please note that through a Budget Amendment, the Department proposes transferring funding and staff reflected in this section of the Long Bill to the above two subsections of the Long Bill.

Integrated Information Services: Staffing Summary				
Position Description	FY 2008-09 Actual	FY 2009-10 Approp.	FY 2010-11 Request	FY 2010-11 Recomm. (before Long Bill reorg.)
Administration/ Support	4.1	5.0	4.0	4.0
Programming Services	11.4	14.0	13.0	13.0
Computer Technical Support	16.5	15.9	12.9	12.9
Programming/ Tech. Supervisors	5.9	6.0	6.0	6.0
Customer Support	5.5	4.0	4.0	4.0
Public Access System/E-Filing System Project	<u>0.0</u>	<u>1.0</u>	<u>18.0</u>	<u>18.0</u>
TOTAL	43.4	45.9	57.9	57.9

Personal Services

The request includes funding for one decision item, described below, as well as reductions proposed through DI#1.

Judicial DI#1: Implement Public Access System and Develop E-Filing System

Background Information

Over the last ten years, the Department has partnered with vendors to develop and implement a public access system (PAS) for all non-protected court data, and an e-filing system for attorneys. Both systems are supported entirely by user fees. These systems provide cost-effective services to the general public and attorneys and they have positively affected court staff workloads.

In response to a request from the General Assembly, the Judicial Department studied the feasibility of bringing both systems in-house and concluded that it should do so. The development of the PAS would be financed with existing user fees received by the Department for its information technology infrastructure; the operations of the PAS and the development of the e-filing system would then be supported with revenues collected from PAS users (these fees are currently collected and retained by the vendor).

Existing Vendor Contracts

The Department's contract with Lexis/CourtLink to operate the PAS is scheduled to expire on June 30, 2010. The vendor collects user fees to support PAS operations. In addition, since FY 2003-04, the Department has required the vendor to collect a cost recovery fee on the Department's behalf. The Department is required to use this fee revenue to cover the direct and indirect costs of hardware replacement and other expenses required to maintain the equipment and network connections necessary for the use of the Department's computer information systems by the public and other agencies.

The Department's contract with Lexis/Courtlink to operate the e-filing system was previously scheduled to expire in August 2011. The Department recently extended this contract through December 2012, with an understanding that the Department would begin implementing an in-house e-filing system in the last quarter of 2012.

Recent Actions by Department and the General Assembly

The General Assembly authorized the Department to spend cash funds in FY 2008-09 to develop the PAS, but no spending authority was included in the FY 2009-10 Long Bill for either system. Using the funding made available in FY 2008-09 and through redirecting existing resources, the Department completed development of the new PAS in November 2009. The Department is prepared to implement an in-house PAS that will result in annual savings of \$1.0 million General Fund as it will allow the Department to use cash funds to support more of its information technology infrastructure needs beginning in FY 2010-11. In addition, the Department proposes reducing costs for PAS users by eliminating the cost recovery fee.

In addition to these savings, PAS user fee revenue will allow the Department to develop an in-house e-filing system at no General Fund cost to the State and no additional cost to system users. Once operational, the e-filing system is projected to bring in \$7.7 million in net revenues to the State. Conceptually, moneys previously collected through cost recovery fees were used to develop the new PAS. Once implemented, PAS user fees will be used to cover ongoing PAS operating costs, to cover the costs of developing a new e-filing system, and to replace the seed money used to develop PAS so that the Department is in a position to maintain its existing IT infrastructure in the future.

The Department has continued to work with the three primary third party vendors that will be accessing the new PAS (BIS, ACXIOM, and LEXIS) to complete the necessary interfaces and test

the system. The Department has also conducted system load testing internally, through Department staff who regularly access PAS.

The Committee recently approved a supplemental request for a \$72,445 from the Information Technology (IT) Cash Fund³ for FY 2009-10 to proceed with the implementation of the new PAS. This funding will be used to pay for the costs of administering and operating the PAS and supporting system users. In order to ensure a smooth migration of users to the new PAS, the Department will hire some staff prior to the end of FY 2009-10. The Department intends to gradually transition government users over to the new PAS through the end of FY 2009-10. Currently, 12,000 government users from 162 entities access court data for free via the Lexis/Nexis PAS. A phased migration of government users will provide an opportunity for the Department to test the new system and its response time prior to other users accessing the system. The PAS would then be implemented for third party vendors who contract for volume price discounting and general public users on July 1, 2010.

Beginning in FY 2010-11, the Department will use PAS revenues not required to operate PAS and to maintain Department information technology infrastructure to develop an in-house e-filing system. Project development is anticipated to take about three years. By FY 2013-14, the Department estimates that annual revenues generated by both PAS and the e-filing system will total about \$9 million. These revenues could be reduced through decreases in user fees, used to continue to improve information technology supporting the state court system, or used to further reduce Department General Fund expenditures related to information technology.

For FY 2010-11, the Department requests a total of \$1,923,498 cash funds and 19.0 FTE to operate the new PAS and to begin development of an e-filing system. The funding approved for FY 2009-10 supports three positions for three months to get users registered and trained, and to provide technical assistance and user support (0.75 FTE), and a project manager for three months (0.25 FTE). The FY 2010-11 request provides continued funding for these four positions, and adds another 15.0 FTE to support PAS operations and begin development of the e-filing system. In addition, the request includes \$1,000,000 cash funds to replace \$1,000,000 General Fund that currently supports the Department's information technology infrastructure. This refinance is made possible through the implementation of the PAS.

³ This fund was established through HB 08-1253 (a JBC-sponsored bill), which allows the Department to retain fees and cost recoveries related to IT. The Department planned to use moneys in this fund for routine asset maintenance activities, including building up the fund balance to cover costs of significant infrastructure investments (e.g., an estimated \$700,000 to replace a mainframe computer in FY 2010-11). Pursuant to Section 13-32-114 (2), C.R.S., moneys in this fund may be appropriated to the Department "for any expenses related to the department's information technology needs".

Expenditures: Public Access and E-Filing Systems			
Description	Fund Source	FY 09-10	FY 10-11
Personal services	Cash Funds	\$43,445	\$1,481,188
FTE		1.0	19.0
Information technology infrastructure		<u>(1,000,000)</u>	<u>207,660</u>
	General Fund*	(1,000,000)	(1,000,000)
	Cash Funds	0	1,207,660
Consultant services	Cash Funds	0	30,000
Operating, training, and travel expenses	Cash Funds	28,800	204,650
Total costs		<u>(927,755)</u>	<u>1,923,498</u>
	General Fund	(1,000,000)	(1,000,000)
	Cash Funds	72,245	2,923,498

* Although the Department included the General Fund reduction for FY 2009-10 as part of its "budget reductions" supplemental request, staff has included it here for both fiscal years as the Department's ability to manage these reductions is reliant upon its ability to move forward with these projects.

Consistent with staff recommendations and the Committee's actions to date, **staff recommends approving the Department's request.** Based on projected IT Cash Fund revenues, sufficient cash funds will be available over and above the amounts currently appropriated for information technology expenses. The requested funding will allow the Department to begin serving and supporting public users and third party vendors in July 2010.

Through implementation of an in-house PAS, the Department will reduce user fees by eliminating the cost recovery fee. The Department has also proposed reducing annual General Fund expenditures for its information technology infrastructure by \$1 million, beginning in FY 2009-10. Thus, this plan will assist the General Assembly in addressing projected revenue shortfalls. Finally, implementation of the in-house PAS will provide both the Department and users with several less tangible benefits, including the following:

- a more user-friendly PAS that is easier to understand and navigate;
- more control over the development and deployment of application fixes and presentation enhancements necessary to support judicial business changes, legislative changes, and changes requested by system users;
- an opportunity to provide more information on-line, further reducing phone calls and paper requests for information from court clerks and other staff;
- improved PAS availability through a more stable technical infrastructure and the implementation of a true disaster recovery methodology in the event of a primary system failure; and

- an improvement in the security of personal identifying information.

In summary, staff recommends appropriating a total of \$4,447,293 and 57.9 FTE for this line item for FY 2010-11, as detailed in the table below. The recommendation is \$90,148 lower than the request, including the following differences:

- The Department’s request assumes a 0.2 percent base reduction in funding (a reduction of \$6,542). Consistent with Committee policy, staff has not applied a base reduction.
- Consistent with Committee policy, staff has reduced the employer contribution to PERA by 2.5 percent (\$96,690).

Summary of Recommendation for Courts Administration, Integrated Information Services, Personal Services						
	GF	CF	RF	FF	TOTAL	FTE
FY 2009-10 Long Bill	\$3,270,771	\$0	\$217,710	\$0	\$3,488,481	44.9
Restore 1.82% base reduction	60,544	0	0	0	60,544	0.0
FY 2009-10 Supplemental	0	43,445	0	0	43,445	1.0
Reverse FY 2009-10 Supplemental	0	(43,445)	0	0	(43,445)	(1.0)
Salary Survey awarded in FY 09-10	0	0	0	0	0	0.0
80% of Performance-based Pay awarded in FY 09-10	0	0	0	0	0	0.0
Base reduction (0.0%)	0	0	0	0	0	0.0
JUD DI#1 - Personal services reductions	(456,214)	0	0	0	(456,214)	(5.0)
JUD DI#1- Implement public access system and develop e-filing system	0	1,451,172	0	0	1,451,172	18.0
Reduction in Employer’s PERA contribution (2.5%)	<u>(64,406)</u>	<u>(32,284)</u>	<u>0</u>	<u>0</u>	<u>(96,690)</u>	<u>0.0</u>
Subtotal	2,810,695	1,418,888	217,710	0	4,447,293	57.9
<i>Transfer funding to new consolidated General Courts Administration line item in the Administration and Technology subsection (adjusted for 2.5% PERA reduction)</i>	<i>(2,810,695)</i>	<i>(1,418,888)</i>	<i>(217,710)</i>	<i>0</i>	<i>(4,447,293)</i>	<i>(57.9)</i>
Staff Recommendation	\$0	\$0	\$0	\$0	\$0	0.0

Pursuant to a Budget Amendment, the Department requests that funding for this line item be transferred to the new General Courts Administration line item in the Administration and Technology subsection.

Operating Expenses

Staff recommends an appropriation of \$350,915, as detailed in the following table. Staff's recommendation is \$1,339 lower than the request due to the mail equipment upgrade planned by the Department of Personnel and Administration.

Summary of Recommendation for Courts Administration, Integrated Information Services, Operating Expenses					
	GF	CF	RF	FF	TOTAL
FY 2009-10 Long Bill	\$177,604	\$50,000	\$0	\$0	\$227,604
FY 2009-10 Supplemental	(22,760)	27,296	0	0	4,536
Reverse FY 2009-10 Supplemental	22,760	(27,296)	0	0	(4,536)
JUD DI#1 - Operating expenses reductions	(80,000)	0	0	0	(80,000)
JUD DI#1- Implement public access system and develop e-filing system	0	204,650	0	0	204,650
Mail equipment upgrade - annualization	<u>0</u>	<u>(1,339)</u>	<u>0</u>	<u>0</u>	<u>(1,339)</u>
Subtotal	97,604	253,311	0	0	350,915
<i>Transfer to the Information Technology Infrastructure line item</i>	<i>(50,000)</i>	<i>(50,000)</i>	<i>0</i>	<i>0</i>	<i>(100,000)</i>
<i>Transfer to new consolidated General Courts Administration line item in the Administration and Technology subsection</i>	<i>(47,604)</i>	<i>(203,311)</i>	<i>0</i>	<i>0</i>	<i>(250,915)</i>
Staff Recommendation	0	0	0	0	0

Pursuant to a Budget Amendment, the Department requests that funding for this line item be transferred to other line items, as indicated in the above table.

Capital Outlay

The Department has not requested any funding for capital outlay in FY 2010-11.

Purchase of Services from Computer Center

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. One of four such line items, this one provides funds for services associated with Supreme Court, Court of Appeals, Courts Administration, Trial Courts, and Probation staff. The Department requests \$268,774 General Fund for this purpose for FY 2010-11. **Staff's recommendation for this line item is pending Committee policy.** Staff will ultimately reflect Committee policy in the appropriation for this line item.

Pursuant to a Budget Amendment, the Department requests that funding for this program be transferred to a new subsection (B) for Central Appropriations.

Multiuse Network Payments

This line item is used to pay the Department's share of the statewide multi-use network. The Department has not entirely converted to the Multi-use Network (MNT); it is experimenting with the MNT in a limited capacity and therefore, has a small MNT appropriation relative to other Departments of a comparable size. The Department requests \$334,800 General Fund for multi-use network payments for FY 2010-11. **Staff's recommendation for this line item is pending Committee policy.** Staff will ultimately reflect Committee policy in the appropriation for this line item.

Pursuant to a Budget Amendment, the Department requests that funding for this program be transferred to a new subsection (B) for Central Appropriations.

Communication Services Payments

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. The Department requests \$10,938 for this purpose for FY 2010-11. **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.

Pursuant to a Budget Amendment, the Department requests that funding for this program be transferred to a new subsection (B) for Central Appropriations.

Information Technology Infrastructure

This line item provides funding for the following:

- 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).

For FY 2009-10, the Department proposed (and the Committee approved) a one-time reduction of \$1,000,000 General Fund, in light of the General Fund shortfall.

For FY 2010-11, the Department requests a total of \$4,169,146 for this purpose. The Department's request includes an increase of \$207,660 related to the implementation of the public access system and the development of the e-filing system. The Department's request also includes a \$1.0 million reduction in General Fund and an equal increase in cash funds spending authority; this fund source

change is contingent on the continued funding of the public access system. **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 2009-10 Long Bill	\$1,353,094	\$2,608,392	\$0	\$0	\$3,961,486
FY 2009-10 Supplemental	(1,000,000)	0	0	0	(1,000,000)
Reverse FY 2009-10 Supplemental	1,000,000	0	0	0	1,000,000
JUD DI #1 - Implement public access system and develop e-filing system	<u>(1,000,000)</u>	<u>1,207,660</u>	<u>0</u>	<u>0</u>	<u>207,660</u>
Subtotal	353,094	3,816,052	0	0	4,169,146
<i>Transfer from Operating Expenses line item within this subsection</i>	<i>50,000</i>	<i>50,000</i>	<i>0</i>	<i>0</i>	<i>100,000</i>
<i>Transfer funding to the Administration and Technology subsection</i>	<i>(403,094)</i>	<i>(3,866,052)</i>	<i>0</i>	<i>0</i>	<i>(4,269,146)</i>
Staff Recommendation	0	0	0	0	0

Pursuant to a Budget Amendment, the Department requests that funding in this line item be transferred to two other Long Bill line items.

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

The General Assembly established seven **water divisions** in the State based on the drainage patterns of major rivers in Colorado. Each water division is staffed by a division engineer, a district court judge who is designated as the water judge by the Colorado Supreme Court, a water referee appointed by the water judge, and a water clerk assigned by the district court. Water judges have exclusive jurisdiction over cases involving the determination of water rights and the use and administration of water. *[Sections 37-92-203 and 204, C.R.S.]*

County courts have limited jurisdiction, handling civil actions involving no more than \$15,000, misdemeanor cases, civil and criminal traffic infractions, and felony complaints. County courts also

issue search warrants and protection orders in cases involving domestic violence. In addition, county courts handle appeals from municipal courts. The General Assembly establishes the number of judges for each county in statute; these judges serve renewable 4-year terms. [Article VI, Sections 16 and 17 of the Colorado Constitution; Section 13-6-101 et seq., C.R.S.]

The following table provides an overview of the staffing composition for the Trial Courts section of the Long Bill.

Trial Courts: Staffing Summary				
Position Description	FY 2008-09 Actual	FY 2009-10 Approp. (before suppl. reduction of 108.8 FTE)	FY 2010-11 Request (before Long Bill reorg.)	FY 2010-11 Recomm. (before Long Bill reorg.)
District Court Judges, including Water Judges	163.7	164.7	169.0	169.0
County Court Judges	88.1	89.5	90.0	90.0
Magistrates & Water Referees	63.8	66.0	60.5	60.5
Division Staff	89.3	141.5	145.8	145.8
Court Reporters	94.4	160.7	165.0	165.0
Clerks' Offices	1,015.4	1,039.3	903.9	903.9
Dispute Resolution	6.6	6.0	6.0	6.0
Problem-solving Courts	0.0	17.2	32.2	32.2
Family Preservation	25.7	22.0	22.0	22.0
Administrative/ Support	<u>204.1</u>	<u>193.7</u>	<u>193.7</u>	<u>193.7</u>
Subtotal - Trial Court Programs line item	1,751.1	1,900.6	1,788.1	1,788.1
Language Interpreters	22.3	25.0	20.0	25.0
Federal Funds and Other Grants	<u>8.5</u>	<u>14.0</u>	<u>14.0</u>	<u>14.0</u>
Subtotal - Other line items	30.8	39.0	34.0	39.0
TOTAL	1,781.9	1,939.6	1,822.1	1,827.1

Trial Court Programs

This line item, provides funding for Personal Services and Operating Expenses for judges, magistrates, court staff, and the Office of Dispute Resolution. This line item is affected by H.B. 07-1054, JUD DI#1 (Personal Services and Operating Expense reductions), and JUD DI#2 (Problem-solving Courts).

