

COLORADO GENERAL ASSEMBLY

JOINT BUDGET COMMITTEE



FY 2008-09 FIGURE SETTING: JUDICIAL DEPARTMENT

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

**Prepared By:
Stephanie Walsh, JBC Staff
March 4, 2008**

For Further Information Contact:

**Joint Budget Committee Staff
200 E. 14th Avenue, 3rd Floor
Denver, Colorado 80203
Telephone: (303) 866-2061
Facsimile: (303) 866-2150
(TDD 866-3472)**

**JUDICIAL BRANCH
FY 2008-09 FIGURE SETTING**

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

TABLE OF CONTENTS

Numbers Pages	1
Summaries & Overviews	
Organization of the Judicial Branch	25
Summary of Decision Item Requests	26
General Fund Overview	27
Figure-setting Detail	
Judicial Department Staffing Requests	30
1) Supreme Court/Court of Appeals	47
2) Courts Administration	
(A) Administration	50
(B) Administrative Special Purpose	60
(C) Integrated Information Services	73
3) Trial Courts	77
4) Probation and Related Services	90
5) Public Defender	101
6) Alternate Defense Counsel	119
7) Office of the Child's Representative	127
Appendices	
Appendix A. Summary of H.B. 07-1054 Judge Increases	140
Appendix B: Salaries for General Jurisdiction Trial Court Judges	141
Appendix C: Per Capita Personal Income by State, 2006	143

	FY 2005-06	FY 2006-07	FY 2007-08	Request	FY 2008-09		Change Requests
	Actual	Actual	Approp.		Staff Rec. Old Format	Staff Rec. New RF Format	
JUDICIAL BRANCH							
Chief Justice Mary Mullarkey							
(1) SUPREME COURT/COURT OF APPEALS							
The primary functions of the Supreme Court are 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. The cash funds appropriations are from various fees and cash recoveries. The cash funds exempt appropriations were from cash funds reserves; these appropriations are now classified as cash funds.							
Personal Services - GF	8,028,364	9,277,099	9,480,219	11,046,643	10,945,205	10,945,205	
FTE	<u>113.4</u>	<u>126.5</u>	<u>132.5</u>	<u>146.0</u>	<u>146.0</u>	<u>146.0</u>	
General Fund	8,028,364	9,277,099	9,480,219	10,061,792	9,968,248	9,968,248	
Cash Funds	0	0	0	984851	976,957	976,957	
Operating Expenses	<u>184,194</u>	<u>213,271</u>	<u>221,062</u>	<u>243,412</u>	<u>243,412</u>	<u>243,412</u>	
General Fund	126,932	152,832	153,062	153,062	153,062	153,062	
Cash Funds	57,262	60,439	68,000	90,350	90,350	90,350	
Capital Outlay - GF	<u>0</u>	<u>241,937</u>	<u>0</u>	<u>229,662</u>	<u>229,662</u>	<u>229,662</u>	
General Fund	0	241,937	0	0	0	0	
Cash Funds	0	0	0	229,662	229,662	229,662	
Attorney Regulation Committees	4,312,053	6,326,619	4,700,000	4,700,000	4,700,000	4,700,000	
FTE	<u>40.5</u>	<u>40.5</u>	<u>40.5</u>	<u>40.5</u>	<u>40.5</u>	<u>40.5</u>	
Cash Funds	4,312,053	6,326,619	4,600,000	4,600,000	4,600,000	4,700,000	
FTE	40.5	40.5	40.5	40.5	40.5	40.5	
CFE/RF	0	0	100,000	100,000	100,000	0	

	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09		Change Requests	
	Actual	Actual	Approp.	Request	Staff Rec. Old Format		Staff Rec. New RF Format
Continuing Legal Education	332,264	350,689	325,000	325,000	325,000	325,000	
FTE	<u>4.0</u>	<u>4.0</u>	<u>4.0</u>	<u>4.0</u>	<u>4.0</u>	<u>4.0</u>	
Cash Funds	332,264	350,689	320,000	320,000	320,000	325,000	
FTE	4.0	4.0	4.0	4.0	4.0	4.0	
CFE/RF	0	0	5,000	5,000	5,000	0	
Law Examiner Board	754,752	801,207	850,000	850,000	850,000	850,000	
FTE	<u>8.2</u>	<u>8.2</u>	<u>8.2</u>	<u>8.2</u>	<u>8.2</u>	<u>8.2</u>	
Cash Funds	754,752	801,207	750,000	750,000	750,000	850,000	
FTE	8.2	8.2	8.2	8.2	8.2	8.2	
CFE/RF	0	0	100,000	100,000	100,000	0	
Law Library	<u>420,578</u>	<u>426,260</u>	<u>500,000</u>	<u>500,000</u>	<u>500,000</u>	<u>500,000</u>	
General Fund	67,000	0	0	0	0	0	
Cash Funds	353,578	426,260	500,000	500,000	500,000	500,000	
							Recommd. v. Approp.
TOTAL - Supreme Court/ Court of Appeals	14,032,205	17,637,082	16,076,281	17,894,717	17,793,279	17,793,279	10.7%
FTE	<u>166.1</u>	<u>179.2</u>	<u>185.2</u>	<u>198.7</u>	<u>198.7</u>	<u>198.7</u>	<u>7.3%</u>
General Fund	8,222,296	9,671,868	9,633,281	10,214,854	10,121,310	10,121,310	5.1%
FTE	113.4	126.5	132.5	146.0	146.0	146.0	10.2%
Cash Funds	5,809,909	7,965,214	6,238,000	7,474,863	7,466,969	7,671,969	23.0%
FTE	52.7	52.7	52.7	52.7	52.7	52.7	0.0%
CFE/RF	0	0	205,000	205,000	205,000	0	-100.0%

	FY 2005-06	FY 2006-07	FY 2007-08	Request	FY 2008-09		Change Requests
	Actual	Actual	Approp.		Staff Rec. Old Format	Staff Rec. New RF Format	
(2) COURTS ADMINISTRATION							
(A) Administration							
The Office of the State Court Administrator coordinates and controls budgeting, research, data processing and management services for the Judicial Department; and provides training, technical assistance and other support services. The sources of cash funds are various fees and cost recoveries. The cash funds exempt appropriations were from indirect cost recoveries and transfers (now classified as reappropriated funds) and cash fund reserves (now classified as cash funds).							
Personal Services	4,027,302	4,443,273	4,940,822	5,146,958	5,217,789	5,217,789	
FTE	<u>52.0</u>	<u>59.2</u>	<u>62.3</u>	<u>62.3</u>	<u>64.1</u>	<u>64.1</u>	
General Fund	3,129,253	3,406,377	3,823,254	4,031,709	4,102,540	4,102,540	
FTE	52.0	59.2	62.3	62.3	64.1	64.1	
CFE/RF	898,049	1,036,896	1,117,568	1,115,249	1,115,249	1,115,249	
Operating Expenses	<u>363,775</u>	<u>366,799</u>	<u>368,996</u>	<u>368,996</u>	<u>371,106</u>	<u>371,106</u>	
General Fund	362,775	366,152	367,996	367,996	370,106	370,106	
Cash Funds	1,000	647	1,000	1,000	1,000	1,000	
Capital Outlay - GF	29,639	6,010	7,042	0	6,220	6,220	
Judicial/Heritage Program	779,720	718,812	593,700	747,160	599,815	599,815	
FTE	<u>3.0</u>	<u>3.0</u>	<u>3.0</u>	<u>3.0</u>	<u>3.0</u>	<u>3.0</u>	
General Fund	576,527	474,302	317,852	505,294	357,949	357,949	
FTE	3.0	3.0	3.0	3.0	3.0	3.0	
CFE/RF	203,193	244,510	275,848	241,866	241,866	241,866	

	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09		Change	
	Actual	Actual	Approp.	Request	Staff Rec. Old Format	Staff Rec. New RF Format	Requests
Family Friendly Courts - CF	267,528	324,582	375,000	375,000	375,000	375,000	
FTE	<u>0.5</u>	<u>0.5</u>	<u>0.5</u>	<u>0.5</u>	<u>0.5</u>	<u>0.5</u>	
Cash Funds	0	323,561	252,200	252,200	252,200	375,000	
FTE	0.0	0.5	0.5	0.5	0.5	0.5	
CFE/RF	267,528	1,021	122,800	122,800	122,800	0	
FTE	0.5	0.0	0.0	0.0	0.0	0.0	
Judicial Performance Program	Prior to FY 2007-08, this		843,294	581,364	581,167	581,167	
FTE	appropriation was made to a		<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	
Cash Funds	separate subdivision		568,294	581,364	581,167	581,167	
FTE	(see below).		1.0	1.0	1.0	1.0	
CFE/RF			275,000	0	0	0	
Courthouse Capital/Infrastructure							
Maintenance - GF	910,616	1,103,359	1,000,000	1,000,000	1,000,000	1,000,000	
Courthouse Security - CF			2,194,622 a/	2,194,622	2,194,622	2,194,622	
			1.0 a/	1.0	1.0	1.0	
Family Violence - GF	489,732	475,008	500,000	750,000	500,000	500,000	JUD DI 7
Statewide Indirect Costs	<u>56,733</u>	<u>111,668</u>	<u>110,400</u>	<u>128,946</u>	<u>128,946</u>	<u>128,946</u>	
Cash Funds	52,018	105,244	99,440	115,493	115,493	124,593	
CFE/RF	4,715	6,424	5,408	9,100	9,100	0	
Federal Funds	0	0	5,552	4,353	4,353	4,353	
Departmental Indirect Costs - CF	841,316	925,228	1,007,170	986,303	986,303	986,303	

	FY 2005-06	FY 2006-07	FY 2007-08	Request	FY 2008-09		Change Requests
	Actual	Actual	Approp.		Staff Rec. Old Format	Staff Rec. New RF Format	
							Recommd. v. Approp.
SUBTOTAL - Administration	7,766,361	8,474,739	11,941,046	12,279,349	11,960,968	11,960,968	0.2%
FTE	<u>55.5</u>	<u>62.7</u>	<u>67.8</u>	<u>67.8</u>	<u>69.6</u>	<u>69.6</u>	<u>2.7%</u>
General Fund	5,498,542	5,831,208	6,016,144	6,654,999	6,336,815	6,336,815	5.3%
FTE	55.0	62.2	65.3	65.3	67.1	67.1	2.8%
Cash Funds	894,334	1,354,680	4,122,726	4,130,982	4,130,785	4,262,685	3.4%
FTE	0.0	0.5	2.5	2.5	2.5	2.5	0.0%
CFE/RF	1,373,485	1,288,851	1,796,624	1,489,015	1,489,015	1,357,115	-24.5%
FTE	0.5	0.0	0.0	0.0	0.0	0.0	n/a
Federal Funds	0	0	5,552	4,353	4,353	4,353	-21.6%

a/ Per S.B. 07-118, these appropriations include \$2,194,622 cash funds from the Court Security Cash Fund, and 1.0 FTE, to create and administer a courthouse security grant program.

(B) Administrative Special Purpose

This subdivision is for centrally appropriated line items ("Pots") and ancillary programs. Cash funds are from fees paid by defendants and others who use the courts. The cash funds exempt appropriations were transfers from other departments; these appropriations are now classified as reappropriated funds.

Health, Life and Dental	<u>7,497,558</u>	<u>10,239,651</u>	<u>13,170,524</u>	<u>17,843,087</u>	<u>17,806,295</u>	<u>17,806,295</u>	
General Fund	7,151,688	9,718,227	11,708,733	15,642,715	15,605,933	15,605,933	JUD DI 1 & 2
Cash Funds	345,870	521,424	1,461,791 a/	2,200,372	2,200,362	2,200,362	JUD DI 1
Short-term Disability	<u>162,712</u>	<u>141,748</u>	<u>211,444</u>	<u>241,451</u>	<u>249,386</u>	<u>249,386</u>	
General Fund	154,907	132,516	186,059	217,141	215,112	215,112	JUD DI 1 & 2
Cash Funds	7,805	9,232	25,385 a/	24,310	34,274	34,274	JUD DI 1

	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09		Change Requests	
	Actual	Actual	Approp.	Request	Staff Rec. Old Format		Staff Rec. New RF Format
Salary Survey	<u>4,538,489</u>	<u>4,652,652</u>	<u>9,900,227</u>	<u>10,649,577</u>	<u>11,840,522</u>	<u>11,840,522</u>	
General Fund	4,466,340	4,447,399	8,998,492	9,481,140	10,672,085	10,672,085	JUD DI 3
Cash Funds	72,149	205,253	901,735	1,168,437	1,168,437	1,168,437	
Anniversary Increases	<u>0</u>	<u>0</u>	<u>1,958,269</u>	<u>2,052,664</u>	<u>2,052,664</u>	<u>2,052,664</u>	
General Fund	0	0	1,847,001	1,828,268	1,828,268	1,828,268	
Cash Funds	0	0	111,268	224,396	224,396	224,396	
S.B. 04-257 Amortization Equalization							
Disbursement (AED)	<u>296,837</u>	<u>1,055,252</u>	<u>1,885,200</u>	<u>3,165,008</u>	<u>3,014,203</u>	<u>3,014,203</u>	
General Fund	277,311	993,977	1,669,756	2,841,692	2,592,370	2,592,370	JUD DI 1, 2, 3, 8
Cash Funds	19,526	61,275	215,444	323,316	421,833	421,833	JUD DI 1 & 6
S.B. 06-235 Supplemental Amortization							
Equalization Disbursement (SAED)			<u>343,055</u>	<u>1,000,308</u>	<u>1,369,816</u>	<u>1,369,816</u>	
General Fund			298,170	896,740	1,172,082	1,172,082	JUD DI 1, 2, 3, 8
Cash Funds			44,885	103,568	197,734	197,734	JUD DI 1 & 6
Workers' Compensation - GF	1,110,655	1,348,485	1,624,563	2,077,389	0	0	pending
Legal Services - GF	260,357	195,912	304,471	304,471	0	0	pending
Hours	4,227	4,227	4,227	4,227	4,227	4,227	
Payment to Risk Management - GF	164,445	425,823	272,001	359,898	0	0	pending
Vehicle Lease Payments - GF	65,813	32,743	40,459	42,727	0	0	pending

	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09		Change	
	Actual	Actual	Approp.	Request	Staff Rec. Old Format	Staff Rec. New RF Format	Requests
Leased Space	<u>613,690</u>	<u>697,437</u>	<u>729,465</u>	<u>828,175</u>	<u>828,175</u>	<u>828,175</u>	
General Fund	590,410	663,042	690,225	788,935	788,935	788,935	
Cash Funds	23,280	34,395	39,240	39,240	39,240	39,240	
Lease Purchase - GF	112,766	112,766	112,766	119,878	119,878	119,878	JUD BA 1
Administrative Purposes	<u>157,001</u>	<u>154,015</u>	<u>195,554</u>	<u>195,554</u>	<u>195,554</u>	<u>195,554</u>	
General Fund	123,904	103,440	130,554	130,554	130,554	130,554	
Cash Funds	33,097	50,575	65,000	65,000	65,000	65,000	
Retired Judges - GF	1,383,362	1,530,382	1,665,571	1,384,006	1,384,006	1,384,006	
Appellate Reports - GF	37,528	31,988	67,100	67,100	37,100	37,100	
Child Support Enforcement	65,373	59,086	90,900	90,900	90,900	90,900	
FTE	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	<u>1.0</u>	
General Fund	21,588	20,054	30,904	30,904	30,904	30,904	
CFE/RF	43,785	39,032	59,996	59,996	59,996	59,996	
FTE	1.0	1.0	1.0	1.0	1.0	1.0	
Collections Investigators	3,315,049	4,207,833	4,168,209	4,695,766	4,648,382	4,648,382	
FTE	<u>57.7</u>	<u>69.0</u>	<u>83.2</u>	<u>83.2</u>	<u>83.2</u>	<u>83.2</u>	
Cash Funds	2,797,178	3,631,602	3,498,976	4,026,533	3,985,841	3,985,841	
FTE	57.7	69.0	83.2	83.2	83.2	83.2	
CFE/RF	517,871	576,231	669,233	669,233	662,541	662,541	

	FY 2005-06	FY 2006-07	FY 2007-08	Request	FY 2008-09		Change Requests
	Actual	Actual	Approp.		Staff Rec. Old Format	Staff Rec. New RF Format	
							Recommd. v. Approp.
SUBTOTAL - Special Purpose	19,781,635	24,885,773	36,739,778	45,117,959	43,636,881	43,636,881	18.8%
FTE	58.7	70.0	84.2	84.2	84.2	84.2	0.0%
General Fund	15,921,074	19,756,754	29,646,825	36,213,558	34,577,227	34,577,227	16.6%
Cash Funds	3,298,905	4,513,756	6,363,724	8,175,172	8,337,117	8,337,117	31.0%
FTE	57.7	69.0	83.2	83.2	83.2	83.2	0.0%
CFE/RF	561,656	615,263	729,229	729,229	722,537	722,537	-0.9%
FTE	1.0	1.0	1.0	1.0	1.0	1.0	0.0%

a/ Per H.B. 07-1054, these appropriations include additional spending authority from the Judicial Stabilization Cash Fund due to the creation of new judgeships (\$233,820 for Health/Life/Dental and \$2,045 for Short-term Disability).

(C) Judicial Performance

This subdivision was responsible for Judicial Performance evaluations.

Personal Services - CF	90,396	93,042	Beginning in FY 2007-08, this appropriation was moved to the Administration
FTE	1.0	1.0	subdivision of the Courts Administration Division (see above).
Operating Expenses - CF	176,575	55,460	

SUBTOTAL-Judicial Performance - CF	266,971	148,502	
FTE	1.0	1.0	

	FY 2005-06	FY 2006-07	FY 2007-08	Request	FY 2008-09		Change Requests
	Actual	Actual	Approp.		Staff Rec. Old Format	Staff Rec. New RF Format	
(C) Integrated Information Services							
This subdivision is responsible for developing and maintaining information technology systems used by the courts, including ICON and CICJIS, for training staff on their use, and for assuring data integrity. The sources of cash funds are various fees and cost recovery. The cash funds exempt appropriations were federal funds transferred through the Division of Criminal Justice; these appropriations are now classified as reappropriated funds.							
Personal Services	2,925,359	2,923,189	3,230,093	3,363,608	3,371,123	3,371,123	
FTE	<u>39.2</u>	<u>40.8</u>	<u>44.1</u>	<u>44.1</u>	<u>44.9</u>	<u>44.9</u>	
General Fund	2,796,174	2,876,413	3,011,093	3,144,608	3,153,413	3,153,413	
FTE	39.2	40.8	44.1	44.1	44.9	44.9	
CFE/RF	129,185	46,776	219,000	219,000	217,710	217,710	
Operating Expenses	<u>193,400</u>	<u>224,569</u>	<u>226,444</u>	<u>226,444</u>	<u>227,604</u>	<u>227,604</u>	
General Fund	174,568	174,569	176,444	176,444	177,604	177,604	
Cash Funds	18,832	50,000	50,000	50,000	50,000	50,000	
Capital Outlay - GF	0	15,025	7,042	0	2,765	2,765	
JAVA Conversion - GF	n/a	258,570	311,054	311,054	311,054	311,054	
FTE		4.0	5.0	5.0	5.0	5.0	
Purchase of Services from Computer Center - GF	85,909	130,103	101,372	253,321	0	0	pending
Multi-use Network - GF	314,594	270,689	285,787	333,838	0	0	pending

	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09		Change Requests
	Actual	Actual	Approp.	Request	Staff Rec. Old Format	
Telecommunications Expenses	<u>310,000</u>	<u>383,169</u>	<u>533,392</u>	<u>533,392</u>	<u>533,392</u>	<u>533,392</u>
General Fund	310,000	309,777	310,000	310,000	310,000	310,000
Cash Funds	0	73,392	223,392	223,392	223,392	223,392
Communication Services Payments - GF	10,790	11,708	10,266	11,093	0	0 pending
Hardware Replacement	<u>1,724,181</u>	<u>2,217,517</u>	<u>2,250,000</u>	<u>2,250,000</u>	<u>2,250,000</u>	<u>2,250,000</u>
General Fund	0	2,597	0	0	0	0
Cash Funds	1,649,181	2,214,920	2,250,000	2,250,000	2,250,000	2,250,000
CFE/RF	75,000	0	0	0	0	0
Hardware/Software Maintenance	<u>1,069,429</u>	<u>1,063,035</u>	<u>1,178,094</u>	<u>1,178,094</u>	<u>1,178,094</u>	<u>1,178,094</u>
General Fund	1,043,094	1,028,035	1,043,094	1,043,094	1,043,094	1,043,094
Cash Funds	26,335	35,000	135,000	135,000	135,000	135,000
Recommd. v. Approp.						
SUBTOTAL - Integrated Information						
Services	6,633,662	7,497,574	8,133,544	8,460,844	7,874,032	7,874,032 -3.2%
FTE	<u>39.2</u>	<u>44.8</u>	<u>49.1</u>	<u>49.1</u>	<u>49.9</u>	<u>49.9</u> 1.6%
General Fund	4,735,129	5,077,486	5,256,152	5,583,452	4,997,930	4,997,930 -4.9%
FTE	39.2	44.8	49.1	49.1	49.9	49.9 1.6%
Cash Funds	1,694,348	2,373,312	2,658,392	2,658,392	2,658,392	2,658,392 0.0%
CFE/RF	204,185	46,776	219,000	219,000	217,710	217,710 -0.6%

	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09		Change Requests	
	Actual	Actual	Approp.	Request	Staff Rec. Old Format		Staff Rec. New RF Format
							Recommd. v. Approp.
TOTAL - Courts Administration	34,448,629	41,006,588	56,814,368	65,858,152	63,471,881	63,471,881	11.7%
FTE	<u>154.4</u>	<u>178.5</u>	<u>201.1</u>	<u>201.1</u>	<u>203.7</u>	<u>203.7</u>	<u>1.3%</u>
General Fund	26,154,745	30,665,448	40,919,121	48,452,009	45,911,972	45,911,972	12.2%
FTE	94.2	107.0	114.4	114.4	117.0	117.0	2.3%
Cash Funds	6,154,558	8,390,250	13,144,842	14,964,546	15,126,294	15,258,194	16.1%
FTE	58.7	70.5	85.7	85.7	85.7	85.7	0.0%
CFE/RF	2,139,326	1,950,890	2,744,853	2,437,244	2,429,262	2,297,362	-16.3%
FTE	1.5	1.0	1.0	1.0	1.0	1.0	0.0%
Federal Funds	0	0	5,552	4,353	4,353	4,353	-21.6%

(3) TRIAL COURTS

Trial courts include district, county, and water 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 funds are from various fees, including docket fees and cost recovery. The cash funds exempt appropriations were from cash fund reserves and cost recoveries (now classified as cash funds) and transfers from other departments (now classified as reappropriated funds).

Personal Services	88,550,961	95,598,093	101,281,808	111,678,556	110,575,667	110,575,667	
FTE	<u>1,528.4</u>	<u>1,608.5</u>	<u>1,760.0</u>	<u>1,868.5</u>	<u>1,867.0</u>	<u>1,867.0</u>	
General Fund	80,457,181	88,539,062	91,735,045	96,520,336	95,316,483	95,316,483	JUD DI 1 & 8
FTE	1,441.5	1,521.6	1,628.1	1,631.6	1,628.1	1,628.1	JUD DI 1 & 8
Cash Funds	7,373,009	5,860,931	9,546,763	a/ 15,158,220	15,259,184	15,259,184	JUD DI 1 & 6
FTE	86.9	86.9	131.9	a/ 236.9	238.9	238.9	JUD DI 1 & 6
Federal Funds	720,771	1,198,100	0	0	0	0	

	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09		Change Requests	
	Actual	Actual	Approp.	Request	Staff Rec. Old Format		Staff Rec. New RF Format
Operating Expenses	<u>6,076,552</u>	<u>7,545,228</u>	<u>6,763,633</u>	<u>7,148,839</u>	<u>7,132,033</u>	<u>7,132,033</u>	
General Fund	168,787	223,951	268,264	494,050	483,264	483,264	JUD DI 1 & 8
Cash Funds	5,907,765	7,321,277	6,495,369 a/	6,654,789	6,648,769	6,648,769	JUD DI 1 & 6
Capital Outlay	<u>481,230</u>	<u>1,029,387</u>	<u>868,700</u>	<u>671,027</u>	<u>653,121</u>	<u>653,121</u>	
General Fund	481,230	0	141,023	12,963	0	0	JUD DI 8
Cash Funds	0	1,029,387	727,677 a/	658,064	653,121	653,121	JUD DI 1 & 6
Court Costs, Jury Costs, and Court- appointed Counsel c/	13,790,049	12,104,758	13,600,287	14,743,791	14,743,791	14,743,791	
FTE	<u>25.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	
General Fund	13,468,688	11,940,646	13,115,287	14,258,791	14,258,791	14,258,791	JUD DI4 & BA3
FTE	25.0	0.0	0.0	0.0	0.0	0.0	
Cash Funds	321,361	164,112	485,000	485,000	485,000	485,000	
Language Interpreters - GF	n/a	3,181,249	2,892,427	2,892,427	2,892,427	2,892,427	
FTE		<u>25.0</u>	<u>25.0</u>	<u>25.0</u>	<u>25.0</u>	<u>25.0</u>	
General Fund		3,138,162	2,842,427	2,842,427	2,842,427	2,842,427	
Cash Funds		43,087	50,000	50,000	50,000	50,000	
District Attorney Mandated Costs	<u>1,879,174</u>	<u>2,027,885</u>	<u>1,915,667</u>	<u>1,926,052</u>	<u>1,926,052</u>	<u>1,926,052</u>	
General Fund	1,772,849	1,928,795	1,790,667	1,801,052	1,801,052	1,801,052	
Cash Funds	106,325	99,090	125,000	125,000	125,000	125,000	
Sex Offender Surcharge Fund Program							
General Fund	15,535	21,021	24,988	23,559	23,559	23,559	

	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09		Change Requests	
	Actual	Actual	Approp.	Request	Staff Rec. Old Format		Staff Rec. New RF Format
Victim Compensation	<u>9,275,866</u>	<u>9,316,013</u>	<u>12,555,319</u>	<u>12,120,121</u>	<u>12,120,121</u>	<u>12,120,121</u>	
Cash Funds	9,275,866	9,316,013	12,016,319 b/	11,581,121	11,581,121	12,120,121	
CFE/RF	0	0	539,000	539,000	539,000	0	
Victim Assistance	<u>11,456,949</u>	<u>13,032,626</u>	<u>13,287,752</u>	<u>15,095,039</u>	<u>15,095,039</u>	<u>15,095,039</u>	
Cash Funds	11,456,949	13,032,626	12,935,752 b/	14,743,039	14,743,039	15,095,039	
CFE/RF	0	0	352,000	352,000	352,000	0	
Federal Funds and Other Grants	1,060,599	1,292,011	2,296,627	2,296,627	2,296,627	2,296,627	
FTE	<u>8.5</u>	<u>8.5</u>	<u>8.5</u>	<u>8.5</u>	<u>8.5</u>	<u>8.5</u>	
Cash Funds	178,442	797,282	863,000	863,000	863,000	989,579	
CFE/RF	61,001	37,379	383,469	383,469	383,469	256,890	
FTE	6.0	6.0	6.0	6.0	6.0	6.0	
Federal Funds	821,156	457,350	1,050,158	1,050,158	1,050,158	1,050,158	
FTE	2.5	2.5	2.5	2.5	2.5	2.5	
Recommd. v. Approp.							
TOTAL - Trial Courts	132,586,915	145,148,271	155,487,208	168,596,038	167,458,437	167,458,437	7.7%
FTE	<u>1,561.9</u>	<u>1,642.0</u>	<u>1,793.5</u>	<u>1,902.0</u>	<u>1,900.5</u>	<u>1,900.5</u>	6.0%
General Fund	96,364,270	105,791,637	109,917,701	115,953,178	114,725,576	114,725,576	4.4%
FTE	1,466.5	1,546.6	1,653.1	1,656.6	1,653.1	1,653.1	0.0%
Cash Funds	34,619,717	37,663,805	43,244,880	50,318,233	50,408,234	51,425,813	18.9%
FTE	86.9	86.9	131.9	236.9	238.9	238.9	81.1%
CFE/RF	61,001	37,379	1,274,469	1,274,469	1,274,469	256,890	-79.8%
FTE	6.0	6.0	6.0	6.0	6.0	6.0	0.0%
Federal Funds	1,541,927	1,655,450	1,050,158	1,050,158	1,050,158	1,050,158	0.0%
FTE	2.5	2.5	2.5	2.5	2.5	2.5	0.0%

	FY 2005-06	FY 2006-07	FY 2007-08		FY 2008-09		Change
	Actual	Actual	Approp.	Request	Staff Rec. Old Format	Staff Rec. New RF Format	Requests

a/ Per H.B. 07-1054, these appropriations include additional spending authority from the Judicial Stabilization Cash Fund due to the creation of new judgeships (\$2,723,086 for Personal Services, \$69,750 for Operating Expenses, and \$727,677 for Capital Outlay).

b/ Per S.B. 07-55, these appropriations include increases totaling \$4,186,071 (\$2,901,319 for Vicims Compensation and \$1,284,752 for Victims Assistance) for crime victim services.

c/ Prior to FY 2008-09, this line item was named "Mandated Costs".

(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. The cash funds exempt appropriations were from cash fund reserves and cost recoveries (now classified as cash funds) and transfers from other departments (now classified as reappropriated funds).

