

**JUDICIAL BRANCH  
FY 2010-11 JOINT BUDGET COMMITTEE HEARING AGENDA**

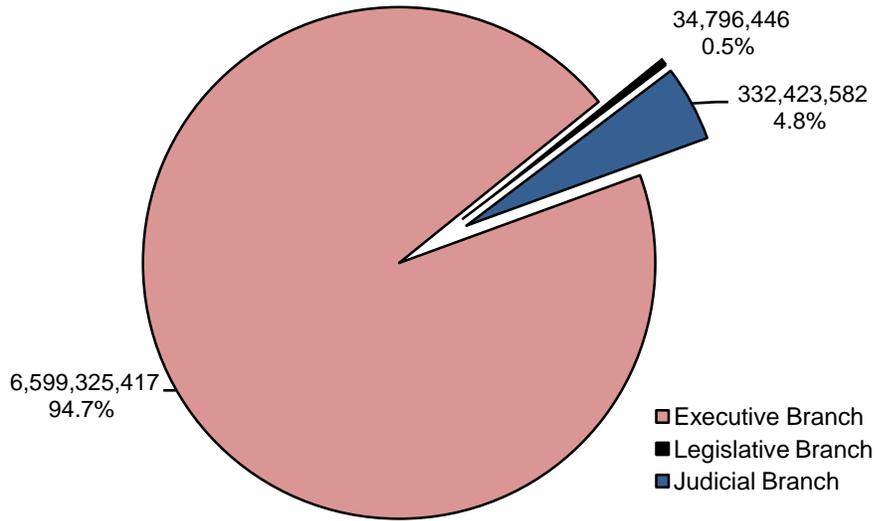
**Thursday, November 18, 2010  
1:30 pm – 5:00 pm**

**JUDICIAL DEPARTMENT (including the Supreme Court, Court of Appeals,  
Courts Administration, Trial Courts, and Probation)**

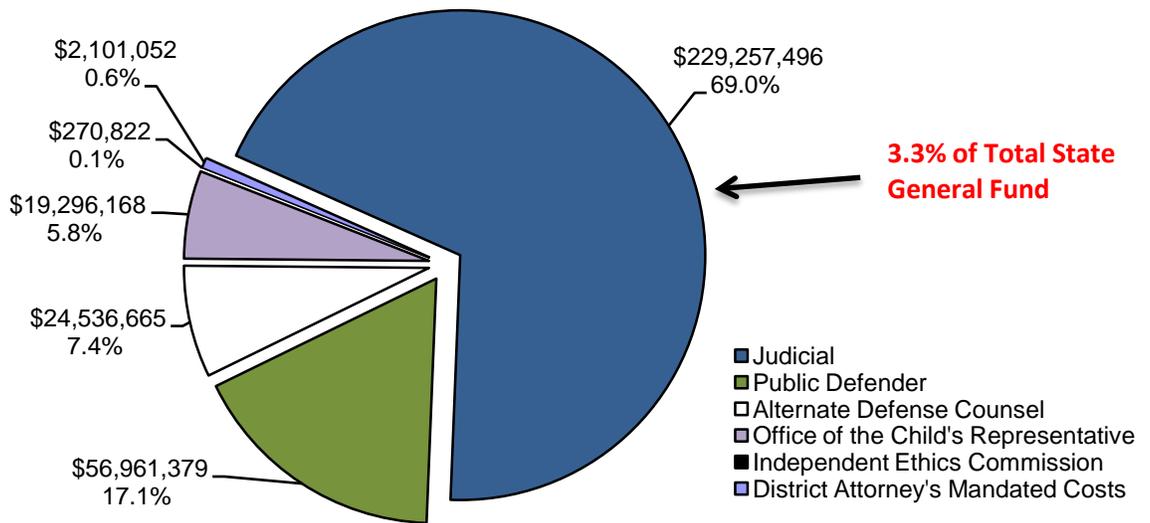
**1:30-1:45      INTRODUCTIONS AND OPENING COMMENTS**

	<u>General Fund</u>	% Inc.	<u>Cash Funds</u>	% Inc.
<b>FY2011 Judicial Branch Appropriation</b>	231,358,548		108,358,846	
<b>FY2012 Judicial Branch Request</b>	242,241,855	4.7%	123,981,306	14.4%
<b>Less:</b>				
Pera 2.5% Reversal	(3,676,723)	3.1%	(767,434)	13.7%
HB10-1352 impact - special bill	(4,708,108)	1.1%	(7,000,000)	7.2%
Common Policies (HLD/STD/AED/etc)	(2,830,386)	-0.1%	(1,429,541)	5.9%
<b>FY2012 Adjusted Request</b>	<b>231,026,638</b>		<b>114,784,331</b>	
change from FY2011	(331,910)	-0.1%	6,425,485	5.9%
			5,507,422	<i>Judicial Stabilization Fund</i>
			500,000	<i>Drug Offender Treatment Cash Fund</i>
			61,275	<i>Offender Identification Cash Fund</i>
			314,438	<i>Persistent Drunk Driver Fund</i>
			42,350	<i>Various Sources of Cash</i>