Judicial Decision Item #2: Separate line Item for Problem-solving Courts

The Department requests a change in the Long Bill structure to separately identify appropriations associated with problem-solving courts. A separate line item will help the Department isolate, monitor, and report expenses related to problem-solving courts statewide. The request transfers existing cash fund resources from the Trial Courts Programs line item to a new line item.

In addition, the Department recently received a two-year federal Byrne grant to continue expanding the capacity of adult drug courts. Specifically, the Department will use these funds to expand the capacity of existing adult drug courts from 35 to 50 percent of the target population (*i.e.*, substance abusing or dependent offenders who have high treatment needs and are at high risk of recidivating). The Department's request thus reflects \$2,386,053 federal funds and 15.0 federally-funded FTE (probation officers and problem-solving court coordinators) in this new line item. This continued expansion is anticipated to reduce the need for jail and prison beds, reduce crime rates, increase treatment participation and effectiveness, and increase employment among offenders (which, in turn, increases the amount of fees, fines, and restitution collected from these offenders). Background information related to the expansion of adult drug courts is provided below.

Background Information: 2008 Request for Information

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 the following data related to substance abusers:

- Approximately 78 percent of offenders housed by the Department of Corrections (DOC) have a substance abuse problem; less than 25 percent of offenders receive substance abuse services.
- About 32 percent of parolees have a drug offense as their most serious offense and the percentage is increasing.
- In FY 2007-08, there were at least 389 probationers revoked and sentenced to DOC on technical violations that would have met drug court criteria. Technical violations are noncompliance with terms of probation such as failure to complete drug treatment, continued drug use, and failure to keep probation appointments.

Drug Court is an innovative alternative to prison with emphasis on accountability and intensive monitoring for drug abusing criminal offenders. The 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 have been 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 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 is comprised of 19 judicial officers, district administrators, probation supervisors and magistrates who represent the various geographic regions of the state.

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 services⁴).
- The court conducts *regular, judicial review hearings* to continually monitor offenders' performance and impose *immediate sanctions and incentives* contingent on that performance.
- The *probation caseload* for drug court offenders is lower than for a regular adult probation program (e.g., 40 offenders per probation officer) to provide adequate time to prepare for and attend frequent hearings.
- A *drug court coordinator* serves as the “hub” of the drug court program, allowing judges and probation officers to perform other duties. This person is responsible for day-to-day program operations, including: developing policies and procedures, coordinating training, collecting data for program evaluation, and collaborating with drug court team members, community stakeholders, and state agencies.

Nationally, well-functioning drug courts have been found to reduce crime rates by 35 percent in high risk/high needs drug abusing criminal offender populations. One study indicated that for every \$1

⁴ 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.

invested in adult drug courts, communities have reaped approximately \$2 to \$4 in benefits.⁵ Examples of cost savings include the following:

- Offenders attend and remain in treatment longer, resulting in improved treatment outcomes
- Resources are targeted to offender need
- The re-arrest rate for offenders declines, reducing the need for jail and prison beds
- Offenders are more likely to be employed
- Children of drug court participants spend significantly less time in out-of-home care

In Colorado, the Boulder Adult Integrated Treatment Court documented a savings of 8,934 jail bed days in its first operational year, for an estimated annual savings of approximately \$545,000.

The Department indicated that in FY 2007-08 there were approximately 389 felony probationers revoked on technical violations who met the criteria for adult drug court. At an annual rate of \$30,388 per DOC bed, if half (195) of these offenders had successfully completed a drug court program, the potential annual cost savings to the Colorado tax payers would have been over \$5.9 million.

Background Information: FY 2009-10 Budget Initiative

Last year, in response to the Committee's request that the Department develop a strategy and plan to provide drug courts statewide, the Department requested funding and staff to enhance and expand drug courts that were currently operational and drug courts scheduled to be implemented by the end of FY 2008-09. At that time, existing drug courts were targeting various criminal populations and employing different practices. Data indicated that existing courts were serving less than 25 percent of the probationers who met drug court criteria⁶. This request was intended to: (a) enhance operational drug court practices by providing adequate court staff, probation staff, and drug court coordinators; and (b) allow operational drug courts to increase the number of high risk and high need offenders served (35 percent of projected capacity).

The General Assembly appropriated a total of \$1,233,760 and 17.2 FTE to increase the number of high risk and high need offenders served (up to 35.0 percent of capacity), and to ensure that these drug courts are operating consistently and effectively in order to maximize the resulting cost savings. The increase consisted of \$975,629 cash funds and 13.0 FTE from the Judicial Stabilization Cash Fund and \$258,131 General Fund and 4.2 FTE transferred from the Probation and Related Services section. [Please note that these cash fund expenditures were fully offset by the moneys saved by delaying the

⁵ Doug B. Marlowe, J.D., Ph.D., NADCP National Drug Court Conference, May 2008. The Verdict IS IN.

⁶ The Department indicates that adult drug courts should target drug dependent offenders who are in high need of treatment and are at high risk for recidivating (excluding violent offenders, sex offenders, and offenders who pose too large of risk to the community). The Department indicates that low risk and low need individuals are better served through standard probation services.

final 15 judgeships authorized through H.B. 07-1054.] Ongoing expenditures for FY 2010-11 total \$1,140,654.

Update on Drug Court Implementation

There are currently 19 drug courts operating in 13 of the 22 judicial districts⁷. As of September 14, 2009, there were 1,204 offenders actively participating in these courts out of 3,513 high need/ high risk offenders under probation supervision who met drug court eligibility criteria. Thus, 34 percent of the eligible population statewide is participating in adult drug courts. For FY 2009-10, state funding is allocated among participating jurisdictions based on each court serving 35 percent of the eligible population. Those courts that are operating under capacity are making programmatic changes to expand the number of clients served, utilizing the new staff allocated for this purpose.

The Department has worked with these districts to conduct a self-assessment concerning the use of best practices. The Problem Solving Courts Advisory Committee, with the assistance from Omni Institute, has identified essential elements needed for short-term and long-term evaluation of these courts. It will be two to three years before an in-depth outcome evaluation can be conducted statewide. One or two programs continue to conduct independent program evaluations. The Department is currently focused on data collection, data integrity, and process evaluation of operational courts.

The Department plans to use federal Byrne grant funds to expand the percent of the eligible population of offenders served statewide from 35 percent to 50 percent in existing jurisdictions. This two-year grant will expire in July 2011. Additional state resources will likely be required to sustain support for this level of participation beginning in FY 2011-12.

Staff recommends approving the request to reflect funding and FTE associated with Problem-solving Courts in a separate line item. Staff recommends appropriating a total of \$3,501,688 and 32.2 FTE for FY 2010-11, as detailed in the table below. The recommendation is \$121,059 higher than the request, including the following differences:

- The Department's request reflects an error in the transfer to this line item (\$970,783). It is understated by \$146,078, based on the General Assembly's actions last Spring. The Department agrees with staff's recommendation.
- Consistent with Committee policy, staff has reduced the employer contribution to PERA by 2.5 percent (a reduction of \$25,019).

⁷ 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), 16th (Otero), 19th (Weld), 20th (Boulder), and 22nd (Montezuma).

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.

Summary of Recommendation: Problem-solving Courts (New Line Item)				
Line Item and Description	CF	FF	TOTAL	FTE
<i>Transfer funding from Trial Courts Program - Personal Services</i>	\$1,116,861	\$0	\$1,116,861	17.2
Reduction in employer's PERA contribution (2.5%)	(25,019)	0	(25,019)	
<i>Transfer from Trial Courts Program - Operating Expenses</i>	23,793	0	23,793	
Reflect federal Byrne grant - Personal Services	0	2,240,393	2,240,393	15.0
Reflect federal Byrne grant - Operating Expenses	<u>0</u>	<u>145,660</u>	<u>145,660</u>	
Total	1,115,635	2,386,053	3,501,688	32.2

Finally, pursuant to a Budget Amendment, the Department requests that funding for this program be transferred to a new subsection (C) for Centrally Administered Programs.

Staff recommends appropriating a total of \$115,739,758 and 1,711.5 FTE for the Trial Courts Program line item for FY 2010-11, 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 \$2,232,488 lower than the request, including the following differences:

- The Department's request assumes a 0.2 percent base reduction in funding (a reduction of \$246,023). Consistent with Committee policy, staff has not applied a base reduction.
- The Department's request reflects an error in the transfer to a new Problem-solving Courts line item (\$970,783). It is understated by \$146,078, based on the General Assembly's actions last Spring. The Department agrees with staff's recommendation.
- Consistent with Committee policy, staff has reduced the employer contribution to PERA by 2.5 percent (a reduction of \$2,646,923).
- The remaining difference relates to staff's recommended transfer from this line item to the General Courts Administration line item, as staff's recommendation reflects the 2.5 percent reduction in the employer's PERA contribution.

Summary of Recommendation: Trial Court Programs						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2009-10 Long Bill	\$101,419,420	\$17,212,157	\$965,000	\$0	\$119,596,577	1,900.6
Restore 1.82% base reduction	1,296,662	209,841	0	0	1,506,503	0.0
FY 09-10 Supplemental	(3,520,000)	0	0	0	(3,520,000)	(108.8)
Reverse FY 09-10 Supplemental	3,520,000	0	0	0	3,520,000	108.8
Salary Survey awarded in FY 09-10	0	0	0	0	0	0.0
80% of Performance-based Pay awarded in FY 09-10	0	0	0	0	0	0.0
H.B. 07-1054: Eliminate partial funding provided in FY 2009-10 for filling seven of final 15 judgeships on May 1, 2010	0	(378,228)	0	0	(378,228)	(5.4)
H.B. 07-1054: Full-year impact of filling final 15 judgeships (based on delayed implementation schedule proposed Spring 2009)	0	4,758,203	0	0	4,758,203	72.0
JUD DI#1 - Proposed further delay in filling final 15 judgeships	0	(2,825,077)	0	0	(2,825,077)	(43.0)
JUD DI#1 - Personal Services reductions	(6,808,566)	(209,841)	0	0	(7,018,407)	(151.0)
Base reduction (0.0%)	0	0	0	0	0	0.0
Reduction in employer's PERA contribution (2.5%)	<u>(2,214,456)</u>	<u>(432,467)</u>	<u>0</u>	<u>0</u>	<u>(2,646,923)</u>	<u>0.0</u>
Subtotal	93,693,060	18,334,588	965,000	0	112,992,648	1,773.2
<i>Transfer funding to the new General Courts Administration line item in the Administration and Technology subsection (adjusted for 2.5% PERA reduction)</i>	<i>(3,184,805)</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>(3,184,805)</i>	<i>(44.5)</i>
<i>Transfer funding to the new Problem-solving Courts line item (adjusted for 2.5% PERA reduction)</i>	<i>0</i>	<i>(1,091,842)</i>	<i>0</i>	<i>0</i>	<i>(1,091,842)</i>	<i>(17.2)</i>
Subtotal: Personal Services	90,508,255	17,242,746	965,000	0	108,716,001	1,711.5
Operating Expenses:						
FY 2009-10 Long Bill	503,678	6,700,860	0	0	7,204,538	
FY 09-10 Supplemental	(503,678)	0	0	0	(503,678)	
Reverse FY 09-10 Supplemental	503,678	0	0	0	503,678	

Summary of Recommendation: Trial Court Programs						
	GF	CF	RF	FF	TOTAL	FTE
H.B. 07-1054: Eliminate partial funding provided in FY 2009-10 for filling seven of final 15 judgeships on May 1, 2010	0	(8,508)	0	0	(8,508)	
H.B. 07-1054: Full-year impact of filling final 15 judgeships (based on delayed implementation schedule proposed Spring 2009)	0	114,450	0	0	114,450	
JUD DI#1 - Proposed further delay in filling final 15 judgeships	0	(68,550)	0	0	(68,550)	
JUD DI#1 - Operating expenses reductions	<u>(99,934)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>(99,934)</u>	
Subtotal	403,744	6,738,252	0	0	7,141,996	0.0
<i>Transfer funding to the new Problem-solving Courts line item</i>	0	(23,793)	0	0	(23,793)	
<i>Transfer funding to/from the new General Courts Administration line item in the Administration and Technology subsection</i>	<u>(159,446)</u>	<u>65,000</u>	<u>0</u>	<u>0</u>	<u>(94,446)</u>	
Subtotal: Operating Expenses	244,298	6,779,459	0	0	7,023,757	0.0
Staff Recommendation	\$90,752,553	\$24,022,205	\$965,000	\$0	\$115,739,758	1,711.5

Although staff recommends approving the staffing reductions proposed through DI#1, staff notes that this action will negatively impact court operations. The Department provided the following description of the likely impact in response to a Committee inquiry last November:

“To avoid disproportionate impacts to any one location, the Department has implemented a plan to equalize trial court staffing levels across all districts. While the Department is making every effort to minimize impacts to court operations, some impact may be unavoidable given the size of the FTE cut required to meet the budget reduction.

There are risks to understaffing the courts – from decreased public access to the courts to potential public safety impacts. For example, a number of entities rely on information from the courts to conduct their business. In many cases, the availability of accurate and up-to-date court information can make a difference in the safety, health, and welfare of Colorado’s citizens...

Limited resources...will require courts to prioritize the caseload. Cases involving public safety (i.e. felonies, misdemeanors, and protective orders) and vulnerable

parties (juveniles, elderly, and incapacitated persons) will be prioritized higher than general civil matters (debt collections, divorces, contractual disputes, etc.). As a result, the time needed to resolve non-critical cases will likely increase.”

Capital Outlay

The Department has not requested any capital outlay funding for FY 2010-11.

Court Costs, Jury Costs, and Court-appointed Counsel

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 daily, 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).

Staff recommends approving the request for a continuation level of funding for FY 2010-11 (\$15,594,352) 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. Cash funds are from various fees, cost recoveries, and grants.

Language Interpreters

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 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 (CJD) 06-03.

This Chief Justice Directive indicates that the court shall pay for interpreter services in the following circumstances:

- during court proceedings when a defendant, one of the parties, a victim, a witness, or the parent/legal guardian of a minor charged as a juvenile is a non-English speaker;
- 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);
- to facilitate communication between the client and court-appointed counsel;
- during contempt proceedings when loss of liberty is a possible consequence;
- in the development of payment plans and completion of pre-sentence investigations; and
- during mental health evaluations performed for the purpose of aiding the court in making a determination concerning competency or sanity.

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. Most contractors are paid \$30 per hour (the Department may pay higher rates for languages other than Spanish); this rate was most recently increased from \$25 to \$30 in 2001.

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		
2010-11 Request	3,389,985		

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

The Department requests \$3,389,985 and 20.0 FTE for FY 2010-11. **Staff recommends appropriating a total of \$3,428,312 and 25.0 FTE for FY 2010-11**, as detailed in the following table. Cash funds are from various fees, cost recoveries, and grants. The recommendation is \$38,327 and 5.0 FTE higher than the request, including the following differences:

- The Department's request assumes a 0.2 percent base reduction in funding (a reduction of \$6,583). Consistent with Committee policy, staff has not applied a base reduction.
- The Department's request does not include a restoration of the 1.82 percent base reduction in FY 2009-10. Consistent with Committee policy, staff has restored this funding (\$61,036).
- Consistent with Committee policy, staff has reduced the employer contribution to PERA by 2.5 percent (a reduction of \$29,292).
- Staff's recommendation continues to reflect the restoration of 5.0 FTE that was approved by the Committee last month.