Personal Services	46,216,939	49,504,928	60,889,030	69,073,805	68,336,008	68,336,008	
FTE	<u>781.9</u>	<u>835.7</u>	<u>1,081.0</u>	<u>1,131.4</u>	<u>1,129.8</u>	<u>1,129.8</u>	
General Fund	43,981,078	45,676,920	52,000,053	59,761,002	59,107,302	59,107,302	JUD DI 2
FTE	751.9	768.0	927.1	977.5	975.9	975.9	JUD DI 2
Cash Funds	2,235,861	3,828,008	8,888,977	9,312,803	9,228,706	9,228,706	
FTE	30.0	67.7	153.9	153.9	153.9	153.9	
Operating Expenses	<u>1,939,680</u>	<u>2,081,402</u>	<u>2,651,702</u>	<u>2,749,982</u>	<u>2,738,962</u>	<u>2,738,962</u>	
General Fund	1,844,115	1,963,799	2,244,603	2,342,883	2,331,863	2,331,863	JUD DI 2
Cash Funds	95,565	117,603	407,099	407,099	407,099	407,099	
Capital Outlay - GF	304,903	123,872	381,564	224,832	168,604	168,604	JUD DI 2

	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09		Change	
	Actual	Actual	Approp.	Request	Staff Rec. Old Format	Staff Rec. New RF Format	Requests
Offender Services - CF	3,042,290	0	0	0	0	0	
FTE	31.5	0.0	0.0	0.0	0.0	0.0	
Offender Treatment and Services	<u>0</u>	<u>5,062,494</u>	<u>6,294,290</u>	<u>8,607,023</u>	<u>8,607,023</u>	<u>8,607,023</u>	
General Fund	0	487,193	487,193	487,193	487,193	487,193	
Cash Funds	0	3,663,767	3,824,884	5,824,884	5,824,884	7,807,097	JUD DI 5
CFE/RF	0	911,534	1,982,213	2,294,946	2,294,946	312,733	JUD BA 2
Electronic Monitoring/Drug Testing	<u>503,022</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	446,605	0	0	0	0	0	
Cash Funds	56,417	0	0	0	0	0	
Alcohol/Drug Driving Safety Program - CF	4,302,904	4,825,499	In FY 2007-08, funding for this program was transferred to the Probation Division's Personal Services and Operating Expenses line items.				
FTE	73.3	70.7					
Drug Offender Assessment - CF	750,132	0	0	0	0	0	
FTE	11.5	0.0	0.0	0.0	0.0	0.0	
Substance Abuse Treatment- CF	819,411	0	0	0	0	0	
Victims Grants - CFE/RF	334,081	315,591	882,821	882,821	400,000	400,000	
FTE	17.3	17.3	17.3	17.3	17.3	17.3	
S.B. 91-94 - CFE/RF	1,248,378	1,438,814	1,705,921	1,906,837	1,906,837	1,906,837	
FTE	25.0	25.0	25.0	25.0	25.0	25.0	

	FY 2005-06	FY 2006-07	FY 2007-08	Request	FY 2008-09		Change Requests
	Actual	Actual	Approp.		Staff Rec. Old Format	Staff Rec. New RF Format	
S.B. 03-318 Community Treatment							
Funding - GF	0	0	2,200,000	2,200,000	2,200,000	2,200,000	
Sex Offender Assessment - CF	192,597	0	0	0	0	0	
Genetic Testing - GF	1,480	0	0	0	0	0	
Federal Funds and Other Grants	1,993,387	2,248,717	4,663,739	4,663,739	4,663,739	4,663,739	
FTE	<u>32.3</u>	<u>32.3</u>	<u>32.3</u>	<u>32.3</u>	<u>32.3</u>	<u>32.3</u>	<u>32.3</u>
Cash Funds	731,230	982,088	1,690,000	1,690,000	1,690,000	2,605,422	
FTE	2.0	2.0	2.0	2.0	2.0	2.0	
CFE/RF	294,898	471,968	1,737,985	1,737,985	1,737,985	822,563	
FTE	17.8	17.8	17.8	17.8	17.8	17.8	
Federal Funds	967,259	794,661	1,235,754	1,235,754	1,235,754	1,235,754	
FTE	12.5	12.5	12.5	12.5	12.5	12.5	
							Recommd. v. Approp.
TOTAL - Probation	61,649,204	65,601,317	79,669,067	90,309,039	89,021,173	89,021,173	11.7%
FTE	<u>972.8</u>	<u>981.0</u>	<u>1,155.6</u>	<u>1,206.0</u>	<u>1,204.4</u>	<u>1,204.4</u>	<u>4.2%</u>
General Fund	46,578,181	48,251,784	57,313,413	65,015,910	64,294,962	64,294,962	12.2%
FTE	751.9	768.0	927.1	977.5	975.9	975.9	5.3%
Cash Funds	12,226,407	13,416,965	14,810,960	17,234,786	17,150,689	20,048,324	35.4%
FTE	148.3	140.4	155.9	155.9	155.9	155.9	0.0%
CFE/RF	1,877,357	3,137,907	6,308,940	6,822,589	6,339,768	3,442,133	-45.4%
FTE	60.1	60.1	60.1	60.1	60.1	60.1	0.0%
Federal Funds	967,259	794,661	1,235,754	1,235,754	1,235,754	1,235,754	0.0%
FTE	12.5	12.5	12.5	12.5	12.5	12.5	0.0%

	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09		Change Requests	
	Actual	Actual	Approp.	Request	Staff Rec. Old Format		Staff Rec. New RF Format
	Recommd. v. Approp.						
TOTAL - Judicial Department	242,716,953	269,393,258	308,046,924	342,657,946	337,744,770	337,744,770	9.6%
FTE	<u>2,855.2</u>	<u>2,980.7</u>	<u>3,335.4</u>	<u>3,507.8</u>	<u>3,507.3</u>	<u>3,507.3</u>	5.2%
General Fund	177,319,492	194,380,737	217,783,516	239,635,951	235,053,820	235,053,820	7.9%
FTE	2,426.0	2,548.1	2,827.1	2,894.5	2,892.0	2,892.0	2.3%
Cash Funds	58,810,591	67,436,234	77,438,682	89,992,428	90,152,186	94,404,300	21.9%
FTE	346.6	350.5	426.2	531.2	533.2	533.2	25.1%
CFE/RF	4,077,684	5,126,176	10,533,262	10,739,302	10,248,499	5,996,385	-43.1%
FTE	67.6	67.1	67.1	67.1	67.1	67.1	0.0%
Federal Funds	2,509,186	2,450,111	2,291,464	2,290,265	2,290,265	2,290,265	-0.1%
FTE	15.0	15.0	15.0	15.0	15.0	15.0	0.0%

(5) PUBLIC DEFENDER

Douglas Wilson, State Public Defender

This agency provides legal counsel for indigent defendants who are facing incarceration. Cash funds are received from private attorneys for training, and from a contract with Denver to provide services at its drug court. The cash funds exempt appropriation was federal grants transferred from the Department of Public Safety; this appropriation is now classified as reappropriated funds.

Personal Services	26,024,434	27,424,878	33,639,813	35,917,213	35,529,848	35,529,848	
FTE	<u>357.9</u>	<u>371.7</u>	<u>486.5</u>	<u>533.6</u>	<u>534.1</u>	<u>534.1</u>	
General Fund	25,961,044	27,361,488	33,414,813	a/ 35,692,213	35,304,848	35,304,848	
FTE	356.3	370.1	482.5	a/ 529.6	530.1	530.1	PDO DI 2 & 4
Cash Funds	63,390	63,390	225,000	225,000	225,000	225,000	
FTE	1.6	1.6	4.0	4.0	4.0	4.0	

	FY 2005-06	FY 2006-07	FY 2007-08	Request	FY 2008-09		Change Requests
	Actual	Actual	Approp.		Staff Rec. Old Format	Staff Rec. New RF Format	
Health, Life, and Dental - GF	1,133,947	1,546,367	1,806,462	2,642,260	2,642,260	2,642,260	
Short-term Disability	<u>32,805</u>	<u>27,805</u>	<u>31,517</u>	<u>42,789</u>	<u>40,831</u>	<u>40,831</u>	
General Fund	32,805	27,805	31,517	42,441	40,814	40,814	
Cash Funds	0	0	0	348	17	17	
Salary Survey	<u>720,235</u>	<u>843,026</u>	<u>934,562</u>	<u>1,346,899</u>	<u>1,346,899</u>	<u>1,346,899</u>	
General Fund	720,235	843,026	934,562	1,335,273	1,335,273	1,335,273	
Cash Funds	0	0	0	11,626	11,626	11,626	
Anniversary Increases	<u>0</u>	<u>0</u>	<u>403,490</u>	<u>477,544</u>	<u>477,544</u>	<u>477,544</u>	
General Fund	0	0	403,490	473,418	473,418	473,418	
Cash Funds	0	0	0	4,126	4,126	4,126	
S.B. 04-257 Amortization Equalization							
Disbursement (AED)	<u>48,828</u>	<u>178,868</u>	<u>282,846</u>	<u>536,393</u>	<u>492,072</u>	<u>492,072</u>	
General Fund	48,828	178,868	282,846	532,109	491,865	491,865	
Cash Funds	0	0	0	4,284	207	207	
S.B. 06-235 Supplemental Amortization							
Equalization Disbursement (SAED) - GF	<u>0</u>	<u>0</u>	<u>50,508</u>	<u>173,124</u>	<u>222,483</u>	<u>222,483</u>	
General Fund	0	0	50,508	171,753	222,386	222,386	
Cash Funds	0	0	0	1,371	97	97	

	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09		Change	
	Actual	Actual	Approp.	Request	Staff Rec. Old Format	Staff Rec. New RF Format	Requests
Operating Expenses	<u>1,035,314</u>	<u>1,095,764</u>	<u>1,126,800</u>	<u>1,148,982</u>	<u>1,143,882</u>	<u>1,143,882</u>	
General Fund	1,019,564	1,080,014	1,109,300	1,131,482	1,126,382	1,126,382	PDO DI 1
Cash Funds	15,750	15,750	17,500	17,500	17,500	17,500	PDO DI 1
Purchase of Services from GGCC - GF	12,449	12,633	18,453	18,453	0	0	pending
Multi-use Network - GF	200,063	209,236	235,797	0	0	0	PDO DI 3
Vehicle Lease Payments - GF	43,035	47,121	32,642	52,743	0	0	pending
Capital Outlay - GF	34,198	97,081	243,405	58,735	62,760	62,760	
Leased Space/Utilities - GF	2,412,730	2,572,318	3,455,226	4,517,992	4,305,439	4,305,439	PDO DI 1
Automation Plan - GF	1,006,768	863,391	489,746	1,208,213	894,768	894,768	PDO DI 3 & 4
Contract Services - GF	18,000	8,000	18,000	18,000	18,000	18,000	
Mandated Costs - GF	2,178,921	2,541,618	3,143,259	3,567,671	3,567,671	3,567,671	PDO DI 1
Grants - CFE/RF	57,317	84,040	8,547	78,237	78,237	78,237	

	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09		Change Requests	
	Actual	Actual	Approp.	Request	Staff Rec. Old Format		Staff Rec. New RF Format
							Recommd. v. Approp.
TOTAL - Public Defender	34,959,044	37,552,146	45,921,073	51,805,248	50,822,694	50,822,694	10.7%
FTE	<u>357.9</u>	<u>371.7</u>	<u>486.5</u>	<u>533.6</u>	<u>534.1</u>	<u>534.1</u>	9.8%
General Fund	34,822,587	37,388,966	45,670,026	51,462,756	50,485,884	50,485,884	10.5%
FTE	356.3	370.1	482.5	529.6	530.1	530.1	9.9%
Cash Funds	79,140	79,140	242,500	264,255	258,573	258,573	6.6%
FTE	1.6	1.6	4.0	4.0	4.0	4.0	0.0%
CFE/RF	57,317	84,040	8,547	78,237	78,237	78,237	815.4%

a/ Per H.B. 07-1054, this appropriation includes \$351,004 and 7.0 FTE to fund the increase caseload and courtrooms needing coverage due to the creation of new judges in this bill.

(6) OFFICE OF THE ALTERNATE DEFENSE COUNSEL

Lindy Frolich, State Alternate Defense Counsel

This agency provides legal counsel for indigent defendants in cases where the Public Defender is unable to provide representation due to a conflict of interest. The cash funds are monies received from private attorneys and investigators for training.

Personal Services - GF	440,489	452,718	563,488	652,321	663,976	663,976	ADC DI 1 & 2
FTE	5.0	5.0	6.5	7.5	7.5	7.5	ADC DI 1 & 2
Health, Life, and Dental - GF	11,743	20,693	31,496	45,809	45,809	45,809	
Short-term Disability - GF	568	455	505	705	707	707	
Salary Survey - GF	12,604	10,983	18,422	33,412	33,412	33,412	
Anniversary Increases - GF	0	0	7,300	8,382	8,382	8,382	

	FY 2005-06	FY 2006-07	FY 2007-08	Request	FY 2008-09		Change Requests
	Actual	Actual	Approp.		Staff Rec. Old Format	Staff Rec. New RF Format	
S.B. 04-257 Amortization Equalization Disbursement (AED) - GF	849	2,849	4,536	8,682	8,523	8,523	
S.B. 06-235 Supplemental Amortization Equalization Disbursement (SAED) - GF	0	0	810	2,785	3,854	3,854	
Operating Expenses	<u>46,945</u>	<u>96,837</u>	<u>66,080</u>	<u>67,505</u>	<u>67,030</u>	<u>67,030</u>	
General Fund	45,415	89,080	66,080	67,505	67,030	67,030	ADC DI 1 & 2
Cash Funds	1,530	7,757	0	0	0	0	
Capital Outlay	0	0	6,010	3,280	3,455	3,455	
Purchase of Services from GGCC - GF	0	950	1,537	1,134	0	0	pending
Leased Space - GF	26,285	40,382	32,772	35,991	35,991	35,991	
Training and Conferences	0	0	<u>28,000</u>	<u>28,000</u>	<u>28,000</u>	<u>28,000</u>	
General Fund			20,000	20,000	20,000	20,000	
Cash Funds			8,000	8,000	8,000	8,000	
Conflict of Interest Contracts - GF	13,283,794	16,201,867	19,374,826	21,698,121	21,698,121	21,698,121	ADC DI 3
Mandated Costs - GF	1,104,890	1,240,579	1,504,483	1,504,483	1,504,483	1,504,483	

	FY 2005-06	FY 2006-07	FY 2007-08	Request	FY 2008-09		Change Requests
	Actual	Actual	Approp.		Staff Rec. Old Format	Staff Rec. New RF Format	
Recommd. v. Approp.							
TOTAL - Alternate Defense							
Counsel	14,928,167	18,068,313	21,640,265	24,090,610	24,101,743	24,101,743	11.4%
FTE	<u>5.0</u>	<u>5.0</u>	<u>6.5</u>	<u>7.5</u>	<u>7.5</u>	<u>7.5</u>	<u>15.4%</u>
General Fund	14,926,637	18,060,556	21,632,265	24,082,610	24,093,743	24,093,743	11.4%
FTE	5.0	5.0	6.5	7.5	7.5	7.5	15.4%
Cash Funds	1,530	7,757	8,000	8,000	8,000	8,000	0.0%

(7) OFFICE OF THE CHILD'S REPRESENTATIVE

Theresa Spahn, Executive Director

This agency provides representation to children involved in the court system due to abuse and neglect, high-conflict divorce, or delinquency, who are legally entitled to appointed counsel. Counsel may take the form of guardians ad-litem or child family investigators.

Personal Services - GF	1,517,847	1,521,158	1,629,747	1,754,289	1,736,920	1,736,920	OCR DI 3
FTE	4.0	4.0	25.8	26.8	26.8	26.8	OCR DI 3
Health, Life, and Dental - GF	60,728	74,600	101,789	137,767	129,401	129,401	OCR DI 3
Short-term Disability - GF	1,969	1,516	1,836	2,158	2,086	2,086	OCR DI 3
Salary Survey - GF	46,254	40,544	53,159	91,733	91,733	91,733	
Anniversary Increases - GF	0	0	20,344	26,554	26,554	26,554	
S.B. 04-257 Amortization Equalization							
Disbursement (AED) - GF	2,814	12,321	16,474	26,552	25,136	25,136	OCR DI 3

	FY 2005-06	FY 2006-07	FY 2007-08	Request	FY 2008-09		Change Requests
	Actual	Actual	Approp.		Staff Rec. Old Format	Staff Rec. New RF Format	
S.B. 06-235 Supplemental Amortization Equalization Disbursement (SAED) - GF	0	0	2,942	8,632	11,365	11,365	OCR DI 3
Operating Expenses - GF	157,694	167,164	147,212	147,212	148,162	148,162	
Capital Outlay - GF	0	0	0	0	3,455	3,455	
Purchase of Services from GGCC - GF	1,025	1,040	1,464	1,464	0	0	pending
Leased Space - GF	127,133	130,949	135,840	137,880	137,880	137,880	
CASA Contracts - GF	20,000	20,000	20,000	20,000	20,000	20,000	
Training - GF	28,000	27,963	38,000	38,000	38,000	38,000	OCR DI 4
Court Appointed Counsel - GF	7,415,368	10,617,761	11,650,771	13,738,101	13,738,101	13,738,101	OCR DI 1 & 2
Mandated Costs - GF	24,014	26,342	11,228	26,228	26,228	26,228	OCR DI 55
							Recommd. v. Approp.
TOTAL - Office of the Child's Representative - GF	9,402,846	12,641,358	13,830,806	16,156,570	16,135,021	16,135,021	16.7%
FTE	4.0	4.0	25.8	26.8	26.8	26.8	3.9%

	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09		Change	
	Actual	Actual	Approp.	Request	Staff Rec. Old Format	Staff Rec. New RF Format	Requests
							Recommd. v. Approp.
JUDICIAL GRAND TOTAL	302,007,010	337,655,075	389,439,068	434,710,374	428,804,228	428,804,228	10.1%
FTE	<u>3,222.1</u>	<u>3,361.4</u>	<u>3,854.2</u>	<u>4,075.7</u>	<u>4,075.7</u>	<u>4,075.7</u>	5.7%
General Fund	236,471,562	262,471,617	298,916,613	331,337,887	325,768,468	325,768,468	9.0%
FTE	2,791.3	2,927.2	3,341.9	3,458.4	3,456.4	3,456.4	3.4%
Cash Funds	58,891,261	67,523,131	77,689,182	90,264,683	90,418,759	94,670,873	21.9%
FTE	348.2	352.1	430.2	535.2	537.2	537.2	24.9%
CFE/RF	4,135,001	5,210,216	10,541,809	10,817,539	10,326,736	6,074,622	-42.4%
FTE	67.6	67.1	67.1	67.1	67.1	67.1	0.0%
Federal Funds	2,509,186	2,450,111	2,291,464	2,290,265	2,290,265	2,290,265	-0.1%
FTE	15.0	15.0	15.0	15.0	15.0	15.0	0.0%

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 the state Probation Program. The ***Public Defender's Office*** and the ***Office of Alternate Defense Counsel*** provide legal representation for indigent criminal defendants. Such cases are first assigned to the Public Defender's Office, 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 (such as those involved in dependency and neglect cases), and is responsible for ensuring quality representation.

Decision Item Requests

The table below summarizes all decision items submitted by the Judicial Branch agencies and provides the page number on which each is addressed.

Summary of Judicial Branch Decision Item Requests

DI #	Description	GF	CF or RF	Total	FTE	Page
JUD 1	Additional Trial Court Staff	\$42,202	\$1,320,282	\$1,362,484	28.6	31
JUD 2	Additional Probation Staff	\$3,312,555	\$0	\$3,312,555	50.4	42
JUD 3	Judge Compensation	\$1,172,896	\$0	\$1,172,896	0.0	61
JUD 4	Increase Court Appointed Counsel Rate	\$1,358,504	\$0	\$1,358,504	0.0	81
JUD 5	Increase Offender Services Cash Fund Spending Authority	\$0	\$2,000,000	\$2,000,000	0.0	92
JUD 6	Judicial Officer Education	\$0	\$176,783	\$176,783	2.0	36
JUD 7	Family Violence Grants	\$250,000	\$0	\$250,000	0.0	58
JUD 8	Probate Audit Response	\$188,717	\$0	\$188,717	3.0	38
JUD NP	Statewide: MNT	\$39,881	\$0	\$39,881	0.0	pending
JUD NP	Statewide: C-SEAP	\$22,279	\$0	\$22,279	0.0	pending
JUD NP	Statewide: Vehicle Lease	\$4,140	\$0	\$4,140	0.0	pending
JUD BA1	Telephone Lease-Purchase Increase	\$7,112	\$0	\$7,112	0.0	70
JUD BA2	H.B. 06-1171 DUI Offender Treatment	\$0	\$312,733	\$312,733	0.0	93
JUD BA3	Transfer From Mandated Costs to Trial Courts Operating Costs for Postage	\$0	\$0	\$0	0.0	79
JUD BA4	Enhance State Judicial Building Security	\$146,954	\$0	\$146,954	0.0	53
PDO 1a	Leased Space Base Increase	\$1,062,766	\$0	\$1,062,766	0.0	101, 103
PDO 1b	Mandated Costs Base Increase	\$424,412	\$0	\$424,412	0.0	101, 105
PDO 1c	Automation Plan Base Increase	\$230,970	\$0	\$230,970	0.0	101, 108
PDO 1d	Operating Expenses Base Increase	\$7,582	\$0	\$7,582	0.0	101, 107
PDO 2	Convert Contract Staff to FTE	\$0	\$0	\$0	30.0	112
PDO 3	MNT/Automation Plan Refinance	(\$92,577)	\$0	(\$92,577)	0.0	109
PDO 4	Cyber Security Initiative	\$313,445	\$0	\$313,445	0.5	111

DI #	Description	GF	CF or RF	Total	FTE	Page
ADC 1	Increase Evaluation & Training Staff Attorney to Full Time	\$46,079	\$0	\$46,079	0.5	120
ADC 2	Add Support Services Staff	\$22,296	\$0	\$22,296	0.5	122
ADC 3	Increase Court Appointed Counsel Rate	\$2,323,295	\$0	\$2,323,295	0.0	81
OCR 1	Court Appointed Counsel Base Increase	\$548,230	\$0	\$548,230	0.0	134
OCR 2	Increase Court Appointed Counsel Rate	\$1,539,100	\$0	\$1,539,100	0.0	81
OCR 3	Additional Staff Attorney	\$64,293	\$0	\$64,293	1.0	127
OCR 4	Training Base Increase	\$10,000	\$0	\$10,000	0.0	132
OCR 5	Mandated Costs Base Increase	\$15,000	\$0	\$15,000	0.0	137
	Totals	\$13,060,131	\$3,809,798	\$16,869,929	116.5	

General Fund Overview

The Branch requested a General Fund increase 10.2 percent over its current appropriation. Staff is recommending a General Fund increase of \$26.9 million, a 9.0 percent increase over the current appropriation. Staff General Fund recommendations are summarized on the table on the following page. Staff recommendations do not include any funding for several lines for which common policy decision making is still outstanding, such as Workers' Compensation, Payments to Risk Management, Multi-Use Network Payments, and legal services rates.

If all staff recommendations are approved, and if the outstanding common policies are funded at the requested levels, the Branch will receive a General Fund increase of \$29.5 million or a 9.9 percent increase over the current fiscal year. It should be noted that in this scenario, technical changes and common policies would be responsible for 5.6 percent of the General Fund increase, and decision items for 4.3 percent.

Staff Recommended General Fund Changes

Change ^a	Description	Dollar Change from FY 2007-08 Approp	% Change from Approp
	FY 2007-08 GF Appropriation	298,916,613	
DI	JUD DI #4, ADC DI #3, OCR DI #2 (CAC Rate Increase)	5,220,899	1.75%
DI	JUD DI #2 (Probation Staff)	3,140,616	1.05%
DI	JUD DI #3 (Judge Salaries)	2,391,419	0.80%
DI	PDO DI #1 (Base Increases) ^b	1,513,178	0.51%
DI	OCR DI #1 (Court Appointed Counsel Base Increase)	548,230	0.18%
DI	OCR DI #3 (Staff Attorney)	59,136	0.02%
DI	PDO DI #4 (Cyber Security)	49,975	0.02%
DI	ADC DI #1 (Eval/Traning Staff)	49,694	0.02%
DI	ADC DI #2 (Support Staff)	21,659	0.01%
DI	OCR DI #5 (Mandated Costs Base Increase)	15,000	0.01%
DI	Miscellaneous JUD DI ^c	5,125	0.00%
DI	PDO DI #3 (MNT/Automation Plan Refinance)	(61,746)	(0.02)%
Tech	FY 2007-08 Salary Survey	10,004,635	3.35%
Common	FY 2008-09 HLD Common Policy Change	4,450,749	1.49%
Common	FY 2008-09 AED & SAED Policy Change ^d	2,201,539	0.74%
Tech	80% of FY 2007-08 PBP Awards	1,526,987	0.51%
Tech	Annualize FY 2007-08 Decision Items	853,269	0.29%
Tech	FY 2008-09 Impact of H.B. 07-1054	747,736	0.25%
Common	FY 2008-09 PBP Common Policy Change	58,487	0.02%
Common	FY 2008-09 STD Common Policy Change	38,802	0.01%
Common	1.0 Percent Personal Services Base Reduction	(2,081,221)	(0.70)%
Common	Items Pending Common Policy Decisions ^e	(2,693,015)	(0.90)%
Tech	Deduct FY 2007-08 One-time Costs	(786,086)	(0.26)%
Common	FY 2008-09 SS Common Policy Change	(260,873)	(0.09)%
Tech	Miscellaneous Technical Changes ^f	(162,339)	(0.05)%
	FY 2008-09 GF Recommendation	325,768,468	

The Summaries Below Reflect Staff Recommendations At Figure Setting (with several common policy items pending)		
a	Recommended GF Change	26,851,855
b	% Change in GF	9.0%
c	% GF Increase Attributable to Decision Items	4.3%
d	% GF Increase Attributable to Technical Changes & Common Policies^g	4.7%
The Summaries Below Assume the Pending Common Policy Items Receive Appropriations Equal to the Request		
e	Total GF Appropriation	328,461,483
f	Recommended GF Change	29,544,870
g	% Change in GF	9.9%
h	% GF Increase Attributable to Decision Items	4.3%
i	% GF Increase Attributable to Technical Changes & Common Policies	5.6%

^a Changes are classified as either decision items (DI), technical changes (Tech), or common policy changes (Common).

^b PDO DI 1 includes the following increases: \$850,213 for Leased Space; \$424,412 for Mandated Costs; \$230,971 for Automation Plan; and \$7,582 for Operating Expenses.

^c These decision items include: JUD DI 1, Trial Courts Staff (a \$1,037 reduction); JUD DI 8, Probate Audit Response (a \$950 reduction); and JUD budget amendment 1, Lease Purchase (a \$7,112 increase).

^d The recommendations, based on common policy decision making, are \$1,144,282 for AED and \$1,057,527 for SAED.

^e Line items still pending common policy decision making are Workers' Compensation, Payments to Risk Management, Vehicle Lease, Purchase of Services from GGCC, Multi-use Network Payments, Communication Services, and the Legal Services blended rate.

^f These changes include reductions of \$281,565 in the estimated funding needed for Retired Judges; \$30,000 for Appellate Reports; and \$1,429 for the administration of the Sex Offender Surcharge Fund. These reductions are partially offset by increases of \$103,969 for Leased Space escalators; \$33,982 for adjustments to the Judicial/Heritage contract; \$10,385 for District Attorney Mandated Costs; and \$2,319 due to changes in the state indirect cost plan.

Judicial Department Staffing Requests

The Judicial Department submitted four decision items for FTE increases and requested funding for the second year of H.B. 07-1054, which created new judgeships. Since these requests affect multiple line items throughout the budget, staff is presenting them first. Staff recommendations are built into the figure-setting recommendations for each line item. If the Committee approves a different funding level than what is recommended, staff will make the appropriate adjustments when drafting the Long Bill.

The table below outlines the Judicial Department requests that are presented before the figure-setting recommendations by division.

DI #	Description	GF	CF or RF	Total	FTE	Page
Trial Court Requests						
JUD 1	Additional Trial Court Staff	\$42,202	\$1,320,282	\$1,362,484	28.5	31
JUD 6	Judicial Officer Training	\$0	\$176,783	\$176,783	2.0	36
JUD 8	Probate Audit Response	\$188,717	\$0	\$188,717	3.0	38
	2nd Year Funding for H.B. 07-1054	\$747,736	\$6,402,028	\$7,149,764	105.6	41
Probation Request						
JUD 2	Additional Probation Staff	\$3,312,555	\$0	\$3,312,555	50.4	42

**JUD DI #1: TRIAL COURTS STAFF
\$1.4 MILLION (\$1.3 MILLION CF & \$42,000 GF) AND 28.6 FTE**

The Department is requesting an increase of \$1,362,484 (\$42,202 General Fund and \$1,320,282 cash funds) and 28.8 FTE. The FTE are comprised of 28.0 Court Clerk FTE, 0.3 IT staff FTE, and 0.3 Human Resources FTE.

Background. This request reflects an on-going need for trial court staff as cases filings continue to increase. Due to the state's budget crisis in FY 2003-04, 129 trial court staff were eliminated and staffing fell from 95 percent to below 85 percent of full need. In response, the Department has tried to maximize its resources, streamline procedures, and increase its reliance on technology. Part of this effort includes courts focusing their resources on cases related to public safety and child welfare. This prioritization has allowed the courts to hold dispositions in criminal and child welfare cases within acceptable time frames, but has resulted in increased delays for many civil cases.

Weighted Caseload Model. Staffing need is calculated using a weighted caseload model. This model was created by conducting time studies that require staff to keep detailed records of how much time they spend on different functions related to each case they process. The data is used to calculate the average time needed to process each type of case. These average case processing times are multiplied with the projected caseload by case type to estimate the total staffing time required. Staffing need is determined by dividing total staffing time by the amount of time an FTE has to work on case processing. This process is conducted at both the county and district court level for each judicial district and the results summed to generate the total court staffing needs of the Department.

Request. In February 2006, the Judicial Department presented the General Assembly with a multi-year plan to address understaffing that would allow the Department to reach full staffing by FY 2010-11. This request is part of that plan. The table below shows actual staffing levels for FY 2004-05 through FY 2006-07, and projections for FY 2007-08 through FY 2010-11. The table assumes the Department will get 28.0 new staff each year through decision items and the staff anticipated from H.B. 07-1054. Based on these assumptions (and the Department's assumptions about caseload growth), the trial courts are projected to reach full staffing by FY 2009-10.

Trial Court Staffing, FY 2004-05 to FY 2010-11 (est.)^a

		FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11
		Actual	Actual	Actual	(Est.)	(Est.)	(Est.)	(Est.)
1	Case Filings	740,068	746,854	741,652	763,140	777,383	815,768	841,289
2	Case Terminations ^a	723,696	743,904	733,025	65.0	86.0	86.0	28.0
3	Trial Court Staff Appropriation ^b	1,183	1,257	1,337	1,402	1,488	1,574	1,602
5	Change in Staff from Prior Year				65	86	86	28
6	Trial Court Staff for Full Staffing Based on Caseload Model	1,421	1,462	1,434	1,491	1,534	1,574	1,591
7	<i>Staffing Deficit (row 3 - row 6)</i>	-238	-205	-97	-89	-46	0	11
8	<i>Percent of full staffing (row 3 / row 6 * 100)</i>	83.3%	86.0%	93.2%	94.0%	97.0%	100.0%	100.7%

^a The Department does not forecast the number of terminations. Over the past 5 years, the average termination rate has been 99 percent of filings.

^b The Trial Court Staff Appropriations for FY 2008-09 and FY 2009-10 assume the Department receives 86.0 new staff each year: 28.0 from the Long Bill and 58.0 from H.B. 07-1054. For FY 2010-11, the assumption is the Department receives 28.0 new staff through the Long Bill.

Source Data:

Row 1 and 2: Actual filing and termination data taken from the Colorado Judicial Branch Annual Statistical Reports.

Row 4: Staff FTE data is calculated by applying filings to the current weighted caseload model for trial court support along with policy decisions that determine the need for court reporters, law clerks, family court facilitators, and administrative staff.

Staff Analysis for Court Staff. Changes in caseload growth and the addition of new staff through both decision items and special bills raised staffing levels to an estimated 94.0 percent in FY 2007-08. This staffing level is much better than what was anticipated at this time last year, when projections indicated that the addition of 28 new staff per year through FY 2010-11 would keep staffing levels at approximately 88 percent of full staffing. With terminations holding at 99 percent of filings, it appears that staffing at current levels is sufficient to keep up with the current level of filings. However, as filings are expected to continue to grow, and there are case backlogs in many courts that still need to be addressed, **staff recommends the requested 28.0 additional court staff.**

Support Staff Requests

As the Department's number of FTE increases, it is seeking to maintain a certain level of support for basic business functions, including human resources (HR) and information technology (IT) support. Therefore, the Judicial Department is requesting an increase in HR and IT support staff with decision items that increase the number of FTE by 25 or more. This policy affects two decision items: this decision item for 28.0 additional trial courts staff, and JUD DI #2 for 48.8 additional Probation FTE.

Human Resources Staff Request. The Judicial Department's HR functions are largely decentralized: it has a central HR staff of 9.3 FTE, and because it has a separate personnel system, it receives no HR support from the Department of Personnel and Administration. Judicial's HR staff provides training to Chief Justices, District Administrators, Chief Probation Officers, and staff in all areas related to employees, including benefits, Judicial Branch policies and procedures (including Branch personnel rules), laws relating to workplace standards (such as the Americans with Disabilities Act; Fair Labor Standards Act; Family and Medical Leave Act; Civil Rights Act), and issues such as sexual harassment and discrimination. The HR staff also provides advice, guidance, and training in the areas of employee recruitment, hiring, motivation, discipline, and workforce development.