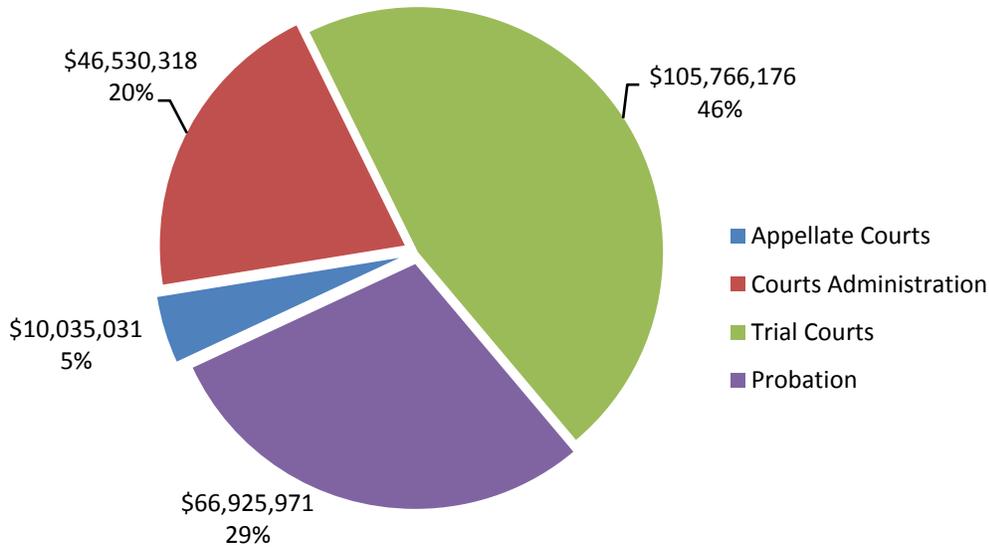
**FY2011 Statewide  
General Fund Appropriations**



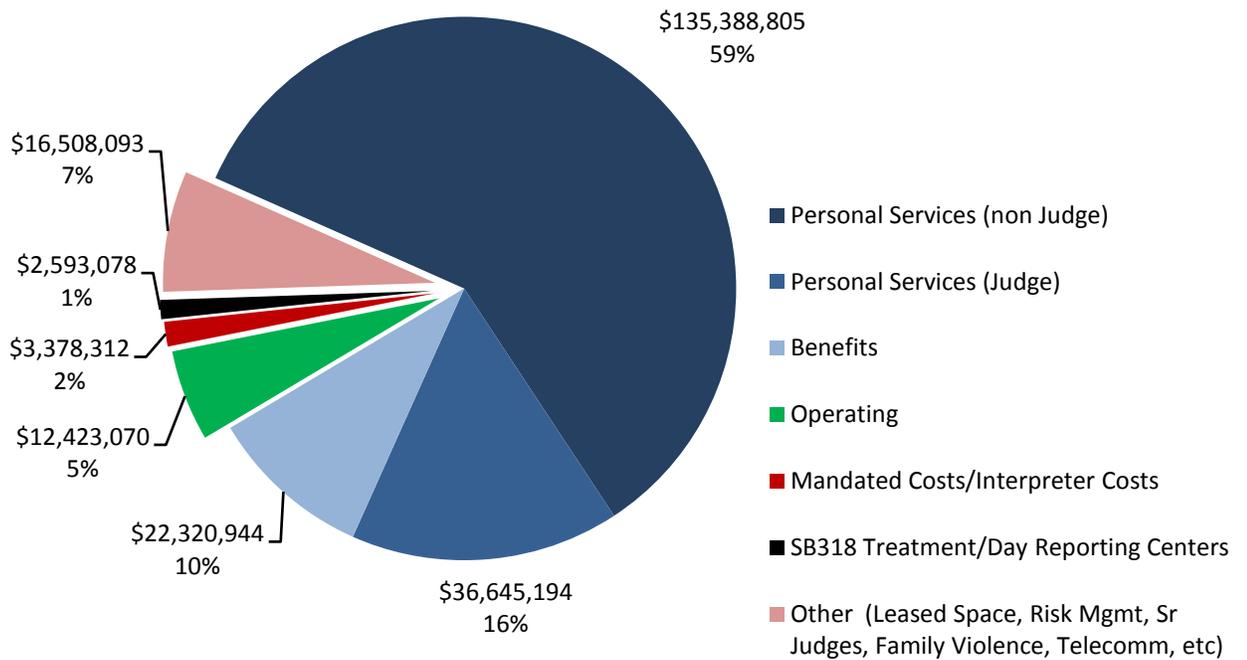
**FY 2011 Judicial General Fund  
Appropriation by Agency**