Summary of Recommendation for Language Interpreters						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2009-10 Long Bill	\$3,291,568	\$0	\$0	\$0	\$3,291,568	20.0

Summary of Recommendation for Language Interpreters						
	GF	CF	RF	FF	TOTAL	FTE
Restore 1.82% base reduction	61,036	0	0	0	61,036	0.0
FY 2009-10 Supplemental	0	0	0	0	0	5.0
Salary Survey awarded in FY 09-10	0	0	0	0	0	0.0
80% of Performance-based Pay awarded in FY 09-10	0	0	0	0	0	0.0
<i>Transfer to Operating Expenses</i>	<i>(45,000)</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>(45,000)</i>	<i>0.0</i>
Base reduction (0.0%)	0	0	0	0	0	0.0
Reduction in employer's PERA contribution (2.5%)	<u>(29,292)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>(29,292)</u>	<u>0.0</u>
Subtotal: Personal Services	3,278,312	0	0	0	3,278,312	25.0
FY 2009-10 Long Bill	55,000	50,000	0	0	105,000	
<i>Transfer from Personal Services</i>	<u>45,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>45,000</u>	
Operating Expenses	100,000	50,000	0	0	150,000	0.0
Total Recommendation	3,378,312	50,000	0	0	3,428,312	25.0

Finally, pursuant to a Budget Amendment, staff recommends that funding for this program be transferred to a new subsection (C) for Centrally Administered Programs.

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 Judicial Department's budget includes an appropriation for "District Attorney Mandated Costs" (\$2,226,052 in the FY 2009-10 Long Bill). This line item is described below.
- The Department of Law's budget includes an appropriation for "District Attorneys' Salaries" (\$2,096,078 in the FY 2009-10 Long Bill).
- The Department of Corrections' budget includes an appropriation for "Payments to District Attorneys" for costs associated with prosecuting a crime alleged to have been committed by a person in the custody of the Department (\$144,108 in FY 2009-10 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 2009-10 Long Bill).

DA Mandated Costs. This line item provides state funding to reimburse DA's for costs incurred for prosecution of state matters, as required by state statute. Section 16-18-101, C.R.S., states that, "The costs in criminal cases shall be paid by the state pursuant to section 13-3-104, C.R.S.⁸, when the defendant is acquitted or when the defendant is convicted and the court determines he is unable to pay them." Pursuant to Section 18-1.3-701 (2), C.R.S., when a person is convicted of an offense or a juvenile is adjudicated, the Court shall give judgement in favor of the State, the prosecuting attorney, or the law enforcement agency and against the offender or juvenile for the amount of the costs of prosecution. The costs assessed pursuant to this provision or Section 16-18-101, C.R.S. (above), may include the following types of expenditures:

- court reporter fees for transcripts (including transcripts of preliminary hearings)
- expert witness fees
- witness fees and mileage
- lodging and transportation expenses for witnesses required to travel more than 50 miles, as well as for parents of witnesses under age 18
- exemplification and copy fees
- deposition fees
- fees for service of process or publications
- fees for interpreters required during depositions or during trials
- costs for obtaining a governor's warrant
- costs for photocopying reports, developing film, and purchasing videotape as necessary for use in the case
- any other cost specifically authorized by statute
- any other reasonable and necessary costs that are directly the result of the prosecution of the defendant upon motion and order of the court

Prior to FY 2000-01, funding for DA's Mandated Costs was included within the "Mandated Costs" line item appropriation to the Judicial Department. In 1999, an ad hoc committee on mandated costs released a report recommending that responsibility for managing court costs be transferred to the entities that incur them. Thus, beginning in FY 2000-01, the General Assembly has provided a separate appropriation for DA's Mandated Costs. This line item has been accompanied by a footnote or a request for information (e.g., RFI #3 for FY 2009-10) indicating that DAs in each judicial district are responsible for allocations made by an oversight committee (currently the Colorado District Attorneys' Council or CDAC⁹). Any increases in the line item are to be requested and justified in writing by the CDAC, rather than the Judicial Department.

⁸ 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".

⁹ 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 C.J.D. 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 2008-09, \$65,888 of DAs' expenditures were not reimbursed due to this policy.

For FY 2010-11, the CDAC is requesting a decrease of \$78,428 (3.5 percent) in the appropriation for this line item. The request is based on actual expenditures incurred in the last three fiscal years.

Based on FY 2008-09 expenditure data provided by the CDAC, DAs' mandated costs consist of the following:

- Witness fees and travel expenses (\$610,500 or 29 percent of costs in FY 2008-09)
- Mailing subpoenas (\$579,682 or 27 percent)
- Expert witness fees and travel expenses (\$393,847 or 19 percent)
- Service of process (\$346,950 or 16 percent)
- Court reporter fees for transcripts (\$196,140 or 9 percent)

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)

District Attorneys' Mandated Costs								
	Appropriation			Actual Expenditures				Over/ (Under) Budget
Fiscal Year	General Fund	Cash Funds	Total	General Fund	Cash Funds	Total	Annual % Change	
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					
2010-11 Request	2,022,624	125,000	2,147,624					

Staff recommends approving the request for \$2,147,624. The request appears to be reasonable based on expenditure trends, and it should ensure that DAs have adequate resources to prosecute criminal cases. Cash funds are from various fees, cost recoveries, and grants.

Sex Offender Surcharge Fund Program

Section 18-21-103 (2) , C.R.S., establishes a surcharge on sex offenders to cover the direct and indirect costs associated with the evaluation, identification, treatment, and continued monitoring of sex offenders. This provision specifies that 95 percent of the surcharge shall be credited to the Sex Offender Surcharge Fund, and five percent shall be retained for administrative costs. The latter amount is to be credited to the General Fund and "such amount shall be subject to appropriation by the general assembly for the costs of such administration". In FY 2008-09, the General Assembly eliminated the \$23,559 General Fund appropriation associated with the sex offender surcharge. The Department has not requested restoration of this appropriation.

Victim Compensation and Victim Assistance

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.

Staff recommends approving both requests for continuation level funding, including \$12,120,121 for Victim Compensation and \$15,095,039 for Victim Assistance. The sources of cash funds are the Crime Victim Compensation Funds (for Victim Compensation) and the Victims and Witnesses Assistance and Law Enforcement Funds (for Victim Assistance).

Pursuant to a Budget Amendment, the Department requests that funding for these programs be transferred to a new subsection (C) for Centrally Administered Programs

Federal Funds and Other Grants

This line item reflects miscellaneous grants and federal funds associated with the Trial Courts. The FTE shown in the Long Bill are not permanent employees of the Department, but instead represent the Department's estimates of the full-time equivalent people that are working under the various grants. The Committee recently approved a \$500,000 increase in the FY 2009-10 appropriation to better reflect potential grant revenues. The Department has requested, through a budget amendment, continuation of this adjusted level of spending authority. **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.

Long Bill Footnotes and Requests for Information Concerning the Courts and Department Administration

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

- 31 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 2009-10</u> <u>2010-11 Salary</u>
Chief Justice, Supreme Court	\$142,708
Associate Justice, Supreme Court	139,660
Chief Judge, Court of Appeals	137,201
Associate Judge, Court of Appeals	134,128
District Court Judge	128,598
County Court Judge	123,067

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 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

2010-11, the above footnote is written in the same manner as in FY 2003-04 and FY 2009-10 (with no increases).

Staff recommends that the following two information requests be **eliminated**:

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

The Department submitted this report for its November 16, 2009 hearing. Staff has provided below some background information, a summary of the Department's response, a status update, and associated staff recommendations.

Background Information - Rule 16. Colorado Supreme Court Rule 16 requires the prosecuting attorney to make available to the defense certain material and information which is within his or her possession or control¹⁰, and to provide duplicates upon request. The prosecuting attorney is to make such materials and information available as soon as practicable, but not later than 30 days before trial. The rule indicates that when some parts of such material are discoverable and other parts are not, the non-discoverable parts may be excised and the remainder made available. With regard to the cost and location of discovery, the rule indicates the following:

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

¹⁰ Rule 16 lists the following types of material and information that shall be provided: police reports; grand jury testimony transcripts; reports or statements of experts; documents, photographs or objects held as evidence; any record of prior criminal convictions of the accused; tapes and transcripts of any electronic surveillance; names and addresses of witnesses; and written or recorded statements of the accused or of a codefendant.

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

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

Last session, staff did not recommend that the Committee introduce a bill as suggested by the State Public Defender due to the following concerns:

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

However, given the magnitude of state funds expended for duplicating discoverable materials, this issue clearly merits further analysis and attention. For example, data provided by the OSPD indicated that their discovery costs increased by 16.5 percent in FY 2006-07 and by 16.4 percent in FY 2007-08, while the OSPD's overall caseload increased by only 1.5 percent and 3.3 percent, respectively.

In addition, a comparison of the allocation of discovery costs by location to the allocation of cases by location revealed significant disparities. For example, data provided by the OSPD indicated that in FY 2007-08, 17.6 percent of OSPD discovery costs were incurred in the 18th judicial district (Arapahoe/Douglas), while this district accounted for only 10.2 percent of the OSPD's caseload.

Finally, given the variance in discovery costs charged by DAs (based on data provided by the OSPD), it appears that DAs utilize different methodologies when calculating rates related to discovery. For example:

- per page copy rates ranged from \$0.10 in Denver (where the OSPD makes their own copies) to \$0.35 in Montrose;
- audio rates ranged from \$3.50 in La Junta to \$13.00 in Arapahoe/Douglas;
- video rates ranged from \$2.50 in Montrose to \$26.00 in Arapahoe/Douglas; and
- DVD rates ranged from \$10.00 in Greeley, Pueblo, and Sterling to \$25.00 in Colorado Springs.

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

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

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

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

Status Update and Staff Recommendations. Based on discussions with interested parties, staff has the following to report, along with recommended next steps.

- *Shifting Responsibility for the Appropriation.* Last Fall, the State Public Defender proposed shifting responsibility for the appropriations to cover the costs of duplicating discoverable materials to the CDAC or the Department of Public Safety. Staff does not recommend implementing this proposal. Based on information that has been provided to date, staff continues to believe that it is prudent to ensure that those requesting copies of materials have some interest in limiting the volume of those requests (e.g., not requesting copies of PSI reports that have already been provided by Probation, not requesting copies of their own motions, not requesting duplicate copies, etc.).

In addition, it is not clear that either CDAC or DPS is in a better position to address the problems identified to date by the State Public Defender. Finally, a shift in responsibility for the

appropriation would likely increase administrative costs. The entities requesting copies of materials would still need to verify that DAs' invoices accurately represent what has been provided, and then the entity responsible for the appropriations would need to process the approved invoices and make payments.

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

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

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

Please note, it is not clear what impact a rule change will have on the total state costs associated with duplicating discoverable materials. Given the significant disparity in existing rates, it is possible that such a clarification may cause some DAs to raise rates, and require others to reduce rates. However, staff believes that a consistent, defensible rate methodology is an appropriate goal. While it is possible that such a change would increase state expenditures in the short-term, it would provide more stability and predictability for both the prosecution and the defense. Staff's funding recommendations for both the OSPD and the OADC are intended to ensure that these offices have sufficient resources to cover these costs in FY 2010-11.

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

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

Staff recommends encouraging voluntary action, and considering statutory changes if DAs do not adequately address the issues. The CDAC is not a governing body, but it does exist to facilitate the exchange of information among DAs. The Executive Director of the CDAC has agreed to raise these issues with his board at their next meeting (February 19, 2010). **Staff recommends that the Committee send a letter to the CDAC requesting that they address the following issues as soon as possible:**

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

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

2 Judicial Department, Courts Administration; Office of the Child's Representative -- The State Court Administrator's Office is requested to work with the Office of the Child's Representative (OCR) to explore options for providing the OCR with timely access to filing and appointment information for the purpose of allowing the OCR to better monitor its caseload and manage its annual appropriation. The Department is requested to provide a report to the Joint Budget Committee by September 1, 2009, describing the status of its efforts to provide timely filing and appointment information.

The State Court Administrator's Office (SCAO) and representatives from the Office of the Child's Representative (OCR) have worked together cooperatively to establish processes by which the OCR can access timely filing and appointment information for the purpose of allowing the OCR to better monitor its caseload and manage its annual appropriation. The SCAO installed an upgrade to the ICON/ECLIPSE system that automatically sends an e-mail to the OCR each time there is an

appointment of an OCR attorney, providing information about the case number, the case type, the name of the attorney appointed, and the county of the case.

In addition, upon request, the SCAO is able to query for these orders and aggregate data by jurisdiction, case class, and case type for the OCR to use as a back-up and auditing tool of its own independent data system. The SCAO and the OCR have agreed that a single data request will be submitted by the OCR at the beginning of each fiscal year covering an agreed upon standard query of data on new filings and GAL appointments by district.

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

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

This footnote ensures that the CDAC complies with the State's regular budget process and provides some accountability as to how the appropriation is spent.

(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 probation [Section 18-1.3-202 (1), C.R.S.]. 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.

Personal Services

The following table details the staffing composition for the Probation Division.

Probation and Related Services: Staffing Summary				
Position Description	FY 2008-09 Actual	FY 2009-10 Approp. (before suppl. reduction of 59.9 FTE)	FY 2010-11 Request	FY 2010-11 Recomm. (before Long Bill reorg.)
Chief Probation Officers	24.8	25.0	25.0	25.0
Probation Supervisors	94.0	103.5	95.0	103.5
Probation Officers	769.9	806.8	739.3	806.8
Administrative/ Support	<u>192.5</u>	<u>204.3</u>	<u>187.3</u>	<u>204.3</u>
Subtotal - Personal Services line item	1,081.2	1,139.6	1,046.6	1,139.6

Probation and Related Services: Staffing Summary				
Position Description	FY 2008-09 Actual	FY 2009-10 Approp. (before suppl. reduction of 59.9 FTE)	FY 2010-11 Request	FY 2010-11 Recomm. (before Long Bill reorg.)
Victims Grants	17.3	6.0	6.0	6.0
Senate Bill 91-94	25.0	25.0	25.0	25.0
Federal Funds and Other Grants	<u>32.3</u>	<u>33.0</u>	<u>33.0</u>	<u>33.0</u>
Subtotal - Other line items	74.6	64.0	64.0	64.0
TOTAL	1,155.8	1,203.6	1,110.6	1,203.6

Proposed new line item: PROBATION PROGRAMS

The Department proposes consolidating the following two line items for personal services and operating expenses into a single program line item, thereby providing the Department with more flexibility to manage these appropriations. Staff recommends approving this request, and thus recommends appropriating a total of \$72,386,470 and 1,114.6 FTE for this new line item. The recommendations for the components of this line item follow.

Personal Services

The Department's request for this line item reflects a reduction of \$6,756,805 and 93.0 FTE for FY 2010-11 as part of DI#1 - Personal Services Reductions.

Background Information - Staffing Need. In determining the need for probation officers, the Judicial Department employs a workload model that differentiates the amount of time necessary to support and notify victims, prepare pre- and post-sentence investigations and reports, and supervise offenders based on the assessed risk level in each case type (regular adult and juvenile, domestic violence, juvenile sex offenders and non-Sex Offender Intensive Supervision Probation adult sex offenders).¹¹ The total of the time values representing the work necessary to complete investigations and reports and to provide supervision are used to derive the FTE need. Intensive programs for the highest risk cases are included in the staffing need calculations starting in FY2008-09.

Funding Changes Approved for FY 2009-10 and Proposed for FY 2010-11. Last year, the General Assembly approved an increase of 14.0 FTE probation staff to maintain the Departments existing staffing ratios. Specifically, *probation officers* performing supervision tasks were anticipated to be staffed at 91 percent of full staffing, with overall staffing (including supervisory and administrative staff) at 88 percent. Based on caseload growth projections, the Department projects the need to add approximately 331 probation staff to reach 100 percent staffing by FY 2014-15.

¹¹ The workload value reflects the average amount of time required to complete the average activities required to supervise each case or complete each report.

In light of the General Fund revenue shortfall, the Department has delayed filling these new positions, and it is holding vacant positions open. Last month, the Committee approved a mid-year reduction of \$3.1 million and 59.9 FTE based on the Department's anticipated vacancy savings through the end of FY 2009-10. For FY 2010-11, the Department has proposed further reductions of \$3.6 million and 36.1 FTE to help balance the budget.

Please note that based on a Chief Justice Directive, the Department would be required to maintain 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, this staffing reduction will have the greatest impact on "regular" probation caseloads, which is where 93 percent of adults under state supervision are served¹². The Department projects that if this request is approved, "regular" probation will be staffed at 56.8 percent for adults and 57.1 percent for juveniles. As the number of offenders supervised on probation has increased significantly since the last economic downturn, these staffing levels are even below those experienced during the last economic downturn.