According to the 2005 Human Capital Benchmarking Study conducted by the Society for Human Resources Management, the average ratio of HR staff to employees nationally is 1:82. For comparison, of the 16 state agencies for which data was provided in 2006,¹ the average HR to staff ratio was 1:125, with a range of 1:17 (Governor's Office) to 1:354 (Department of Corrections). In FY 2005-06, Judicial's HR staff ratio was 1:500. Over the next two years, the Legislature approved 3.3 new HR FTE, which reduced the HR staffing ratio to approximately 1:360 in FY 2007-08.²

For this decision item seeking 28.0 new court staff FTE, the Department is also requesting 0.3 HR staff. This request is at a ratio of 1 HR staff to 100.0 new FTE, which is slightly less than the 1:82 national average, but greater than the average of 1:125 found for state agencies in 2006.

¹ The agencies not included are the Legislature, and the Departments of Higher Education, Personnel and Administration, Revenue, and Transportation.

² For FY 2007-08, Judicial was appropriated 3,335.4 FTE (since some are part-time, there are actually more individuals). With 9.3 HR staff, the HR to staff ratio is 1:358.6.

Information Technology Staff Request. IT support staff install hardware and software, solve hardware and software problems, update virus software, repair and install printers and other equipment, and provide general trouble-shooting assistance. Judicial's IT staff must support users - and their IT equipment - in every county in the state.

The Gartner Group, an international technology research and consulting organization, recommends a computer support position to staff ratio of 1:50. The Judicial Department, with over 3,330 FTE (plus other IT users that must be supported such as private probation providers) and 22.3 IT support staff, currently has a ratio of 1:150.

For this decision item seeking 28.0 new court staff FTE, the Department is also requesting 0.3 additional IT staff. This request is at a ratio of 1 IT staff to 100.0 new FTE, which is less than the 1:50 recommended average.

Staff analysis for support staff request. Support staff are not typically included in decision items for additional FTE. However, when FTE increases reach a certain magnitude, it is logical that additional support staff would be needed for basic business functions. Denying the requested HR and IT staff to address the incremental workload increase generated by a large number of new FTE would require existing staff to absorb a significant amount of work which may or may not be feasible.

Therefore, **staff recommends providing additional HR and IT support staff a ratio of 1:100 for decision items funding 25.0 or more FTE. Therefore, for this decision item, staff recommends the requested 0.3 HR and 0.3 IT FTE.** However, while the request is to use General Fund for these positions, staff recommends refinancing some General Fund in the Trial Courts Personal Services line item with monies from the Judicial Stabilization Cash Fund, and using that General Fund for these positions.³ Using this funding method, the entire recommendation can be cash funded.

³ Per Section 13-21-101 (1.5), C.R.S, monies in the Judicial Stabilization Cash Fund may only be used "for the expenses of the trial courts." If all appropriations from the Judicial Stabilization Cash Fund are made to the Trial Courts Division, it is clear that the intent of the statute is being followed.

Recommended Funding for JUD DI #1: Trial Courts Staff

Line Item		Request and
Total 0.3 HR FTE & 0.3 IT FTE 28.0 Court Clerk FTE	Total	1,322,952
	FTE	28.6
	General Fund	0
	FTE	0.6
	Cash Funds	1,322,952
	FTE	28.0
Courts Administration (HR Staff)		
Personal Services	Total - GF	17,541
	FTE	0.3
Operating Expenses	Total - GF	435
Capital Outlay	Total - GF	1,037
Courts Administration, Special Purpose		
Health, Life, and Dental	CF	187,152
Integrated Information Services (IT Staff)		
Personal Services	Total - GF	15,162
	FTE	0.3
Operating Expenses	Total - GF	435
Capital Outlay	Total - GF	1,037
Trial Courts (Court Staff)		
Personal Services	Total	976,813
	GF	(35,647)
	CF	1,012,460
	FTE	28.0
Operating Expenses	Total - CF	26,600
Capital Outlay	Total - CF	96,740

^a The total in this column does not match the request due to differences between the requested funding and staff calculations. One specific difference is that staff did not include funding for Short-term Disability, AED or SAED, which would have been \$1,176 , \$14,472 and \$6,785, respectively. These increases were so small relative to the total appropriations for those line items that staff believes the Department can absorb these costs with regular turnover.

During its hearing in December 2007, when asked to identify its three least effective programs, the Judicial Department identified two areas within the Trial Courts program that need improvement: (1) judicial officer education; and (2) the handling of probate cases. Both of these areas are addressed in the decision items that follow.

**JUD DI #6: JUDICIAL OFFICER EDUCATION
\$177,000 CF AND 2.0 FTE**

The Department is seeking an increase of \$176,783 cash funds spending authority from the Judicial Stabilization Cash Fund, and 2.0 FTE, to be able to develop and provide additional judicial officer educational opportunities.

Background. As the court system grows to meet increasing demands court users and case types become more complex, judges need to be kept current on a wide range of often complex and technical issues, including specific areas of law, case management, technology, and treatment and sentencing options. Currently the Department has 2.0 FTE who provide judicial officer education. Each year, they typically are able to provide two three-day conferences, New Judge Orientation (five days), Advanced New Judge Orientation (three days), and approximately four other one day programs.

While these FTE can provide some training opportunities, they are not able to meet the growing demands of the system. For example, since each training is only provided once a year, a new judge that misses orientation must try to manage their new duties with no training, which puts the judge, staff, and the public at a disadvantage (since new judges are often appointed to dockets outside their area of expertise, they may need training in a new field of law; additionally, being an effective judge requires people to be adept at both time and people management). For sitting judges, challenges occur when they rotate into other divisions within their court. Emerging areas of law and legislative changes must also be adapted to regularly.

The Department anticipates that the requested FTE would enable it expand beyond what it now can offer and provide more frequent training sessions, develop programs addressing a more broad set of judicial issues, and develop "just in time" learning opportunities (such as on-line tutorials on specific case types, i.e., death penalty or sex offenders). The Department identified the following subject areas where its judicial education program needs expansion:

- *New judge training* : Trial & courtroom management; caseflow management; procedures; substantive issues; technology.
- *Speciality Court Issues*: Domestic relations and family and juvenile matters; domestic violence; probate; drug court; business law and complex litigation; elder law.

- *Continuing Judicial Education and Development:* The creation of a Judicial College with a substantive focus for judges mid-career; court system improvements; vicarious trauma, burnout and stress management; ethics and fairness; courts and community; law and literature.
- *Specific Performance Issues:* Technical assistance; e-filing; electronic assisted trials; evidence; individual education plans and follow-up; regional or group plans.

Staff Analysis. The need to train new judges is great: in addition to regular turnover, H.B. 07-1054 authorized 43 additional judges between FY 2007-08 and FY 2009-10. Well trained judges are critical to the fair provision of justice in the state's courts, and efficient judges help move cases through in a more timely manner (reducing or preventing backlogs and the need for additional judicial staff). Therefore, **staff recommends an increase of 2.0 FTE, as requested, and \$165,047 cash funds spending authority from the Judicial Stabilization Cash Fund.** Calculations for this recommendation are provided in the table below.

Recommended Funding for JUD DI #6: Judicial Officer Education

Trial Courts Line Item		Request and Recommendation ^a 2.0 Education Specialist FTE
Total	Total - CF	165,047
	FTE	2.0
Personal Services	Total - CF	153,097
	FTE	2.0
Operating Expenses	Total - CF	3,900
Capital Outlay	Total - CF	8,050

^a The total in this column also does match the request due to differences between the requested funding and staff calculations.

JUD DI #8: PROBATE AUDIT RESPONSE
\$189,000 GF AND 3.0 FTE

The Department is requesting \$188,717 General Fund and 3.0 FTE to continue to improve the processing and oversight of probate cases.

Probate Cases. Probate cases deal with: (1) the wills, estates, or affairs of decedents; (2) affairs related to trust agreements and trust beneficiaries; and (3) the affairs of minors and missing, protected, and incapacitated persons who are incapable of caring for themselves or making their own decisions. Colorado courts handle probate matters in accordance with the Probate Code, established in Title 15, Articles 10 through 17, C.R.S. Probate matters are distinguished from other judicial proceedings in that for all probate cases, there is an appointee entrusted with fiduciary responsibility.

2006 Probate Audit Report. The 2006 Legislative Audit Committee requested an audit of probate case handling. The audit report focused on protective proceedings, a sub-class of the probate caseload. Protective proceedings are those cases where a petition is filed for the appointment of a conservator or guardian. Conservators are appointed to oversee the financial affairs of a protected person, while guardians are appointed to oversee the health and safety of an incapacitated person. Conservators or guardians are appointed by the Court (after a full due process hearing if the issue is contested) to make various on-going decisions, in many cases over periods of years, on behalf of a ward.⁴

The audit findings and recommendations focused on five areas. Recommendations included:

- Improving the consistency and effectiveness of guardians and conservators plans and reports by establishing review procedures; requiring guardians and conservators to maintain detailed information on fees and expenditures; and developing a risk-based model for reviewing higher-risk guardian and conservator cases;
- Considering options for ensuring that fees charged by guardians and conservators are reasonable, that policies for determining reasonableness are consistently applied by the courts, and that guardians and conservators be required to provide a detailed accounting of their fees and services;
- Improving procedures for ensuring that guardians and conservators are qualified to perform their responsibilities, including the development of training requirements and minimum qualifications;

⁴ Other types of probate appointees are personal representatives (a person appointed by a decedent, via his or her will, to distribute the estate's assets) and trustees (a person appointed by a trust agreement to safeguard, invest, and distribute the trust's valuable assets).

- Improving communications used to inform interested parties of their rights and responsibilities; and
- Strengthening controls over the management of probate cases by making improvements to the court database.

The Protective Proceedings Task Force. In response to the audit, the Chief Justice established the Protective Proceedings Task Force to consider the issues raised and begin crafting solutions to those issues. The Task Force is comprised of a diverse membership, including judges, attorneys, other government officials, non-profit groups, and citizens. To date, this Task Force has standardized probate forms; completed a new set of case-handling procedures for clerk's office staff; considered various probate rule changes to simplify and streamline the processing and handling of these cases; and developed a manual for new appointees that clearly describes their responsibilities and will help them in performing their duties. The Task Force's final report has not yet been released, but is expected to include additional recommendations.

Request. The Department is seeking increases of \$188,717 General Fund and 3.0 FTE to continue implementing the recommendations of the audit and Task Force. Specifically, 1.0 FTE would be located in the SCAO and be responsible for:

- (1) Auditing cases that district staff have identified as problematic, but for which the district does not have relevant expertise; and
- (2) Providing statewide programmatic support in the probate area, as is currently done in other areas of law (these type of functions include administrative and technical support to the courts; providing central policy guidance; developing and implementing standards; and serving as an advocate and central point of contact for all protective proceedings related issues).

The other 2.0 FTE would be located at the district level to implement one- to two-year pilot projects to determine the staffing levels and type of staff needed to close the "monitoring gap" and otherwise respond to the audit and Task Force recommendations.

Staff Analysis. The Department believes it needs to be better prepared institutionally for an anticipated influx of probate cases (due to the aging population). Without the requested resources, it is unlikely that the Department will be able to implement the audit and Task Force recommendations completely or in a timely fashion. Specifically, the SCAO does not have the staffing resources to dedicate someone completely to the tasks the audit recommended (the State Court Administrator is currently handling probate case review). Additionally, without funding for the pilot programs, the Department will not be able to study the response necessary to close the monitoring gap at the district level. Therefore, ***staff recommends the requested 3.0 FTE.***

However, while the request is to provide General Fund support for these positions, staff recommends using funding from the Judicial Stabilization Cash Fund. Per Section 13-32-101 (1.5), C.R.S., this fund can only be used for the expenses of the trial courts. Of the requested FTE, 2.0 would be located in the courts and the third would be providing oversight and general assistance to the courts, so staff believes it would be appropriated to pay for these costs using this fund. The recommended funding is outlined in the table below.

Recommended Funding for JUD DI #8: Probate Audit Response

Line Item		Request and Recommendation ^a	
		1.0 Analyst FTE	2.0 Court Staff FTE
Total	Total	195,378	
	FTE	3.0	
	General Fund	0	
	FTE	1.0	
	Cash Funds	195,378	
	FTE	2.0	
Courts Administration			
Personal Services	Total - GF	64,314	
	FTE	1.0	
Operating Expenses	Total - GF	950	
Capital Outlay	Total - GF	3,455	
Trial Courts			
Personal Services	Total	117,849	
	GF	(68,719)	
	CF	186,568	
	FTE	2.0	
Operating Expenses	Total - CF	1,900	
Capital Outlay	Total - CF	6,910	

^a The total in this column does not match the request due to differences between the requested funding and staff calculations.

2ND YEAR OF H.B. 07-1054 NEW JUDGESHIPS

Beginning in FY 2007-08, H.B. 07-1054 (T. Carroll/Shaffer) created 43 new judgeships to be phased in over three years, and increased court-related fees starting July 1, 2007 to pay for most of the bill's costs. A summary of the schedule of the new judgeships is included in Appendix A on page 140.

The table below outlines the FY 2008-09 fiscal impact of the bill as requested by the affected agencies. The requested funding for both the Judicial Department and Public Defender's Office are both less than the estimate in the final H.B. 07-1054 fiscal note. The difference is due to changes in common policies and assumptions. Typically for figure setting purposes, the second year impact of special bills is included as base funding. Therefore, the figure setting recommendations for each affected line item include the funding shown in the table below.

Summary of Second Year Impact of H.B. 07-1054					
Division/Agency	Line Item	GF	CF	TOTAL	FTE
Supreme Court/COA	Personal Services	\$0	\$986,825	\$986,825	13.5
	Operating Expenses	\$0	\$22,350	\$22,350	0.0
	Capital Outlay	\$0	\$229,662	\$229,662	0.0
Trial Courts	Personal Services	\$0	\$4,500,770	\$4,500,770	75.0
	Operating Expenses	\$0	\$121,000	\$121,000	0.0
	Capital Outlay	\$0	\$541,421	\$541,421	0.0
Public Defender	Personal Services	\$680,451	\$0	\$680,451	17.1
	Operating Expenses	\$8,550	\$0	\$8,550	0.0
	Capital Outlay	\$58,735	\$0	\$58,735	0.0
Staff Recommendation		\$747,736	\$6,402,028	\$7,149,764	105.6

**JUD DI #2: ADDITIONAL PROBATION STAFF
\$3.3 MILLION GF AND 50.4 FTE**

The request is for 50.4 FTE and \$3,312,555 General Fund to provide additional probation officer staff to reduce staffing ratios in regular probation. The requested FTE include 35.5 probation officers, 5.4 probation supervisors, 7.9 support staff, 0.6 HR staff, and 1.0 IT staff.

Probation Effectiveness and Caseload. Despite the significant role probation plays in the criminal justice system, there is relatively little known about its effectiveness or what the most effective-caseload size is. The general belief is that lower caseloads result in increased public safety. One study that supported this belief was conducted by the California Institute for County Government.⁵ This study compared probation caseload data and crime rates in every county in California. Controlling for other factors known to influence crime rates (such as the demographic characteristics of the population, economic conditions, and local law enforcement activities), the study found a statistically significant relationship between probation caseload and property crime rate, indicating that as caseloads shrink, so does the crime rate.

Workload Standards. Because there is so much variation between probation programs across the country, and because so many factors influence probation success rates (including the risk level of the offenders, availability of support services, and economic conditions), there is no national caseload standard. The American Probation and Parole Association encourages probation programs to differentiate between the supervision needs of different types of offenders, and develop individual caseload models based on workload.⁶ This is the methodology used by Colorado's probation program.

Colorado's probation program uses workload values based on the amount of work required for each case type. Low workload values (i.e. fewer hours) are assigned to minimum and medium risk offenders, higher workload values to maximum risk offenders, and the highest values to sex offenders. The program multiplies these workload values by the number of offenders in each category (based on historic data and caseload projections) to determine total supervision time needed. That total is divided by the number of hours available per probation office for supervision to determine its staffing needs.

In addition to providing supervision, another primary responsibility of the probation program is to conduct pre-sentence investigations (PSIs). PSI reports are used by judges when sentencing an offender. PSI reports include a probation officer's evaluation of the offender, the circumstances of the offense, a personal and criminal history of the offender, and a sentencing recommendation; victim

⁵ *Does Probation Work?*, California Institute for County Government Research Brief, September 2001.

⁶ *Caseload Standards.* The American Probation and Parole Association. <http://www.appa-net.org/about%20appa/caseload.htm>

feedback and opinions can also be included. The Department's weighted caseload model also incorporates the need for PSI writers.

Costs and Benefits. Adult regular probation has the lowest percentage of full staffing: 64.5 percent in FY 2006-07. Average caseloads are so high that the workload exceeds the number of hours available to perform the work. As a result, when offenders have technical violations (such as failure to report, failure to comply with treatment, or testing positive for drug use), probation officers do not have the time to fully use intermediate sanctions (such as increasing the frequency of drug testing, establishing a curfew or more restrictive curfew, requiring more frequent contact with the probation officer, conducting or increasing the frequency of home visits, and electronic home monitoring). Instead, these probation officers are more likely to revoke probation. Revocations result in the offender being sentenced to DOC or DYC, driving higher costs to the state. Increased probation revocation is also evident with probationers who abscond, as probation officers have less time to track them down and use intermediate sanctions.

In past years (see staff's FY 2005-06 figure-setting document for an example), staff has attempted to provide a detailed cost benefit analysis for probation staffing requests. However, the major shortcoming with this type of analysis for probation is that it appears to provide a definite amount of cost-avoidance, when in truth, there are so many factors that effect success and failure rates that the actual numbers rarely match the projections. Instead, staff believes that it is sufficient to recognize that both research (discussed above) and experience in the state's probation program (such as the increased technical revocations seen in regular probation and the greater success seen in programs with higher staffing rates⁷) illustrate the positive effect additional staff have on success rates.

Request. The Department is seeking an additional 48.8 probation staff (comprised on 35.5 regular probation officers, 5.4 probation supervisors, and 7.9 support staff). The workload targets for all probation officers is 173.3 hours per month (2,080 hours per year divided by 12 months). Projected average workload for adult regular probation officers in FY 2008-09 without these additional staff is 195.3 (an average caseload of roughly 121). If these staff are funded, the Department projects that workload can be reduced to an average of 184.3 per probation officer (an average caseload of roughly 114).

The table below summarizes historic and projected supervision workload, PSIs, and staffing resources. For FY 2008-09, the table assumes the 48.8 FTE probation staff requested are funded (the other 1.6 FTE requested are for HR and IT support).

⁷ According to the *Colorado Probation State of the State Report*, compiled by the State Court Administrator's Office and dated November 2007, the best success rates are seen in Juvenile Probation (where staffing has been directed to keep caseloads low) and, given the severity of the cases, in the specialized programs where caseload is capped.

Probation Workload and Staffing,^a FY 2004-05 to FY 2011-12 (est.)

		FY 04-05 Actual	FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Approp.	FY 08-09 (est. w/o new staff)	FY 08-09 (est. w/ requested staff)	FY 09-10 (est.)	FY 10-11 (est.)	FY 11-12 (est.)
1	Staffed Cases ^a	60,163	56,088	60,464	70,406	73,614	73,614	76,979	80,509	84,212
2	PSIs ^a	23,846	25,861	24,896	49,279	49,771	49,771	50,267	50,769	51,276
3	FTE Need	794.5	904.3	923.0	1,100.0	1,138.0	1,138.0	1,178.0	1,220.0	1,264.0
4	FTE Approp ^b	616.0	678.0	699.0	877.0	877.0	925.8	993.3	1060.8	1134.9
5	FTE Change from Prior Year					0.0	48.8	67.5	67.5	74.1
6	<i>Staffing Deficit (row 4 - row 3)</i>	<i>(178.5)</i>	<i>(232.7)</i>	<i>(231.8)</i>	<i>(223.0)</i>	<i>(261.0)</i>	<i>(210.6)</i>	<i>(183.6)</i>	<i>(157.6)</i>	<i>(127.5)</i>
7	<i>Percent Full Staffing</i>	<i>77.5%</i>	<i>74.9%</i>	<i>75.7%</i>	<i>79.7%</i>	<i>77.1%</i>	<i>81.5%</i>	<i>84.5%</i>	<i>87.1%</i>	<i>89.9%</i>

^a The significant increase in staffed cases and PSIs from FY 2006-07 to FY 2007-08 is due to the integration of the Alcohol/Drug Driving Safety (ADDS) program into the staffing model. Projections assume a 1.0 percent annual growth for juvenile PSI and supervision, a 1.0 percent annual growth for adult PSI, and a 5.0 percent annual growth for adult regular supervision. These assumptions were made based on historic caseload growth.

^b For FY 2008-09, the table assumes the 48.8 FTE probation staff requested are funded (the other 1.6 FTE requested are for HR and IT support). For FY 2009-10 and FY 2010-11, it assumes 67.5 new staff each year. For FY 2011-12, it assumes 74.1 new staff. These increases are based on the Department's revised Five-Year Plan.

Source Data:

Row 1 and 2: Actual cases and PSI data taken from the Colorado Judicial Branch Annual Statistical Reports.

Row 3: FTE need data is calculated by applying filings to the current weighted caseload model for probation staff.

The bottom row of the table shows the percent change in staffing percentages, assuming the FY 2008-09 decision item is approved and that future requests based on the Department's five-year plan are also approved. With the requested staffing increase, the current level of staffing (79.7 percent) will increase slightly in FY 2008-09 to 81.5 percent. The Department projects that full funding of the five-year plan would bring FTE to approximately 90 percent of full staffing.

Staff analysis. Probation research indicates that probation success (as measured by better outcomes and improved public safety) is driven by multiple factors, including: (1) the availability and use of evidence-based programs; (2) techniques used by probation officers; and (3) lower staff to probationer ratios. As reported in staff's FY 2008-09 briefing document, the Department continually works to train its probation officer on evidence-based practices and supervision techniques shown to improve success rates. For example, the "Probation Academy" provides continuing professional education opportunities for probation staff, and regular newsletters and white papers discussing evidence-based best practices are regularly distributed to all staff. Most treatment and other programs and services are paid for via offender fees, for which the Department routinely seeks increased spending authority. Additionally, beginning in FY 2007-08, the General Assembly also provided \$2.2 million for community-based treatment. If staff to probationer ratios can be reduced, then the state will be proactively working to achieve probation success on all fronts.

Therefore, **staff recommends the requested 48.8 probation FTE.** Primarily due to space issues, staff does not recommend funding more probation officers than requested, even though it would more fully staff the program. Last year the General Assembly approved 111.5 additional probation officers and a three-year increase in judges. Counties are required to provide the space for both probation offices and courtrooms, and several are currently short on space. In recognition of this problem, the Department proposes building its probation staff up more slowly over the next few years.

Staff's total recommendation is for 49.8 FTE and \$3.1 million General Fund. This recommendation includes funding for 0.5 HR and 0.5 IT FTE (the need for support staff when providing large staffing increases was discussed in more detail in JUD DI #1, Trial Courts Staff, on page 31). The recommended funding breakdown by line item is summarized below.

Recommended Funding for JUD DI #2: Additional Probation Officers

Line Item		Request and Recommendation ^a
Probation Officers		35.5
Probation Supervisors		5.4
Support Staff		7.9
HR Staff		0.5
IT Staff		0.5
Total	Total - GF	3,141,307
	FTE	49.8
Courts Administration (HR Staff)		
Personal Services	Total	29,236
	FTE	0.5
Operating Expenses	Total	725
Capital Outlay	Total	1,728
Administrative Special Purpose		
Health, Life and Dental	GF	324,174
Integrated Information Services (IT Staff)		
Personal Services	Total	25,270
	FTE	0.5
Operating Expenses	Total	725
Capital Outlay	Total	1,728
Probation (Probation Officers & Probation Support Staff)		
Personal Services	Total	2,501,857
	FTE	48.8
Operating Expenses	Total	87,260
Capital Outlay	Total	168,604

^a The total in this column does not match the request due to differences between the requested funding and staff calculations. One specific difference is that the Department requested 0.6 HR and 1.0 IT staff, but staff is only recommending 0.5 of each.

1) SUPREME COURT/COURT OF APPEALS

The Colorado Court of Appeals has 19 judges. It is not a trial court. The Court of Appeals is usually the first court to hear appeals of decisions made by Colorado district courts and Denver's probate and juvenile courts. In addition, it is responsible for reviewing the decisions of several state administrative agencies. Its determination of an appeal is final unless the Colorado Supreme Court agrees to review the matter.

The Colorado Supreme Court is the court of last resort or the final court in the Colorado court system. An individual who has appealed to the Court of Appeals and is still dissatisfied may ask the Supreme Court to review the case. In some instances, individuals can petition the Supreme Court directly regarding a lower court's decision. In addition to its legal duties, the Supreme Court has supervisory power over all other state courts and over all attorneys practicing law in Colorado.

Staffing Summary for the Supreme Court and Court of Appeals

Staffing Summary	FY 2006-07 Actual	FY 2007-08 Approp.	FY 2008-09 Request	FY 2008-09 Recomm.
Supreme Court Justices	7.0	7.0	7.0	7.0
Court of Appeals Justices	19.0	19.0	22.0	22.0
Admin./Support Systems	43.5	33.1	34.6	34.6
Law Clerks	32.3	48.0	54.0	54.0
Staff Attorneys	20.4	21.7	24.7	24.7
Library Personnel	4.3	3.7	3.7	3.7
<i>Subtotal - SC/COA PS line</i>	<i>126.5</i>	<i>132.5</i>	<i>146.0</i>	<i>146.0</i>
Grievance Committee	40.5	40.5	40.5	40.5
Continuing Legal Education	4.0	4.0	4.0	4.0
Law Examiner Board	8.2	8.2	8.2	8.2
<i>Subtotal - Committees</i>	<i>52.7</i>	<i>52.7</i>	<i>52.7</i>	<i>52.7</i>
<i>DIVISION TOTAL</i>	<i>179.2</i>	<i>185.2</i>	<i>198.7</i>	<i>198.7</i>

Personal Services

Staff recommends an appropriation of \$10,945,205 and 146.0 FTE. The recommendation fundin should be \$9,968,248 General Fund and \$976,957 cash funds. The recommendation includes increases of \$986,825 cash funds and 13.5 FTE for the second year impact of H.B. 07-1054. The source of cash funds is the Judicial Stabilization Cash Fund.

Summary of the Supreme Court/Court of Appeals Personal Services Recommendation						
	GF	CF	CFE/RF	FF	TOTAL	FTE
FY 2007-08 Long Bill	\$9,480,220	\$0	\$0	\$0	\$9,480,220	132.5
2nd Year of H.B.07-1054	\$0	\$986,825	\$0	\$0	\$986,825	13.5
FY 07-08 Salary Survey	\$536,640	\$0	\$0	\$0	\$536,640	0.0
80% FY 07-08 PBP	\$52,077	\$0	\$0	\$0	\$52,077	0.0
1.0 % Base Reduction	(\$100,689)	(\$9,868)	\$0	\$0	(\$110,557)	0.0
Staff Recommendation	\$9,968,248	\$976,957	\$0	\$0	\$10,945,205	146.0

Operating Expenses

Staff recommends an appropriation of \$243,412 comprised of \$153,062 General Fund and \$90,350 cash funds. The sources of cash funds are various fees and cost recoveries, and the Judicial Stabilization Cash Fund.

Summary of the Supreme Court/Court of Appeals Operating Expenses Recommendation					
	GF	CF	CFE/RF	FF	TOTAL
FY 2007-08 Long Bill	\$153,062	\$68,000	\$0	\$0	\$221,062
2nd Year of H.B.07-1054	\$0	\$22,350	\$0	\$0	\$22,350
Staff Recommendation	\$153,062	\$90,350	\$0	\$0	\$243,412

Capital Outlay

Staff recommends the requested appropriation of \$229,662 cash funds from the Judicial Stabilization Cash Fund for costs associated with the second year of new judgeships created under H.B. 07-1054.

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 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.

Staff recommends the requested continuing appropriation of \$4,700,000 and 40.5 FTE. The funding should be entirely cash funds from the Attorney Registration Fund (attorney registration fees and other fees). Formerly, part of the appropriation was reserves from the Attorney Registration Fund. Since those monies are not appropriated elsewhere, they should be reclassified as cash funds. 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. **Staff recommends the requested continuing appropriation of \$325,000 and 4.0 FTE.** The funding should be entirely cash funds from the Continuing Legal Education Cash Fund (attorney registration fees and other fees). Formerly, part of the appropriation was reserves from the Continuing Legal Education Cash Fund. Since those monies are not appropriated elsewhere, they should be reclassified as cash funds. 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. **Staff recommends the requested continuing appropriation of \$850,000 and 8.2 FTE.** The funding should be entirely cash funds from the Law Examiner Board Cash Fund (law examination application fees and other fees). Formerly, part of the appropriation was reserves from the Law Examiner Board Cash Fund. Since those monies are not appropriated elsewhere, they should be reclassified as cash funds. 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

Funding from this line item supports the Supreme Court Library, a public library located in the Judicial Building of the Judicial/Heritage Complex. **Staff recommends the requested continuing appropriation of \$500,000 cash funds.** The FTE associated with the library are appropriated through the Supreme Court/Court of Appeals Personal Services appropriation. The source of cash funds is 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

(A) Administration

Staffing Summary	FY 2006-07 Actual	FY 2007-08 Approp.	FY 2008-09 Request	FY 2008-09 Recomm.
Administration	19.4	21.3	21.3	22.3
Financial Services	19.7	19.5	19.5	19.5
Planning	11.6	12.5	12.5	12.5
Court / Human Services	8.5	9.0	9.0	9.8
<i>Subtotal - Admin PS Line</i>	<i>59.2</i>	<i>62.3</i>	<i>62.3</i>	<i>64.1</i>

Judicial Heritage Staff	3.0	3.0	3.0	3.0
Family Friendly Courts Program	0.5	0.5	0.5	0.5
Judicial Performance	1.0	1.0	1.0	1.0
Courthouse Security	0.0	1.0	1.0	1.0
<i>Subtotal - Other Admin Lines</i>	<i>4.5</i>	<i>5.5</i>	<i>5.5</i>	<i>5.5</i>

<i>DIVISION TOTAL</i>	<i>63.7</i>	<i>67.8</i>	<i>67.8</i>	<i>69.6</i>
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Personal Services

Staff recommends an appropriation of 64.1 FTE and \$5,217,789 comprised of \$4,102,540 General Fund and \$1,115,249 cash funds exempt. The recommendation includes funding to annualize new General Fund FTE for which only 11 months of funding was appropriated in FY 2007-08; JUD decision items #1 (Trial Courts Staff, page 31), #2 (Probation Staff, page 42), and #8 (Probate Audit Response, page 38). The 1.0 percent reduction was not applied to cash exempt funds as the source is indirect cost recoveries. The cash funds exempt appropriation was from indirect cost recoveries. Since these monies are not appropriated elsewhere, they should be reclassified as reappropriated funds.

Summary of Courts Administration, Administration Personal Services Recommendation						
	GF	CF	CFE/RF	FF	TOTAL	FTE
2007-08 Long Bill Approp.	\$3,823,254	\$0	\$1,117,568	\$0	\$4,940,822	62.3
FY 07-08 Salary Survey	\$158,812	\$0	\$0	\$0	\$158,812	0.0
80% FY 07-08 PBP	\$40,976	\$0	\$0	\$0	\$40,976	0.0
Annualize FY 07-08 DI	\$6,406	\$0	\$0	\$0	\$6,406	0.0
1.0 % Base Reduction	(\$40,318)	\$0	\$0	\$0	(\$40,318)	0.0
JUD DI #1: Trial Courts Staff	\$17,541	\$0	\$0	\$0	\$17,541	0.3
JUD DI #2: Probation Staff	\$29,236	\$0	\$0	\$0	\$29,236	0.5
JUD DI #8: Probate Audit Response	\$64,314	\$0	\$0	\$0	\$64,314	1.0
Statewide Indirect Cost Adjustment	\$2,319	\$0	(\$2,319)	\$0	\$0	0.0
Staff Recommendation	\$4,102,540	\$0	\$1,115,249	\$0	\$5,217,789	64.1

Operating Expenses

Staff recommends an appropriation of \$371,106, comprised of \$370,106 General Fund and \$1,000 cash funds. The recommendation includes funding for JUD decision items #1 (Trial Courts Staff, page 31), #2 (Probation Staff, page 42), and #8 (Probate Audit Response, page 38). The sources of cash funds are fees and cost recoveries.

Summary of Courts Administration Operating Expenses Recommendation					
	GF	CF	CFE/RF	FF	TOTAL
FY 2007-08 Long Bill	\$367,996	\$1,000	\$0	\$0	\$368,996
JUD DI #1: Trial Courts Staff	\$435	\$0	\$0	\$0	\$435
JUD DI #2: Probation Staff	\$725	\$0	\$0	\$0	\$725
JUD DI #8: Probate Audit Response	\$950	\$0	\$0	\$0	\$950
Staff Recommendation	\$370,106	\$1,000	\$0	\$0	\$371,106

Capital Outlay

Staff recommends an appropriation of \$6,220 General Fund which includes funding for JUD decision items #1 (Trial Courts Staff, page 31), #2 (Probation Staff, page 42), and #8 (Probate Audit Response, page 38).

Summary of Courts Administration Capital Outlay Recommendation					
	GF	CF	CFE/RF	FF	TOTAL
JUD DI #1: Trial Courts Staff	\$1,037	\$0	\$0	\$0	\$1,037
JUD DI #2: Probation Staff	\$1,728	\$0	\$0	\$0	\$1,728
JUD DI #8: Probate Audit Response	\$3,455	\$0	\$0	\$0	\$3,455
Staff Recommendation	\$6,220	\$0	\$0	\$0	\$6,220

**BUDGET AMENDMENT #4: ENHANCED SECURITY AT THE STATE JUDICIAL BUILDING
\$147,000 GENERAL FUND**

The request is for \$146,954 General Fund to increase security at the State Judicial Building.

Judicial Building Security Vulnerabilities. In October 2007, the Department of Public Safety, Office of Preparedness and Security, released the All Hazards Vulnerability Study: a wide-scale security assessment of the capital complex facilities. This study was done independently of the Judicial Department, but included the State Judicial Building. The threat analysis in the report identified key building vulnerabilities, including:

- Lack of access controls and intrusion detection alarms to prevent or mitigate unauthorized persons from entering key areas;
- Lack of proper security equipment and limited ability to respond to incidents;
- Lack of proper training to adequately allow for response to immediate threats; and
- Limited monitoring capability for dangerous persons and equipment.

Additionally, there has been an increase in direct threats against some of the members of the Supreme Court. Local law enforcement has been informed, and in response to the severity of the threats and the fact that the threatening individual is already on local watch lists, local law enforcement involved the FBI.

Current Security Measures. The Department contracts with the Department of Public Safety (DPS) to provide three unarmed guards from the State's Executive Security Unit (ESU) to provide a security presence at the building. Two of these guards are on-site providing security screening only, while the third is a roving guard who moves between capitol complex buildings. The Department believes that in light of the recent threats against members of the Supreme Court and the recent shooting incident at the Capitol, additional security is needed.

Request. The Department is requesting funding to provide an additional 1.5 armed State Patrol Officers to its existing contract with DPS. This funding would allow an armed officer to be on-site at all times, conducting random foot patrols, attending court proceedings, and assisting with other security-related functions (the other 0.5 officer would be needed to cover vacations, breaks, and other absences).

Vulnerability Study Recommendations. The primary recommendation of the DPS Vulnerability Study of the State Judicial Building (SJB) was the establishment of a SJB Steering Committee. It recommended that this committee include members from each office housed in the building, the

ESU, the Department of Personnel and Administration, and maintenance staff. The committee would make recommendations for continuity of operations, emergency response, and building security that are specific to the SJB. The report recommends that the first decision the committee makes is to choose the level of security required to make the SJB a safe place to work and visit.

Although the report does address security staffing, it is only one of a number of elements in security operations that was evaluated. The report does not specifically recommend the addition of a full-time armed guard on site. Instead, the report states that:

State security guards need to be properly equipped and trained to handle all of the likely hazards that can occur at the SJB to be truly effective security. If additional training and equipping of State Security guards are concerns then consider utilizing additional Troopers from the ESU section, or a combination of State troopers and security guards to accomplish comprehensive security.

The specific security staffing recommendation made in the report is for the Department to work with the ESU to develop an appropriate staffing model to provide adequate full-time security of the SJB. The report stated that if the SJB state security guard positions are to be utilized effectively, then adequate training and equipment will be needed. Additional security operations recommendations include:

- Consider creating an MOA/MOU with the local police and fire departments for increased visibility during and after-hours;
- Create plans to address multiple incidents that could occur at multiple state facilities, including the SJB facility;
- Ensure that threat intelligence is being continually gathered and assessed; and
- Ensure all employees receive new and ongoing SJB security policies and training.

Staff Analysis. Because this report was only received by the Department in February, it has not had time to form the steering committee as recommended. While the report does note that the current security guards lack necessary equipment and training to be truly effective in all hazard situations, it suggests that additional training and equipment for those guards may be sufficient. Additionally, 19 of the 20 key vulnerabilities identified in the report would *not* be addressed simply by adding an armed trooper. In addition to the vulnerabilities listed above, other vulnerabilities that the Department can address include the lack of:

- A written security strategy;
- Complete access control and intrusion detection alarms;
- A comprehensive identification procedure for employees and visitors;
- Staff training in security measures and concerns;
- A complete Emergency Response Plan and on-site emergency response kits; and
- Detailed Business Continuity Plans.

Other vulnerabilities identified in the report are due to building infrastructure and may be impossible or cost prohibitive to address, such as the large number of exterior windows, granite as the primary building material, and the inability to quickly shut down the HVAC system by building occupants in an emergency.

Clearly there are security concerns with the SJB, not the least of which is the fact that it is a very public building where often disgruntled individuals go to have their day in court. According to data compiled a few years ago by the Department, the building serves 70,000 to 80,000 people a year, including attorneys and law staff, appellants and appellees, law library visitors, law students, tourists, and others.

However, the Department has not had the time to fully evaluate the securities vulnerabilities identified in the DPS report and come up with a complete security strategy. It could be that if the Department mitigates the other vulnerabilities addressed in the report (many of which staff believes could be done within existing resources) and/or provides the suggested training and equipment for the current guards, the need for an armed guard may not be warranted. Therefore, *staff does not recommend this request.*

Judicial/Heritage Program

The Judicial Department is responsible for maintenance and other related services for the Judicial Building (Two East Fourteenth Avenue), and the Colorado History Museum (1300 Broadway), collectively known as the Judicial Heritage Center. Every year, the Judicial Branch and the Historical Society renew and sign a joint MOU which outlines the costs associated with running the facility. The cost agreement is based on square footage breakouts and reflects payments for custodial services, maintenance costs, personal services costs of the 3.0 maintenance staff, and other operating costs; each agency provides security for its part of the complex.

As the costs to run the facility change, the cost breakout between the Historical Society and the Judicial Branch change. Consequently, there are annual adjustments in the budget request to ensure that each agency is paying its fair share. This year, those changes resulted in the need for a \$33,982 General Fund increase (Judicial's share of the costs) and a commensurate reduction in the funding transferred from the Historical Society.

Staff recommends an appropriation of 3.0 FTE and \$599,815 comprised of \$357,949 General Fund and \$241,866 reappropriated funds. Staff did not apply the base reduction since this program has less than 20.0 FTE. The reappropriated funds are monies transferred from the Colorado Historical Society for its share of maintenance at the complex.

Summary of Courts Administration, Judicial/Heritage Complex Program Recommendation						
	GF	CF	CFE/RF	FF	TOTAL	FTE
FY 2007-08 Long Bill Approp.	\$317,852	\$0	\$275,848	\$0	\$593,700	3.0
FY 07-08 Salary Survey	\$4,551	\$0	\$0	\$0	\$4,551	0.0
80% FY 07-08 PBP	\$1,564	\$0	\$0	\$0	\$1,564	0.0
Judicial/Historical Society MOU Adjustment	\$33,982	\$0	(\$33,982)	\$0	\$0	0.0
Staff Recommendation	\$357,949	\$0	\$241,866	\$0	\$599,815	3.0

Family Friendly Courts

The Family Friendly Court program provides courts with a source of money to create facilities or services designed to meet the needs of families navigating the court system. The program is funded with a \$1.00 surcharge on traffic violations. The Judicial Department allocates money from the Family Friendly Court Program Cash Fund to judicial districts apply for funding for the creation, operation, and maintenance of family-friendly court facilities. Some of the programs and services pursued include daycare centers and child waiting rooms located in courthouses, and a voucher program where the court provides funding for families to use private daycare services while in court.

Staff recommends the requested continuing appropriation of \$375,000 cash funds and 0.5 FTE.

Formerly, the cash funds exempt appropriation was from reserves in the Family-friendly Court Program Cash Fund. However, since those monies are not otherwise appropriated, they should be reclassified as cash funds.

Judicial Performance Program

This funding is used for judicial performance commissions which are responsible under section 13-5.5-101, C.R.S., for administering “a system of evaluating judicial performance to provide persons voting on the retention of justices and judges with fair, responsible, and constructive information about judicial performance and to provide justices, judges, and magistrates with useful information concerning their own performances.” The FTE is for the director who: coordinates appointments to commissions; supports all commissions; serves as staff to the State Commission on Judicial Performance which meets monthly and oversees the program; trains Commission members; reviews all narrative profiles and coordinates publication of profiles in the Legislative Council's Blue Book; and develops and monitors policy changes to improve the program.

Senate Bill 08-54 (scheduled for Senate Appropriations on March 7) would create in statute the Office of Judicial Performance Evaluation. This bill would effectively put the much of the existing administrative functions in statute, as well as create new responsibilities for the office. Under the provisions of the bill, the office would be 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 commission.

The Legislative Council Staff Fiscal Note for S.B. 08-54 only identifies the incremental costs that the program will incur as a result of the structural and programmatic changes contained in the bill. It assumes that on-going funding for FY 2008-09 will be contained the Long Bill.

For FY 2007-08, this line item received a one-time supplemental appropriation of \$275,000 cash funds exempt. The increase was to pay for increased contract costs for the firm that conducts the evaluation surveys and compiles the results.

Staff recommends a total appropriation of 1.0 FTE and \$581,167 cash funds from the Judicial Performance Cash Fund. Staff did not include a 1.0 percent base reduction since the program has less than 20.0 FTE.

Summary of Courts Administration, Judicial Performance Program Recommendation						
	GF	CF	CFE/RF	FF	TOTAL	FTE
FY 2007-08 Long Bill	\$0	\$568,294	\$0	\$0	\$568,294	1.0
FY 2007-08 Supplemental	\$0	\$0	\$275,000	\$0	\$275,000	0.0
FY 07-08 Salary Survey	\$0	\$12,085	\$0	\$0	\$12,085	0.0
80% FY 07-08 PBP	\$0	\$788	\$0	\$0	\$788	0.0
Elimination of one-time funding	\$0	\$0	(\$275,000)	\$0	(\$275,000)	0.0
Staff Recommendation	\$0	\$581,167	\$0	\$0	\$581,167	1.0

Courthouse Capital/Infrastructure Maintenance

While counties are required by statute to provide facilities for the courts, Section 13-3-104, C.R.S., requires that the State pay for all operating expenses, including furnishings. 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.

From FY 1993-94 through FY 2003-04, the County Courthouse Furnishings appropriation ranged from a low of \$246,000 to a high of \$5,641,000, depending upon the number of projects. Due to the

state's budget crisis, the line item was cut by \$590,000 in FY 2002-03, and eliminated in FYs 2003-04 and 2004-05. 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 is to provide a consistent annual appropriation to assist the Department in its effort to manage the need for capital and infrastructure maintenance. **Staff recommends the requested continuing appropriation of \$1,000,000 General Fund.**

Courthouse Security

This program was created through S.B. 07-118 (Shaffer/King: Court Security Cash Fund). This bill created a \$5 surcharge on certain criminal and civil court filings and credited the money to the new Court Security Cash Fund. County-level local security teams are allowed to apply to the State Court Administrator's Office for grants from the fund to improve courthouse security. **Staff recommends the requested continuing appropriation of \$2,194,622 cash funds and 1.0 FTE.**

Family Violence Grants

This line item is used to provide grants to qualifying organizations that provide legal services to indigent victims of family violence. The Department submitted one decision item that affects this line item.

**JUD DI #7: FAMILY VIOLENCE GRANTS
\$250,000 GENERAL FUND**

The Department is requesting a \$250,000 General Fund increase to provide more grants for legal services for indigent victims of domestic violence.

Background. In 1999, the Legislature created the Family Violence Justice Fund grant program to provide grants for the provision of legal services for indigent victims of domestic violence. This program is the only state funded grant program for civil legal services in the state. Each year, non-profit agencies that provide such services apply for grants. Agencies that receive funds through this program provide services ranging from assistance with filling out legal forms and clinics on divorce and child support issues, to full representation by an attorney in court.

Colorado Legal Services (CLS), which provides legal services in almost every county, typically receives over 80 percent of the grant monies each year. For FY 2007-08, CLS received \$423,568; the remaining funding went to seven other agencies. In FY 2005-06, the qualifying agencies reported serving over 7,000 indigent victims of domestic violence.

Demand for Services. The demand for affordable legal services far exceeds supply. CLS reports that for every client it is able to serve, they are forced to turn one eligible client away. General priorities for services are those cases involving family violence and safety, prevention of eviction, public benefits, and access to health care. CLS tries to help as many people as it can and in many

situations it tries to address the issues by referring cases to outside pro bono attorneys or referring clients to clinics rather than providing direct casework support. Ultimately, CLS has to assess each case and determine if the case meets the stated priorities. If it does not, it most often gets turned away. Statewide the need for service provision is estimated to be double that of what resources are available.

Funding for Services. Each year, approximately \$9.5 million is raised in Colorado to provide civil legal services to the indigent free of charge. The appropriation for this line item - \$500,000 - is the state's only contribution to that funding. Based on the 2000 federal census, the state contributes \$1.29 per indigent person. This figure is less than the national average of \$2.72 for such state funding. The remaining funding in the state comes from the federal government (Colorado receives approximately the national average), local governments (Colorado receives less than the national average), and private lawyers and foundations (Colorado receives more than the national average).

Request. This appropriation has remain unchanged since its inception (except in FY 2004-05 when all funding was cut due to the state's budget shortfall). To bring the state's contribution up to the national average would require more than doubling the current appropriation of \$500,000. However, in recognition of the state's budgetary constraints, the Department limited its request to an increase of \$250,000 General Fund.

Without this funding, legal service agencies will continue to send eligible clients away due to lack of funding. Indigent victims of domestic violence and their children will be forced to navigate the state's complex legal system without support. The Department fears that this situation erodes public trust in the court system, as well as provides a challenge to court staff who must attempt to provide appropriate guidance to the extent feasible.

Staff analysis. Staff recognizes the public policy arguments in support of this funding. The provision of additional legal services for indigent victims of domestic violence and their families would serve a vulnerable population and likely assist them in their efforts to secure safe and stable living situations. Additionally, it would take some strain off of court staff who often have to assist these individuals as they try to navigate the system without an attorney.

However, ***staff does not recommend this request.*** Given the limitations on the state's General Fund appropriations, staff is only recommending those General Fund requests that support the primary functions of the Judicial Branch agencies (such as Probation staff and the provision of court-appointed counsel). Therefore, **staff recommends a continuing appropriation of \$500,000 General Fund for the Family Violence Grants line item.**

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 recommends an appropriation of \$128,946** consisting of \$124,593 cash funds and \$4,353 federal funds, consistent with the FY 2007-08 statewide indirect cost allocation plan. The former source of cash funds exempt was cash fund reserves. Since these monies are not appropriated elsewhere, they should be reclassified as cash funds.

Departmental Indirect Cost Assessment

Departmental indirect cost assessments are charged to cash and federal 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 recommends the requested appropriation of \$986,303 cash funds from various cash fund sources.**

(2) COURTS ADMINISTRATION

(B) Administrative Special Purpose

Unless otherwise noted, for this subdivision, the sources of cash funds are the Offender Services Fund, the Fines Collection Cash Fund, the Drug Offender Surcharge Fund, and the Alcohol and Drug Driving Safety Program Fund.

Health, Life and Dental

Staff recommends an appropriation of \$17,806,295 comprised of \$15,605,933 General Fund and \$2,200,362 cash funds. This recommendation includes funding for JUD DI #1 (Trial Courts Staff, page 31) and JUD DI #2 (Probation Staff, page 42).

Summary of Health, Life and Dental Recommendation					
	GF	CF	CFE/RF	FF	TOTAL
Common Policy Calculation	\$15,281,759	\$2,013,210	\$0	\$0	\$17,294,969
JUD DI #1: Trial Courts Staff	\$0	\$187,152	\$0	\$0	\$187,152
JUD DI #2: Probation Staff	\$324,174	\$0	\$0	\$0	\$324,174
Staff Recommendation	\$15,605,933	\$2,200,362	\$0	\$0	\$17,806,295

Short-term Disability

Staff recommends an appropriation of \$249,386 comprised of \$215,112 General Fund and \$34,274 cash funds, calculated pursuant to JBC common policy.

**JUD DI #3: JUDGE COMPENSATION
\$1.2 MILLION GENERAL FUND**

The Department is requesting \$1,172,896 General Fund to increase judge salaries by 3.0 percent; this funding would be in addition to salary survey and performance-based pay. Before discussing the details of the request, there is an overview of how judge compensation levels have been set in the past.

Historic Methods of Setting Judicial Compensation Levels.

1975: The Colorado State Officials' Compensation Commission was established. Statute requires the Commission to be comprised of nine members appointed by the President of the Senate, Speaker of the House, Governor, and Chief Justice of the Supreme Court. The Commission's duties and responsibilities are as follows (Section 2-3-805 (1), C.R.S.):

The commission shall make a continuing study of the salaries, retirement benefits, expense allowances, and other emoluments of the members of the general assembly, justices and judges of the state judicial system, district attorneys, deputy state officers appointed pursuant to section 24-9-103, C.R.S., and other elected and appointed officials of the executive branch not included in the state personnel system.

The commission is required by statute to meet at least two times per year, and file a report in January of each even-numbered year on the recommended salaries, retirement benefits, expense allowances and other benefits to be paid to those state officials within its purview. However, according to Legislative Council staff, there are no members appointed to this commission, and it is unknown the last time they met. The Judicial Department reports that it cannot remember appointing anyone to this commission in the last 20 years.

1997 and 1998: The Judicial Compensation Panel was convened by the Chief Justice to make recommendations on reasonable levels for judicial compensation. The Panel reviewed current and historic salaries for Colorado judges and other state officials; the ranking of judge salaries nationally; salaries of executive branch agency directors and other comparable positions; mechanisms used by other states to determine judge salaries; and other information. The Panel recommended: (1) that Colorado judge salaries be raised from 35th nationally to 25th; and (2) that the General Assembly create an ongoing commission to review the need for future judicial pay raises.

The General Assembly did not authorize a pay raise for judges either year. However, it did change how such raises would be authorized, by **allowing for judge pay to be set by the General Assembly through the appropriations bill** (Section 13-30-103 (1.5), C.R.S.).

FY 2000-01: Judge salaries were indexed against Administrative Law Judge (ALJ) positions. It took three years of increases for judge salaries to catch up to ALJ salaries.

FY 2002-03: ALJ salaries were indexed against judge salaries by the Department of Personnel and Administration when it revised job classifications for ALJs. As a result of the circular salary comparison between judges and ALJs, neither group has received an increase beyond those included in statewide common policy (salary survey and performance-based pay) since that time. Those increases should be enough for salaries to keep up with inflation, but do not factor in market rates and competitiveness.

Judge Salary Evaluation. The Judicial Department believes that judge salaries are not competitive due to: (1) a decline in the number of judgeship applications; and (2) comparisons with comparable salaries.

(1) **Declining numbers of judgeship applications.** The number of applications per open judgeship has dropped from approximately 21 in 1999 (which was considered too few by Judge Stephen Ruddick, then President of the Colorado Trial Judges Council),⁸ to only 10 in 2007. For one recent judgeship opening, the Department had only two qualified applicants.

(2) **Comparable salaries.** The Department compared state judge salaries to other comparable professionals in Colorado and found the following:

- **Municipal Judge Salaries.** The Department looked at municipal judges in the Denver metropolitan area (Arvada, Aurora, Englewood, and Lakewood). Based on the municipalities chosen, the average annual salary for a presiding municipal judge in the Denver metropolitan area is \$118,775, approximately 4 percent higher than the current state county court judge salary, despite the more complex caseload handled by county judges.⁹
- **Judge Salaries in Other States.** The National Center for State Courts (NCSC) has been collecting judicial salary data since 1976. Its most recent survey (January 2007) indicates that Colorado judges' salaries rank 34th in the nation (see Appendix B, page 141). By comparison, Colorado's per capita income (based on 2006 figures) is ranked 8th in the nation (see Appendix C, page 143), and based on discussions between the SCAO staff and staff from the Department of Personnel and

⁸ Letter from Judge Ruddick to Sen. Elsie Lacy, Chair, Joint Budget Committee, August 24, 1999.

⁹ The county court is a court of limited jurisdiction, handling cases involving serious public safety issues such as misdemeanor cases, felony advisements, setting bonds, and conducting preliminary hearings. County judges also issue search warrants, grant or hear protection orders in cases involving domestic violence, preside over traffic cases and civil actions involving no more than \$15,000, and preside over jury trials.

Administration, Colorado state employee salaries are ranked approximately 12th in the nation.

- **State of Colorado Executive Level Compensation.** Even though judge positions are not entirely comparable to other state employees, it is notable that the Chief Justice of the Colorado Supreme Court (who is responsible for oversight of an entire branch of government) has a salary 7.1 percent lower than the average salary paid to the directors of the four legislative service agencies, 6.0 percent lower than the average salary paid to seven Executive Branch agency executive directors, and lower than the salary paid to many other SES employees.
- **Federal Judge Salaries.** The FY 2007-08 compensation for the Colorado Chief Justice's salary (\$132,027) is 13.1 percent lower than a federal magistrate (\$151,984) and 20.1 percent lower than a federal district court judge (\$165,200).

When recruiting judges, the Department has to compete with these types of positions - as well as with private sector practice which potentially pays even more. The Department is concerned about its ability to recruit and retain high-quality judges, which it believes is only possible if judicial salaries are maintained at a competitive level, including paying a higher salary for positions with a higher level of job complexity.

Methods for Setting Judicial Compensation Rates. Staff obtained information on how other states set judicial compensation from an April 2002 memo (with March 2003 updates) from the National Center for State Courts, Office of Knowledge and Information Services. According to this memo, 21 states have permanent compensation commissions authorized by statute or constitution to evaluate and recommend salaries for state judges. Those states include Colorado, whose commission is no longer active, so it is quickly apparent that the data in the memo is not entirely accurate. However, it does provide ideas as to other states' compensation setting methodologies.

- **Compensation commissions.** These commissions vary from state to state. Two states have used interim commissions. Six state commissions review only judicial compensation; another fifteen commissions (such as Colorado's in statute) review the compensation of a broad range of officials in various branches of state government. The recommendations of nine commissions (such as Colorado's) are advisory only. In seven states, the commission recommendations become law unless the legislature modifies or rejects them. In one state (Washington), the recommendations become law within 90 days of being filed with the secretary of state, subject only to a referendum petition of the people.

- *Other methods used to set or maintain judge salaries* include:
 - Linking judicial salary adjustments to those of other state employees (three or four states are listed in the memo; although Colorado is not counted as one of those states, this is in fact how judge salaries have been adjusted in recent years).
 - Adjusting salaries periodically in accordance with fluctuations in a reference tool such as the Consumer Price Index (two states).
 - Linking judicial salaries to increases for federal judges (Washington, D.C.).
 - Comparing salaries to those of judges and comparable officials in neighboring states (Montana).

Proposed Judge Salary Index. The Department proposes indexing Colorado judge salaries to national judge salary rankings, and maintaining salaries at between 12th and 15th in the nation. To reach this level of compensation, **the Department proposes judicial salary increases of three percent a year for four years, in addition to Salary Survey and Performance-based pay, beginning in FY 2008-09.** This proposal would result in a 12 percent base increase (in addition to Salary Survey and Performance-based Pay). The table on the following page shows the required funding and resulting salary changes, per year, for implementing a 12 percent base increase in judge salaries over one year, two years, and four years. For comparison, the table also shows the current and projected national salaries ranked 12th and 15th, assuming increases of four percent per year.

Under the Department's proposed four-year schedule, Colorado's judicial salaries would reach the targeted level by FY 2011-12. The Department anticipates that ranking could largely be maintained with annual Salary Survey and Performance-based Pay awards. In the future, if judge salaries began to fall in the national rankings, the Department would re-evaluate where salaries should be and what type of increases would be necessary to attain the appropriate level of compensation.

Judge Compensation: Status Quo and Options for Achieving a 12.0 Percent Base Increase

		State Judgeships ¹⁰						National Rankings for District Court Judge Salaries ¹¹		Cost ¹²
		SC Chief	SC Assoc.	COA Chief	COA Assoc.	County	District	12th	15th	
Status Quo	FY 07-08	132,027	129,207	126,932	124,089	113,856	118,973	143,549	137,212	
1 Year Plan	FY 08-09	154,592	151,289	148,625	145,297	133,315	139,306	149,291	142,700	4,727,352
2 Year Plan	FY 08-09	146,670	143,537	141,009	137,852	126,484	132,168	149,291	142,700	2,363,841
Recommd.	FY 09-10	162,937	159,457	156,648	153,141	140,513	146,827	155,263	148,408	2,776,959
Total Cost										5,140,800
4 Year Plan	FY 08-09	142,709	139,661	137,201	134,129	123,068	128,599	149,291	142,700	1,182,021
Request	FY 09-10	154,225	150,960	148,302	144,981	133,026	139,003	155,263	148,408	1,382,421
	FY 10-11	166,735	163,173	160,301	156,711	143,789	150,250	161,473	154,345	1,488,500
	FY 11-12	180,225	176,375	173,271	169,390	155,422	162,406	167,932	160,519	1,608,975
Total Cost										5,661,917

¹⁰ For out-year salary projections, staff assumed 4.09 percent salary survey for professionals and 1.0 percent base building performance-based pay.

¹¹ For FY 2007-08, the table shows the actual salaries ranked 12th and 15th for the equivalent of a district court judge. For the out-years, staff assumed an average national growth rate of 4.0 percent. The Department reports that for the last 20 years or so, judge salaries have grown approximately 3.0 percent per year. However, in the last few years, they have been growing more quickly.

¹² For cost projections, staff assumed the following common policy rates: 4.09 percent salary survey for professionals; 1.0 percent base building performance-based pay; 13.66 percent for PERA; 2.35 percent for AED and SAED combined; and 1.45 percent for Medicare. Staff also assumed that all judgeships created in H.B. 07-1054 will be funded. Salaries of the State Public Defender, Alternate Defense Counsel, and Director of the Office of the Child's Representative (a total of 3.0 FTE) are now linked to judge salaries; costs to maintain those salaries are not included in the projections.

Staff Analysis. Staff agrees with the Department that the public would be better served with a more robust pool of applicants for judgeships than has been seen in recent years. This decline could be driven by many factors, but it is not inconceivable that a significant reason is the uncompetitive salaries. The question this decision item raises is how best to set judge salaries.

The Judicial Department's methodology for determining if salaries are competitive, and its recommendations, are almost identical those of the 1997-98 Judicial Compensation Panel. As noted above, the Panel reviewed current and historic salaries for Colorado judges and other state officials; the ranking of judge salaries nationally; salaries of executive branch agency directors and other comparable positions; mechanisms used by other states to determine judge salaries; and other information. The Panel recommended: (1) that Colorado judge salaries be raised from 35th nationally to 25th; and (2) that the General Assembly create an ongoing commission to review the need for future judicial pay raises.

The Department is requesting that judge salaries be raised to between 12th and 15th nationally, and that the increase be phased in over four years. Staff believes this target is not unreasonable given that the state's per capita personal income ranks 8th in the nation and state employee salaries are approximately 9th the nation. However, staff believes that these adjustments should be made sooner rather than later.

Staff Recommendation - Expedited Implementation. H.B. 07-1054 created new judgeships to be phased in over a three year period. If the General Assembly decides to fund all of these positions, in addition to regular turnover, the Department will have 34 new judgeships to fill in FY 2008-09 and FY 2009-10. If the Legislature is concerned that judge salaries are too low to generate a robust pool of candidates for open positions, then salaries should be raised for this wave of new judge openings. Therefore, **staff recommends phasing in a 12 percent judicial salary increase over two years.** As illustrated on the table above, staff estimates this increase will put Colorado district court judge salaries somewhat below 15th in the national rankings, but they should be well above their current ranking of 34 - and definitely more competitive than they are now.

This recommendation does not preclude the state from returning to the use of a compensation commission; nor does it commit the Legislature to fund the plan next year, or to continue to target the 12th/15th national ranking. However, funding the plan as recommended would at least start the process of making judge salaries more competitive prior to the next major round of judge hiring.

The table below shows the funding required, by line item, for both the request (a 3.0 percent salary increase in FY 2008-09) and the recommendation (a 6.0 percent salary increase in FY 2008-09). The

figures on this table do not match the figures on the table above because of difference is assumptions and calculations.¹³

Recommended Funding for JUD DI #3: Judicial Compensation

Line Item	Request ^a		Recommendation
	GF	3.0 % increase	6.0 % increase
Total	GF	1,170,877	2,388,848
JUD, Salary Survey	GF	1,158,373	2,363,841
PDO, Salary Survey	GF	4,286	8,571
ADC, Salary Survey	GF	4,109	8,218
OCR, Salary Survey	GF	4,109	8,218

^a The total for Judicial in this column does match the request due to differences in the common policy rates used in the Department's calculations and staff's calculations.

Salary Survey

Staff recommends an appropriation of \$11,840,522 comprised of \$10,672,085 General Fund and \$1,168,437 cash funds. This recommendation includes funding for JUD DI #3 (Judicial Compensation, discussed above).

Summary of Salary Survey Recommendation					
	GF	CF	CFE/RF	FF	TOTAL
Common Policy Calculation	\$8,308,244	\$1,168,437	\$0	\$0	\$9,476,681
JUD DI #3: Judicial Compensation	\$2,363,841	\$0	\$0	\$0	\$2,363,841
Staff Recommendation	\$10,672,085	\$1,168,437	\$0	\$0	\$11,840,522

¹³ The recommended funding includes increases for the Public Defender's Office (PDO), Alternate Defense Counsel (ADC), and Office of the Child's Representative (OCR) which are not included in the request. The salaries of the directors of these agencies are now linked to judge salaries; costs to maintain those salaries are included in the recommendation as these are relatively small offices with less ability to absorb the salary increases (particularly the ADC and OCR). Additionally, the recommendation includes funding for Supreme Court and Court of Appeals Chief Justice salaries which the request did not. Common policy assumptions were also different between the two calculations.

Anniversary Increases

Staff recommends an appropriation of \$2,052,664 comprised of \$1,828,268 General Fund and \$224,396 cash funds, calculated in accordance with Committee common policy for Performance-based Pay.

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

Staff recommends an appropriation of \$3,014,203 comprised of \$2,592,370 General Fund and \$421,833 cash funds, calculated in accordance with Committee common policy.

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

Staff recommends an appropriation of \$1,369,816 comprised of \$1,172,082 General Fund and \$197,734 cash funds, calculated in accordance with Committee common policy.

Workers' Compensation

Staff recommendation is pending JBC common policy decision making. This line item includes funding for the Public Defender, Alternate Defense Counsel, and Office of the Child's Representative.