Staff Analysis and Recommendation. **Staff does not recommend approving this request.** Instead, staff's recommendation reflects the restoration of the staff that were initially approved for FY 2009-10. Staff's primary concern is that approval of this request will likely result in an overall increase in state expenditures. While approval of this request will reduce probation expenditures, such a reduction will likely be more than offset by increases in other Departments' expenditures for two reasons.

First, 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 annual cost of supervising an offender on probation is less than \$2,000 (\$1,875 for juveniles and \$1,630 for adults based on FY 2008-09 data). The cost of an offender sentenced to DOC is at least \$19,000 for private prisons and more than \$32,000 for state facilities. The cost of an offender sentenced to DYC is more than \$84,000.

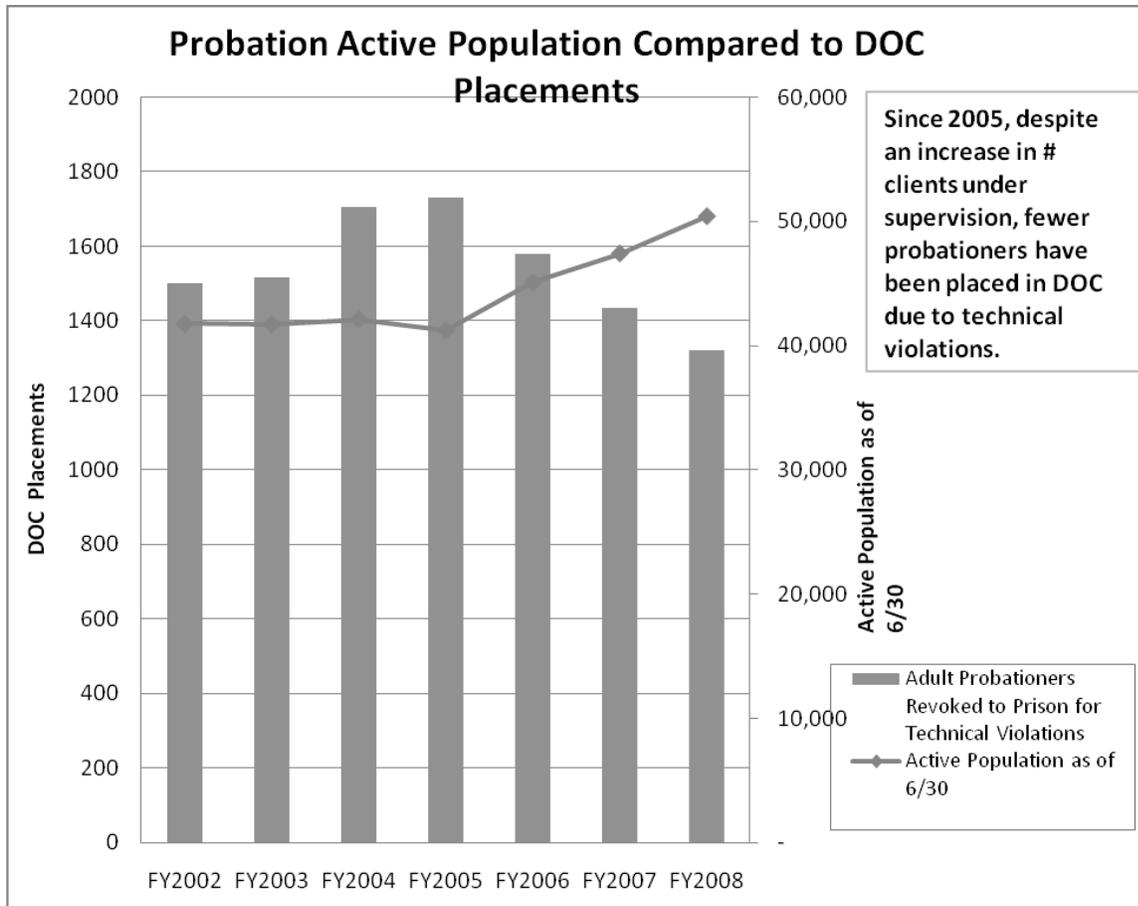
¹² In addition, staff notes that the General Assembly passed H.B. 09-1132, which expanded the definition of the crimes of Internet luring of a child, Internet sexual exploitation of a child, and harassment. The Legislative Council Staff fiscal note for this bill indicated that it would increase the number of offenders sentenced to Sex Offender Intensive Supervision Probation (SOISP) by 26, and would thus drive the need for about \$170,000 and 2.8 FTE probation staff. The appropriation to provide these resources was eliminated in the Senate. In response to a staff inquiry, the Department indicated that in FY 2008-09, there were 51 offenders sentenced to SOISP for a violation of one of the two statutory provisions that were amended by H.B. 09-1132. In the first seven months of FY 2009-10, there have been 50 offenders sentenced to SOISP under these sections. Thus, the Department will need to devote more of its existing resources to cover the increasing costs of supervising offenders convicted under these provisions.

Second, if judges are aware that probation officers' caseloads are excessive, they may be less likely to sentence offenders to probation in the first place.

Effect of Staff Reductions During Last Economic Downturn. In response to a staff inquiry last Fall, the Department provided data concerning the impact of budget and staff reductions during the last economic downturn. The following information was provided to the Committee last November.

- Due to staffing reductions in FY 2002-03, the Department eliminated two intensive supervision programs (one for female offenders and one for drug offenders). Offenders participating in these programs were instead shifted to "regular" state supervision probation caseloads, which have significantly higher ratios of offenders to officers. The number of adults supervised on regular probation remained flat from FY 2002-03 to FY 2004-05. Since FY 2004-05, probation staff have been added and the number of adults supervised on regular probation has increased from 30,973 to 40,968 (32.3 percent) over five years.
- The overall success rates for both juveniles and adults declined significantly from FY 2000-01 to FY 2004-05. Over the same time period, the rate of terminations due to technical violations increased significantly, and the number of offenders sentenced to DOC as a result of a technical violation increased (from 1,499 in FY 2001-02 to 1,729 in FY 2004-05, a 15 percent increase).

When probation staff and treatment resources were subsequently increased, the overall success rates stabilized and then increased, the rate of terminations due to technical violations stabilized and then decreased, and the number of offenders sentenced to DOC as a result of a technical violation decreased (from 1,729 in FY 2004-05 to 1,320 in FY 2007-08). The following graph, prepared by the Division, illustrates the decline in the number of probationers placed in DOC due to technical violations since FY 2004-05, despite an increase in the overall number of offenders on probation.



Other Considerations. Please note that the probation staffing level is not the only factor that affects an offender's likelihood of successfully completing probation and avoiding incarceration. The availability of treatment resources and the tools and practices used by probation officers also affect success rates. The Department is not proposing any reductions in treatment resources for FY 2010-11. In addition, since 2007, the Department has systematically and deliberately trained probation officers in the use of evidence-based practices. These factors may mitigate the impact of the proposed staffing reductions.

Given the magnitude of the revenue shortfall, staff understands that the General Assembly may have to consider approving a portion or all of the proposed probation staffing reductions. Staff discussed several scenarios with Department staff in an attempt to identify alternatives for the Committee's consideration. The Department offered the following scenario which staff believes has merit.

The General Assembly could consider approving a reduction of 35.0 FTE (rather than 93.0 FTE). This option would reduce state expenditures for probation by approximately \$2.5 million. Under this scenario, the Department would seek to shift a majority of offenders who are currently under state supervision and are assigned a minimum risk classification to private probation providers, thereby reducing the need for state resources.

This would likely require a reduction in the supervision level for other offenders who are currently supervised by private probation providers. In addition, in order to reduce the likelihood that offenders would have their probation revoked for failure to participate in treatment, the Department would make some state resources available to provide treatment for those offenders under private supervision who cannot otherwise afford it. The Department would also offer additional training and tools to private probation providers to improve their ability to supervise the offenders who would be shifted from state supervision (particularly with respect to DUI and domestic violence offenders).

In summary, staff recommends an appropriation of \$69,379,137 and 1,114.6 FTE for FY 2010-11, as detailed in the table below. Cash fund sources include the Alcohol and Drug Driving Safety Program Fund, the Offender Services Fund, and the Drug Offender Surcharge Fund. The recommendation is \$5,333,250 higher than the request, including the following differences:

- Staff’s recommendation does not include a reduction of \$6,756,805 and 93.0 FTE, as reflected in the request.
- The Department’s request assumes a 0.2 percent base reduction in funding (a reduction of \$143,527). Consistent with Committee policy, staff has not applied a base reduction
- Consistent with Committee policy, staff has reduced the employer contribution to PERA by 2.5 percent (a reduction of \$1,617,013).
- Staff’s recommended transfer from this line item to the General Courts Administration line item is \$49,930 less than the requested transfer, due to the 2.5 percent reduction in the employer’s PERA contribution.

Summary of Recommendation: Probation, Personal Services						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2009-10 Long Bill	\$62,125,104	\$9,638,627	\$0	\$0	\$71,763,731	1,139.6
Restore 1.82% base reduction	1,141,307	178,416	0	0	1,319,723	0.0
FY 09-10 Supplemental	(3,100,000)	0	0	0	(3,100,000)	(59.9)
Reverse FY 09-10 Supplemental	3,100,000	0	0	0	3,100,000	59.9
Annualize JUD DI#3 (FY 09-10) - Add probation staff (funding for 12th month due to payday shift)	66,004	0	0	0	66,004	0.0
Salary Survey awarded in FY 09-10	0	0	0	0	0	0.0
80% of Performance-based Pay awarded in FY 09-10	0	0	0	0	0	0.0

Summary of Recommendation: Probation, Personal Services						
	GF	CF	RF	FF	TOTAL	FTE
Base reduction (0.0%)	0	0	0	0	0	0.0
Annual adjustment related to the Alcohol and Drug Driving Safety Program Fund	0	25,650	0	0	25,650	0.0
JUD DI#1 - Personal Services reductions	0	0	0	0	0	0.0
Reduction in employer's PERA contribution	<u>(1,406,976)</u>	<u>(210,037)</u>	<u>0</u>	<u>0</u>	<u>(1,617,013)</u>	<u>0.0</u>
Subtotal	61,925,439	9,632,656	0	0	71,558,095	1,139.6
<i>Transfer funding to the new General Courts Administration line item in the Administration and Technology subsection (adjusted for 2.5% PERA reduction)</i>	<u>(2,178,958)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>(2,178,958)</u>	<u>(25.0)</u>
Personal Services Recommendation	59,746,481	9,632,656	0	0	69,379,137	1,114.6

Operating Expenses

Funding in this line item is allocated among judicial districts to cover operating expenses associated with probation programs and services. **Staff recommends approving the request for \$3,007,333 for Operating Expenses**, as detailed in the following table. Cash fund sources include the Offender Services Fund, the Alcohol and Drug Driving Safety Program Fund, and the Offender Identification Fund.

Summary of Recommendation for Probation and Related Services, Operating Expenses					
	GF	CF	RF	FF	TOTAL
FY 2009-10 Long Bill	\$2,298,418	\$818,849	\$0	\$0	\$3,117,267
FY 2009-10 Supplemental	(309,721)	0	0	0	(309,721)
Reverse FY 2009-10 Supplemental	309,721	0	0	0	309,721
JUD DI#1 - Operating expense reductions	<u>(99,934)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>(99,934)</u>
Subtotal	2,198,484	818,849	0	0	3,017,333
<i>Transfer funding to the new General Courts Administration line item in the Administration and Technology subsection</i>	<u>(10,000)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>(10,000)</u>
Total Recommendation	2,188,484	818,849	0	0	3,007,333

Capital Outlay

The Department is not requesting any funding for capital outlay for FY 2010-11.

Offender Treatment and Services

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	Sex offender assessment, treatment, and polygraphs
Mental health treatment	Domestic violence treatment
Electronic home monitoring	Transportation assistance
Emergency housing	Educational/vocational assistance
Restorative justice	Global positioning satellite (GPS) tracking
Interpreter services	General medical assistance
Incentives	

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.

Staff recommends approving the Department's request for a continuation level of funding (\$10,932,023). General Fund support for this line item 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

Senate Bill 03-318 reduced the penalties for use and possession of certain controlled substances. This act contained a provision that would have revoked those sentencing changes if at least \$2.2 million in estimated cost-avoidance was not directed to community treatment beginning in FY 2007-08. Joint Budget Committee staff evaluated the January 2007 Interagency Task Force report on S.B. 03-318 and concluded that the minimum threshold of cost-avoidance had likely been met. The General Assembly first appropriated \$2.2 million General Fund through this line item in FY 2007-08. Subsequently, the substantive criminal omnibus bill (S.B. 07-114) repealed the language linking the appropriation and the sentencing changes.

Each judicial district drug treatment board must submit a plan for how it intends to utilize funds made available through this line item to the Inter-agency Task Force on Treatment for evaluation by September 1 of each year [see Section 16-11.5-102 (7) (a), C.R.S.].

Staff recommends approving the request for a continuation level of funding (\$2.2 million). Similar to the above line item, this funding provides treatment resources necessary for many drug offenders to successfully complete probation and avoid incarceration.

S.B. 91-94 Juvenile Services

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, and each plan is approved by 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 Division of Youth Corrections. 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 DHS receives a General Fund appropriation for this program and then contracts with the Judicial Department to provide the services. The funds are then expended in the judicial districts according to the pre-approved juvenile services plans. 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. The timing of this process is not consistent with the budget process. Thus, from time to time the Judicial Department submits a supplemental request to adjust the appropriation to better reflect the actual contract amount.

Staff recommends approving the request for a continuation level of funding (\$1,906,837 and 25.0 FTE) to reflect the anticipated transfer from DHS.

Day Reporting Services

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 and substance abuse monitoring/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.

Staff recommends that the Committee approve the Department's request for a continuation level of funding (\$393,078 General Fund). 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.

Please note that in January 2010, the Judicial Department and the Department of Corrections (DOC) entered into a memorandum of understanding (MOU) concerning this appropriation. This MOU specifies that the Judicial Department will transfer \$75,000 to the DOC for the provision of day reporting services to parolees. Staff assumes that DOC will again require an appropriation of \$75,000 reappropriated funds for FY 2010-11 in order to access these funds.

Victims Grants

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. **Staff recommends approving the Department's request for a continuation level of funding (\$650,000 reappropriated funds and 6.0 FTE).**

Federal Funds and Other Grants

This line item reflects miscellaneous grants and federal funds associated with the Probation program. 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. The Committee recently approved a \$750,000 increase in the FY 2009-10 appropriation to better reflect actual grant awards. The Department has requested, through a budget amendment, continuation of this adjusted level of spending authority. **Staff recommends approving the request for \$5,600,000 and 33.0 FTE for FY 2010-11**, including \$1,950,000 cash funds, \$850,000 reappropriated funds, and \$2,800,000 federal funds. Reappropriated funds are federal funds transferred from the Departments of Education, Human Services, and Public Safety.

Long Bill Footnotes and Requests for Information Concerning Probation

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

- 2 **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.

Staff recommends that the following two requests for information be **continued**:

- 4 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.

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

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

(5) PUBLIC DEFENDER

The federal¹³ and state¹⁴ 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 of government 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 is comprised of a central administrative office, an appellate office, and 21 regional trial offices.

Public Defender Decision Item #1: Targeted One-time Reductions

The OSPD submitted a consolidated decision item that proposes several one-time reductions totaling \$3.1 million General Fund. The following table details the components of this request. Staff’s recommendations related to this request appear with each relevant line item.

OSPD Table 1: PD Non-prioritized Decision Item: Targeted One-time Reduction						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services - Delay for four months hiring staff associated with the 28 judges added to date; delay for one year hiring staff associated with the final 15 judges authorized by H.B. 07-1054	(\$1,907,273)	\$0	\$0	\$0	(\$1,907,273)	0.0
Health, Life, and Dental - Savings associated with Personal Services reductions	(349,393)	0	0	0	(349,393)	0.0
Short-term Disability - Savings associated with Personal Services reductions	(2,682)				(2,682)	0.0
PERA AED - Savings associated with Personal Services reductions	(40,828)				(40,828)	0.0
PERA SAED - Savings associated with Personal Services reductions	(29,363)				(29,363)	0.0
Operating Expenses - Provide attorneys-only restructured Fall conference; again forego management conference; heavily scrutinize travel and practices and procedures	(241,319)				(241,319)	0.0

¹³ U.S. Const. amend. VI (Rights of accused).