Legal Services

Staff recommends the requested continuing appropriation for 4,227 hours of legal services. The funding will be calculated after the JBC sets the common policy for the legal services rate.

Payment to Risk Management and Property Funds

Staff recommendation is pending JBC common policy decision making. This line item includes funding for the Public Defender, Alternate Defense Counsel, and Office of the Child's Representative.

Vehicle Lease Payments

Vehicles are used primarily by judges, probation officers, IT technicians, and other staff located in rural areas. **Staff recommendation is pending JBC common policy decision making.**

Leased Space

This line item provides funding for leased office space for the State Court Administrator's Office, the Judicial disciplinary commission, Court of Appeals staff, the Division of Integrated Information Services, and storage.

	FY 2007-08				FY 2008-09 Estimated			
	Square Feet	Rate	Months	Total	Square Feet	Rate	Months	Total
SCAO								
1301 Pennsylvania	18,490	\$14.50	6	\$134,053	18,490	\$15.00	6	\$138,675
	18,490	\$15.00	6	\$138,675	18,490	\$15.50	6	\$143,298
Parking (CF)				\$24,240				\$24,240
JUDICIAL DISCIPLINE								
899 Logan	827	\$16.25	12	\$13,439	827	\$16.25	12	\$13,439
Logan Storage				\$2,016				\$2,016
IIS/SCAO								
Denver West 3 rd Fl.	11,830	\$22.43	\$12.00	\$265,347	11,830	\$23.57	12	\$278,833
Denver West 4 th Fl.	2,139	\$15.00	12	\$32,085	2,139	\$15.00	12	\$32,085
Denver West 2 nd Fl.	3,127	\$19.50	8	\$40,651	3,127	\$19.50	4	\$20,326
					3,127	\$20.00	8	\$41,693
Denver West Storage				\$5,328				\$5,328
COA								
Chancery Building	6,471	\$17.50	12	\$113,243	6,471	\$17.50	12	\$113,243
Parking (CF)				\$15,000				\$15,000
TOTAL	42,884			\$784,076	42,884			\$828,175

Staff recommends the requested appropriation of \$828,175 comprised of \$788,935 General Fund and \$39,240 cash funds.

**JUD BUDGET AMENDMENT #1: TELEPHONE LEASE PURCHASE INCREASE
\$7,000 GF**

The Department is requesting \$7,112 General Fund for increases in its telephone system lease purchase payments.

Lease Purchase Expenditures. The Department's Lease Purchase appropriation is used to make payments on a lease-purchase contract for telephone systems across the state. In FY 2007-08, the final payment was made on the existing contract. That contract financed the replacement or upgrade of 13 phone systems for \$520,000 and took six years to pay off. A new bid was pursued and a new financing company obtained. The new contract will finance the replacement of nine phone systems for \$530,000, and must be paid of in five years. Consequently, the annual payments are now slightly higher than the existing appropriation. **Staff recommends funding the requested increase to allow the Department to maintain its payment plan.**

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 pays a monthly usage charge). This line item provides funding for the lease purchase of its telephone systems. **Staff recommends the requested appropriation of \$119,878 General Fund** which includes a \$7,112 increase per the budget amendment discussed above.

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 the requested continuing appropriation of \$195,554** comprised of \$130,554 General Fund and \$65,000 cash funds. The source of cash funds is royalties from the sale of jury instructions.

Retired Judges

Statute allows for retired judges who perform temporary judicial duties to cover vacations, sick leave, and conflicts of interest for up to 90 days a year to receive a temporary increase in their retirement benefits (Section 24-51-1105(4), C.R.S.). The Judicial Department must reimburse the Public Employees Retirement Association (PERA) for these increases during the subsequent fiscal year. Other than reimbursement for travel expenses to out-of-town assignments, no other benefits are provided. Retired judges provide flexibility in coverage as they can go anywhere in the state to fill a temporary need. **Staff recommends the requested appropriation of \$1,384,006 General Fund.** The recommendation is approximately \$139,000 less than the current appropriation. The Department estimates these needs each year, but submits a supplemental each year to true-up the appropriation to actual costs since those costs fluctuate.

Appellate Reports

The purpose of this line item is 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 inquired as to whether it would be feasible to cash fund part of this line item. However, the majority of the reports are distributed to judges and court libraries which would pay for their reports from General Fund (which would simply result in a redistribution of General Fund). The piece of the request that could be cash funded are those reports sold to District Attorneys, equaling \$2,900 to \$3,900 per year, depending on the number of volumes. However, such a change would require an amendment of Section 13-2-125, C.R.S. Because the dollar amount is so small and because cash-funding would require a statutory change, staff does not recommend cash funding this line item.

This line item has reverted approximately \$30,000 each of the past two years. The appropriation was originally set when there was a need for an extra volume of the reports to be printed. However, it has been several years since an extra volume was needed, thus the reversion. The Department reported that it would not object to a \$30,000 reduction to this line item, acknowledging that if an additional volume is needed this year, it may need to seek a supplemental increase. **Staff recommends an appropriation of \$37,100 General Fund, which includes a \$30,000 base reduction.**

Child Support Enforcement

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

Staff recommends a continuing appropriation of \$90,900 and 1.0 FTE. The appropriation should be comprised of \$30,904 General Fund and \$59,996 reappropriated funds transferred from the Department of Human Services. Staff did not apply the 1.0 percent reduction because the program is below the 20.0 FTE threshold. The General Fund appropriation is used to provide a partial match for the federal funds. This line item has reverted some funding for the past two years, but those reversions were due to turnover and maternity leave. The Department expects to fully utilize the funding this year.

Collections Investigators

Collection investigators (CIs) are located in each judicial district as required by Section 18-1-105 (1) (a) (III) (C), C.R.S. The CIs are a component of efficient case management, and help impose statutory criminal justice policies of imposing monetary penalties for the commission of crimes. Monetary sanctions both punish offenders and serve a restorative role through restitution to victims. Recoveries go to the General Fund, victim restitution, victims compensation and support programs, and various law enforcement, the trial courts, probation and other funds.

Staff recommends an appropriation of \$4,648,382 and 83.2 FTE. The recommended fund mix is \$3,985,841 cash funds and \$662,541 reappropriated funds (these funds are from local Victims and Witness Assistance Law Enforcement (VALE) Boards; this funding is first appropriated in the Trial Courts division). The recommendation includes continuing the FY 2007-08 supplemental increase which allowed the program to utilize more VALE grants for victim assistance and compensation staff. Staff did not include a 1.0 percent base reduction since the program has no General Fund support.

Summary of Courts Administration, Administrative Special Purpose, Collections Investigators Recommendation						
	GF	CF	CFE/RF	FF	TOTAL	FTE
2007-08 Long Bill	\$0	\$3,498,976	\$576,233	\$0	\$4,075,209	83.2
FY 2007-08 Supplemental	\$0	\$0	\$93,000	\$0	\$93,000	0.0
FY 07-08 Salary Survey	\$0	\$494,866	\$0	\$0	\$494,866	0.0
80% FY 07-08 PBP	\$0	\$32,260	\$0	\$0	\$32,260	0.0
1.0 % Base Reduction	\$0	(\$40,261)	(\$6,692)	\$0	(\$46,953)	0.0
Staff Recommendation	\$0	\$3,985,841	\$662,541	\$0	\$4,648,382	83.2

(2) COURTS ADMINISTRATION
(D) Integrated Information Services

This Division is responsible for developing and maintaining information technology systems used by the courts in all 22 judicial districts, including ICON/Eclipse and CICJIS. It 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.

Staffing Summary	FY 2006-07 Actual	FY 2007-08 Approp.	FY 2008-09 Request	FY 2008-09 Recomm.
Admin./Support	3.0	5.0	5.0	5.0
Programming Services	15.9	13.0	13.0	13.0
Computer Tech Support	14.8	16.1	16.1	16.9
Programming/Tech Supervisors	5.9	5.0	5.0	5.0
Customer Support	5.2	5.0	5.0	5.0
TOTAL	44.8	44.1	44.1	44.9

Personal Services

Staff recommends an appropriation of 44.9 FTE and \$3,371,123 comprised of \$3,153,413 General Fund and \$217,710 reappropriated funds (these funds are federal funds transferred from the Department of Public Safety, the Division of Criminal Justice, and other state agencies). The recommendation includes funding to annualize new General Fund FTE for which only 11 months of funding was appropriated in FY 2007-08; and for JUD decision items #1 (Trial Courts Staff, page 31) and #2 (Probation Staff, page 42).

Summary of Integrated Information Services Personal Services Recommendation						
	GF	CF	CFE/RF	FF	TOTAL	FTE
FY 2007-08 Long Bill	\$3,011,093	\$0	\$219,000	\$0	\$3,230,093	44.1
FY 07-08 Salary Survey	\$101,897	\$0	\$0	\$0	\$101,897	0.0
80% FY 07-08 PBP	\$25,897	\$0	\$0	\$0	\$25,897	0.0
Annualize FY 07-08 DI	\$5,538	\$0	\$0	\$0	\$5,538	0.0
1.0 % Base Reduction	(\$31,444)	\$0	(\$1,290)	\$0	(\$32,734)	0.0
JUD DI #1: Trial Courts Staff	\$15,162	\$0	\$0	\$0	\$15,162	0.3
JUD DI #2: Probation Staff	\$25,270	\$0	\$0	\$0	\$25,270	0.5
Staff Recommendation	\$3,153,413	\$0	\$217,710	\$0	\$3,371,123	44.9

Operating Expenses

Staff recommends an appropriation of \$227,604 comprised of \$177,604 General Fund and \$50,000 cash funds. The recommendation includes funding for JUD decision items #1 (Trial Courts Staff, page 31) and #2 (Probation Staff, page 42). The sources of cash funds are various fees and other cost recoveries.

Summary of Integrated Information Services Operating Expenses Recommendation					
	GF	CF	CFE/RF	FF	TOTAL
FY 2007-08 Long Bill	\$176,444	\$50,000	\$0	\$0	\$226,444
JUD DI #1: Trial Courts Staff	\$435	\$0	\$0	\$0	\$435
JUD DI #2: Probation Staff	\$725	\$0	\$0	\$0	\$725
Staff Recommendation	\$177,604	\$50,000	\$0	\$0	\$227,604

Capital Outlay

Staff recommends an appropriation of \$2,765 General Fund for JUD decision items #1 (Trial Courts Staff, page 31) and #2 (Probation Staff, page 42). The sources of cash funds are various fees and other cost recoveries.

Summary of Integrated Information Services Capital Outlay Recommendation					
	GF	CF	CFE/RF	FF	TOTAL
JUD DI #1: Trial Courts Staff	\$1,037	\$0	\$0	\$0	\$1,037
JUD DI #2: Probation Staff	\$1,728	\$0	\$0	\$0	\$1,728
Staff Recommendation	\$2,765	\$0	\$0	\$0	\$2,765

JAVA Conversion

This line item was created in FY 2006-07 to provide funding and staff for a three-year conversion of Judicial's case management system database, ICON, from the RPG programming language to the JAVA programming language. At the end of this period, the Department will no longer need the additional FTE and the positions and funding can be eliminated. **Staff recommends the requested continuing appropriation of \$311,054 General Fund and 5.0 FTE.**

Purchase of Services from Computer Center

Staff recommendation is pending JBC common policy decision making.

Multiuse Network Payments

Staff recommendation is pending JBC common policy decision making.

Telecommunications Expenses

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. Instead, this line item pays for the majority of the Department's data line charges. **Staff recommends the requested continuing appropriation of \$533,392** comprised of \$310,000 General Fund and \$223,392 cash funds from various fees and cost recoveries.

Communication Services Payments

Staff recommendation is pending JBC common policy decision making.

Hardware Replacement

This line item is used to replace personal computers, servers, routers, switches, and so forth, based on useful life. **Staff recommends a continuing appropriation of \$2,250,000 cash funds.** The sources of cash funds are access fees on the Judicial Department's public access and e-filing applications.

Hardware/Software Maintenance

This line item is used to pay for software licenses, software updates and maintenance (ICON, CICJIS, other systems, and off-the-shelf software packages), all hardware/software maintenance agreements related to the Department's voice/data network, all 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).

Staff recommends the requested continuing appropriation of \$1,178,094 comprised of \$1,043,094 General Fund and \$135,000 cash funds. The sources of cash funds are access fees on the Judicial Department's public access and e-filing applications.

(3) TRIAL COURTS

Staffing Summary	FY 2006-07 Actual	FY 2007-08 Approp.	FY 2008-09 Request	FY 2008-09 Recomm.
District Court Judges	142.3	153.0	164.0	164.0
County Court Judges	83.2	84.0	89.0	89.0
Magistrates & Water Referees	64.0	66.5	66.5	66.5
Division Staff	104.8	174.0	185.0	185.0
Court Reporters	95.5	163.5	174.5	174.5
Clerks' Offices	913.9	913.9	978.9	978.9
Dispute Resolution	29.2	29.5	31.5	31.5
Administrative/Office Support	175.6	175.6	179.1	177.6
Total PS line item	1,608.5	1,760.0	1,868.5	1,867.0

State trial courts include district courts in 22 judicial districts, county courts, and water courts. The district courts preside over felony criminal matters, civil claims, all juvenile matters, probate, mental health, and divorce proceedings. They also preside over jury trials, handle appeals from Colorado's municipal and county courts, and review decisions of administrative boards and agencies. County courts handle misdemeanor cases, felony advisements, bond setting, and preliminary hearings, and also hear traffic cases and civil actions involving no more than \$15,000. Water courts have jurisdiction in the determination of water rights and the use and administration of water. Recent caseloads are shown in the table below.

Trial Courts: New Case Filings

	FY 01-02 Actual	FY 02-03 Actual	FY 03-04 Actual	FY 04-05 Actual	FY 05-06 Actual	FY 06-07 Actual
District Court	164,237	169,458	177,358	183,821	189,415	189,235
County Court	469,993	498,515	514,094	536,415	556,136	551,197
Water Court	1,550	1,672	1,285	1,093	1,303	1,220
Total Filings	635,780	669,645	692,737	721,329	746,854	741,652
% Change		5.3%	3.4%	4.1%	3.5%	-0.7%

Data Source: Judicial Department Annual Statistical Reports.

Personal Services

Staff recommends an appropriation of 1,867.0 FTE and \$110,575,667 comprised of \$95,316,483 General Fund and \$15,259,184 cash funds. The recommendation includes funding for the second year of H.B. 07-1054 implementation; funding to annualize new General Fund FTE for which only 11 months of funding was appropriated in FY 2007-08; and funding for JUD decision items #1 (Trial Courts Staff, page 31), #6 (Judge Education, page 36), and #8 (Probate Audit, page 38). The sources of the cash funds are the Judicial Stabilization Fund and various fees and cost recoveries.

Summary of Trial Courts Personal Services Recommendation						
	GF	CF	CFE/RF	FF	TOTAL	FTE
FY 2007-08 Long Bill	\$91,735,045	\$6,823,677	\$0	\$0	\$98,558,722	1,715.0
H.B. 07-1054 New Judges	\$0	\$2,723,086	\$0	\$0	\$2,723,086	45.0
FY 07-08 Salary Survey	\$3,956,425	\$0	\$0	\$0	\$3,956,425	0.0
80% FY 07-08 PBP	\$609,680	\$0	\$0	\$0	\$609,680	0.0
2nd Year H.B. 07-1054	\$0	\$4,500,771	\$0	\$0	\$4,500,771	75.0
Annualize FY 07-08 DI	\$83,546	\$0	\$0	\$0	\$83,546	0.0
1.0 % Base Reduction	(\$963,847)	(\$140,475)	\$0	\$0	(\$1,104,322)	0.0
JUD DI #1: Trial Courts Staff	(\$35,647)	\$1,012,460	\$0	\$0	\$976,813	28.0
JUD DI #6: Judge Education	\$0	\$153,097	\$0	\$0	\$153,097	2.0
JUD DI #8: Probate Audit	(\$68,719)	\$186,568	\$0	\$0	\$117,849	2.0
Staff Recommendation	\$95,316,483	\$15,259,184	\$0	\$0	\$110,575,667	1,867.0

JUD BA #3: TRANSFER FROM MANDATED COSTS TO OPERATING EXPENSES

The Department is requesting \$215,000 of its Mandated Costs General Fund appropriation be moved to its Operating Expenses line item to cover general court postage expenses.

Background. Trial Courts general postage expenses are currently being coded to two separate operating budgets: Trial Court Programs (which includes Trial Courts Personal Services and Operating Expenses appropriations) and Mandated Costs. According to the Department, this division was put into place many years ago as a way of "cost sharing" between the two line items and to alleviate some pressure on the Trial Courts operating budgets.

Requested Funding Change. In an effort to increase reporting accuracy and accountability, the Department would like to move \$215,000 from the Mandated Costs line item to the Operating Expenses line item. Beginning in FY 2008-09, this change would require trial courts to charge all postage expenses to their operating budget, with the following exceptions: postage related to jury summonses and other notices related to the jury system; and postage costs incurred on behalf of or reimbursed to court-appointed attorneys or other court appointees. The exceptions would continue to be billed to the Mandated Costs line item.

Requested Line Item Name Change. As part of this increased accountability effort, the Department is also proposing a name change to the Mandated Costs line item. The proposed new name would be "Court Costs, Jury Costs, and Court-appointed Counsel." The intent of the name change is to make clear the intent of the line item and to help prevent non-related expenditures from being charged to the line.

Staff Recommendation. Staff considers both of these changes to be technical in nature and supports the Department's effort to increase accountability. Therefore, **staff recommends the requested funding transfer and the Mandated Costs line item name change.**

Operating Expenses

Staff recommends an appropriation of \$7,132,033 comprised of \$483,264 General Fund and \$6,648,769 cash funds. The recommendation includes funding for the second year of H.B. 07-1054 implementation, for JUD decision items #1 (Trial Courts Staff, page 31), #6 (Judge Education, page 36), and #8 (Probate Audit Response, page 38), and for JUD budget amendment #3 (Mandated Costs/Operating Expenses Transfer, discussed above). The sources of the cash funds are the Judicial Stabilization Fund, the Dispute Resolution Fund, and various fees and cost recoveries.

Summary of Trial Courts Operating Expenses Recommendation					
	GF	CF	CFE/RF	FF	TOTAL
FY 2007-08 Long Bill	\$268,264	\$6,425,619	\$0	\$0	\$6,693,883
H.B. 07-1054	\$0	\$69,750	\$0	\$0	\$69,750
2nd Year H.B. 07-1054	\$0	\$121,000	\$0	\$0	\$121,000
JUD DI #1: Trial Courts Staff	\$0	\$26,600	\$0	\$0	\$26,600
JUD DI #6: Judge Education	\$0	\$3,900	\$0	\$0	\$3,900
JUD DI #8: Probate Audit Response	\$0	\$1,900	\$0	\$0	\$1,900
JUD BA #3: Mandated Costs/ Operating Expenses Transfer	\$215,000	\$0	\$0	\$0	\$215,000
Staff Recommendation	\$483,264	\$6,648,769	\$0	\$0	\$7,132,033

Capital Outlay

Staff recommends an appropriation of \$653,121 cash funds. The recommendation includes funding for the second year impacts of H.B. 07-1054, and JUD decision items #1 (Trial Courts Staff, page 31), #6 (Judge Education, page 36), and #8 (Probate Audit Response, page 38). The source of cash funds is the Judicial Stabilization Cash Fund.

Summary of Trial Courts Capital Outlay Recommendation					
	GF	CF	CFE/RF	FF	TOTAL
2nd Year H.B. 07-1054	\$0	\$541,421	\$0	\$0	\$541,421
JUD DI #1: Trial Courts Staff	\$0	\$96,740	\$0	\$0	\$96,740
JUD DI #6: Judge Education	\$0	\$8,050	\$0	\$0	\$8,050
JUD DI #8: Probate Audit Response	\$0	\$6,910	\$0	\$0	\$6,910
Staff Recommendation	\$0	\$653,121	\$0	\$0	\$653,121

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 Constitution to ensure a fair and speedy trial, and to ensure the right to legal representation. The Mandated Costs line item funds the following:

- Court-Appointed Counsel — Fees and expenses for court-appointed parent respondent counsel, and other representatives for children and indigent persons.
- Court Costs — Costs incurred in prosecuting and defending criminal and some civil cases, other than attorneys' and investigators' fees. Court costs includes transcript costs, expert and other witness fees and expenses, interpreters, psychological evaluations, sheriffs' fees, subpoenas, and other costs mandated by statute.
- Jury Costs — Fees and expenses for jurors, included those on Grand Juries.

The Judicial Department submitted one decision item affecting Mandated Costs: a request to increase the court-appointed counsel rate. In addition, the Alternate Defense Counsel (ADC) and the Office of the Child's Representative (OCR) submitted decision items to increase their hourly rates. These three decision items are discussed below. Additionally, the Judicial Department submitted a budget amendment affecting Mandated Costs, and requested a footnote on this line item; these items are also discussed below.

JUD, ADC, AND OCR DIS: INCREASE COURT-APPOINTED COUNSEL HOURLY RATES

The Judicial Department, Alternate Defense Counsel, and Office of the Child's Representative are requesting to raise court-appointed counsel rates from \$60 to \$68 per hour. Those requests are summarized below.

DI #	Description	Request (GF)
JUD DI 4	Increase hourly rate for court-appointed counsel	\$1,358,504
ADC DI 3	Increase hourly rate for attorneys	\$2,323,295
OCR DI 2	Increase hourly rate for GALs and child family investigators	\$1,539,100
Total		\$5,220,899

What is court-appointed counsel?

Under both the United States and Colorado Constitutions, as well as state law, defendants and respondents in various criminal, delinquency, juvenile, and other matters are to be afforded due process in the courts. Due process includes the right to competent legal representation, regardless of ability to pay for such representation. Indigent representation is provided for by the Judicial Department, the Public Defender's Office, and the Alternate Defense Counsel.

The **Judicial Department** provides representation for indigent parties who:

- Are respondent parents in dependency and neglect actions;
- Require mental health, probate, or truancy counsel;
- Are adults requiring guardian ad litem in mental health, probate, or dependency and neglect actions; or who
- Require contempt of court counsel.

The Judicial Department also provides counsel in juvenile delinquency matters when the party is not indigent, but a family member is a victim or the parents refuse to hire counsel (in the latter case, reimbursement to the state is ordered against the parents).

The **Public Defender's Office (PDO)** represents indigent persons charged with crimes where there is the possibility of being imprisoned. The **Alternate Defense Counsel (ADC)** represents individuals the PDO cannot represent due to a conflict of interest. Whereas the PDO uses salaried staff attorneys (FTE) to provide representation, the Judicial Department and the ADC hire contract attorneys at fixed rates.

Additionally, the **Office of the Child's Representative (OCR)** provides legal representation for children involved in the court system due to abuse and neglect, high-conflict divorce, or delinquency. The attorneys who represent these children are known as guardians ad litem (GALs). The OCR has salaried staff GALs in El Paso County; in the remainder of the state, the GALs are hired under contract. Additionally, OCR has child family investigators (CFIs; formerly known as court-appointed special advocates) who are compensated at the same rate as GALs (CFIs do all the work in domestic relations [high-conflict divorce] cases).

What have been, and what currently are, the rates paid to court-appointed counsel?

Prior to FY 2006-07, the court-appointed counsel rate paid by the three agencies (the Judicial Department, ADC, and OCR) averaged \$45 per hour for out-of-court work and \$55 per hour for in-court work. For FY 2006-07, the three agencies submitted coordinated decision items seeking to raise the rate to \$71 per hour. The proposal was to phase-in the increase, starting at \$60 per hour in FY 2006-07 and reaching \$75 per hour in FY 2008-09.¹⁴

However, the requests were not fully funded. The state rate was raised to \$57 per hour (for both in- and out-of-court work) in FY 2006-07, and raised again to \$60 per hour in FY 2007-08. The FY 2008-09 requests seek to raise the rates to \$68 per hour.

¹⁴ The \$75 level was reached by applying a 3 percent annual adjustment to the \$71 per hour rate, based on the most recent three year average cost of living adjustments used by the Social Security Administration.

Why is the current rate considered too low?

The agencies believe that the current rate is too to be competitive and ensure that there are qualified professionals who will accept court appointments. In 2004, to come up with the proposed rate, the Department analyzed national and regional data and studies; consulted the Colorado Bar Association, various attorneys, judges, and court administrators; and considered the compensation levels for attorneys in the State of Colorado's Public Defender's Office, the Alternate Defense Counsel, the Attorney General's Office, and county and district attorneys. Examples of current attorney salaries with which these agencies compete:

- In the private sector, attorneys earn \$150 per hour and more.
- Attorneys contracted for federal cases earn \$100 per hour; for death penalty cases, they earn \$170 per hour.
- Attorneys working in the public sector in Colorado earn from \$28 to \$74 per hour with no overhead costs; applying a 43.6 percent overhead rate¹⁵ would raise the level of compensation to the equivalent of \$40 to \$106 per hour.
- The attorney/paralegal blended rate charged by the Department of Law to state agencies for legal services was \$72.03 in FY 2007-08.

In 2004, the agencies determined that a competitive rate would be \$71 per hour. Due to inflation and cost of living increases, the revised competitive rate is \$77 per hour. The request is to raise rates this year to \$68 per hour.

All three agencies report that they compete primarily with the private sector, as well as the federal government and local governments for attorneys. One rural attorney who does not accept state-paid cases said, "Why would I drive all over the district to visit kids in placement at \$60 per hour when I can bill from my office and practice law at \$250?" OCR reports that recruiting is difficult, particularly in areas with a high cost of living, such as Durango and Steamboat Springs. Recently it recruited an attorney out of CU Law School's Juvenile Clinic to work in Glenwood Springs, but she had to relocate back to Denver because she cannot afford to live there on the state rate. This problem also exists in Pagosa Springs where OCR must pay attorneys to travel from the Front Range.

Judges have been reporting for many years about how difficult it can be to get court-appointed counsel to take cases, especially in rural areas. In some rural areas, there are no attorneys who will take these cases. Judges in these areas, trying to equitably distribute the financial hardship of these appointments, rely on almost every attorney from the local bar association on a rotating basis, regardless of whether they want this type of case.

¹⁵ Altman Weil's 2000 Survey of Law Firm Economics indicates that an overhead allowance would reasonably be set at 43.6 percent. This publication provides information gleaned from nearly twenty thousand lawyers across the U.S. concerning economic statistics and financial data related to law firm management and the legal profession. The Survey serves as an industry standard for the financial operations of law practices.

What are the potential consequences if compensation is inadequate?

Lawsuits have been brought in some states over inadequate court-appointed counsel compensation. Such a lawsuit in New York resulted in its legislature approving a flat rate of \$75 an hour (effective January 2004), when the previous rates had been \$25 for out-of-court work and \$40 for in-court work. Prior to the increase, the New York Supreme Court made the following statement about court-appointed counsel representation: *The state's failure to raise the current compensation rates adversely affects the judiciary's ability to function and presumptively subjects innocent indigent citizens to increased risk of adverse adjudications and conviction merely because of their poverty.*

Staff Analysis: Each year the state paid court-appointed counsel rates become less competitive. While funding these requests may not be critical to the functioning of the Branch, if left unaddressed, the fiscal impact will only become further exacerbated. Additionally, as the state rate becomes less and less competitive, the courts will have even greater difficulty finding qualified attorneys to take cases. These difficulties could become so great as to create a crisis if the state becomes unable to provide the effective counsel people are entitled to under the Constitution.

Staff recommends funding the rate increases as requested (see table below), for a total increase of \$5,220,899 General Fund. This increase would raise hourly rates from \$60 to \$68 per hour, on average (the Judicial Department and ADC use a sliding scale that can vary based on length of case and case type). The Committee should recognize that even if this increase is approved, it is likely that these agencies will seek additional increases in the future to continue to try to make the rate more competitive. If the Committee chooses to increase the hourly rate by a different amount, each dollar change costs \$652,612.

Funding Breakdown for Court-appointed Counsel Rate Increase Decision Items

Line Item	Request/ Recommendation
Total - GF	\$5,220,899
JUD DI #4: Trial Courts, Mandated Costs	\$1,358,504
ADC DI #3: Conflict of Interest Contracts	\$2,323,295
OCR DI #2: Court Appointed Counsel	\$1,539,100

MANDATED COSTS: RESPONDENT PARENT COUNSEL FOOTNOTE REQUEST

The Department requested a footnote encouraging it to pilot alternative methods of providing respondent parent counsel services.

Background. The Judicial Department is required to provide counsel for indigent parents who are at risk of losing their children in dependency and neglect proceedings; these attorneys are known as respondent parent counsel (RPC). RPC play a critical role in dependency and neglect proceedings by: providing information to the courts that promotes effective decision making; preserving the necessary checks and balances on state involvement with families; and working to involve parents in meaningful treatment plans and visitation with their children.

In 2004, the Pew Commission recommended that “parents and children must have a direct voice in court, effective representation and timely input by those who care about them.” The National Council for Juvenile and Family Court Judges has also historically identified representation of parents as critical to effective judicial decision making in dependency and neglect cases. In 2006, the American Bar Association promulgated *Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases*. In response to these national developments, the Judicial Department formed the RPC Task Force which met from October 2005 to October 2007.

RPC Task Force. The Judicial Department's RPC Task Force was comprised of approximately thirty members, including state representatives, judicial officers, respondent parents’ counsel, Guardians ad Litem, county attorneys, law school professors, and representatives of the Office of the Child’s Representative and the Institute for the Advancement of the American Legal System at the University of Denver. The Task Force was an effort to focus attention and efforts on the specific issues faced by RPC, and to ground Colorado’s improvement efforts in the expertise and experience of individuals actually working in this area of law.

Consistent with national recommendations, Colorado’s court improvement efforts also identified representation of parents as an area in need of improvement. The Chief Justice of the Colorado Supreme Court has set forth improvement of representation of parents as a component of Colorado’s Pew Plan. Of concern are the due process rights of parents to family integrity, the safety and well-being of children and families, and the need for courts to be provided with sound information and advocacy from all parties.

Footnote Request. The RPC Task Force recommended that the Judicial Department pilot alternative RPC delivery methods to: improve accountability and effectiveness of RPC; predict costs and cost effectiveness of various compensation structures; and determine the possibility for expanding alternatives to a statewide basis. The Department is requesting a footnote similar to the one that

authorized a pilot for Guardian ad Litem (GAL) services in 2000. The 2000 footnote read as follows:

The Department is requested to pilot alternative methods of providing guardian ad litem services in dependency and neglect cases and to report to the Joint Budget Committee on the progress of such pilots in the Department's annual budget request.

This footnote led to the creation of a staff GAL office in El Paso County which continues to provide cost-effective GAL services. Eventually, all GAL services were placed under the authority of an independent agency within the Judicial Branch, the Office of the Child's Representative (OCR).

Potential Pilot Projects. The Judicial Department is interesting in piloting delivery and evaluation mechanisms to determine actual improvements in representation and stakeholder satisfaction. The three models that the Department is considering piloting are:

- *Washington State Model:* Washington State has demonstrated considerable success and improved outcomes for families with a model it began using in 2000. A select group of independent contractor attorneys are required to dedicate their practice exclusively to the representation of parents. In doing so, they agree to accept no more than eighty active cases at one time, have a quarter-time social worker to assist the families they represent, and have a full-time staff assistant available. These attorneys are paid an annual contract fee of \$110,000 to \$128,000.
- *Fee for Service:* This system would compensate attorneys for the hours actually spent on a given case, instead of a flat fee. This system is used by the OCR, the Alternate Defense Counsel, and the Office of the Federal Defender.
- *Staff Office:* This model is used in many counties across Colorado to provide county attorney services in dependency proceedings; it is also used by the Public Defender's Office, and the El Paso County GAL office of the OCR. This model pays staff attorneys an annual salary plus benefits to handle cases within a certain jurisdiction. Contract attorneys may still be necessary to handle conflict cases (such as when each parent needs an attorney) or overflow cases. The Department would not pursue this model until FY 2009-10.

Without the footnote, the Department can move ahead with the pilot projects. However, it is requesting the footnote as a way of notifying the JBC that it is working on this issue. Additionally, the footnote provides an opportunity for the JBC to request progress reports - or tell the Department that they have no interest in our pursuing pilots or improvements in this area.

Staff Analysis: The use of pilot projects can be an effective way for an agency to try out a variety of alternative models to determine which one or ones may best enable it to provide cost-effective, quality services. As described above, this technique was used successfully when there were concerns

about the provision of GAL services. Staff agrees that piloting alternative methods for the provision of RPC services is a logical next step. Also, having a reporting mechanism in place may be useful since the outcomes of these pilot projects could impact future budget requests. However, since the JBC's new policy is to submit information requests to state agencies via a letter, not a footnote, *staff recommends the Department's request in the form of a "request for information," as follows:*

Judicial Department, Trial Courts, Mandated Costs -- The Department is requested to pilot alternative methods of providing respondent parent counsel services in dependency and neglect cases and to report to the Joint Budget Committee on the progress of such pilots in the Department's annual budget request.

Mandated Costs/Court Costs, Jury Costs, and Court-appointed Counsel

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 Constitution to ensure a fair and speedy trial, and to ensure the right to legal representation. The Mandated Costs line item funds court-appointed counsel, court costs (such as transcripts, expert and other witness fees and expenses, interpreters, psychological evaluations, sheriffs' fees, subpoenas, and other costs mandated by statute), and jury costs. As discussed on page 79, the Department requested, and staff recommends, changing the name of this line item to, "Court Costs, Jury Costs, and Court-appointed Counsel".

Staff recommends the requested appropriation of \$14,743,791 comprised of \$14,258,791 General Fund and \$485,000 cash funds. This recommendation includes funding for JUD DI #4 (CAC Rate Increase, page 81) and budget amendment #3 (Mandated Costs/Operating Expenses Transfer, page 79). The sources of the cash funds are various fees and cost recoveries.

Summary of Trial Courts, Court Costs, Jury Costs, and Court-appointed Counsel					
	GF	CF	CFE/RF	FF	TOTAL
FY 2007-08 Long Bill Appropriation for Mandated Costs	\$13,115,287	\$485,000	\$0	\$0	\$13,600,287
JUD DI #4: CAC Rate Increase	\$1,358,504	\$0	\$0	\$0	\$1,358,504
JUD BA #3: Mandated Costs/ Operating Expenses Transfer	(\$215,000)	\$0	\$0	\$0	(\$215,000)
Staff Recommendation	\$14,258,791	\$485,000	\$0	\$0	\$14,743,791

Language Interpreters

Language barriers and barriers erected by cultural misunderstanding can render participants in the judicial system virtually absent from their own court proceedings. In addition, they can result in misinterpretation of witness statements made to police or testimony during court proceedings, and can deter minority litigants from the civil justice system as a forum for redress of grievances. As a result, laws that govern the access to judicial proceedings in general are also interpreted to apply to language interpreter access. For example, the protections guaranteed in the U.S. Constitution (specifically the due process clause of the 14th Amendment, and the provisions of the 5th and 6th Amendments regarding the admissibility of criminal confessions and a criminal defendant's right to confront a witness) are deemed to apply as they concern the abilities of non-English speakers to understand and fully participate in court proceedings.

Historically, language interpreters were paid for out of the Mandated Costs appropriation. However, in FY 2006-07 language interpreter costs were moved to a separate line item because they were growing and becoming an increasingly significant part of the Mandated Costs line item. Additionally, a separate line item provides more information to interested parties and helps the Department to manage these costs better. **Staff recommends the requested continuing appropriation of 25.0 FTE and \$2,892,427** comprised of \$2,842,427 General Fund and \$50,000 cash funds. The source of cash funds is cost recoveries.

District Attorney Mandated Costs

To help ensure a fair and equitable Judicial system, the state pays District Attorney mandated costs, thus providing the DAs access to resources on par with those of the Public Defenders. The bulk of the mandated costs for District Attorneys are payments to witnesses, including travel, and payments for subpoenas. Although the appropriation is made to the Judicial Department, the funding is passed through to the Colorado District Attorneys' Council for management and distribution. Mandated costs can vary from year to year and are impossible to predict.

The request is based on the average actual costs from the five most recent years of actual expenditures (see table below). This total (\$1,926,052) is a \$10,385 increase over the FY 2007-08 appropriation.

	FY 02-03 Actual	FY 03-04 Actual	FY 04-05 Actual	FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Approp	FY 08-09 Request
Total	1,904,527	1,906,703	1,911,969	1,879,174	2,027,885	1,915,667	1,926,052
GF	1,833,410	1,847,369	1,911,969	1,772,849	1,928,795	1,790,667	1,801,052
CF	71,117	59,334	0	106,325	99,090	125,000	125,000

Staff recommends the requested appropriation of \$1,926,052 comprised of \$1,801,052 General Fund and \$125,000 cash funds from cash recoveries.

Sex Offender Surcharge Fund Program

Section 18-21-103, 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. In addition, the statute authorizes the Department to retain five percent of revenues for the administrative costs incurred by the Department. The five percent administrative portion is credited to the General Fund, and is subject to appropriation by the General Assembly

Based on projected revenues, the Sex Offender Management Board reduced the allocation for the Judicial Branch, and thus the request includes a reduction of \$1,429 in administrative costs. **Staff recommends the requested appropriation of \$23,559 General Fund.**

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.

For FY 2008-09, the Department requested a \$435,198 reduction for Victim Compensation and a \$1,807,287 increase for Victim Assistance. For both funds, a reduction was needed due to a decline in traffic infraction and traffic offense filings. For Victims Assistance, that reduction was more than offset by the fact that the appropriation has been too low for several years.

Staff recommends requested appropriations of \$12,120,121 for Victim Compensation and \$15,095,039 for Victim Assistance. Previously, funding for these line items was a mix of cash funds and cash funds exempt from reserves. Since the reserves are not otherwise appropriated, they should be reclassified as cash funds. 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).

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 grants include Child Support Grants, Court Improvement Grants, a Criminal History Disposition Grant, a CICJIS Sex Offender Grant, and a Kids of Divorce Grant.

Staff recommends the requested continuing appropriation of \$2,296,627 and 8.5 FTE, comprised of \$989,579 cash funds, \$256,890 reappropriated funds, and \$1,050,158 federal funds. The reappropriated funds are federal funds appropriated to DCJ. The federal funds are direct grants to Probation for juvenile programs, and an Access and Visitation Grant which the Office of Dispute Resolution uses primarily to provide free services to indigent parties and subsidized services to low-income parties in cases involving parenting issues.

(4) PROBATION AND RELATED SERVICES

Staffing Summary	FY 2006-07 Actual	FY 2007-08 Approp.	FY 2008-09 Request	FY 2008-09 Recomm.
Chief Probation Officers	25.1	25.0	25.0	25.0
Probation Supervisors	58.9	85.1	90.5	90.5
Probation Officers	603.9	774.9	810.4	810.4
Admin. / Support	147.8	196.0	205.5	203.9
Total PS line item	835.7	1,081.0	1,131.4	1,129.8

Alcohol/Drug Driving Safety	70.7	0.0	0.0	0.0
Victims Grants	17.3	17.3	17.3	17.3
S.B. 91-94	25.0	25.0	25.0	25.0
Grants and Federal Funds	32.3	32.3	32.3	32.3
Total Other line items	145.3	74.6	74.6	74.6

DIVISION TOTAL	981.0	1,155.6	1,206.0	1,204.4
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The Judicial Department maintains a probation department in each of its 22 judicial districts. Probation departments are responsible for supervising adult and juvenile offenders and providing presentence investigations to the courts. Supervision of probationers is conducted 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

Staff recommends an appropriation of \$68,336,008 and 1,129.8 FTE. The recommended funding is comprised of \$59,107,302 General Fund and \$9,228,706 cash funds from Offender Services Fund and various fees and cost recoveries. The recommendation includes funding to annualize new General Fund FTE for which only 11 months of funding was appropriated in FY 2007-08; and for JUD decision item#2 (Probation Staff, page 42).

Summary of Probation and Related Services Personal Services Recommendation						
	GF	CF	CFE/RF	FF	TOTAL	FTE
FY 2007-08 Long Bill	\$52,000,053	\$8,888,977	\$0	\$0	\$60,889,030	1,081.0
FY 07-08 Salary Survey	\$4,240,167	\$394,784	\$0	\$0	\$4,634,951	0.0
80% FY 07-08 PBP	\$451,886	\$38,164	\$0	\$0	\$490,050	0.0
Annualize FY 07-08 DI	\$485,111	\$0	\$0	\$0	\$485,111	0.0
1.0 % Base Reduction	(\$571,772)	(\$93,219)	\$0	\$0	(\$664,991)	0.0
JUD DI #2: Probation Staff	\$2,501,857	\$0	\$0	\$0	\$2,501,857	48.8
Staff Recommendation	\$59,107,302	\$9,228,706	\$0	\$0	\$68,336,008	1,129.8

Operating Expenses

Staff recommends an appropriation of \$2,738,962 comprised of \$2,331,863 General Fund and \$407,099 cash funds. The recommendation includes funding associated with JUD DI #2 (Probation Staff, page 42).

Summary of Probation and Related Services Operating Expenses Recommendation					
	GF	CF	CFE	FF	TOTAL
FY 2007-08 Long Bill	\$2,181,879	\$407,099	\$0	\$0	\$2,588,978
FY 2007-08 Supplemental	\$62,724	\$0	\$0	\$0	\$62,724
JUD DI #2: Probation Staff	\$87,260	\$0	\$0	\$0	\$87,260
Staff Recommendation	\$2,331,863	\$407,099	\$0	\$0	\$2,738,962

Capital Outlay

Staff recommends an appropriation of \$168,604 General Fund for costs associated with JUD DI #2 (Additional Probation Staff, page 42).

Offender Treatment and Services

In the FY 2006-07 Long Bill, the appropriations for the Probation Division were reorganized. Multiple line items were eliminated and their appropriations moved to either: the Probation Personal Services line item (for all personnel-related expenses); the Probation Operating Expenses line item (for all operating costs); or this new line item for all treatment-related expenses. A new footnote was created that asks the Department to report on how funding from this line item is utilized each year.

The Department submitted two requests that affect this line item:

	Description	Request
JUD DI #5	Increase Offender Services Cash Fund Spending Authority Increase	\$2.0 million CF
JUD BA #2	Treatment Services for DUI Offenders	\$300,000 RF

**JUD DI #5: INCREASE OFFENDER SERVICES CASH FUND SPENDING AUTHORITY
\$2.0 MILLION CF**

The Department seeks an increase of \$2,000,000 cash funds spending authority from the Offender Services Cash Fund to better reflect actual revenue in fees paid by offenders. This increase would allow the program to purchase more treatment, rehabilitation, and other support services for both adult and juvenile offenders.

Probation Reorganization. In FY 2006-07, the Probation Program appropriation was reorganized. Numerous treatment, evaluation, and testing line items were consolidated into a single "Offender Treatment and Services" line item. The purpose of this reorganization was to provide the Program more flexibility in how it used funds which it anticipated would result in a more full use of its appropriated monies. The Department reports that the consolidation has reduced administrative obstacles that previously hampered individual probation officers from easily accessing services for offenders and has helped facilitate more successful outcomes.

Lack of Services. However, the Department reports that there is still a lack of adequate services for many offenders, particularly those located in rural areas of the state. A statewide need assessment revealed that the greatest needs are in the 12 rural judicial districts, including some districts that have no providers for certain treatment and services (these districts must import treatment services from outside of their judicial district). A workgroup of Chief Probation Officers has been meeting to evaluate strategies for establishing new or increasing existing treatment and service capacity in rural areas. The treatment services that are in the greatest demand are: emergency housing; polygraph services for adult and juvenile sex offenders; adult and juvenile sex offender treatment; intensive outpatient substance and abuse and domestic violence treatment; adult sex offender assessment; and mental health services.

Obstacles to the creation or expansion of services in rural areas include: geography; services being needed for a small population in any one location; services must be provided through private sector providers; and providers being very specialized in the services they are able to provide.

At present, the Chief Probation Officers plan to earmark half of the requested increase to either restore or create treatment services that are unavailable in some rural areas. Additionally, this

spending authority increase is needed because the cost for services (such as inpatient substance abuse treatment, mental health care with medications, and housing for offenders who have been ordered to vacate their domicile) increase each year.

Staff Analysis. If the request is not funded, treatment and other services will likely remain unavailable in many rural areas. However, it should be noted this level of appropriation from the Offender Services Cash Fund may not be sustainable beyond FY 2009-10. Depending on what happens with revenues, it is possible that spending on services from this fund may need to be curtailed in future years. Regardless, **staff recommends providing the \$2.0 million in increased cash funds spending authority as requested.** The funding is available now and the services are needed. If future funding problems arise, the Department will respond accordingly.

JUD BA #2: TREATMENT SERVICES FOR DUI OFFENDERS \$300,000 RF

The Department is seeking \$312,733 in reappropriated funds spending authority for funding appropriated to the Department of Human Services (DHS) associated with H.B. 06-1171.

Background. House Bill 06-1171 (Reisberg/Groff) provided funding to DHS in FY 2007-08 and FY 2008-09 to pay a portion of the costs for intervention and treatment services for persistent drunk drivers who are unable to pay. The appropriation from H.B. 06-1171 should have been included in the base funding for FY 2008-09 but was inadvertently omitted. Therefore, DHS is requesting this spending authority via a budget amendment to its FY 2008-09 request.

The funding received by DHS will be allocated to the judicial districts and Denver courts. The required intervention or treatment services will be administered by the Probation Departments, consistent with the intent of the legislation and the policies established by DHS.

Request and Recommendation. The Judicial Department needs reappropriated funds spending authority in order to receive and allocate the treatment funding. **Staff recommends the requested increase in reappropriated funds spending authority if DHS is provided the related spending authority it is seeking.**

Offender Treatment and Services

Staff recommends the requested appropriation of \$8,607,023 comprised of \$487,193 General Fund, \$7,807,097 cash funds, and \$312,733 reappropriated funds. The recommendation includes funding for JUD DI #5 (Offender Services Cash Fund Increase, page 92) and JUD budget amendment #2 (DUI Treatment Funding, discussed above).

The cash funds come from the Offender Services Fund, the Drug Offender Surcharge Fund, and the Sex Offender Surcharge Fund. The FY 2007-08 cash funds exempt appropriation primarily came from reserves and grants. These funds which are not appropriated elsewhere and should now be classified as cash funds.

Summary of Offender Treatment & Services Recommendation					
	GF	CF	CFE/RF	FF	TOTAL
FY 2007-08 Long Bill	\$487,193	\$3,824,884	\$1,982,213	\$0	\$6,294,290
JUD DI #5: CF Increase	\$0	\$2,000,000	\$0	\$0	\$2,000,000
JUD BA #2: DUI Treatment	\$0	\$0	\$312,733	\$0	\$312,733
Reappropriated Funds Adjustment	\$0	\$1,982,213	(\$1,982,213)	\$0	\$0
Staff Recommendation	\$487,193	\$7,807,097	\$312,733	\$0	\$8,607,023

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 appropriation was formerly cash funds exempt from 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 Victims of Crime Act (VOCA) grant that is received by the Division of Criminal Justice as federal funds and transferred to Judicial. Funding should now be classified as reappropriated funds.

For the past several years, the Department has restricted a large portion of this appropriation due to insufficient grant receipts. The Department indicated that it is not opposed to reducing this appropriation to \$400,000 to better reflect anticipated grant receipts. **Staff recommends an appropriation of \$400,000 reappropriated funds and 17.3 FTE.**

S.B. 91-94

Senate Bill 91-94 funds are used to fund alternative services to placing juveniles in the physical custody of the Department of Human Services (DHS), Division of Youth Corrections. A local juvenile services planning committee develops a plan for the allocation of resources for local juvenile services within that judicial district for each fiscal year, and each plan is approved by DHS. The DHS receives a General Fund appropriation for this program and then contracts with the Judicial

Department to provide these services. The funds are then expended in the judicial districts according to the juvenile services plan. Services may include intervention, treatment, supervision, lodging, assessment, electronic monitoring, bonding programs, and family service programs. A supplemental is submitted each year by the Judicial Department for this line item because they do not know before figure setting what the terms of its contract with DHS will be.

Staff recommends the requested appropriation of \$1,906,837 and a continuation of 25.0 FTE. Formerly this appropriation was cash funds exempt. However, these funds are transferred from the Department of Human Services, Division of Youth Corrections, pursuant to Section 19-2-310, C.R.S. Therefore, this appropriation should now be classified as reappropriated funds.

S.B. 03-318 Community Treatment Funding

This line item was created in response to S.B. 03-318 (Gordon/Hefley). S.B. 03-318 reduced the penalties for use and possession of certain controlled substances. It also 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. JBC 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. For FY 2007-08, the Legislature approved a \$2.2 million appropriation for this line item. Additionally, the substantive criminal omnibus bill (S.B. 07-114) repealed the language linking the appropriation and the sentencing changes.

Per statute, each judicial district drug treatment board must submit a plan for how it intends to utilize these funds to the Inter-agency Task Force on Treatment for evaluation by September 1 of each year (Section 16-11.5-102(7)(a), C.R.S.) Each district submitted plans for FY 2007-08 and FY 2008-09 which are now being reviewed. Eight districts plan to specifically target the methamphetamine-using population, and ten districts indicated that some or all of the funds will be used to work with offenders in drug court. The populations targeted varied: ten districts are focusing on adults, two on juveniles, and the others on both; three districts indicated that they will give priority to female substance abusers.

There are several types of programs planned. The majority (12 districts) intend to use the funds to pay for a continuum of services, ranging from education to long-term residential placement. Eight districts are focusing on specific levels of treatment: three for weekly outpatient services, three for residential treatment, one for intensive outpatient, and one for detox services. The remaining two districts will be contracting for ancillary services defined in the offenders' substance abuse case plan (such services can include education, vocational training, emergency housing, transportation, and basic medical care).

Staff asked the Judicial Department if funding for this line item should be transferred to the Offender Treatment and Services line item. However, the Department reported that for several reasons, it would prefer keeping the funding separate at this time. First, funding for the Offender Treatment and Services line item is almost entirely funded with offender fees, whereas this line item is entirely

funded with General Fund. Second, the Offender Treatment and Services funding is allocated by Department staff, whereas funding in this line item is allocated by local treatment boards. The Department reports that much time and effort has gone into creating a common vision between the local boards and that by keeping a separate line item, it highlights to the boards and communities that the Department is committed to this effort. The Department suggested it could revisit the idea of merging these line items in a year or two once the program is fully established and operational.

Staff recommends the requested continuing appropriation of \$2.2 million General Fund.

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. Grants have included juvenile assessment and treatment; an adult literacy program; a drug court in the 8th judicial district; juvenile accountability block grants; and an effort to encourage arrest policies in domestic violence cases in the 6th and 10th districts.

Staff recommends the requested continuing appropriation of \$4,663,739 and 32.3 FTE. The recommended fund mix is \$2,605,422 cash funds, \$822,563 reappropriated funds, and \$1,235,754 federal funds. The sources of cash funds are various fees and cost recoveries. The sources of reappropriated funds are federal funds appropriated to the Departments of Public Safety, Human Services, and Education; various fees, cost recoveries, gifts, grants, and donations; and the Rose Foundation for juvenile programs.

Long Bill Footnotes and Requests for Information for the Judicial Department:

Staff recommends the following footnotes be **continued as footnotes**.

- 4 **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** -- 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 Sex Offender Surcharge Fund, the Persistent Drunk Driver Cash Fund, and the Alcohol and Drug Driving Safety Fund, among other programs.

Comment: This footnote was vetoed on the grounds that it violates the separation of powers. Additionally, the Governor stated that it could constitute substantive legislation. However, the Governor instructed departments to comply to the extent feasible. The General Assembly subsequently over-rode the veto and the Department complied with the request. There have been problems in the past with consistency between inter-agency requests, although the number of problems has been reduced since the inception of this footnote. **Staff recommends retaining this footnote** in hopes that the departments will continue to work together and improve their coordinated requests and planning for these funds.

89 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 a one-year increase in judicial compensation, as follows:

	<u>Current Salary</u>	<u>Increase</u>	<u>FY 2007-08</u>
			<u>FY 2008-09</u>
Chief Justice, Supreme Court	125,656	6,371	132,027
	132,027	14,642	146,669
Associate Justice, Supreme Court	122,972	6,235	129,207
	129,207	14,329	143,536
Chief Judge, Court of Appeals	120,807	6,125	126,932
	126,932	14,077	141,009
Associate Judge, Court of Appeals	118,101	5,988	124,089
	124,089	13,761	137,850
District Court Judge	113,232	5,741	118,973
	118,973	13,194	132,167
County Court Judge	108,362	5,494	113,856
	113,856	12,627	126,483

~~Increases in judicial compensation are based upon the percentage salary survey and performance-based pay increases received by ALJ III's.~~ THE SALARY INCREASES PROVIDED FOR FY 2008-09 INCLUDE THE STATEWIDE SALARY SURVEY PERCENTAGE INCREASE FOR PROFESSIONAL EMPLOYEES, THE STATEWIDE PERFORMANCE-BASED PAY PERCENTAGE INCREASE, AND A 6.0 INCREASE AS PART OF AN EFFORT TO MAKE JUDGE SALARIES MORE COMPETITIVE. 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

salary SALARIES of the Alternate Defense Counsel and the Executive Director of the Office of the Child's Representative at the level of a district court judge.

Comment: Staff recommends continuing this footnote as amended. Statute requires that increases in judicial compensation be determined by the General Assembly and set forth in the annual appropriations bill. As discussed beginning on page 61, staff is recommending that judge salaries no longer be tied to Administrative Law Judge salaries, and that they are increased by 6.0 percent in FY 2008-09. The changes shown in the footnote reflect that change and add general language explaining the basis of the salary increase. The increases in the table include: (1) a 4.09 percent increase for salary survey (this is the percentage increase awarded to the classification of professional employees statewide); (2) a 1.00 percent increase for performance-based pay (this is the average percentage increase to be awarded); and (3) a 6.0 percent increase as part of an effort to make judge salaries more competitive, for a total increase of 11.09 percent.

If the Committee votes not to increase judge salaries by 6.0 percent, and/or if the Committee changes statewide common policies pertaining to the percentage increases for salary survey and performance-based pay awards in FY 2008-09, staff will update this table accordingly.

- 85 **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 Mandated Costs appropriation is spent, how it is distributed, and the steps taken to control these costs.

Comment: Staff recommends continuing this footnote. The District Attorneys are not part of State government, yet receive funding through this line item in the Judicial Department's Long Bill. This footnote ensures that the District Attorneys comply with the State's regular budget process and provides some accountability as to how they are spending the appropriation.

Staff recommends the following footnotes be **eliminated and replaced with a written request for information**. Staff recommends that the written request for information include the modifications shown in struck type and small capitals.

86 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; the female offender program; and the specialized drug 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.

Comment: Staff recommends continuing to request this information. This report provides information on the success of the various probation programs that is useful in decision making.

87 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.

Comment: Staff recommends continuing to request this information. This footnote was first requested in FY 2006-07 when multiple probation line items were eliminated and their funding moved to Probation, Personal Services and Operating Expenses line items, and this new line item that is dedicated to probation treatment and services expenditures. Since historic expenditures were not available this year, the Department submitted a report on anticipated allocations. Staff will work with the Department over the course of the upcoming year to determine what type of details should be included in the report.

Staff recommends the following **new request for information**.

Judicial Department, Trial Courts, Mandated Costs -- The Department is requested to pilot alternative methods of providing respondent parent counsel services in dependency and neglect cases and to report to the Joint Budget Committee on the progress of such pilots in the Department's annual budget request.

Comment: Staff recommends adding this footnote. As discussed on page 85, in 2005, the Respondent Parent Counsel Task Force recommended that the Department pilot various alternative strategies, and the Department intends to move forward with them in the next one to two years. This information request will provide the JBC with regular updates as to the progress and findings of these pilots, which may impact future budget requests.

(5) PUBLIC DEFENDER

Staffing Summary	FY 2006-07 Actual	FY 2007-08 Approp.	FY 2008-09 Request	FY 2008-09 Recomm.
State Public Defender & Deputies	3.0	3.0	3.0	3.0
Trial Deputy Public Defenders	236.5	290.8	299.2	299.2
Appellate Deputy Public Defenders	30.0	31.0	31.0	31.0
Investigators	70.0	87.2	90.6	90.6
Paralegals	6.0	6.0	6.0	6.0
Admin./Support	80.4	98.0	103.8	103.8
TOTAL	425.9	516.0	533.6	533.6

The Office of the Public Defender 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. The Public Defender system includes 21 regional trial offices and one appellate division.

The PDO's top priority decision item seeks base funding increases for four line items:

PDO DI #1: Base Funding Increases

Priority	Line Item	Request
1a	Leased Space	\$1,062,766
1b	Mandated Costs	\$424,412
1c	Automation Plan	\$230,971
1d	Operating Expenses	\$7,582
	Total	\$1,725,731

The table below shows the PDO's year end transfers for the past four years:

PDO Year End Transfers, FY 2003-04 to FY 2006-07

	Amount Transferred	From	Amount Transferred	To
FY 2003-04	\$166,500	Personal Services	\$115,000	Operating Expenses
			\$51,500	Leased Space
FY 2004-05	\$795,287	Personal Services	\$502,905	Operating Expenses
			\$225,000	Automation Plan
			\$130,222	Leased Space
FY 2005-06	\$855,244	Personal Services	\$517,022	Automation Plan
	\$17,000	Leased Space	\$225,000	Operating Expenses
			\$130,222	Mandated Costs
FY 2006-07	\$588,545	Personal Services	\$358,045	Automation Plan
	\$27,500	Leased Space	\$258,000	Operating Expenses
			\$10,000	Mandated Costs

The vast majority of the transfers are from the Personal Services line item. Although the PDO has been chronically understaffed (the Legislature provided an increase of 88.1 FTE in FY 2007-08 to address understaffing), it has been forced to keep positions vacant to generate sufficient savings to cover other operating costs. The transfers have gone to:

- Mandated Costs the past two years, with an average transfer of \$70,111; the requested base increase for this line item is \$424,412 (this increase would be in addition to a FY 2007-08 supplemental of \$611,641);
- Automation Plan three of the past four years, with an average transfer of \$377,816; the requested base increase for this line item is \$230,971; and
- Operating Expenses each of the past four years, with an average transfer of \$275,226; the requested base increase for this line item is \$7,582 (this increase would be in addition to a FY 2007-08 supplemental of \$246,721).

Each request is discussed individually below.

**PDO DI #1A: LEASED SPACE BASE INCREASE
\$1.1 MILLION GF**

The PDO is requesting \$1,062,766 General Fund for increases in leased space costs. The PDO's Leased Space line item funds 21 existing leased spaces for 23 offices statewide. The requested increase in the Leased Space appropriation is comprised of three components:

Summary of PDO Leased Space Request

A.	Scheduled increases of existing leases that continue through the end of FY 2008-09	421,779
B.	Increases in current market rate of leases that will expire and require renegotiation of terms beginning December 2007 through June 2009 (6 leases)	385,997
C.	Expansion of usable square footage of the six offices for which leases are about to expire (in B, above) and six other offices where leases are expiring soon and they are unable to accommodate recent staffing increases	254,990
<i>Total</i>		<i>1,062,766</i>

Each of the three components is discussed in greater detail below.

Part A: Scheduled Increases. This increase is due to "lease escalators" that are built into leased space contracts. In the Executive Branch, these increases are typically built into the Leased Space requests and not shown as a separate decision item.

Part B: Expiring Leases. These long-standing leases will see marked increases in rates compared to the historic lease rates negotiated a decade or two ago. For example, for the Salida office, the PDO now pays \$7 per square foot. This lease is expiring and the office needs more room (there is now an attorney in each of the two offices, plus two attorneys, an investigator, and a secretary in the open "lobby" space). The landlord will not expand the space. The PDO must either find existing office space in town (from which there is little to choose from) or contract with a developer on a "build to suit" site. Cost estimates for these two options run between \$22 and \$35 per square foot.

Part C: Expansion of Space. Typically, leases are negotiated for 10 years. The PDO estimates how quickly the office will grow and opts for slightly more space than it needs, intending to fully fill the space in approximately seven years, and then expand into common spaces in the final three years. However, several offices have outgrown their space ahead of

schedule. These offices have already reconfigured space to the furthest extent possible to add new staff and still need additional room.

For example, the Colorado Springs office is one of the PDO's fastest growing offices. It has been in its space five years and has five years left on its lease. It is in a dated office building that has much wasted space in its design. The PDO has already expanded into all of its "absorbable" space: larger offices have been divided; some offices are shared; the mezzanine, library, storage rooms, and a small phone nook have been converted into offices; and a restroom and a breakroom have been downsized to create offices. The result is that there is no conference room; the waiting room is too small (people are often forced to stand and spill over into the hallways); and files, bookshelves, printers, and copiers are kept in the hallway. The PDO is planning on leasing additional space nearby into which to move the office's investigators so as to keep all the lawyers in one space.

Another example is the Golden office - another of the PDO's fastest growing offices. Three years ago, this office moved into "build to suit" space which was configured to use the space efficiently. However, due to growth in this office, they are already "at capacity": all offices are full, one is doubled-up, and interns work in the conference room. The next step will be to begin converting the absorbable space (including two conference rooms) into offices. There is space available in the building adjacent to the existing space. While the PDO does not need this space now, it is likely going to need more space for this office in two to three years. Therefore, it is hoping to sign a lease for the adjacent space now. Although it doesn't need the space immediately, it will be able to lock in today's leased space rates and will prevent the need for either a move or separate offices when the current space is outgrown in a few years.

Staff Analysis. The PDO is already expecting a deficit in the FY 2007-8 Leased Space appropriation (see table below). To cover these costs, the PDO will likely hold open vacancies in order to generate savings that it can transfer to this line item.

PDO Leased Space Appropriation and Expenditures

	FY 2005-06	FY 2006-07	FY 2007-08 (Est.)	FY 2008-09 (Est. w/o decision item)
LS Appropriation	2,429,730	2,599,818	3,455,226	3,455,226
LS Actual	2,412,730	2,572,318	3,877,005	4,517,992
Deficit (\$)	(17,000)	(27,500)	421,779	1,062,766

The PDO does not get additional leased space funding for new FTE associated with special bills. In FY 2006-07, the PDO received a Leased Space increase for 23.0 new FTE it received. In FY 2007-08, the PDO received 90.1 new FTE. That year, in addition to its annual leased space escalator, it received an additional \$669,936 to cover new leased space contracts and some additional space. However, it did not receive funding specifically associated with the new FTE.

Staff has toured several PDO offices over the last few years and can verify the cramped conditions in many of them. Staff agrees that the PDO needs a base increase in its Leased Space appropriation to meet rising costs due to new contract provisions and to address the need for additional space. These costs cannot be avoided. However, the request is based on estimates; actual costs may not be as high as projected if leases are delayed or better rates can be negotiated. Therefore, *staff recommends a \$850,213 General Fund increase for Leased Space*. This amount is 80 percent of the request. If actual Leased Space costs turn out to be significantly greater, the PDO can submit a supplemental to address those costs.

PDO DI #1B: MANDATED COSTS BASE INCREASE \$424,000 GF
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The request is for a Mandated Costs base increase of \$424,412 General Fund. As mentioned above, for the past two years, the PDO has used its year end transfer authority to cover excess costs in this line item, with an average transfer of \$70,111. Additionally, it received a Mandated Costs supplemental appropriation of \$611,641 in FY 2007-08. In terms of priorities, the PDO ranked this request on par with PDO DI #1a, Leased Space Base Increase.