¹⁴ Colorado Const. art. II, § 16 (Criminal prosecutions - rights of defendant).

OSPD Table 1: PD Non-prioritized Decision Item: Targeted One-time Reduction						
	GF	CF	RF	FF	TOTAL	FTE
Capital Outlay - replace only broken furnishings and equipment	(176,732)				(176,732)	0.0
Automation Plan - Continue to delay life cycle replacements of laptops, computers, and hardware	(221,433)				(221,433)	0.0
Mandated Costs - As long as current trend of fewer capital cases continues and assuming no increases in fees charged for discovery, cost reductions are possible	(182,672)				(182,672)	0.0
Total	(3,151,695)	0	0	0	(3,151,695)	0.0

Personal Services

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

OSPD Table 2: Public Defender Staffing Summary					
Position Description	FY 2008-09 Actual	FY 2009-10 Approp. (before suppl. reduction of 38.7 FTE)*	FY 2010-11 Request	FY 2010-11 Recomm.	
State Public Defender and Chief Deputies and Administrative Officer	3.8	3.4	3.4	3.4	3.4
Statewide Complex Case Management	3.2	6.0	10.0	8.4	8.4
Accounting, Payroll, Budget, Human Resources, and Training	6.9	8.2	11.0	8.2	8.2
Information Technology	8.0	9.0	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>	<u>3.0</u>
Subtotal - Central Office	24.9	29.6	36.4	32.0	32.0
Appellate Attorneys	26.7	33.9	34.0	34.0	34.0
Supervisory Attorneys	1.7	3.4	3.2	3.2	3.2
<i>Percent attorneys who are supervisory (goal: 10%)</i>	<i>6.0%</i>	<i>9.1%</i>	<i>8.6%</i>	<i>8.6%</i>	<i>8.6%</i>
Investigators/ Paralegals	3.0	3.0	4.0	4.0	4.0
Administrative Assistants	4.3	4.5	5.0	5.0	5.0
Other Management and Support Staff Supervision	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>

OSPD Table 2: Public Defender Staffing Summary				
Position Description	FY 2008-09 Actual	FY 2009-10 Approp. (before suppl. reduction of 38.7 FTE)*	FY 2010-11 Request	FY 2010-11 Recomm.
Subtotal - Support Staff	8.3	8.5	10.0	10.0
<i>Ratio of Support Staff to Attorneys</i>	29.2%	22.8%	26.9%	26.9%
Subtotal - Appellate Office	36.7	45.8	47.2	47.2
Trial Attorneys	268.4	306.7	346.2	323.9
Supervisory Attorneys	17.1	25.9	29.3	27.2
<i>Percent attorneys who are supervisory (goal: 10%)</i>	6.0%	7.8%	7.8%	7.7%
Investigators/ Paralegals	90.0	93.8	107.1	99.0
Administrative Assistants	52.2	53.5	63.7	57.8
Other Management and Support Staff Supervision	<u>21.0</u>	<u>21.0</u>	<u>21.0</u>	<u>21.0</u>
Subtotal - Support Staff	163.2	168.3	191.8	177.8
<i>Ratio: Support Staff to Attorneys</i>	57.2%	50.6%	51.1%	50.6%
Subtotal - Regional Trial Offices	448.7	500.9	567.3	528.9
DIVISION TOTAL	510.3	576.3	650.9	608.1

* Staff anticipates that this mid-year reduction will primarily affect the number of trial attorney FTE, as the OSPD has delayed filling the 36.8 FTE attorney positions that were authorized for FY 2009-10.

Background Information - Staffing Deficit. The statutory mandate of the OSPD is to provide legal services to indigent persons accused of a crime that are commensurate with those available to nonindigents, and conduct the office in accordance with rules of professional conduct and ABA standards. The OSPD has continued to indicate that under the Colorado Rules of Professional Conduct, if caseloads are too high, an attorney is not competent to provide effective representation of counsel. The OSPD indicates that attorney staffing a serious concern.

The Guidelines for Legal Defense Systems in the United States provide that public defender systems should establish maximum caseloads for individual attorneys and that such standards reflect national standards and take into consideration objective statistical data and factors related to local practice.

In 1996, the OSPD contracted with The Spangenberg Group (a criminal justice research and consulting firm that specializes in the study of indigent defense delivery systems) to develop a case weighting standard that takes into account the workload associated with various types of cases. This study was updated in 2002 and 2008 to take into consideration changes in Colorado criminal law, court rules and procedures, and professional practices. Results from the 2008 study indicate that the number of hours required for various types of cases has generally increased since the 2002 study. In

particular, the new study reveals significant increases in the average number of hours required for cases involving: class 6 felonies (64 percent), class 2-3 misdemeanors, DUI, and traffic cases (36 percent), class 4-5 felonies (34 percent), and juvenile cases (29 percent).

The OSPD identifies several factors that have impacted public defender caseload and workload:

- National case law expanding the right to counsel;
- Public defender attorney and staff attrition rates;
- Changes to Colorado Supreme Court rules concerning conflicts of interest;
- General Assembly action to add judgeships;
- Legislation identifying and codifying new crimes;
- Legislation enhancing penalties for existing crimes;
- Legislation expanding the scope of conviction consequences (e.g., sex offender registration); and
- Changes in prosecutorial charging and plea negotiation practices.

Joint Budget Committee staff records indicate that the OSPD has been chronically understaffed. A review of appropriations reveal only modest staffing increases to address a growing caseload from FY 1994-95 through FY 2005-06. The General Assembly has taken steps in recent years to address this situation, including adding 20.0 FTE in FY 2006-07 (including 12.0 FTE attorneys), adding 81.1 FTE in FY 2007-08 (including 48.8 FTE attorneys), adding 36.8 FTE attorneys in FY 2009-10 as well as 5.4 FTE to support the expansion of adult drug courts. [Please note that in light of the General Fund revenue shortfall, the OSPD has delayed hiring the positions added in FY 2009-10 until June 2010.] The OSPD has also received funding to hire staff to cover the dockets added through multiple bills that have added judges at the county, district, and court of appeals levels. Most recently, a total of 24.1 FTE were funded to cover a portion of the increased workload related to the first two years of implementing H.B. 07-1054.

From FY 1999-00 to FY 2008-09, the Public Defender's trial attorney staffing deficit, based on new case filings, has increased from 21.9 percent to 36.6 percent of minimum staffing standards. When appellate attorneys and support staff are included, the FY 2008-09 staffing deficit was 40.5 percent.

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

Consistent with the Department's approach related to Trial Courts, the OSPD submitted a budget request that assumes continued implementation of H.B. 07-1054 based on the modified schedule approved last Spring. This request was then reduced based on the further delays proposed by the Judicial Department.

Specifically, the OSPD proposes a further delay in hiring the remaining 40.1 FTE that were originally scheduled to be added in FY 2009-10 to cover the increased workload resulting from the 28 judges added in FY 2007-08 and FY 2008-09. These staff would be hired in November 2010, and thus only require eight months of funding in FY 2010-11. Further, the OSPD proposes waiting until FY 2011-12 to hire the remaining 34.5 FTE needed to cover the workload resulting from the final 15 judges.

Staff recommends approving the request. The proposed delay in filling these needed positions is reasonable and appropriate. Staff’s recommended funding is slightly lower than the Department’s request; the differences are described for each relevant line item. The following table details the recommendation for FY 2010-11, as well as the costs of this proposal for FY 2011-12.

OSPD Table 3: Recommendation Related to H.B. 07-1054 (Delayed Implementation)		
Line Item and Description	FY 10-11	FY 11-12
Personal Services - GF	\$1,155,283	\$3,857,968
FTE	26.7	74.6
Health, Life, and Dental	146,015	495,408
Short-term Disability	1,606	5,358
AED	15,021	95,643
SAED	<u>11,223</u>	<u>76,341</u>
Subtotal: Personal Services and Benefits	1,329,148	4,530,718
Operating expenses and travel	51,538	143,784
Capital outlay (\$5,198/FTE)	207,920	181,930
Leased space (\$8,742/FTE)	0	655,650
Total Recommendation for H.B. 07-1054	1,588,606	5,512,082

Judicial Department Grant to Further Expand Drug Courts

As noted earlier in this packet, the Judicial Department has received a federal grant that will allow it to expand the capacity of existing adult drug courts from 35 to 50 percent of the target population. Unfortunately, the State Court Administrator’s Office did not coordinate with the OSPD to ensure that the OSPD budget request included associated staffing and resources based on the additional OSPD workload that is anticipated to result from this expansion. Based on conversations with both parties, **staff’s recommendation includes funding for this purpose.**

Effective drug courts rely on the combined expertise and collaboration of many parties, including defense counsel. The public defender is expected to actively participate in both court proceedings and staffing meetings, facilitating the treatment process while protecting the participant’s due process rights. As drug courts emphasize accountability and intensive monitoring, they require more frequent hearings and meetings compared to traditional proceedings. The following table details the recommendation for FY 2010-11, as well as the costs anticipated for FY 2011-12.

OSPD Table 4: Recommendation Related to Continued Drug Court Expansion		
Line Item and Description	FY 10-11	FY 11-12
Personal Services - GF	\$204,191	\$258,198
FTE	5.1	5.1
Health, Life, and Dental	0	31,298
Short-term Disability	284	359
AED	2,653	6,401
SAED	<u>1,982</u>	<u>5,109</u>
Subtotal: Personal Services and Benefits	209,110	301,365
Operating expenses and travel	9,835	9,835
Capital outlay (\$5,198/FTE)	25,990	0
Leased space (\$8,742/FTE)	0	52,454
Total Recommendation for H.B. 07-1054	244,935	363,654

In summary, staff recommends appropriating \$40,275,687 General Fund and 608.1 FTE as detailed in the table below. Staff's recommendation is \$713,569 and 42.8 FTE lower than the request, including the following differences:

- The request did not include \$204,191 and 5.1 FTE for additional staff for the expansion of drug courts.
- The OSPD's request reflects an increase of 74.6 FTE associated with the implementation of H.B. 07-1054, even though the dollar amounts requested by the OSPD reflect hiring delays. Staff's recommendation reflects an increase of only 26.7 FTE, based on the four month delay in hiring 40.1 FTE and the full-year delay of 34.5 FTE.
- Consistent with Committee policy, staff has reduced the employer contribution to PERA by 2.5 percent (a reduction of \$922,908).
- The remaining difference (\$5,148) is due to the Office's use of an "effective" PERA rate that is lower than 10.15 percent. All of staff's calculations use the official PERA employer contribution of 10.15 percent (prior to the 2.5 percent reduction noted above).

OSPD Table 5: Summary of Recommendation for Personal Services						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2009-10 Long Bill	\$38,468,649	\$0	\$0	\$0	\$38,468,649	576.3
Restore 1.82% base reduction	673,907	0	0	0	673,907	0.0
FY 2009-10 Supplemental	(578,311)	0	0	0	(578,311)	(38.7)

OSPD Table 5: Summary of Recommendation for Personal Services						
	GF	CF	RF	FF	TOTAL	FTE
Reverse FY 2009-10 Supplemental	578,311	0	0	0	578,311	38.7
Annualize prior FY JUD DI#2 - Enhance and Expand Drug Courts	60,081	0	0	0	60,081	0.0
Annualize prior FY PDO DI#1 - Address caseload and workload growth	636,484	0	0	0	636,484	0.0
Salary Survey awarded in FY 09-10	0	0	0	0	0	0.0
80% of Performance-based Pay awarded in FY 09-10	0	0	0	0	0	0.0
H.B. 07-1054: Full-year impact of adding remaining staff for 28 judgeships filled to date, plus full-year funding for staff for final 15 judgeships	3,057,408	0	0	0	3,057,408	74.6
H.B. 07-1054: Reduce funding related to 28 judgeships filled to date based on four month delay in hiring; delay adding staff related to final 15 judgeships until FY 2011-12 based on Department's proposed delay	(1,902,125)	0	0	0	(1,902,125)	(47.9)
Base reduction (0.0%)	0	0	0	0	0	0.0
JUD DI #2 - Judicial Department grant to further expand drug courts	204,191	0	0	0	204,191	5.1
Reduction in employer's PERA contribution (2.5%)	<u>(922,908)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>(922,908)</u>	<u>0.0</u>
Personal Services Recommendation	40,275,687	0	0	0	40,275,687	608.1

Staff's recommendation provides a significant funding increase (6.3 percent) compared to the adjusted FY 2009-10 appropriation for this line item. This increase is primarily due to (1) implementation of H.B. 07-1054; and (2) a delay in hiring the staff that were authorized to be added in FY 2009-10 to meet minimum case staffing standards. 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.

Health, Life, and Dental

This is the second of four 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. The OSPD requests \$3,998,464 General Fund for FY 2010-11. **Staff**

recommends approving the request, which is consistent with Committee policy and the other recommendations related to the OSPD.

Short-term Disability

This is the second of four 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. The OSPD requests \$56,896 General Fund for this purpose for FY 2010-11. **Staff recommends appropriating \$57,220 General Fund, consistent with the Committee policy of applying a rate of 0.155 percent to base salaries and consistent with other recommendations related to the OSPD.**

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

Pursuant to S.B. 04-257, this line item provides additional funding to increase the state contribution for Public Employees' Retirement Association (PERA). The second of four such line items, this one provides funds for OSPD staff. The Public Defender requests a total of \$869,869 General Fund. **Consistent with Committee policy [2.2 percent of base salaries for CY 2010 and 2.6 percent of base salaries for CY 2011] and other recommendations related to the OSPD, staff recommends appropriating \$873,686 General Fund.**

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

Pursuant to S.B. 06-235, this line item provides additional funding to increase the state contribution for PERA. The second of four such line items, this one provides funds for OSPD staff. The OSPD requests a total of \$628,536 General Fund. **Pursuant to Committee policy [1.5 percent of base salaries for CY 2010, and 2.0 percent of base salaries for CY 2011] and other recommendations related to the OSPD, staff recommends appropriating \$630,654 General Fund.**

Salary Survey

The OSPD uses this line item to pay for annual increases akin to salary survey increases in the Executive Branch. The second of four such line items, this one provides funds for OSPD staff. The OSPD did not request any funding for this line item for FY 2010-11. **Staff recommends approving the request, which is consistent with Committee policy.**

Anniversary Increases

The Department uses this line item to pay for annual increases akin to performance-based pay increases in the Executive Branch. The second of four such line items, this one provides funds for OSPD staff. The OSPD did not request any funding for this line item for FY 2010-11. **Staff recommends approving the request, which is consistent with Committee policy.**

Operating Expenses

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.

The OSPD requests an appropriation of \$1,142,466 for FY 2010-11. **Staff recommends appropriating \$1,152,301 for FY 2010-11**, as detailed in the table below. The source of cash funds is registration fees paid by private attorneys at the OSPD’s annual training conference.

Staff’s recommendation includes approval of the OSPD’s proposed one-time reductions in operating expenses (\$149,073). Staff’s recommendation is \$9,835 higher than the request as it includes operating expenses associated with the 5.1 FTE needed due to the expansion of adult drug courts.

OSPD Table 6: Summary of Recommendation for Operating Expenses					
	GF	CF	RF	FF	TOTAL
FY 2009-10 Long Bill	\$1,210,001	\$30,000	\$0	\$0	\$1,240,001
FY 2009-10 Supplemental	(235,533)	0	0	0	(235,533)
Reverse FY 2009-10 Supplemental	235,533	0	0	0	235,533
H.B. 07-1054: Full-year impact of adding remaining staff for 28 judgeships filled to date, plus full-year funding for staff for final 15 judgeships	143,784	0	0	0	143,784
H.B. 07-1054: Reduce funding related to 28 judgeships filled to date based on four month delay in hiring; delay adding staff related to final 15 judgeships until FY 2011-12 based on Department’s proposed delay	(92,246)	0	0	0	(92,246)
JUD DI #2 - Judicial Department grant to further expand drug courts	9,835	0	0	0	9,835
PD DI#1 - Other targeted one-time reductions	(149,073)	0	0	0	(149,073)
Staff Recommendation	1,122,301	30,000	0	0	1,152,301

Purchase of Services from Computer Center

This item provides funding for the Department's share of statewide computer services provided by the Department of Personnel and Administration, Division of Information Technology. The second of four such line items, this one provides funds for services associated with OSPD. The Public Defender requests \$19,579 General Fund for this purpose for FY 2010-11. **Staff’s recommendation for the purchase of services from the computer center is pending Committee policy.** Staff will ultimately reflect Committee policy in the appropriation for this line item.

Vehicle Lease Payments

This line item provides funding for annual payments to the Department of Personnel and Administration for the cost of administration, loan repayment, and lease-purchase payments for new and replacement motor vehicles [see Section 24-30-1117, C.R.S.]. The current appropriation covers costs associated with a total of 17 vehicles. 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.

The OSPD’s request for \$50,688 General Fund for FY 2010-11 represents a decrease of \$365 compared to the adjusted FY 2009-10 appropriation. **The dollar amount of staff’s recommendation is pending Committee policy.** Staff will ultimately reflect Committee policy in the appropriation for this line item.

Capital Outlay

The OSPD requests \$218,316 General Fund for capital outlay for FY 2010-11. **Staff recommends appropriating \$233,910 General Fund for FY 2010-11**, as detailed in the table below. Staff’s recommendation is \$15,594 higher than the OSPD request, due to two differences. First, staff’s recommendation includes \$25,990 to provide capital outlay for the staff needed due to the continued expansion of adult drug courts. Staff’s recommendation related to H.B. 07-1054 includes \$10,396 less than the OSPD’s request, providing capital outlay funding for 40.0 FTE (rounded from 40.1 FTE), rather than 42.0 FTE.

OSPD Table 7: Summary of Recommendation for Capital Outlay					
	GF	CF	RF	FF	TOTAL
FY 2009-10 Long Bill	\$219,576	\$0	\$0	\$0	\$219,576
FY 2009-10 Supplemental	(119,576)	0	0	0	(119,576)
Elimination of remaining one-time Funding for FY 2009-10	(100,000)	0	0	0	(100,000)
H.B. 07-1054: Full-year impact of adding remaining staff for 28 judgeships filled to date, plus full-year funding for staff for final 15 judgeships	395,048	0	0	0	395,048
H.B. 07-1054: Reduce funding related to 28 judgeships filled to date based on four month delay in hiring; delay adding staff related to final 15 judgeships until FY 2011-12 based on Department’s proposed delay	(187,128)	0	0	0	(187,128)
JUD DI #2 - Judicial Department grant to further expand drug courts	25,990	0	0	0	25,990
Staff Recommendation	233,910	0	0	0	233,910

Leased Space/ Utilities

This line item currently funds leases for a total of 215,413 square feet of leased space in 23 locations statewide. Typically, leases are negotiated for ten years. The OSPD estimates how quickly the office

will grow and, when appropriate, opts for slightly more space than it needs. 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. Current annual rates per square foot range from \$8.13 in Trinidad to \$37.13 in Brighton, with an overall average of \$20.61.

For FY 2010-11, the overall square footage is anticipated to increase for locations in Alamosa, Boulder, Brighton, Fort Collins, Montrose, and Sterling, for a total of 249,246 square feet. The average rate per square foot is anticipated to increase to \$21.49, based on both increases and decreases in costs per square foot in various locations.

The OSPD requested an appropriation of \$5,842,301 General Fund for FY 2010-11 based on early estimates of leased space expenses. **Staff recommends appropriating a total of \$5,755,388 General Fund for FY 2010-11**, including \$5,355,388 in base funding for lease agreements (based on more recent estimated provided by the OSPD) and \$400,000 for costs that are not included in lease agreements such as moving expenses, build out/improvement expenses, off site storage expenses, and utility escalators. The OSPD’s estimates of lease agreement expenses include planned increases in square footage which would be sufficient to accommodate the additional staff associated with the implementation of H.B. 07-1054 (*i.e.*, 74.6 FTE over the next two fiscal years). Staff has not included any additional funding for the 5.1 FTE associated with the further expansion of adult drug courts, as these staff will have a minimal impact on various regional trial offices statewide.

OSPD Table 8: Summary of Recommendation for Leased Space/Utilities					
	GF	CF	RF	FF	TOTAL
FY 2009-10 Long Bill	\$5,177,879	\$0	\$0	\$0	\$5,177,879
FY 2009-10 Supplemental	(562,164)	0	0	0	(562,164)
Reverse FY 2009-10 Supplemental	562,164	0	0	0	562,164
Estimated changes in leased space expenses, including expansions to accommodate additional staff associated with implementation of H.B. 07-1054	577,509	0	0	0	577,509
Staff Recommendation	5,755,388	0	0	0	5,755,388

Automation Plan

This line item funds basic 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.

Staff recommends approving the request for \$673,335 General Fund, as detailed in the following table. Staff’s recommendation includes approval of \$221,433 in one-time reductions proposed by the Office. Please note that the requested level of funding is significantly lower than actual expenses incurred in the last two fiscal years.

OSPD Table 9: Summary of Recommendation for Automation Plan					
	GF	CF	RF	FF	TOTAL
FY 2009-10 Long Bill	\$894,768	\$0	\$0	\$0	\$894,768
FY 2009-10 Supplemental	(211,598)	0	0	0	(211,598)
Reverse FY 2009-10 Supplemental	211,598	0	0	0	211,598
PD DI#1 - Other targeted one-time reductions	(221,433)	0	0	0	(221,433)
Staff Recommendation	673,335	0	0	0	673,335

Contract Services

This line item allows the OSPD to hire attorneys to represent the Public Defender's attorneys in grievance claims filed by former clients. **Staff recommends the requested continuation level of funding (\$18,000 General Fund).**

Mandated Costs

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 (41.9 percent of mandated costs in FY 2008-09) and reimbursing district attorney offices for duplicating discoverable materials (32.8 percent). The OSPD also incurs costs for expert witnesses, interpreter services (for activities outside the courtroom), and travel (both for witnesses and for public defender staff to conduct out-of-state investigations). Table 10 provides a breakdown of mandated cost expenditures in the last four fiscal years, as well as projections for fiscal years 2009-10 and 2010-11. Table 11 compares annual mandated costs to the OSPD's caseload.

OSPD Table 10: Mandated Costs Breakdown						
Description	FY 06-07 (actual)	FY 06-07 (actual)	FY 07-08 (actual)	FY 08-09 (actual)	FY 09-10 (estim.)	FY 10-11 (request)
Transcripts <i>annual percent change</i>	\$838,560	\$1,054,167	\$1,186,376	\$1,238,740	\$1,293,414	\$1,350,502
		25.7%	12.5%	4.4%	4.4%	4.4%
Discovery (paid to DAs) <i>annual percent change</i>	653,556	761,495	886,112	969,306	1,193,302	1,327,081
		16.5%	16.4%	9.4%	23.1%	11.2%
Expert witnesses <i>annual percent change</i>	562,110	569,094	817,186	504,530	574,192	504,530
		1.2%	43.6%	-38.3%	13.8%	-12.1%
Travel	62,130	75,818	150,005	109,567	113,951	52,765
Interpreters	62,131	71,545	85,301	109,563	125,121	125,121
Other	434	9,499	18,279	22,461	25,000	25,000
Total <i>annual percent change</i>	2,178,921	2,541,618	3,143,259	2,954,167	3,324,980	3,384,999
		16.6%	23.7%	-6.0%	12.6%	1.8%

OSPD Table 11: Mandated Costs Per Case						
Description	FY 05-06 (actual)	FY 06-07 (actual)	FY 07-08 (actual)	FY 08-09 (actual)	FY 09-10 (estim.)	FY 10-11 (estim.)
Total Cases Closed	88,475	90,611	90,969	94,421	100,287	106,985
<i>annual percent change</i>	7.2%	2.4%	0.4%	3.8%	6.2%	6.7%
Average Mandated Costs Per Case	\$25	\$28	\$35	\$31	\$33	\$32
<i>annual percent change</i>	45.4%	13.9%	23.2%	-9.5%	6.5%	-5.0%
Total Mandated Costs	2,178,921	2,541,618	3,143,259	2,954,166	3,340,586	3,384,999
<i>annual percent change</i>	55.8%	16.6%	23.7%	-6.0%	13.1%	1.3%

The OSPD requests \$3,384,999 General Fund for this line item for FY 2010-11. As detailed in Table 10, this request is based on the following:

- *Transcript expenses* will increase by 4.4 percent due to caseload increases (this is the same percent increase that occurred in FY 2008-09).
- *Reimbursements to district attorney offices* will increase by 9.4 percent due to caseload and rate increases (this is the same percent increase that occurred in FY 2008-09). In addition, the request includes funding to cover the rate increases imposed by district attorney offices in FY 2009-10¹⁵, including the full year costs of the rate increases imposed by the 17th judicial district.
- *Expert witness expenses* will decrease to the level incurred in FY 2008-09. This level of expenditure (\$504,530) is lower than actual expenses incurred in the previous three fiscal years.
- *Travel expenses* will decrease by more than half. This level of expenditure (\$52,765) is lower than actual expenses incurred in the previous four fiscal years.
- *Interpreter expenses* will remain at the same level as FY 2009-10.

Staff recommends approving the request for this line item, with one exception. The OSPD's request is reasonable and prudent in light of the General Fund revenue shortfall. However, staff is concerned that the request likely understates expenditures to reimburse district attorney offices for discoverable materials. The OSPD's request incorporates rate increases imposed in FY 2009-10, and it assumes that expenses will increase by 9.4 percent due to caseload and rate increases. However, the compound annual rate of growth in these expenditures is 13.1 percent since FY 2001-02, and 16.2 percent since FY 2005-06. **Staff's recommendation includes \$81,793 more for discoverable materials based on a 16.2 percent annual rate of growth.**

¹⁵ Four judicial districts imposed rate increases in FY 2009-10: 4th (El Paso/Teller) - an increase of \$43,609; 8th (Larimer/Teller) - an increase of \$27,360; 11th (Chaffee/Custer/Fremont/Park) - an increase of \$18,534, and 17th (Adams) - an increase of \$43,488 for eight months.

Staff thus recommends appropriating a total of \$3,466,792 for this line item for FY 2010-11. 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

This line item provides spending authority for the OSPD to receive and expend various grants. The FY 2009-00 appropriation includes three grants:

- The FY 2009-10 appropriation includes \$7,500 reappropriated funds to reflect the remainder of a federal grant that originated with the U.S. Department of Justice, and was transferred to the OSPD from the Department of Public Safety. These funds were 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. The OSPD's FY 2010-11 request does not include any funding related to this expired federal grant.
- The FY 2009-10 appropriation includes \$40,000 cash funds 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 following expiration of the above federal grant. The OSPD's FY 2010-11 request includes \$60,000 and 1.0 FTE for the continuation of this grant.
- The appropriation includes \$56,245 cash funds 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 for FY 2009-10, plus a designated lead/supervising attorney to provide supervision, serve as a liaison, and ensure quality legal representation. The Office's FY 2010-11 request includes \$60,000 and 1.0 FTE for the continuation of this grant.

Staff recommends approving the request for \$120,000 cash funds and 2.0 FTE for FY 2010-11, as detailed in the following table.

OSPD Table 12: Summary of Recommendation for Grants						
	GF	CF	RF	FF	TOTAL	FTE
FY 2009-10 Long Bill	\$0	\$56,245	\$7,500	\$0	\$63,745	1.0
FY 2009-10 Supplemental	0	40,000	0	0	40,000	1.0
Eliminate spending authority for federal grant received through Department of Public Safety	0	0	(7,500)	0	(7,500)	0.0
Annualize partial-year grant	<u>0</u>	<u>23,755</u>	<u>0</u>	<u>0</u>	<u>23,755</u>	<u>0.0</u>
Grants Recommendation	0	120,000	0	0	120,000	2.0

Long Bill Footnotes and Requests for Information Concerning Public Defender's Office

Staff recommends the following footnote be **continued**:

- 32 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.

Staff recommends continuing this footnote. In FY 2008-09, this footnote provided the OSPD with the authority to transfer up to 2.5 percent (\$1,259,974) of its total appropriation (\$50,398,945) between line items. In FY 2008-09, a total of \$540,427 (1.1 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	\$111,500
Operating Expenses	25,927
Leased Space/ Utilities	(116,726)
Vehicle Lease Payments	(7,701)
Automation Plan	403,000
Mandated Costs	(416,000)
Net Transfers	0

(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 interest [Section 21-2-101 *et seq.*, C.R.S.]. 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 cases¹⁶.

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 cases¹⁷.

The OADC is governed by the nine-member Alternate Defense Counsel Commission, 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

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
Deputy Director	1.0	1.0	1.0	1.0
Budget/ Billing/ Office Administration	3.0	3.0	3.0	3.0

¹⁶ The Spangenberg Group, "Updated Weighted Caseload Study: Colorado Public Defender", February, 2009, page 9.

¹⁷ 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.	
Appellate Case Manager and Appellate Paralegal Administrative Assistant	1.5	1.5	1.5	1.5	
Attorney Oversight & Training	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	
DIVISION TOTAL	7.5	7.5	7.5	7.5	

Staff recommends appropriating \$690,704 General Fund and 7.5 FTE as detailed in the table below. The recommendation is \$15,385 lower than the request, as staff has applied the Committee policy of reducing the employer contribution to PERA by 2.5 percent.

OADC Table 2: Summary of Recommendation for Personal Services						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2009-10 Long Bill	\$706,089	\$0	\$0	\$0	\$706,089	7.5
Salary Survey awarded in FY 09-10	0	0	0	0	0	0.0
80% of Performance-based Pay awarded in FY 09-10	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>(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

This is the third of four 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. The OADC requests \$71,469 General Fund. **Staff recommends appropriating \$71,558 General Fund, which is consistent with Committee policy.**

Short-term Disability

This is the third of four 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. The OADC requests \$954 General Fund for this purpose for FY 2010-11. **Staff recommends approving the request, which is consistent with the Committee policy of applying a rate of 0.155 percent to base salaries.**

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

Pursuant to S.B. 04-257, this line item provides additional funding to increase the state contribution for PERA. The third of four such line items, this one provides funds for OADC staff. The OADC requests a total of \$14,564 General Fund. **Staff recommends approving the request, which is consistent with Committee policy** [2.2 percent of base salaries for CY 2010 and 2.6 percent of base salaries for CY 2011].

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

Pursuant to S.B. 06-235, this line item provides additional funding to increase the state contribution for PERA. The third of four such line items, this one provides funds for OADC staff. The OADC requests a total of \$10,513 General Fund. **Staff recommends approving the request, which is consistent with Committee policy** [1.5 percent of base salaries for CY 2010, and 2.0 percent of base salaries for CY 2011].

Salary Survey

The Department uses this line item to pay for annual increases akin to salary survey increases in the Executive Branch. The third of four such line items, this one provides funds for OADC staff. **The OADC does not request funding for this purpose for FY 2010-11, which is consistent with Committee policy.**

Anniversary Increases

The Department uses this line item to pay for annual increases akin to performance-based pay increases in the Executive Branch. The third of four such line items, this one provides funds for OADC staff. **The OADC does not request funding for this purpose for FY 2010-11, which is consistent with Committee policy.**

Operating Expenses

The OADC requests a continuation level of funding for operating expenses. **Staff recommends approving the request for \$67,030 General Fund, which is consistent with Committee policy.**

Capital Outlay

The OADC does not request any funding for capital outlay for FY 2010-11.

Purchase of Services From Computer Center

This item provides funding for the Department's share of statewide computer services provided by the Department of Personnel and Administration, Division of Information Technology. The third of four such line items, this one provides funds for services associated with OADC. The OADC requests \$1,203 General Fund for this purpose for FY 2010-11. **Staff's recommendation for the purchase of services from the computer center is pending Committee policy.** Staff will ultimately reflect Committee policy in the appropriation for this line item.

Leased Space

This line item currently funds a lease for 1,993 square feet at 1580 Logan Street, as well as leased space for 1.0 FTE in Grand Junction. The OADC is not requesting continuation funding for leased space in Grand Junction for FY 2010-11. **Staff recommends the requested appropriation of \$39,999 General Fund.** This recommendation includes \$3,000 for lease operating costs, and an increase of \$1,127 due to the scheduled increase from \$18.00 to \$18.56 per square foot at 1580 Logan Street. This increase is offset by a decrease of \$1,200 due to the elimination of leased space in Grand Junction.

Training and Conferences

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. **Staff recommends approving the request for continuation funding of \$40,000,** comprised of \$20,000 General Fund and \$20,000 cash funds. The source of cash funds is registration fees and DVD sales.

Conflict of Interest Contracts

This line item pays 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.