Background. 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 Constitution to ensure a fair and speedy trial, and to ensure the right to legal representation. Such costs include expert witnesses and associated travel costs, discovery, interpreters, transcripts, and other related expenses.

Factors driving increases in Mandated Costs include: changes in caseload and case severity; expert witness costs; transcript fees; and discovery costs.

- **Changes in caseload** (more cases drives the need for more transcripts, discovery, and so forth) **and case severity** (the more severe the charge, the more discovery, transcripts, and other related costs) are driving increased costs. From FY 1999-00 to FY 2007-08 (projected), the PDO's total trial/pretrial caseload grew by 59.3 percent, whereas the portion of those cases that felony cases increased 78.2 percent - illustrating both caseload growth and growth in cases with more severe charges.

- **Expert witness costs** have gone up. The PDO had been paying experts \$100 per hour. However, the going rate on the private market is \$250 to \$350 per hour, so it recently increased the rate to \$125 in order to compete with private lawyers and district attorneys.
- **Transcript fees**, and fees for court reporters and translators, are set through Chief Justice directives. One example of the effect of these fees on the PDO is a result of the Judicial Department's transition to a "paper on demand" system. The state Court of Appeals now provides transcripts on disc, while still charging a per page fee. As a result, the PDO is being charged the same amount as before, but if they want any copies on paper (which is their preference), they must make them at an additional cost.
- **Discovery costs** are set by law enforcement agencies, where there has been a recent trend toward increasing fees. The most extreme example is from the Jefferson County DA office where the new rates (as of July 2007) increased per page costs from \$0.25 to \$0.35, CD/DVD costs from \$15 to \$25 each, and they have created a new \$5 search fee per discovery case request. The impact of the fee increases in this one location will be approximately \$60,000.¹

Cost Projections. To project FY 2007-08 Mandated Costs, the PDO assumed all cost categories would have the same percent increase as experienced from FY 2005-06 to FY 2006-07. The exception was expert witness costs, which were projected using the first two months of actual costs for FY 2007-08, plus an additional increase of \$150,000 for the increase in the expert witness hourly rate. These projections were used when the PDO submitted its FY 2007-08 supplemental request for Mandated Costs. The Legislature approved an increase of \$611,641.

To project FY 2008-09 Mandated Costs, for most cost categories, the PDO again used the percent increase from FY 2005-06 to FY 2006-07. Based on these projections, the PDO is anticipating a \$424,412 shortfall if this request is not funded.

Staff analysis. The Mandated Cost projections for FY 2008-09 were based on the change in Mandated Costs expenditures from FY 2005-06 to FY 2006-07. As shown in the table below, it is at this point in time when caseload actually *declined* for the first time in recent history, yet Mandated Costs expenditures continue to rise due to factors outside the PDO's control.

¹ While the PDO is required to pay for Mandated Costs, it is challenging the sudden and significant increase in discovery fees charged by the Jefferson County DA (these fees are almost double what the PDO pays anywhere else). This case is currently in mediation.

PDO Caseload Growth, FY 2004-05 to FY 2008-09 (projected) ^a

FY	2004-05 (actual)	2005-06 (actual)	2006-07 (actual)	2007-08 (projected)	2008-09 (projected)
Total Cases	82,563	88,475	90,611	96,924	104,320
Percent Change		7.2%	2.4%	7.0%	7.6%

^a Data source: The PDO budget request for FY 2008-09, page 24.

The PDO is required to pay Mandated Costs for its cases. The cost projection methodology it used is sound. If this request is not funded, the PDO will be forced to hold open vacancies to generate savings to cover the excess expenditures. Forcing vacancy savings seems counter to the General Assembly's intent last year when it approved an increase of 88.1 FTE to address the PDO's 40 percent staffing shortage. Therefore, *staff recommends the requested Mandated Costs base increase of \$424,412 General Fund.*

<p>PDO DI #1D: OPERATING EXPENSES BASE INCREASE \$7,582 GF</p>

Background. Operating Expenses funding covers basic office operating costs, such as cleaning, copying, postage, equipment maintenance, books, supplies, travel, training, and so forth. These costs cover the basic necessities in doing business and maintaining 23 offices statewide. Factors that have driven up costs in recent years include the S.B. 06-173 state mileage reimbursement increase; increases in postage rates; and increases in fuel costs.

Request. To project costs for FY 2008-09, the PDO applied the actual growth rates for FY 2006-07 by cost category. Additional adjustments were made for those costs that come up periodically (contract renewals, equipment that needs replacing, and so forth). The request is for \$7,582 General Fund for Operating Expenses; this increase would be in addition to a FY 2007-08 supplemental of \$246,721. As discussed above, the PDO has used its year end transfer authority in each of the past four years to cover excess Operating Expenses costs. The average amount of these transfers is \$275,226.

Staff Analysis. Given that the PDO has consistently overspent this line item in each of the past four years, it seems that these costs are not random fluctuations, but rather a basic part of the Office's operating costs. If this request is not funded, the PDO will be forced to hold open vacancies to generate savings to cover the excess expenditures. Forcing vacancy savings seems counter to the General Assembly's intent when last year when it approved an increase of 88.1 FTE to address the PDO's 40 percent staffing shortage. Therefore, *staff recommends the requested Operating Expenses base increase of \$7,582 General Fund.*

PDO DI #1C: AUTOMATION PLAN BASE INCREASE \$231,000 GF

Background. The Automation Plan line item funds basic information technology equipment and software maintenance, supplies, and lifecycle replacement (including personal computers, a limited number of laptops, network printers), the basic office suite software packages, and telecommunications equipment and networking for all 23 offices and approximately 530 full-time, part-time, and grant employees across the state. Due to the state's budget crisis, in FY 2002-03, this line item was reduced from \$656,283 to \$391,959. In FY 2004-05, the PDO received a base increase of approximately \$98,000, raising the appropriation to its current level of \$489,746.

Request. The projected costs for FY 2008-09 are what is needed to replace and upgrade equipment that is aging and scheduled for replacement. The PDO uses the OSPB planned replacement schedule. Because the purchase of equipment is staggered (depending on when new staff is hired, when items break and can't be fixed, and so forth), replacement costs can fluctuate from year to year. The request is for a \$230,971 base increase. As discussed above, for three of the past four years, the PDO has used its year-end transfer authority to cover excess expenditures in this line item. The average transfer was \$377,816.

Staff analysis. Given that the PDO has consistently overspent this line item in three of the past four years, it seems that these costs are not random fluctuations, but rather a basic part of the Office's operating costs. The requested increase would raise the appropriation to \$720,717, approximately \$64,000 more than what it was prior to the FY 2002-03 cut. The needed increase is not surprising given that the PDO, like other offices statewide, is expanding its electronic capabilities over time. In FY 2005-06, software was acquired for web, intranet, file sharing/collaboration, and email upgrades. In addition to replacing aging equipment computer equipment, this line item has been used to replace telephones and faxes, and to complete the implementation and development of digital

document production, web services, mail services, file sharing/collaboration, and intranet environments.

If this request is not funded, the PDO will be forced to hold open vacancies to generate savings to cover the excess expenditures. Forcing vacancy savings seems counter to the General Assembly's intent when last year when it approved an increase of 88.1 FTE to address the PDO's 40 percent staffing shortage. Therefore, *staff recommends the requested Automation Plan base increase of \$230,971 General Fund.*

In addition to PDO DI #1c (Automation Plan Base Increase discussed above), the PDO submitted two other decision items affecting its Automation Plan appropriation that staff will discuss below.

	Description	Request
PDO DI #3	MNT/Automation Plan Refinance	(\$93,000) GF
PDO DI #4	Cyber Security Initiative	\$313,445 GF

**PDO DI #3: MNT/AUTOMATION PLAN REFINANCE
(\$93,000 GF)**

The request is to eliminate all funding for the Multi-use Network (an estimated reduction of \$266,628 General Fund) and to transfer \$174,051 of that funding to the Automation Plan line item for telecommunications expenses. The estimated net savings of this change is \$92,577 General Fund.

Service Provider Change. The PDO is in the process of removing its offices from the Multi-use Network (MNT). This system has been providing both internet services and circuit connectivity between the PDO's offices across the state. These services will now be provided by Qwest. According to the PDO, the change is the result of the culmination of a two-year effort by the PDO to upgrade its IT resources using base funding. It reports that this change was recommended by an independent network assessment that was completed in June 2006.

One of the reasons for the change is to provide a better quality of service than is available with MNT. With MNT, the PDO frequently experiences network failures, resulting in lost and/or delayed data and voice transmissions (which can be very problematic when transmitting time-sensitive data and documents, such as motions and hearing responses) . With MNT, when the PDO offices need to

communicate with each other, an office must first link to MNT, then to the PDO state office, then back to the MNT, then to the office they are trying to reach. With the new system, PDO offices throughout the state will be able to communicate with each other through a direct link. The fewer the number of hops between communication destinations, the faster the transmission of data and the lesser the probability of lost or delayed data.

Other reasons the PDO decided to remove its offices from MNT include:

- To avoid the threat of a breach of defense data by the Executive Branch;
- To protect client confidentiality and innocence to the fullest extent possible;
- To ensure that even the slightest perception of collusion between the defense and the prosecution is completely prevented; and
- To ensure direct control over the efficiency of its operations and access to its resources.

Network Redesign. Moving from MNT to the Qwest network involves a complete redesign of the PDO network. All data circuits that currently connect each of the offices in the PDO network will be replaced by new Qwest MPLS circuits. Data that is exchanged between the PDO data center and its offices will no longer pass through any of the Executive Branch networks. The project also involves the deployment of network security equipment and changing the PDO internet service provider to Qwest. Qwest is currently in the process of installing the new data circuit and anticipates that work will be completed by the end of June 2008.

Project Costs. The PDO reports that this change will not require any additional staffing. The PDO maintains its own network administrator who is dedicated to configuring, monitoring, and maintaining the network equipment, infrastructure, firewalls, and traffic. Once Qwest is directly providing internet services, it will supplement the internet virus and spam support previously partly supported or supplemented by the Department of Personnel and Administration (DPA). The PDO network administrator, coupled with Qwest's direct virus and spam protection, and the Information Security Office that was approved in the PDO's FY 2007-08 supplemental, are expected to meet the need for any additional staff resources that the new network configuration will require.

The cost to the PDO for data communication services from Qwest are the same rates offered to the MNT via the state's contract agreement. Therefore, the PDO does not anticipate costs fluctuating any more than MNT costs fluctuate. The additional funding being requested for the Automation Plan line item (\$174,051 General Fund) is the total cost of both the internet service and interoffice network connectivity to be provided by Qwest.

Staff analysis. The change in service providers and technologies will result in a cost savings to the PDO because the network will be maintained directly by the PDO and Qwest - MNT overhead costs related to DPA staff and infrastructure development and maintenance costs will no longer be passed

on to the PDO. However, those DPA costs will largely remain unchanged; as a result, they will get redistributed to the other state agencies utilizing MNT.

The PDO is completely independent from the Executive Branch. It is not required to comply with Executive Branch policies, nor collaborate on efforts such as the MNT. The PDO, based on an independent network assessment, has already decided to migrate from MNT and the conversion is underway. Therefore, *staff recommends eliminating the MNT line item and providing the requested \$174,051 General Fund increase for the Automation Plan line item.*

PDO DI #4: CYBER SECURITY INITIATIVE
\$313,445 GF AND 0.5 FTE

The PDO is requesting \$313,445 General Fund and 0.5 FTE to implement cyber security measures recommended by the State Chief Information Security Officer (CISO).

Background. The State Chief Information Security Officer (CISO) conducted a review of the PDO's cyber security policies and plans by last year. This review led to a "Conditional Approval" of the PDO's policies, pending the completion of a series of requirements by the end of FY 2007-08. During the FY 2007-08 supplemental process, the PDO sought \$452,235 General Fund to implement those cyber security measures.

Staff Analysis. The PDO submitted the FY 2007-08 supplemental request to comply with the CISO's order to implement certain security upgrades and conduct full disaster recovery testing by the end of FY 2007-08. However, that deadline was not realistic for the PDO. Although the PDO's system may have some real cyber security gaps that need addressing, the PDO reported that it did not have the staff to comply with the CISO's recommendations by FY 2007-08 year end. Therefore, during supplementals, staff recommended and the JBC approved only one small part of the request: an IT security officer. The rationale was that the PDO should have an in-house security expert before undertaking a significant cyber security initiative.

The PDO reports that the IT security officer will need six to nine months to fully learn the Office's IT system and business practices; additionally, the individual will need time to get the appropriate IT security certifications required by the CISO. This time frame, coupled with the existing IT staff's queue of outstanding projects, makes it unlikely the PDO could accomplish the security projects recommended by the CISO by the end of FY 2008-09.

Therefore, *staff recommends annualizing the costs of the IT security officer, but not providing any additional funding until the PDO is ready to undertake a cyber security initiative.* Staff consulted with the PDO and they are comfortable with this recommendation. The recommended funding, by line item, is shown in the table below.

Recommended Funding for PDO DI #4: Cyber Security ^a

PDO Line Item		Recommendation 0.5 IT Security Specialist
Total	Total - GF	49,975
	FTE	0.5
Personal Services	Total - GF	45,000
	FTE	0.5
Operating Expenses	Total - GF	950
Capital Outlay	Total - GF	4,025

^a For the FY 2007-08 supplemental funding associated with this FTE, only Personal Services expenses were appropriated - there was no appropriation for Operating Expenses or Capital Outlay. Therefore, staff has included those expenses in the FY 2008-09 recommendation.

<p>PDO DI #2: CONVERT CONTRACT STAFF TO FTE 30.0 FTE (NO FUNDING CHANGE)</p>

The request is for an increase of 30.0 appropriated FTE in order to more accurately reflect actual Personal Services usage.

Background. In the 1990s, as a result of a decision item request, funding was provided to the PDO for 30 positions. At the time, the Joint Budget Committee did not want to provide the FTE designation associated with the appropriation, and instead provided the 30 positions as full-time, permanent contract staff with full salary funding and full benefits. However, the staff members filling these positions fulfill the same full-time, permanent job requirements as staff that fill the designated FTE positions. These staff members were never intended to function as contractors and are not "contract labor" as defined by the IRS: *Contract labor includes payments to persons you do not treat as employees.*

All staff (including the 30 "contract" FTE) receive the same financial benefits of FTE (Health, Life, and Dental; Short-term Disability; PERA; Salary Survey; Performance-based Pay; etc.), although the contract FTE must wait six months before accruing benefits (a savings of approximately \$16,000 per year). The PDO neither needs nor is seeking any funding commensurate with this request.

Staff Analysis. This is a technical request. The PDO receives funding for these 30 positions which would more correctly be classified as FTE by both state personnel rules and the IRS. In FY 2007-08, a similar correction was made to the FTE appropriation for the Office of the Child's Representative to include the 21.8 FTE in its Colorado Springs office. **Staff recommends that the PDO's appropriation be increased by 30.0 FTE, as requested.** This change will result in the Long Bill better reflecting the reality of the PDO's operations, increasing transparency and reducing confusion.

Personal Services

Last year, the PDO received funding for 88.1 FTE to address a staffing deficit of 40.0 percent. The PDO reports that most of these positions are filled (the remainder will be filled by students graduating from law school this year). The PDO reports that while the impacts of the additional staff are difficult to measure or quantify, there was a definite feeling of excitement expressed by staff across the state ("and a notable sigh of relief") when the staffing increase was announced at last year's statewide conference.

The staffing deficit is now at 32 percent. However, the PDO did not request additional FTE this year as it is still absorbing last year's new staff, and caseload growth has slowed for the first time. Instead, the PDO decided to prioritize base increases in various operating line items (Operating Expenses, Leased Space, Automation Plan, and Mandated Costs), which are driven in part by the new staff. The PDO reports that it plans to resume its efforts to achieve full staffing in FY 2009-10, and hopes to reach full staffing by the start of FY 2012-13.

Staff recommends an appropriation of 534.1 FTE and \$35,529,848 comprised of \$35,304,848 General Fund and \$225,000 cash funds. The recommendation includes funding to annualize new General Fund FTE for which only 11 months of funding was appropriated in FY 2007-08; the second year of costs associated with implementing H.B. 07-1054, and adjustments for PDO decision items #2 (FTE Conversion, page 112) and #4 (Cyber Security, page 111). The source of cash funds is the PDO's contract with the city of Denver to provide professional services at its drug court.

Summary of Public Defender's Office Personal Services Recommendation						
	GF	CF	CFE	FF	TOTAL	FTE
FY 07-08 Long Bill	\$33,008,809	\$288,390	\$0	\$0	\$33,297,199	479.0
FY 07-08 Salary Survey	\$934,562	\$0	\$0	\$0	\$934,562	0.0
80% FY 07-08 PBP	\$322,792	\$0	\$0	\$0	\$322,792	0.0
FY 07-08 H.B. 07-1054	\$351,004	\$0	\$0	\$0	\$351,004	7.0
FY 07-08 Supplemental	\$55,000	(\$63,390)	\$0	\$0	(\$8,390)	0.5
Annualize FY 07-08 DI	\$231,966	\$0	\$0	\$0	\$231,966	0.0
Annualize FY 07-08 H.B. 07-1054 approp	\$31,424	\$0	\$0	\$0	\$31,424	0.0
2nd Year of H.B.07-1054	\$680,451	\$0	\$0	\$0	\$680,451	17.1
1.0 % Base Reduction	(\$356,160)	\$0	\$0	\$0	(\$356,160)	0.0
PDO DI #2: Convert FTE	\$0	\$0	\$0	\$0	\$0	30.0
PDO DI #4: Cyber Security	\$45,000	\$0	\$0	\$0	\$45,000	0.5
Staff Recommendation	\$35,304,848	\$225,000	\$0	\$0	\$35,529,848	534.1

Health, Life, and Dental

Staff recommends an appropriation of \$2,642,260 General Fund, pursuant to JBC common policy.

Short-term Disability

Staff recommends an appropriation of \$40,831 comprised of \$40,814 General Fund and \$17 cash funds, pursuant to JBC common policy.

Salary Survey

Staff recommends an appropriation of \$1,346,899 comprised of \$1,335,273 General Fund and \$11,626 cash funds. This recommendation includes \$1,338,399 base funding calculated in accordance with JBC common policy, and \$8,500 for JUD DI #3 (Judge Compensation, see page 61).

Anniversary Increases

Staff recommends an appropriation of \$477,544 comprised of \$473,418 General Fund and \$4,126 cash funds, calculated in accordance with JBC common policy for Performance-based Pay.

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

Staff recommends an appropriation of \$492,072 comprised of \$491,865 General Fund and \$207 cash funds, calculated in accordance with JBC common policy.

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

Staff recommends an appropriation of \$222,483 comprised of \$222,386 General Fund and \$97 cash funds, calculated in accordance with JBC common policy.

Operating Expenses

Staff recommends an appropriation of \$1,143,882 comprised of \$1,126,382 General Fund and \$17,500 cash funds. The recommendation includes funding for the second year of H.B. 07-1054 implementation, and PDO decision items #1d (Operating Expenses Base Increase, page 107) and #4 (Cyber Security, page 111). The source of cash funds is registration fees paid by private attorneys at the Public Defender’s annual training conference.

Summary of Public Defender's Office Operating Expenses Recommendation					
	GF	CF	CFE/RF	FF	TOTAL
FY 2007-08 Long Bill Approp.	\$862,579	\$17,500	\$0	\$0	\$880,079
FY 2007-08 Supplemental	\$246,721	\$0	\$0	\$0	\$246,721
2nd Year of H.B.07-1054	\$8,550	\$0	\$0	\$0	\$8,550
PDO DI #1d: Operating Expense Base Increase	\$7,582	\$0	\$0	\$0	\$7,582
PDO DI #4: Cyber Security	\$950	\$0	\$0	\$0	\$950
Staff Recommendation	\$1,126,382	\$17,500	\$0	\$0	\$1,143,882

Purchase of Services from Computer Center

Staff recommendation is pending JBC common policy decision making.

Vehicle Lease Payments

Staff recommendation is pending JBC common policy decision making.

Capital Outlay

Staff recommends an appropriation of \$62,760 General Fund, which includes funding for the 2nd year of implementation of H.B. 07-1054, and for PDO DI #4 (Cyber Security, page 111).

Summary of Public Defender's Office Capital Outlay Recommendation					
	GF	CF	CFE/RF	FF	TOTAL
2nd Year of H.B. 07-1054	\$58,735	\$0	\$0	\$0	\$58,735
PDO DI #4: Cyber Security	\$4,025	\$0	\$0	\$0	\$4,025
Staff Recommendation	\$62,760	\$0	\$0	\$0	\$62,760

Leased Space

The PDO's Leased Space line item funds 21 existing leased spaces for 23 offices statewide. **Staff recommends an appropriation of \$4,305,439 General Fund**, including a base increase of \$850,213 for PDO DI #1a (page 103).

Summary of Public Defender's Office Leased Space Recommendation					
	GF	CF	CFE/RF	FF	TOTAL
FY 2007-08 Long Bill	\$3,455,226	\$0	\$0	\$0	\$3,455,226
PDO DI #1a: Leased Space Increase	\$850,213	\$0	\$0	\$0	\$850,213
Staff Recommendation	\$4,305,439	\$0	\$0	\$0	\$4,305,439

Automation Plan

This line item funds basic information technology equipment and software maintenance, supplies, and lifecycle replacement (including personal computers, a limited number of laptops, network printers), the basic office suite software packages, and telecommunications equipment and networking for all 23 offices and approximately 530 full-time, part-time, and grant employees across the state.

Staff recommends an appropriation of \$894,768 General Fund. This recommendation includes funding for PDO decision items #1d (Automation Plan Base Increase, page 108) and #3 (MNT/Automation Plan Refinance, page 109).

Summary of Public Defender's Office Automation Plan Recommendation					
	GF	CF	CFE/RF	FF	TOTAL
FY 2007-08 Long Bill	\$489,746	\$0	\$0	\$0	\$489,746
PDO DI #1d: Automation Plan Base Increase	\$230,971	\$0	\$0		\$230,971
PDO DI #3: MNT/Automation Plan Refinance	\$174,051	\$0	\$0	\$0	\$174,051
Staff Recommendation	\$894,768	\$0	\$0	\$0	\$894,768

Contract Services

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

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 Constitution to ensure a fair and speedy trial, and to ensure the right to legal representation. Such costs include expert witnesses and associated travel costs, interpreters, transcripts, and other related expenses. **Staffs recommends an appropriation of \$3,567,671 General Fund**, including a base increase of \$424,412 per PDO DI#1b (Mandated Costs Base Increase, page 105).

Summary of Public Defender's Office Mandated Costs Recommendation					
	GF	CF	CFE/RF	FF	TOTAL
FY 2007-08 Long Bill	\$2,531,618	\$0	\$0	\$0	\$2,531,618
FY 2007-08 Supplemental	\$611,641	\$0	\$0	\$0	\$611,641
PDO DI #1b: Mandated Costs Increase	\$424,412	\$0	\$0	\$0	\$424,412
Staff Recommendation	\$3,567,671	\$0	\$0	\$0	\$3,567,671

Grants

The Public Defender's Office receives grant monies that originate with the U.S. Department of Justice, are appropriated to the Department of Public Safety as federal funds, and then are transferred to the PDO (formerly as cash funds exempt). The grants are used to support the addition of a social work component to compliment the State Public Defender's indigent legal services. **Staff recommends the requested appropriation of \$78,237 reappropriated funds.** This total is \$69,690 more than the current appropriation due to changes in anticipated grant receipts.

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

Staff recommends the following footnote be **continued as a footnote**.

88 Judicial Department, Public Defender -- In addition to the transfer authority provided in Section 24-75-110, 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.

Comment: Staff recommends continuing this footnote. The PDO is a relatively small agency and utilizes this flexibility to stay within its appropriation and avoid excess supplemental requests.

(6) ALTERNATE DEFENSE COUNSEL

Staffing Summary	FY 2006-07 Actual	FY 2007-08 Approp.	FY 2008-09 Request	FY 2008-09 Recomm.
Alternate Defense Counsel	1.0	1.0	1.0	1.0
Deputy ADC	1.0	1.0	1.0	1.0
Admin./Support	3.0	3.0	3.0	3.0
Appellate Case Manager	0.0	1.0	1.0	1.0
Attorney Oversight & Training	0.0	0.5	1.0	1.0
Support Staff	0.0	0.0	0.5	0.5
TOTAL	5.0	6.5	7.5	7.5

The Office of the Alternate Defense Counsel (ADC) was established by S.B. 96-205, effective January 1, 1997. The purpose of the ADC is to provide representation for indigent defendants when the Public Defender is precluded from doing so because of a conflict of interest, such as when there is more than one co-defendant on a case seeking representation, or when someone seeking representation is a witness against a client of Public Defender's Office in another case. Private attorneys are appointed by the courts and are hired on a contract basis by the ADC. The Office is governed by a nine-member advisory commission appointed by the Supreme Court.

The ADC submitted two decision items affecting Personal Services:

	Description	Request
ADC DI #1	Increase Evaluator & Training Staff Attorney to Full Time	\$46,000 GF and 0.5 FTE
ADC DI #2	Add Part-time Support Staff	\$22,000 GF and 0.5 FTE

**ADC DI #1: INCREASE EVALUATION & TRAINING STAFF ATTORNEY TO FULL TIME
\$46,000 GF AND 0.5 FTE**

The request is for \$46,000 General Fund and 0.5 FTE to increase the existing evaluator and training staff position from 0.5 to 1.0 FTE.

Audit Report Findings. The ADC was created in 1996 with the sole purpose of finding lawyers to represent indigent defendants when the Public Defender's Office had a conflict of interest. It was not until 2003, upon recommendation of the State Auditor, that ADC began to require attorneys to complete an application and be interviewed, and the ADC began checking references and executing contracts with its attorneys.

This request is in part the result of a recommendation from the February 2006 State Auditor's report to monitor and evaluate contract attorney performance and to use this information when reviewing contracts:

In our 2003 performance audit of the OADC we found that the Office needed to improve its operations to ensure greater accountability for the quality of attorney representation and for the expenditure of state resources. At that time we recommended that the Office develop processes and controls to strengthen accountability, and to ensure efficient operations and compliance with statutes and regulations. In our current audit we found that the Office has implemented or has made progress in implementing all of the prior audit recommendations. However, we identified areas in which additional improvements are needed to strengthen oversight of attorney selection, performance assessment, and billing.²

Evaluation and Training Resources to Date. For FY 2007-08, the ADC requested and received an appropriation for a 0.5 FTE evaluation and training coordinator position. This partial FTE has been able to assist the ADC in implementing some of the recommendations made by the audit report, including conducting more interviews and assessments, as well as conducting some performance monitoring in the courts. Additionally, this staff person has organized two training sessions, and is in the process of planning more for the Spring.

Additional Need. While this FTE has been able to make some strides in helping meet the audit recommendations, the amount of work necessary to do a thorough job is more than a 0.5 FTE can manage. For example, this FTE, plus the Director and Deputy Director, interviewed approximately 300 of the ADC's 400 contracted attorneys this fall because their contracts were up for renewal.

² Colorado State Auditor's Office, *Office of Alternate Defense Counsel, Performance Audit*, February 2006.

Because of this high volume of renewals (which have since been staggered to more evenly distribute the renewal dates), each attorney could only be interviewed for 30 minutes. While the interview provided a good opportunity to connect with the attorneys, it did not provide the same information that a courtroom observation would.

If the FTE is made full-time, they would have the opportunity to conduct more courtroom observations. These observations provide multiple benefits, in that they help identify individual strengths and weaknesses (so that the trainer/evaluator can work one on one with the attorney to improve their courtroom skills), and it helps the FTE identify training issues that would benefit many attorneys.

Additionally, if this FTE is made full-time, they could expand the number and types of trainings they offer each year. For example, since all contract renewals must be renewed in the fall, it is unlikely this half time FTE could conduct the necessary interviews and conduct any fall trainings. Furthermore, the trainings they have conducted to date have each been a one day event focusing on a single issue. With more time to develop a training program, this FTE would be able to develop a more intensive, "boot camp" style training that lasts up to a week and focuses on courtroom skills and issues, similar to the training provided by the PDO for its attorneys.

The ADC gets some attorneys who formerly worked for the PDO. The ADC reports that these attorneys consistently have excellent courtroom skills because of the PDO's emphasis on training. The ADC, in part due to the low rates it pays its attorneys as discussed above, also gets many new, inexperienced attorneys. Without training and interventions for these attorneys, they can end up both inefficient and ineffective in the courtroom, costing the state more money (due to increased hours billed) and providing a disservice to ADC clients.

Staff Analysis. The ADC has a responsibility to provide attorneys when the PDO has a conflict. By providing well-trained attorneys, the ADC will be able to provide better services to its clients at a cost-savings to the state (training can reduce the amount of time attorneys spend researching topic areas, and pursuing motions and arguments that are likely to fail, and prevent or mitigate the development of inefficient and ineffective courtroom habits). Since these attorneys often contract with the ADC for many years, investing in their training up front can save the state money over time. Additionally, better trained attorneys help courtrooms run more smoothly which is beneficial in light of the state's continually growing number of case filings. Therefore, ***staff recommends the requested increase in FTE.*** The recommended funding mix, by line item, is outlined in the table below.

Recommended Funding for ADC DI #1: Evaluation and Training Staff

ADC Line Item		Request and Recommendation ^a 0.5 Evaluator/Trainer FTE
Total	Total - GF	49,694
	FTE	0.5
Personal Services	Total - GF	48,994
	FTE	0.5
Operating Expenses	Total - GF	700

^a The total in this column does not match the request due to differences between the requested funding and staff calculations.

<p>ADC DI #2: PART-TIME SUPPORT STAFF \$22,000 GF AND 0.5 FTE</p>
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The request is for \$22,000 General Fund and 0.5 FTE to provide part-time clerical support staff.

Background. The ADC is a small operation. Prior to FY 2007-08, it had only 5.0 FTE: the Alternate Defense Counsel, the Deputy Alternate Defense Counsel, the budget officer/controller, and two administrative staff responsible for processing all attorney billing. In FY 2007-08, the ADC received 1.0 FTE to coordinate appellate cases; this FTE converted a pilot project that demonstrated efficiencies were possible when certain functions specific to appellate cases are handled centrally into a regular office function. Additionally, as discussed above, the ADC also received 0.5 FTE for attorney evaluation and training.

Resource Need. It has become increasingly difficult for a staff of this size to maintain office efficiencies. For example, from FY 2003-04 to FY 2007-08, the number of requests for payments processed annually is anticipated to increase by nearly 85 percent, from 21,698 to 39,996. The ADC has used some temporary staff to assist with basic office functions throughout the years. However, having just one individual perform these duties would be more efficient (because they would only need to be trained once), provide for more consistent office procedures, and keep policies and

practices congruent. Having someone in the office regularly would also help in providing coverage when other staff are absent or traveling.

The requested 0.5 FTE would assist with scheduling evaluations and other appointments, preparing training schedules and training documents, assisting with the brief and motions bank and movement toward a "paperless" office, processing overflow payments, and providing other clerical assistance (scanning, filing, and general office work).

Staff Analysis. The ADC is a very small office, responsible for processing tens of thousands of payments totalling over \$20.0 million annually. This office has been managed on a bare-bones administrative budget for many years, often utilizing some temporary office support. With the growth in both payments processed and responsibilities (as recommended by the February 2006 audit report), the addition of a permanent 0.5 FTE seems reasonable. When asked if the Office would be requesting that this FTE become full-time next year, staff was told that they carefully thought about how much work they had and they believe 0.5 FTE really is sufficient. **Staff recommends providing an increase of \$21,659 General Fund and 0.5 FTE support staff as requested.** The recommended funding by line item is outlined in the table below.