Alternate Defense Counsel Decision Item #1: Caseload/ Case Cost Increases

The OADC requests an increase of \$864,171 for Conflict of Interest Contracts based on a projected modest (0.1 percent) increases in the overall caseload and a 3.9 percent increase in the average cost per case. The Office is projecting relatively small increases in most case types, offset by a decline in the number of juvenile cases. Table 3a details caseload history, by type of case, as well as the OADC's estimates for FY 2009-10 and FY 2010-11. Table 3b provides further caseload details concerning felony cases.

OADC Table 3a: OADC Caseload (Annual number of cases paid)							
Case Type	FY 04-05 (actual)	FY 05-06 (actual)	FY 06-07 (actual)	FY 07-08 (actual)	FY 08-09 (actual)	FY 09-10 (proj.)	FY 10-11 (proj.)
Felony <i>annual percent change</i>	7,113	7,912 <i>11.2%</i>	8,162 <i>3.2%</i>	7,169 <i>-12.2%</i>	6,709 <i>-6.4%</i>	7,256 <i>8.2%</i>	7,348 <i>1.3%</i>
Juvenile <i>annual percent change</i>	1,274	1,433 <i>12.5%</i>	1,621 <i>13.1%</i>	1,526 <i>-5.9%</i>	1,803 <i>18.2%</i>	1,724 <i>-4.4%</i>	1,618 <i>-6.1%</i>
Misdemeanor/ DUI/ Traffic <i>annual percent change</i>	1,035	1,111 <i>7.3%</i>	1,278 <i>15.0%</i>	1,256 <i>-1.7%</i>	1,654 <i>31.7%</i>	1,389 <i>-16.0%</i>	1,398 <i>0.6%</i>
Appeals <i>annual percent change</i>	540	595 <i>10.2%</i>	660 <i>10.9%</i>	709 <i>7.4%</i>	765 <i>7.9%</i>	796 <i>4.1%</i>	801 <i>0.6%</i>
Post-Conviction <i>annual percent change</i>	468	465 <i>-0.6%</i>	506 <i>8.8%</i>	520 <i>2.8%</i>	492 <i>-5.4%</i>	494 <i>0.4%</i>	502 <i>1.6%</i>

OADC Table 3a: OADC Caseload (Annual number of cases paid)							
Case Type	FY 04-05 (actual)	FY 05-06 (actual)	FY 06-07 (actual)	FY 07-08 (actual)	FY 08-09 (actual)	FY 09-10 (proj.)	FY 10-11 (proj.)
Special Proceedings/ Other <i>annual percent change</i>	673	798 <i>18.6%</i>	862 <i>8.0%</i>	902 <i>4.6%</i>	1,051 <i>16.5%</i>	1,088 <i>3.5%</i>	1,099 <i>1.0%</i>
Total <i>annual percent change</i>	11,103	12,314 <i>10.9%</i>	13,089 <i>6.3%</i>	12,082 <i>-7.7%</i>	12,474 <i>3.2%</i>	12,747 <i>2.2%</i>	12,766 <i>0.1%</i>

OADC Table 3b: OADC Caseload (Annual number of FELONY cases paid)							
Case Type	FY 04-05 (actual)	FY 05-06 (actual)	FY 06-07 (actual)	FY 07-08 (actual)	FY 08-09 (actual)	FY 09-10 (proj.)	FY 09-10 (proj.)
Felony 1 - Death Penalty <i>annual percent change</i>	5	4 <i>-20.0%</i>	5 <i>25.0%</i>	4 <i>-20.0%</i>	4 <i>0.0%</i>	5 <i>25.0%</i>	5 <i>0.0%</i>
Felony 1 - Other <i>annual percent change</i>	133	150 <i>12.8%</i>	128 <i>-14.7%</i>	150 <i>17.2%</i>	145 <i>-3.3%</i>	139 <i>-4.1%</i>	133 <i>-4.3%</i>
Felony 2 and 3 <i>annual percent change</i>	2,663	2,819 <i>5.9%</i>	2,904 <i>3.0%</i>	2,642 <i>-9.0%</i>	2,532 <i>-4.2%</i>	2,737 <i>8.1%</i>	2,883 <i>5.3%</i>
Felony 4, 5, and 6 <i>annual percent change</i>	4,313	4,938 <i>14.5%</i>	5,124 <i>3.8%</i>	4,372 <i>-14.7%</i>	4,028 <i>-7.9%</i>	4,375 <i>8.6%</i>	4,327 <i>-1.1%</i>
Total <i>annual percent change</i>	7,114	7,911 <i>11.2%</i>	8,161 <i>3.2%</i>	7,168 <i>-12.2%</i>	6,709 <i>-6.4%</i>	7,256 <i>8.2%</i>	7,348 <i>1.3%</i>

This request is primarily related to a projected increase in costs for attorney appointments in three cases where the prosecution has announced its intention to seek the death penalty or the death penalty has been imposed. Specifically, ADC attorneys have been appointed to represent the following defendants in the 18th judicial district:

- Edward Montour, who is facing a jury trial to determine whether he should be sentenced to life or death.
- Robert Ray, who has been found guilty of first degree murder and given a death sentence by the jury. The trial court judge has not yet imposed the death sentence, and there is on-going litigation of post-trial motions and issues regarding the constitutionality of the unitary appeal statute. The OADC anticipates that attorneys will be appointed to represent Robert Ray under the Unitary Appeal Bill once the court imposes a sentence.
- Sir Mario Owens, under the Unitary Appeal Bill, following the trial court's imposition of a death sentence in December 2008.

The OADC projects a \$1.7 million increase in expenditures related to death penalty cases in FY 2010-11. This increase is offset by projected decreases in expenditures related to other felony cases. In addition, the request reflects a recent change in OADC policy related to mileage reimbursement; while

the request continues to include funding to reimburse investigators and paralegals for mileage, it does not include any funding for attorney mileage reimbursement.

Table 4 provides a history of the OADC’s Conflict of Interest Contract expenditures and the average cost per case from FY 2005-06 through FY 2008-09, along with projections for FY 2009-10 and FY 2010-11.

OADC Table 4: OADC Conflict of Interest Contract Expenditures						
Description	FY 05-06 (actual)	FY 06-07 (actual)	FY 07-08 (actual)	FY 08-09 (actual)	FY 09-10 (proj.)	FY 10-11 (proj.)
Total Cases Paid	12,314	13,090	12,082	12,474	12,747	12,766
<i>annual percent change</i>	10.9%	6.3%	-7.7%	3.2%	2.2%	0.1%
Average Cost/Case*	\$1,433	\$1,621	\$1,526	\$1,659	\$1,655	\$1,720
<i>annual percent change</i>	40.4%	13.1%	-5.9%	8.7%	-0.2%	3.9%
Total	13,283,794	16,201,867	17,925,541	20,692,161	21,092,467	21,956,638
<i>annual percent change</i>	17.3%	22.0%	10.6%	15.4%	1.9%	4.1%

* 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.

Staff recommends approving the requested increase for this line item. The OADC's request is based on a modest caseload increase in FY 2009-10 (2.2 percent), followed by a 0.1 percent increase for FY 2010-11. The request also assumes a small decrease in the average cost per case in FY 2009-10, followed by a 3.9 percent increase in FY 2010-11. The increase requested through this decision item is primarily based on five death penalty matters involving three defendants (two cases fall under the Unitary Appeal Bill). These cases require significantly more hours of attorney, investigator, and paralegal time compared to other case types.

In summary, staff recommends appropriating \$21,956,638 General Fund for this line item for FY 2010-11, as detailed in the following table.

OADC Table 5: Summary of Recommendation for Conflict of Interest Contracts					
	GF	CF	RF	FF	TOTAL
FY 2009-10 Long Bill	\$21,092,467	\$0	\$0	\$0	\$21,092,467
ADC DI #1: Caseload/Case Cost Increase	864,171	0	0	0	864,171
Staff Recommendation	21,956,638	0	0	0	21,956,638

Mandated Costs

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 (\$567,917 or 35.7 percent of mandated costs in FY 2008-09)
- expert witnesses (\$482,103 or 30.3 percent)
- transcripts (\$431,067 or 27.1 percent)
- expert witness travel reimbursement (\$56,198 or 3.5 percent)
- interpreters - out of court (\$42,765 or 2.7 percent)

The OADC requests a continuation level of funding (\$1,663,839 General Fund) for this line item for FY 2010-11. Table 6 details annual mandated costs in comparison to the number of cases paid.

OADC Table 6: Mandated Costs						
Description	FY 05-06 (actual)	FY 06-07 (actual)	FY 07-08 (actual)	FY 08-09 (actual)	FY 09-10 (estim.)	FY 10-11 (estim.)
Total Cases Paid	12,314	13,090	12,082	12,474	12,747	12,766
<i>annual percent change</i>	10.9%	6.3%	-7.7%	3.2%	2.2%	0.1%
Average Mandated Costs Per Case	\$90	\$95	\$128	\$127	\$131	\$130
<i>annual percent change</i>	-5.0%	5.6%	35.4%	-0.6%	2.4%	-0.1%
Total Mandated Costs	1,104,890	1,240,579	1,549,840	1,589,848	1,663,839	1,663,839
<i>annual percent change</i>	5.4%	12.3%	24.9%	2.6%	4.7%	0.0%
Conflict of Interest Contract	13,283,794	16,201,867	17,925,541	20,692,161	21,092,467	21,956,638
<i>Mandated Costs as a percent of Total Case Costs</i>	7.7%	7.1%	8.0%	7.3%	7.3%	7.0%

Staff recommends approving the request for this line item. The OADC's request seems reasonable as it is based on a small decrease in the average cost per case in FY 2010-11.

Long Bill Footnotes and Requests for Information Concerning the Alternate Defense Counsel

Staff recommends the following footnote be **continued**:

33 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.

The OADC is a small agency and utilizes this flexibility to stay within its appropriation and avoid excess supplemental requests. In FY 2008-09, this footnote provided the OADC with the authority to transfer up to 2.5 percent (\$579,464) of its total appropriation (\$23,178,555) between line items. In FY 2008-09, a total of \$87,726 (0.4 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	(\$2,470)
Operating Expenses	(1,190)
Leased Space	2,361
Conflict of Interest Contracts	(84,066)
Mandated Costs	85,365
Net Transfers	0

(7) OFFICE OF THE CHILD'S REPRESENTATIVE

Pursuant to Section 13-91-104, C.R.S., the Office of the Child's Representative (OCR) is responsible for "ensuring the provision of uniform, high-quality legal representation and non-legal advocacy to children involved in judicial proceedings in Colorado". The OCR's responsibility to enhance the legal representation of children, includes:

- enhancing the provision of services by attorneys who are appointed by the court to act in the best interests of the child involved in certain proceedings (known as *guardians ad-litem* or GALs);
- enhancing the provision of services by attorneys¹⁸ 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 matters¹⁹. 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.

¹⁸ 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.

¹⁹ 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.].

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

This line item provides funding to support a central administrative office in Denver, as well as the El Paso county "staff model" office which provides legal representation for children in El Paso county. The following table details the staffing composition of both offices.

OCR Table 1: Office of the Child's Representative Staffing Summary				
Position Description	FY 2008-09 Actual	FY 2009-10 Approp.	FY 2010-11 Request	FY 2010-11 Recomm.
Executive Director	1.0	1.0	1.0	1.0
Deputy Director	0.6	0.6	0.6	0.6
Staff Attorney	1.8	1.8	1.8	1.8
Budget/ Billing/ Office Administration (DI #3)	2.9	2.9	3.0	3.0
Training Coordinator	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>
Subtotal - Administrative Office	7.3	7.3	7.4	7.4
Attorneys	12.3	12.3	12.3	12.3
Social Workers/Case Coordinators	4.6	4.6	4.6	4.6
Administrative/Support Staff	<u>2.6</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	26.8	26.9	26.9

OCR Decision Item #3: Billing Administrative Assistant (as adjusted by Budget Amendment)

The OCR requests \$5,389 to increase its Office Manager from 0.9 FTE to 1.0 FTE (including: salary, PERA, Medicare, short-term disability, AED, and SAED).

The OCR indicates that it has employed 1.0 FTE to process all court appointed counsel payments since its inception. This individual is responsible for the following tasks:

- Approving appointments in the billing system
- Reviewing billing submissions and excess fee requests
- Manually entering mandated cost requests for interpreters, specialists, etc.

- Submitting payment batches to the Colorado Financial Reporting System (OCR's Controller reviews and approves warrants to be issued to the payee)
- Fielding attorney billing questions
- Training attorneys on the billing system
- Maintaining the billing system

The OCR indicates that the number of billings it receives and processes has increased from 13,559 in FY 2000-01 to 60,535 in FY 2008-09. The number of billings has increased due to a growing caseload as well as increases in the number of transactions per case (which doubled from 1.57 per case in FY 2002-03 to 4.08 in FY 2008-09). In an effort to better manage its appropriation, the OCR has initiated stricter payment procedures requiring attorneys to bill every 90 days rather than every six months.

If the Office Manager position is increased to a full-time position, this individual could better support the Billing Administrator, assisting with billing questions, reviewing and processing submissions, and other administrative tasks such as filing and data entry. This will ensure that OCR payments continue to be made promptly, and allow for more quality time to be focused on reviewing and approving appointments and excess fee requests, as well as for the provision of increased training on billing procedures and efficiencies. It will also allow for more in-depth monitoring of case filing patterns within each judicial district.

Staff recommends approving the request. Initially, the OCR requested \$27,765 General Fund and 0.5 FTE Billing Administrator to address the increased workload associated with court appointed counsel payments. Subsequently, the OCR has submitted an amended request which is more modest and avoids the need to hire an additional part-time staff person (which requires more funding for capital outlay and employee insurance benefits). If approved, this additional funding will provide the OCR with a total of 3.0 FTE to handle budget, accounting, billing administration, and office administration duties. This is commensurate with the staffing level used by the OADC.

Staff recommends appropriating \$1,895,244 General Fund and 26.9 FTE for this line item, as detailed in the table below. The recommendation is \$23,298 higher than the request, including the following differences:

- The request did not include funding to annualize funding for the 1.0 FTE added in FY 2009-10; staff has added \$4,458 to pay for the full 12 months of salary for this position.
- Consistent with Committee policy, staff has restored the FY 2009-10 base reduction of 1.82 percent (\$33,627).
- Consistent with Committee policy, staff has reduced the employer contribution to PERA by 2.5 percent (a reduction of \$42,787).
- As discussed in more detail below, staff's recommendation includes the transfer of \$28,000 from the Court Appointed Counsel line item to this line item.

OCR Table 2: Summary of Recommendation for Personal Services						
	GF	CF	RF	FF	TOTAL	FTE
Personal Services:						
FY 2009-10 Long Bill	\$1,866,763	\$0	\$0	\$0	\$1,866,763	26.8
Restore 1.82% base reduction	33,627	0	0	0	33,627	0.0
Annualize prior FY DI#3 (funding for 12th month due to paydate shift)	4,458	0	0	0	4,458	0.0
Salary Survey awarded in FY 09-10	0	0	0	0	0	0.0
80% of Performance-based Pay awarded in FY 09-10	0	0	0	0	0	0.0
Base reduction (0.0%)	0	0	0	0	0	0.0
OCR Decision Item #3: Increase Office Manager to 1.0 FTE	5,183	0	0	0	5,183	0.1
Reduction in employer's PERA contribution (2.5%)	(42,787)	0	0	0	(42,787)	0.0
<i>Transfer funding for indigency screener contract from Court Appointed Counsel line item</i>	<u>28,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>28,000</u>	<u>0.0</u>
Personal Services Recommendation	1,895,244	0	0	0	1,895,244	26.9

Health Life and Dental

This is the fourth of four 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 Office of the Child's Representative staff. The OCR requests a total of \$163,296 General Fund for FY 2010-11. **Staff recommends approving the request, as it is consistent with Committee policy.**

Short-term Disability

This is the fourth of four 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. The OCR requests \$2,900 General Fund for this purpose for FY 2010-11. **Staff recommends an appropriation of \$2,653, consistent with the Committee policy of applying a rate of 0.155 percent to base salaries.** Staff's recommendation includes funding associated with OCR DI #3.

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

Pursuant to S.B. 04-257, this line item provides additional funding to increase the state contribution for Public Employees' Retirement Association (PERA). The fourth of four such line items, this one provides funds for Office of the Child's Representative staff. The OCR requests a total of \$37,473 General Fund. **Pursuant to Committee policy** [2.2 percent of base salaries for CY 2010 and 2.6

percent of base salaries for CY 2011], **staff recommends an appropriation of \$40,505 General Fund.** Staff's recommendation includes funding associated with OCR DI #3.