Recommended Funding for ADC DI #2: Part-time Support Staff

ADC Line Item		Request and Recommendation ^a
		0.5 Support Staff FTE
Total	Total - GF	21,659
	FTE	0.5
Personal Services	Total - GF	17,954
	FTE	0.5
Operating Expenses	Total - GF	250
Capital Outlay	Total - GF	3,455

^a The total in this column does not match the request due to differences between the requested funding and staff calculations.

Personal Services

Staff recommends an appropriation of \$663,976 General Fund and 7.5 FTE. The recommendation includes funding to annualize new General Fund FTE for which only 11 months of funding was appropriated in FY 2007-08; and for ADC decision items #1 (Evaluator/Trainer, page 120) and #2 (Support Staff, page 122). Staff did not include the 1.0 percent base reduction because this office has less than 20.0 FTE.

Summary of the Alternate Defense Counsel Personal Services Recommendation						
	GF	CF	CFE	FF	TOTAL	FTE
FY 2007-08 Long Bill	\$563,488	\$0	\$0	\$0	\$563,488	6.5
FY 07-08 Salary Survey	\$18,422	\$0	\$0	\$0	\$18,422	0.0
80% FY 07-08 PBP	\$5,840	\$0	\$0	\$0	\$5,840	0.0
Annualize FY 07-08 DI	\$9,278	\$0	\$0	\$0	\$9,278	0.0
ADC DI #1: Evaluator/Trainer	\$48,994	\$0	\$0	\$0	\$48,994	0.5
ADC DI #2: Support Staff	\$17,954	\$0	\$0	\$0	\$17,954	0.5
Staff Recommendation	\$663,976	\$0	\$0	\$0	\$663,976	7.5

Health, Life, and Dental

Staff recommends an appropriation of \$45,809 General Fund pursuant to JBC common policy.

Short-term Disability

Staff recommends an appropriation of \$707 General Fund pursuant to JBC common policy.

Salary Survey

Staff recommends an appropriation of \$33,412 General Fund. This recommendation includes \$25,212 base funding calculated in accordance with JBC common policy, and \$8,200 for JUD DI #3 (Judge Compensation, page 61).

Anniversary Increases

Staff recommends an appropriation of \$8,382 calculated in accordance with JBC common policy for Performance-based Pay.

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

Staff recommends an appropriation of \$8,523 General Fund calculated in accordance with JBC common policy.

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

Staff recommends an appropriation of \$3,854 General Fund calculated in accordance with JBC common policy.

Operating Expenses

Total staff recommendation for this line item is \$67,030 General Fund. The recommendation includes funding for ADC DI #1 (Evaluator/Trainer, page 120), and DI #2 (Support Staff, page 122).

Summary of the Alternate Defense Counsel Operating Expenses Recommendation					
	GF	CF	CFE	FF	TOTAL
FY 2007-08 Long Bill Approp.	\$66,080	\$0	\$0	\$0	\$66,080
ADC DI #1: Evaluator/Trainer	\$700	\$0	\$0	\$0	\$700
ADC DI #2: Support Staff	\$250	\$0	\$0	\$0	\$250
Staff Recommendation	\$67,030	\$0	\$0	\$0	\$67,030

Capital Outlay

Staff recommends an appropriation of \$3,455 General Fund for ADC DI #2, Part-time Support Staff (see page 122).

Purchase of Services From Computer Center

Staff's recommendation is pending JBC common policy decision making.

Leased Space

Staff recommends the requested appropriation of \$35,991 General Fund. This recommendation includes an increase of \$3,219 due to the annual leased space escalator.

Training and Conferences

This line item is used to provide training opportunities for ADC contract lawyers, investigators, and paralegals. Topics covered recently or that they are planning to cover soon include using teams to cover death penalty cases (per new American Bar Association guidelines), courtroom skills, discovery, juvenile case law, and jury selection. The ADC is working with the PDO to develop combined skills trainings for both agencies' attorneys, when appropriate. **Staff recommends the requested continuing appropriation of \$28,000** comprised of \$20,000 General Fund and \$8,000 cash funds.

Conflict of Interest Contracts

This line item pays for contract attorneys and investigators who are appointed to represent indigent and partially indigent defendants. **Staff recommends the requested appropriation of \$21,698,121 General Fund.** This recommendation includes funding for ADC decision item #3 (Court-appointed Counsel Rate Increase, page 81).

Summary of the Alternate Defense Counsel Conflict of Interest Contracts Recommendation					
	GF	CF	CFE	FF	TOTAL
FY 2007-08 Long Bill Approp.	\$19,374,826	\$0	\$0	\$0	\$19,374,826
ADC DI #3: CAC Rate Increase	\$2,323,295	\$0	\$0	\$0	\$2,323,295
Staff Recommendation	\$21,698,121	\$0	\$0	\$0	\$21,698,121

Mandated Costs

As discussed above, 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 Constitution to ensure a fair and speedy trial, and to ensure the right to legal representation. **Staff recommends the requested continuing appropriation of \$1,504,483 General Fund.**

Long Bill Footnotes and Requests for Information for Office of the Alternate Defense Counsel:

Staff recommends the following footnote be **continued as a footnote**.

- 89 Judicial Department, Alternate Defense Counsel --** In addition to the transfer authority provided in Section 24-75-110, 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.

Comment: Staff recommends continuing this footnote as amended. The ADC is a small agency and utilizes this flexibility to stay within its appropriation and avoid excess supplemental requests.

(7) OFFICE OF THE CHILD'S REPRESENTATIVE

Staffing Summary	FY 2006-07 Actual	FY 2007-08 Approp.	FY 2008-09 Request	FY 2008-09 Recomm.
Executive Director	1.0	1.0	1.0	1.0
Assistant Director	1.0	1.0	1.0	1.0
Admin./Support	1.8	2.0	3.0	3.0
Subtotal Admin Office	3.8	4.0	5.0	5.0

Attorneys		15.5	15.5	15.5
Social Workers/Case Coordinators		3.0	3.0	3.0
Admin./Support		3.3	3.3	3.3
Subtotal Colorado Springs GAL Office		21.8	21.8	21.8

OCR TOTAL	3.8	25.8	26.8	26.8
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The Office of the Child's Representative (OCR) is responsible for providing legal representation for children involved in the court system due to abuse, neglect, high conflict divorce, or delinquency. The responsibilities of this office belonged to the Judicial Department until the OCR was created pursuant to H.B. 00-1371. In most of the state, legal representation is provided through contract attorneys known as guardians ad-litem (GALs) and child family investigators (CFIs). The OCR also has staff in El Paso County that provide guardian ad-litem services through a centralized office rather than through contracted services.

The OCR submitted one decision item that affects its Personal Services line item:

OCR DI #3: ADDITIONAL STAFF ATTORNEY \$64,000 GF & 1.0 FTE

The OCR is requesting an increase of \$64,293 and 1.0 FTE to hire an additional staff attorney.

GAL Standards. The OCR is mandated to improve the quality of children's best interest representation statewide by providing oversight of the practice of GALs to ensure compliance with standards. These standards are governed by statute, the Rules of Professional Conduct, and Chief Justice Directives (CJDs) 04-06 and 04-08. CJD 04-06 sets specific requirements for GALs in dependency and neglect cases, including:

- Attending all court hearings and providing accurate and current information to the court;
- Filing written and oral reports at the court's direction or in compliance with statutes;
- Taking actions within the scope of their statutory authority and ethical obligations necessary to represent the best interests of the child;
- Conducting an independent investigation in a timely manner, including personally interviewing the child in his/her placement no later than 30 days following the GAL's appointment; personally meeting with and observing interaction with parents, proposed guardians, or foster parents; and interviewing other people involved in the child's life, such as respondent parents, foster parents, caseworkers, relatives, school personnel, CASA volunteers, and therapists.

OCR Oversight of GALs. To ensure compliance with CJD 04-05, OCR created an internal audit process to review GAL cases. Districts or attorneys are selected for audit based on a risk assessment or random sampling. On each case, the attorney is required to provide contact information regarding when they saw the child and who the contact person was. OCR's Deputy Director then contacts these individuals to determine whether the attorney visited the placement at all and, if so, if the visit was within the required time frame. Each audit is a manual process that is very time consuming. While most GALs reviewed have been in full compliance, OCR has terminated the contract of attorneys and put others on probation for violating the visitation requirement of the CJD.

Audit Recommendations. During FY 2006-07, the Office of the State Auditor conducted a performance audit of GAL services in dependency and neglect cases statewide. They found much improvement over the 1996 audit (the findings of which lead to the creation of the OCR), and noted repeatedly that OCR is now a recognized leader in the provision of GAL services nationwide.

The report did make recommendations regarding how GALs are audited by OCR. Specifically, the report noted that the audit only examines one aspect of the CJD requirements: whether or not the GAL had visited the child in placement within 30 days. The audit recommended expanding the OCR's audit process to include all of the CJD requirements.

Resource Need. While OCR does not fully agree with this recommendation (it does not believe every CJD item is mandated in every case since each case is different), OCR does believe the items in the directive are important and that expanding the audit process would help improve the quality of representation for children statewide. However, OCR does not have the staff to support such an expansion. OCR's audits are currently conducted by a 0.6 FTE staff position that has other duties, including overseeing the agency's complaint process.

OCR now has 2.6 attorneys: the Executive Director (1.0 FTE), the Deputy Director (0.6 FTE), and a Staff Attorney (1.0 FTE). The Deputy Director currently monitors the OCR complaint process and conducts the audits as an ancillary part of her job. The staff attorney is responsible for the oversight

of seven judicial districts, maintains the agency listserv, serves as legislative liaison, conducts legal research, edits the youth magazine, and serves on a variety of committees. The requested staff attorney would assist with the expanded audit process, as well as provide other support for the Office.

Staff Analysis. The OCR is a small agency, with just 5.0 FTE in its administrative office. The size of the administrative staff has not changed since its inception, despite an increase in caseload (and associated billing submissions) and mandates (such as training attorneys to implement the provisions of S.B. 07-226 which requires children to be more involved in the court processes that affect them). The staff travels frequently to meet with GALs, judges, and CASA volunteers, as well as to participate in numerous committees and work groups (such as the state Methamphetamine Task Force, the Judicial Reform Task Force, the National Association of Counsel for Children, and Child Welfare Training).

The current staff struggles to meet its many mandates; it is unlikely they would be able to implement the State Auditor's recommendations without additional FTE. OCR does not believe that a part-time position would attract the quality of professional necessary to administer a process as complex and sensitive as the GAL audits are. *Staff recommends an increase of \$59,136 General Fund and 1.0 FTE for an additional staff attorney, as outlined in the table below.*

Recommended Funding for OCR DI #2: Additional Staff Attorney

OCR Line Item		Request and Recommendation ^a 1.0 Staff Attorney FTE
Total	Total - GF FTE	59,136 1.0
Personal Services	Total - GF FTE	54,731 1.0
Operating Expenses	Total - GF	950
Capital Outlay	Total - GF	3,455

^a The total in this column does not match the request due to differences between the requested funding and staff calculations.

Personal Services

The total recommendation for the Personal Services line item is \$1,736,920 General Fund and 26.8 FTE as outlined in the table below.

Summary of the Office of the Child's Representative, Personal Services Recommendation						
	GF	CF	CFE	FF	TOTAL	FTE
FY 2007-08 Long Bill	\$1,629,747	\$0	\$0	\$0	\$1,629,747	25.8
FY 07-08 Salary Survey	\$53,159	\$0	\$0	\$0	\$53,159	0.0
80% FY 07-08 PBP	\$16,275	\$0	\$0	\$0	\$16,275	0.0
1.0 % Base Reduction	(\$16,992)	\$0	\$0	\$0	(\$16,992)	0.0
OCR DI #2: Staff Attorney	\$54,731	\$0	\$0	\$0	\$54,731	1.0
Staff Recommendation	\$1,736,920	\$0	\$0	\$0	\$1,736,920	26.8

Health Life and Dental

Staff recommends an appropriation of \$129,401 General Fund, pursuant to JBC common policy.

Short Term Disability

Staff recommends \$2,086 General Fund, pursuant to JBC common policy.

Salary Survey

Staff recommends an appropriation of \$91,733 General Fund. This recommendation includes \$83,533 base funding calculated in accordance with JBC common policy, and an increase of \$8,200 General Fund for JUD DI #3 (Judge Compensation, see page 61).

Anniversary Increases

Staff recommends \$26,554 General Fund, calculated in accordance with JBC common policy for Performance-based Pay.

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

Staff recommends an appropriation of \$25,136 General Fund calculated in accordance with JBC common policy.

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

Staff recommends an appropriation of \$11,365 General Fund calculated in accordance with JBC common policy.

Operating Expenses

Staff recommends the requested appropriation of \$148,162 General Fund. The recommendation includes funding for OCR DI #2 (Staff Attorney, page 127).

Summary of the Office of the Child's Representative, Operating Expenses Recommendation					
	GF	CF	CFE	FF	TOTAL
FY 2007-08 Long Bill Approp.	\$147,212	\$0	\$0	\$0	\$147,212
OCR DI #2: Staff Attorney	\$950	\$0	\$0	\$0	\$950
Staff Recommendation	\$148,162	\$0	\$0	\$0	\$148,162

Capital Outlay

Staff recommends an appropriation of \$3,455 General Fund for OCR DI #2, Staff Attorney.

Purchase of Services from Computer Center

Staff recommendation is pending JBC common policy decision making.

Leased Space

Staff recommends the requested appropriation of \$137,880 General Fund. This recommendation includes an increase of \$2,040 due to the annual leased space escalator.

CASA Contracts

Court Appointed Special Advocates, or CASAs, are non-attorneys who monitor case progression and speak for the best interest of children in court in a manner that attorneys often cannot. This funding is used to provide grants to the state CASA organizations for training of CASA volunteers. **Staff recommends the requested continuing appropriation of \$20,000 General Fund.**

Training

Ensuring the provision and availability of training throughout the state for attorneys, judges, and magistrates, is a statutory responsibility of the OCR per section 13-91-105 (1)(a)(I), C.R.S. In the past, other participants have included CASA volunteers, county attorneys, respondent parents' counsel, and social services caseworkers.

**OCR DI #4: TRAINING BASE INCREASE
\$10,000 GF**

OCR is seeking a \$10,000 increase in its appropriation for training.

Current Training Efforts. OCR sponsors a variety of training sessions each year. Its goal is to provide at least one major front-range conference and two rural conferences, as well as a variety of brown-bag luncheons. The issues OCR has provided training on in the past include: Special Advocate standards; courtroom skills; parenting coordination; delinquency; interviewing children; immigration issues; methamphetamine and children; mental health education; child development; parental alienation; attachment and attachment disorders; mediation; domestic violence; alcohol abuse; sibling separation; and federal law (such as the Indian Child Welfare Act).

FY 2007-08 Training Increase. For FY 2007-08, the General Assembly approved a one-time \$10,000 increase for OCR's training appropriation. Last summer, The National Association of Counsel for Children (NACC) had its 30th annual children's law conference in Colorado. The NACC conference is considered the premier national conference for dependency and neglect attorneys and policy makers. Generally, it focuses on child-related issues concerning abuse and neglect, juvenile justice, and family law. Last summer, the conference focus was on the results of a national study of foster care youth that found that their attendance in court (which historically happened very infrequently), was found to be helpful for both the youths and the courts. Being allowed to attend court hearings helps youths feel more informed and involved in decisions that greatly effect their lives, and also provides the court with additional information. Since little guidance existed to help professionals involve children in court proceedings in a meaningful way, this conference was focusing on this issue.

The FY 2007-08 request was for a one-time appropriation to allow the OCR to help GALs from each judicial district to attend the conference. OCR used this money, and part of its existing training budget, to provide scholarships for agency staff, board members, and at least one independent contractor GAL from each judicial district to attend the conference.

S.B. 07-226 Mandates. During the 2007 legislative session, the General Assembly passed S.B. 07-226 which changed statute regarding out of home placements for children. It primarily affected Human Services and Public Safety; however, GALs will need to understand the provisions. The bill codifies the national trend addressed at the NACC conference: keeping children (and their parents, guardians, or prospective adoptive parents) more informed, and particularly, involving children more in the decision making that affects them. Specifically, S.B. 07-226 requires:

- The court to consult with a child in an age-appropriate manner regarding the child's permanency plan;

- The court to ensure that a child and the child's foster parents, pre-adoptive parents, or relatives receive notice of all hearings and reviews concerning the child;
- The court to ensure that notices of hearings and reviews held regarding a child who is placed outside the home are provided to the child's foster parents, pre-adoptive parents, or relatives; and
- The persons with whom a child is placed to provide notice to a child of all hearings and reviews regarding the child.

This bill was necessary to put Colorado in compliance with new federal requirements contained in the "Child and Family Services Improvement Act of 2006," and the "Adam Walsh Child Protection and Safety Act of 2006." Since S.B. 07-226 was a response to a federal mandated, Legislative Legal Services determined that General Fund appropriations made to comply with the provisions of the bill are exempt from the six percent limit on General Fund appropriations growth.

Request. OCR would like the \$10,000 increase it received last year to become a permanent increase in its appropriation for training. OCR reports that it needs this funding to train its GALs to implement the provisions of S.B. 07-226. For example, it has already started a series of brown bag lunches in the Front Range that includes topics such as age-appropriate communication with children and how to prepare children for court (skills that were not previously required).

Staff Analysis. The OCR contracts with 250 GALs. Its base training appropriation of \$28,000 amounts to only \$112 per attorney for training each year. The additional \$10,000 would raise that amount to \$152 per attorney. Child and family law is a complex field (made more so in light of the new requirements of S.B. 07-226), and OCR provides training not only for all the state's GALs but also its judges, magistrates, and CASA volunteers as part of its statutory mandate. Better training for these individuals will promote better outcomes for children and families. Therefore, **staff recommends the requested \$10,000 General Fund training increase. Because OCR must provide training to its GALs statewide on the provisions of S.B. 07-226, which was a response to a federal mandate, this increase should be exempt from the six percent growth limit on General Fund appropriations.**

Total staff recommendation for the Training line item is \$38,000 General Fund. This recommendation includes a \$10,000 increase which is exempt from the six percent growth limit on General Fund appropriations as discussed above.

**OCR DI #1: COURT-APPOINTED COUNSEL BASE INCREASE
\$548,000 GF**

The Office of the Child's Representative is seeking an increase of \$548,230 General Fund to address caseload increases and cost per case increases.

Background. The Office of the Child's Representative (OCR) provides legal representation for children involved in the court system due to abuse and neglect, high-conflict divorce, or delinquency. The attorneys who represent these children are known as guardians ad litem (GALs). The OCR has salaried staff GALs in El Paso County; in the remainder of the state, the GALs are private attorneys hired under contract.

Decision Item Calculation. The decision item seeks \$548,230 General Fund for court-appointed counsel contract costs. Three steps were involved in estimating FY 2008-09 need: (a) Revising caseload projections; (b) Applying the average cost per case; and (c) Accounting for the FY 2007-08 rate increase on year-end payments. Each of these steps is described below.

(a) Revising Caseload Projections

To project caseload, the OCR looks at recent caseload growth of each case type (analysis by case type is necessary to see trends more accurately; although all GALs are paid at the same rate, different case types tend to cost more or less depending on their complexity, with Dependency and Neglect cases being the most expensive).

**OCR Caseload Growth,
FY 2003-04 (actual) through FY 2008-09 (estimate)**

Case Type	FY 03-04 (actual)	FY 04-05 (actual)	FY 05-06 (actual)	FY 06-07 (actual)	FY 07-08 (estimate)	FY 08-09 (estimate)
Dependency & Neglect	6,493	6,972	7,618	8,012	8,273	8,521
<i>annual percent change</i>		<i>7.4%</i>	<i>9.3%</i>	<i>5.2%</i>	<i>3.3%</i>	<i>3.0%</i>
Juvenile Delinquency	2,673	3,374	3,459	3,594	4,074	4,482
<i>annual percent change</i>		<i>26.2%</i>	<i>2.5%</i>	<i>3.9%</i>	<i>13.4%</i>	<i>10.0%</i>
Domestic Relations	969	762	671	624	610	613
Truancy	369	281	374	458	444	451
Paternity	125	86	107	126	127	129
Probate	113	149	137	105	106	107
All Other Case Types	52	36	42	45	46	46
Total	10,794	11,660	12,408	12,964	13,680	14,349

Data source: The OCR's FY 2008-09 budget amendment.

The number of **dependency and neglect cases** (D&N) has grown by approximately 7.0 percent over OCR's existence. This growth slowed to approximately 5.0 percent between FY 2005-06 and FY 2006-07. The number of cases billed has continued to slow, so OCR used a 3.0 percent growth rate for this case category. **Delinquency cases** were originally projected to grow at a rate of 3.0. However, During FY 2007-08, the number and cost of billings in this category has increases significantly (in part because district attorneys are filing a greater number of delinquency cases and are filing in circumstances where they would not have done so in the past). While delinquency cases are traditionally less expensive than D&N cases, the volume of the projected increase has a significant impact on OCR's cost projections. The **other case types** are a relatively insignificant part of OCR's billings.

(b) Applying the Average Cost per Case

As mentioned above, the average cost per case varies by case type. Dependency and Neglect cases are the most labor intensive, and thus the most expensive (see the calculations table below). Juvenile Delinquency cases are the least labor intensive and therefore the least expensive. The remaining case types are a small fraction of OCR's expenses. The cost of all the remaining case types is averaged to come up with a blended average case cost.

(c) Accounting for the FY 2007-08 Rate Increase on Year-end Payments

At the beginning of each fiscal year, OCR receives some bills from work completed the prior fiscal year. For FY 2007-08, the year-end payments were made at the old hourly court-appointed counsel rate. However, because a higher rate went into effect this year, the year-end payments made at the beginning of FY 2008-09 will be made at the higher rate. Therefore, OCR needs an increase in funding to account for the incremental increase in the cost of these year-end bills.

The table below outlines how OCR projected its FY 2008-09 court appointed counsel expenses and deficit.

Calculation of OCR DI #1, Caseload Growth Increase

Case Type	FY 2008-09 Est. Number of Cases	Average Cost per Case	Estimated FY 2008-09 Need	FY 2007-08 Approp.	FY 2008-09 Decision Item
Dependency and Neglect	8,521	\$1,016.03	\$8,657,592		
Juvenile Delinquency	4,482	\$576.80	\$2,585,218		
Other	1,346	\$653.85	\$880,082		
Year-end Payments			\$76,110		
Total	14,349		\$12,199,001	\$11,650,771	\$548,230

Staff Analysis. Without the request \$548,230 increase, if caseload and billing trends continue, the OCR will be forced to either reduce hourly rates for new cases, or seek a supplemental appropriation later in the fiscal year. Since hourly rates are already significantly below the market rate (see the Court Appointed Counsel Rate Increase decision items discussed on page 81), a request for a supplemental appropriation would be the most likely result.

Courts appoint guardians ad-litem to represent the best interest of children, pursuant to statute, and the appointments are beyond the control of OCR. The OCR works with the courts to ensure that appointments are appropriate and that incorrect appointments are minimized. OCR has no other source of funding for these costs. Therefore, **staff recommends funding this decision item as requested.** The requested \$548,230 General Fund should be appropriated to the Court Appointed Counsel line item.

The OCR estimates that of the requested increase, \$231,158 is attributable to additional work required of attorneys due to the provisions of S.B. 07-226. As discussed above, S.B. 07-226 was a response to a federal mandate; therefore, this portion of the funding this increase should be exempt from the six percent growth limit on General Fund appropriations.

Court Appointed Counsel

This line item pays for contract attorneys (GALs) and child family investigators (CFIs) who are appointed to represent children involved in the court system due to abuse, neglect, high conflict divorce, or delinquency. **Staff recommends the requested appropriation of \$13,738,101 General Fund.** This recommendation includes funding for OCR DI #1 (CAC Base Increase, discussed above) and DI #2 (CAC Rate Increase, page 81).

Summary of the Office of the Child's Representative, Court Appointed Counsel Recommendation					
	GF ^a	CF	CFE	FF	TOTAL
FY 2007-08 Long Bill	\$11,514,954	\$0	\$0	\$0	\$11,514,954
FY 2007-08 Supplemental	\$135,817	\$0	\$0	\$0	\$135,817
OCR DI #1: CAC Base Increase	\$548,230	\$0	\$0	\$0	\$548,230
OCR DI #2: CAC Rate Increase	\$1,539,100	\$0	\$0	\$0	\$1,539,100
Staff Recommendation	\$13,738,101	\$0	\$0	\$0	\$13,738,101

^a Of the funding recommended for OCR DI #1, CAC Base Increase, \$231,158 is attributable to additional work required of attorneys due to the provisions of S.B. 07-226. As S.B. 07-226 was a response to a federal mandate, this funding should be exempt from the six percent growth limit on General Fund appropriations.

**OCR DI #5: MANDATED COSTS BASE INCREASE
\$15,000 GF**

The OCR is seeking a \$15,000 General Fund increase for Mandated Costs.

Background. As discussed above, 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 Constitution to ensure a fair and speedy trial, and to ensure the right to legal representation. The OCR must fund the Mandated Costs required in the cases managed by its GALs.

Beginning in FY 2003-04, Mandated Costs have been a separate line item for OCR to allow for better tracking of the costs. At the time, the Mandated Costs line item was estimated to need \$11,228. This amount has been less than the actual costs each year, requiring the OCR to use its year-end transfer authority to cover the excess costs (funding was primarily transferred from Personal Services where OCR had excess funding due to turnover). The table below shows how much the line has been underfunded each year.

OCR Mandated Costs Summary

Fiscal Year	Appropriation	Transfer	Actual Mandated Costs Total	Annual Percentage Change	Percent Over Appropriation
FY 2003-04	11,228	801	12,029		7.1%
FY 2004-05	11,228	12,983	24,211	101.3%	115.6%
FY 2005-06	11,228	12,786	24,014	-0.8%	113.9%
FY 2006-07	11,228	15,115	26,343	9.7%	134.6%
FY 2007-08 (est.)	11,228	25,070	36,298	37.8%	223.3%

Mandated Costs expenditures vary due to changes in caseload, case type, and changing and unpredictable needs for expert witnesses. As a result, projections are difficult to make. The FY 2007-08 projection is based on year to date expenditures. According to OCR, these costs appear to rising due to a push toward more expert witnesses and increased litigation. Due to these unknowns, OCR requested less than actual projections.

Staff analysis. Based on historical spending, it is clear that the Mandated Costs appropriation is insufficient to meet actual costs. The request is conservative, coming in approximately \$10,000 less than the projected need. ***Staff recommends funding the requested \$15,000 increase.*** Actual costs are difficult to project. If they are greater than the appropriation, OCR can continue to use its year end transfer authority to pay for them.

Mandated Costs

Staff recommends a total appropriation of \$26,228 General Fund, which includes a \$15,000 base increase for OCR DI #5, discussed above.

Long Bill Footnotes and Requests for the Office of the Child's Representative:

Staff recommends the following footnote be **continued as a footnote**.

- 90 Judicial Department, Office of the Child's Representative** -- In addition to the transfer authority provided in Section 24-75-110, 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.

Comment: Staff recommends continuing this footnote. The OCR is a small agency and utilizes this flexibility to stay within its appropriation and avoid excess supplemental requests.

Appendix A. Summary of H.B. 07-1054 Judge Increases

	County(s)	FY 06-07	FY 07-08	FY 08-09	FY 09-10	Total New Judges	Increase
Court of Appeals							
		19	-	+3	-	22	3
Judicial District							
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
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

Appendix B: Salaries for General Jurisdiction Trial Court Judges ^a

State	Salary	National Rank	Salary Adjusted for Cost-of-Living	National Rank
Alabama	111,973	43	121,909	30
Alaska	156,258	5	124,129	28
Arizona	135,824	17	129,151	17
Arkansas	128,633	23	144,850	6
California	171,648	1	125,689	25
Colorado	118,973	34	116,721	34
Connecticut	146,780	8	115,711	35
Delaware	168,850	2	164,863	2
District of Columbia	165,200	3	117,864	32
Florida	145,080	9	141,644	7
Georgia	116,749	40	125,330	26
Hawaii	138,444	14	84,866	51
Idaho	115,025	46	114,521	36
Illinois	163,348	4	169,255	1
Indiana	119,894	33	127,097	21
Iowa	128,544	24	136,994	11
Kansas	117,109	38	127,997	19
Kentucky	122,144	30	130,171	16
Louisiana	118,289	36	124,305	27
Maine	105,300	48	96,520	50
Maryland	134,352	18	105,932	46
Massachusetts	129,694	21	106,788	45
Michigan	139,919	13	138,280	9
Minnesota	125,363	26	126,843	22
Mississippi	104,170	49	113,293	38
Missouri	116,975	39	128,438	18
Montana	99,234	51	97,923	49

State	Salary	National Rank	Salary Adjusted for Cost-of-Living	National Rank
Nebraska	121,439	31	133,542	13
Nevada	144,300	11	133,562	12
New Hampshire	125,208	27	107,486	43
New Jersey	149,000	7	113,942	37
New Mexico	109,015	45	106,981	44
New York	136,700	16	108,815	42
North Carolina	121,053	32	126,756	23
North Dakota	104,073	50	110,677	40
Ohio	118,050	37	124,034	29
Oklahoma	118,450	35	132,572	14
Oregon	111,132	44	101,760	48
Pennsylvania	152,115	6	150,032	4
Rhode Island	137,212	15	110,127	41
South Carolina	129,022	22	137,747	10
South Dakota	107,162	47	116,944	33
Tennessee	144,480	10	159,753	3
Texas	132,500	19	148,137	5
Utah	127,850	25	131,342	15
Vermont	122,867	28	103,150	47
Virginia	143,549	12	138,362	8
Washington	131,988	20	126,268	24
West Virginia	116,000	41	120,490	31
Wisconsin	122,298	29	127,591	20
Wyoming	113,600	42	111,227	39
Mean (Average)	128,953			
Median	125,363			
Range	99,234	to	171,648	

^a The information in this table is from the *Survey of Judicial Salaries*, Volume 32, Number 2, as of July 1, 2007, prepared by the National Center for State Courts.

Appendix C: Per Capita Personal Income by State, 2006 ^a

State	Dollars	Rank	National Rank	Dollars	Rank
Alabama	\$30,841	42	Montana	\$30,886	41
Alaska	\$38,622	14	Nebraska	\$34,383	25
Arizona	\$31,949	38	Nevada	\$39,015	11
Arkansas	\$28,444	48	New Hampshire	\$39,655	7
California	\$39,358	10	New Jersey	\$46,328	2
Colorado	\$39,587	8	New Mexico	\$29,725	45
Connecticut	\$50,787	1	New York	\$43,962	4
Delaware	\$38,984	12	North Carolina	\$32,338	34
District of Columbia	\$57,358	n/a	North Dakota	\$33,034	29
Florida	\$36,665	20	Ohio	\$33,217	28
Georgia	\$32,025	37	Oklahoma	\$32,398	33
Hawaii	\$36,826	18	Oregon	\$33,252	27
Idaho	\$29,948	43	Pennsylvania	\$36,689	19
Illinois	\$38,297	15	Rhode Island	\$37,261	17
Indiana	\$32,226	36	South Carolina	\$29,688	47
Iowa	\$33,017	30	South Dakota	\$32,405	32
Kansas	\$34,744	22	Tennessee	\$32,305	35
Kentucky	\$29,719	46	Texas	\$35,058	21
Louisiana	\$31,369	40	Utah	\$29,769	44
Maine	\$31,931	39	Vermont	\$34,623	23
Maryland	\$43,774	5	Virginia	\$39,564	9
Massachusetts	\$46,255	3	Washington	\$38,067	16
Michigan	\$33,784	26	West Virginia	\$28,067	49
Minnesota	\$38,751	13	Wisconsin	\$34,476	24
Mississippi	\$26,908	50	Wyoming	\$40,569	6
Missouri	\$32,793	31	Average	\$36,629	

^a The information in this table is from the U.S. Department of Commerce, Bureau of Economic Analysis, released September 20, 2007.