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

Pursuant to S.B. 06-235, this line item provides additional funding to increase the state contribution for PERA. The fourth of four such line items, this one provides funds for Office of the Child's Representative staff. The OCR requests a total of \$25,420 General Fund. **Pursuant to Committee policy** [1.5 percent of base salaries for CY 2010, and 2.0 percent of base salaries for CY 2011], **staff recommends an appropriation of \$29,238 General Fund.** Staff's recommendation includes funding associated with OCR DI #3.

Salary Survey

The Department uses this line item to pay for annual increases akin to salary survey increases in the Executive Branch. The fourth of four such line items, this one provides funds for Office of the Child's Representative staff. **The OCR does not request funding for this purpose for FY 2010-11, which is consistent with Committee policy.**

Anniversary Increases

The Department uses this line item to pay for annual increases akin to performance-based pay increases in the Executive Branch. The fourth of four such line items, this one provides funds for Office of the Child's Representative staff. **The OCR does not request funding for this purpose for FY 2010-11, which is consistent with Committee policy.**

Operating Expenses

The OCR requests a continuation level of funding for operating expenses (\$151,042), plus an increase described below.

OCR Decision Item #2: Replacement of Computer Server and Three Computers

The OCR requests an increase of \$8,887 to replace information technology equipment. For FY 2010-11, the OCR would use the new funds to replace one server and three computer workstations. In subsequent years, this new funding would be used to replace information technology equipment annually.

In FY 2004-05, the OCR received a one-time \$14,000 appropriation for computer upgrades. The OCR currently has 33 workstations, three servers, two operating systems, and three uninterruptible supply systems in operation in its Denver and El Paso offices. This request is intended to provide a stable, ongoing source of funding for information technology asset maintenance rather than requiring larger one-time appropriations every three to five years.

The request includes \$6,043 (for a server, backup software, and labor) and \$2,844 for three computers, monitors, and associated labor.

Staff recommends approving the request. The OCR currently has three servers, including two that were purchased in FY 2004-05 and one in FY 2003-04. Two of these servers are failing and require replacement. These servers support the OCR’s billing system and daily administrative functions. With respect to the OCR’s 33 workstations, 19 were purchased in 2006 or earlier. It is reasonable for the OCR to replace three of these workstations and replace the remaining workstations in the future based on a replacement cycle. Finally, in the last two fiscal years the OCR has made year-end transfers to cover operating expenses (\$42,493 in FY 2007-08 and \$49,073 in FY 2008-09).

In summary, staff recommends approving the requested appropriation of \$159,929 General Fund for Operating Expenses, as detailed in the following table.

OCR Table 3: Summary of Recommendation for Operating Expenses					
	GF	CF	RF	FF	TOTAL
FY 2009-10 Long Bill	\$151,042	\$0	\$0	\$0	\$151,042
OCR Decision Item #2: Server and workstation replacement	<u>8,887</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>8,887</u>
Operating Expenses Recommendation	159,929	0	0	0	159,929

Capital Outlay

The OCR does not request any funding for capital outlay for FY 2010-11.

Purchase of Services from Computer Center

This item provides funding for the Department's share of statewide computer services provided by the Department of Personnel and Administration, Division of Information Technology. The fourth of four such line items, this one provides funds for services associated with Office of the Child's Representative staff. The OCR requests \$1,553 General Fund for this purpose for FY 2010-11. **Staff’s recommendation for the purchase of services from the computer center is pending Committee policy.** Staff will ultimately reflect Committee policy in the appropriation for this line item.

Leased Space

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. **Staff recommends the requested appropriation of \$145,443 General Fund.** This recommendation includes an increase of \$2,705 due to the scheduled increase from \$18.00 to \$18.50 per square foot at 1580 Logan Street, and from \$11.26 to \$11.43 per square foot in Colorado Springs.

CASA Contracts

Court-appointed special advocates (CASA) are trained volunteers who may be appointed to enhance the quality of representation for children²⁰. 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 to the Judicial Department for CASA programs to local CASA programs based on recommendations made by the contract entity.

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 Committee initiated a \$500,000 increase in the appropriation for this line item. The Department requests a continuation level of funding for FY 2010-11 (\$520,000). **Staff recommends approval of the request.** However, in light of the General Fund revenue shortfall, the Committee may want to consider reducing this appropriation in FY 2010-11. Staff plans to include a reduction of up to \$500,000 (the increase in FY 2008-09) on the list of balancing options.

Training

Pursuant to Section 13-91-105 (1), C.R.S., the OCR is charged with "ensuring the provision and availability of high-quality, accessible training" for GALs, judges and magistrates who regularly hear matters involving children and families, CASA volunteers, and attorneys who are appointed to serve as a child's legal representative or a child and family investigator. The OCR is also charged with making recommendations to the Chief Justice concerning minimum practice standards for GALs and overseeing the practice of GALs to ensure compliance with all relevant statutes, orders, rules, directives, policies, and procedures.

In addition to the individuals noted above, the OCR invites respondent parent counsel, county attorneys and social workers, foster parents, and law enforcement to their training programs. The OCR

²⁰ 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.

requests a continuation level of funding for FY 2010-11 (\$38,000). **Staff recommends approving the request for a continuation level of funding.**

Court Appointed Counsel

This line item pays for contract attorneys appointed by the Court to serve as GALs, Child 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".

OCR Decision Item #1: Caseload/ Case Cost Increases

The OCR requests an increase of \$998,832 (6.5 percent) for this line item compared to existing appropriations for FY 2009-10. The request is based on a projected 2.8 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 4, below, caseload history by type of case, as well as the OCR's projections for FY 2009-10 and FY 2010-11.

OCR Table 4: Annual Number of Cases Paid							
Case Type	FY 04-05 (actual)	FY 05-06 (actual)	FY 06-07 (actual)	FY 07-08 (actual)	FY 08-09 (actual)	FY 09-10 (proj.)	FY 10-11 (proj.)
Dependency & Neglect	6,975	7,619	8,012	8,269	8,906	9,279	9,576
<i>annual percent change</i>	7.4%	9.2%	5.2%	3.2%	7.7%	4.2%	3.2%
Juvenile Delinquency	3,371	3,458	3,594	3,874	4,423	4,597	4,716
<i>annual percent change</i>	25.6%	2.6%	3.9%	7.8%	14.2%	3.9%	2.6%
Domestic Relations	762	673	624	606	760	738	717
<i>annual percent change</i>	-20.9%	-11.7%	-7.3%	-2.9%	25.4%	-2.9%	-2.8%
Truancy	280	374	458	514	475	486	497
<i>annual percent change</i>	-24.1%	33.6%	22.5%	12.2%	-7.6%	2.3%	2.3%
Paternity	86	107	126	108	138	161	175
<i>annual percent change</i>	-30.1%	24.4%	17.8%	-14.3%	27.8%	16.7%	8.7%
Probate	149	137	105	73	71	75	79
<i>annual percent change</i>	33.0%	-8.1%	-23.4%	-30.5%	-2.7%	5.6%	5.3%
All Other Case Types	36	39	44	56	70	75	78
Total	11,659	12,408	12,963	13,500	14,844	15,411	15,838
<i>annual percent change</i>	8.0%	6.4%	4.5%	4.1%	10.0%	3.8%	2.8%

While the OCR projects a decrease in domestic relations cases (-2.8 percent), it projects increases in all other case types, ranging from a 2.3 percent increase in truancy cases to an 8.7 percent increase in

paternity cases. For both dependency and neglect cases and delinquency cases, the projected rates of growth are significantly lower than that experienced in FY 2008-09.

Cost per Case. As mentioned above, the average cost per case varies by case type. The cost per case is a function of both the number of hours billed and the hourly rate. Historically, dependency and neglect 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 2009-10 and FY 2010-11. 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).

The OCR is projecting that the costs per case for domestic relations cases will actually decrease in FY 2009-10 (31 percent), and remain stable for all other case types; for FY 2010-11, the OCR projects that the costs per case will remain stable for most case types, and continue to decline for domestic relations cases. Table 5 provides a history of the average cost per case, by case type.

OCR Table 5: Annual Costs Per Case							
Case Type	FY 04-05 (actual)	FY 05-06 (actual)	FY 06-07 (actual)	FY 07-08 (actual)	FY 08-09 (estim.)	FY 09-10 (proj.)	FY 10-11 (proj.)
Dependency & Neglect <i>annual percent change</i>	\$759 -5.0%	\$707 -6.8%	\$971 37.4%	\$1,083 11.6%	\$1,300 20.0%	\$1,300 0.0%	\$1,300 0.0%
Juvenile Delinquency <i>annual percent change</i>	\$397 26.5%	\$386 -2.9%	\$557 44.4%	\$656 17.9%	\$628 -4.3%	\$628 0.0%	\$628 0.0%
Domestic Relations <i>annual percent change</i>	\$559 -13.6%	\$648 15.8%	\$842 30.0%	\$901 7.0%	\$1,055 17.1%	\$728 -31.0%	\$693 -4.9%
Truancy <i>annual percent change</i>	\$246 7.6%	\$175 -29.0%	\$330 88.8%	\$330 0.0%	\$467 41.4%	\$467 0.0%	\$467 0.0%
Paternity <i>annual percent change</i>	\$315 -33.1%	\$601 90.5%	\$583 -2.9%	\$633 8.5%	\$725 14.5%	\$725 0.0%	\$725 0.0%
Probate <i>annual percent change</i>	\$590 -1.0%	\$750 27.2%	\$565 -24.7%	\$1,231 118.0%	\$1,117 -9.3%	\$1,117 0.0%	\$1,117 0.0%
All Other Case Types	\$550	\$743	\$648	\$998	\$664	\$664	\$664
All cases <i>annual percent change</i>	\$623 0.0%	\$598 -4.0%	\$819 37.0%	\$921 12.4%	\$1,051 14.2%	\$1,036 -1.5%	\$1,036 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.

Staff Analysis. Staff recommends approving a portion of this request. The OCR's projection of overall caseload growth (3.8 percent in FY 2009-10 and 2.8 percent in FY 2010-11) 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. **Based on more recent caseload data, staff's recommendation is based on slightly lower projected caseloads for both domestic relations and truancy cases.** Based on information recently provided by OCR, staff assumes that domestic relations cases will decline from 738 to 669 (a reduction of 69 cases or 9.3

percent) in FY 2010-11, and truancy cases will decline from 486 to 339 (a reduction of 147 cases or 30.2 percent).

The OCR has seen a significant decrease in costs associated with domestic relations and truancy cases this year, and expects a continued decline in FY 2010-11. Last Session, the OCR worked with the Joint Budget Committee to introduce and pass legislation (S.B. 09-268) to clarify certain OCR appointments. With respect to domestic relations cases, S.B. 09-268 clarified that both parties' income and assets should be considered for appointments that take place while the parties are still married. The OCR has also 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.

Senate Bill 09-268 also limited the court's discretion to appoint a GAL in a truancy case to those cases in which extraordinary and exceptional circumstances exist. 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 cases²¹.

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 2010-11 (column shading indicates those areas in which staff's recommendation differs from the request).

OCR Table 6: Calculation of FY 2010-11 Request						
Case Type	Dependency & Neglect	Juvenile Delinquency	Domestic Relations	Truancy	Other	Total
Caseload	9,576	4,716	669	339	332	15,632
Average Cost Per Case	\$1,300	\$628	\$693	\$467	\$804	\$1,043
Total Costs	\$12,449,461	\$2,963,582	\$463,433	\$158,381	\$266,799	\$16,301,656

Finally, staff recommends transferring \$28,000 that the OCR is using to contract with an indigency screener from this line item to the Personal Services line item based on the nature of these expenditures. This is a very cost-effective use of resources. Expenditures related to domestic relations cases are projected to decrease by \$264,545 in FY 2009-10 and another \$73,947 in FY 2010-11 due, in part, to the use of an indigency screener.

²¹ 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.

In summary, staff recommends appropriating \$16,273,656 General Fund for this line item for FY 2010-11, as detailed in the following table.

OCR Table 7: Summary of Recommendation for Court Appointed Counsel					
	GF	CF	RF	FF	TOTAL
FY 2009-10 Long Bill	\$15,506,893	\$0	\$0	\$0	\$15,506,893
S.B. 09-268	(97,000)	0	0	0	(97,000)
OCR DI #1: Caseload/Case Cost Changes	891,763	0	0	0	891,763
<i>Transfer funding for indigency screener contract to Personal Services line item</i>	<i>(28,000)</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>(28,000)</i>
Staff Recommendation	16,273,656	0	0	0	16,273,656

Mandated Costs

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 OCR, these costs primarily include the following:

- printing/ reproduction services (\$12,201 or 35.4 percent of mandated costs in FY 2008-09)
- expert witnesses (\$11,213 or 32.6 percent)
- process servers (\$4,680 or 13.6 percent)
- interpreters - out of court (\$3,896 or 11.3 percent)
- transcripts (\$2,447 or 7.1 percent)

The OCR requests a continuation level of funding (\$26,288 General Fund) for this line item for FY 2010-11. **Staff recommends approving the request for this line item.** This amount is less than the amounts expended in FY 2007-08 and FY 2008-09, but similar to amounts expended in FY 2004-05 through FY 2006-07.

Long Bill Footnotes and Requests for Information Concerning the Office of the Child's Representative (OCR)

Staff recommends the following two footnotes be **continued**:

34 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.

The OCR is a small agency and utilizes this flexibility to stay within its appropriation and avoid excess supplemental requests. In FY 2007-08, this footnote provided the OCR with the authority to transfer

up to 2.5 percent (\$465,640) of its total FY 2008-09 appropriation (\$18,625,593) between line items. In FY 2008-09, a total of \$82,160 (0.4 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	(\$71,276)
Operating Expenses	49,073
Capital Outlay	(175)
Leased Space	24,878
Training	(5,481)
Court Appointed Counsel	(5,228)
Mandated Costs	8,209
Net Transfers	0

34a 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 have increased steadily over the last four fiscal years, increasing from \$426,186 in FY 2004-05 to \$801,945 in FY 2008-09.

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

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

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

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

To date there have been 36 cases referred to ENA, including 20 dissolution of marriage pre-decree cases, 11 child custody cases, and five post-decree parenting time cases. The ENA teams generally agreed on their assessments of the cases and the recommendations they made to parents. To date, 22 of 30 cases that completed ENA (73 percent) reached full agreements and five cases (17 percent) reached partial agreement. Parties in two of the cases that did not settle requested that a CFI be appointed.

Staff anticipates that OCR will collect data specific to its agreement with the district in order to determine if this approach is cost-effective at the state level.

Appendix A

Summary of H.B. 07-1054: 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 Subtotal	118	9	11	12	150	32

Summary of H.B. 07-1054: 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 Subtotal	32	0	5	3	40	8
Statewide Total	169	9	19	15	212	43

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**JUDICIAL BRANCH
FY 2010-11 STAFF FIGURE SETTING**

COURTHOUSE FURNISHINGS REQUEST: FY 2010-11

Courthouse Capital/ Infrastructure Maintenance: FY 2010-11		
District	Project	Estimated Cost
Several	Capital Outlay for 15 new district and county judges and staff pursuant to H.B. 07-1054	\$850,000
1 st (Jefferson)	Construction of three new courtrooms and expansion of the first floor clerk's office and jury assembly area	315,000
2 nd (Denver)	Second year of funding for the new Denver Justice Center	580,000
3 rd (Las Animas)	Reconfiguration of the 4th floor of the Trinidad courthouse to accommodate new mediation space	42,000
5 th (Eagle)	Phase III of the new justice center	15,500
8 th (Larimer)	Relocation of two probation offices by the county	93,000
11 th (Chaffee)	Relocation of county services in order to free up space for a courthouse remodel/expansion	180,000
17 th (Adams)	Final phase of the Adams County remodel/construction project	65,000
17 th (Broomfield)	Courthouse reconfiguration	230,000
18 th (Arapahoe)	Remodel/construction project at the Arapahoe County Justice Center	320,000
20 th (Boulder)	Relocate probation to a different floor and replace aging furniture and technology	75,000
4 th , 7 th , 15 th , and 21 st	Various projects to remodel probation and court facilities (each project is less than \$10,000)	<u>25,500</u>
Total		\$2,791,000