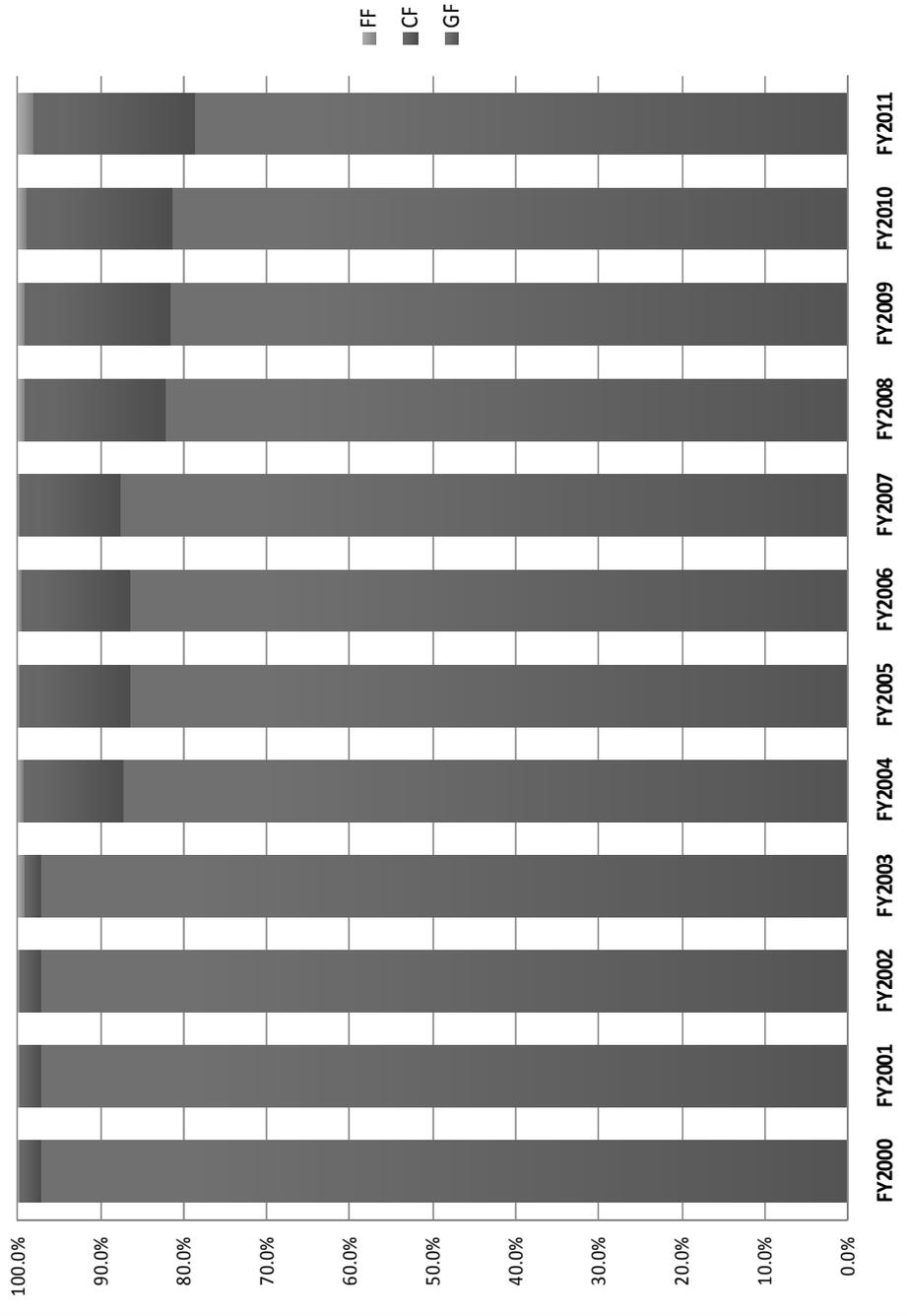
## FY2011 General Fund by Major Function



## FY2011 General Fund Appropriation by Major Cost Category



# Trial Court Funding Sources FY00-FY11



**1:45-2:00 GENERAL OVERVIEW AND QUESTIONS COMMON TO ALL DEPARTMENTS**

- Appropriations to the Judicial Branch have grown faster than inflation and Colorado population over the last ten years (as illustrated on page three of the November 11, 2010 JBC staff budget briefing document). Please discuss general trends over the last ten years in terms of those factors that affect the workload and resource needs of the state courts, probation, and Department administration.**

For the Judicial Department, the primary budget drivers have been caseload/workload increases in the court and probation areas along with common policy increases related to salaries and benefits.

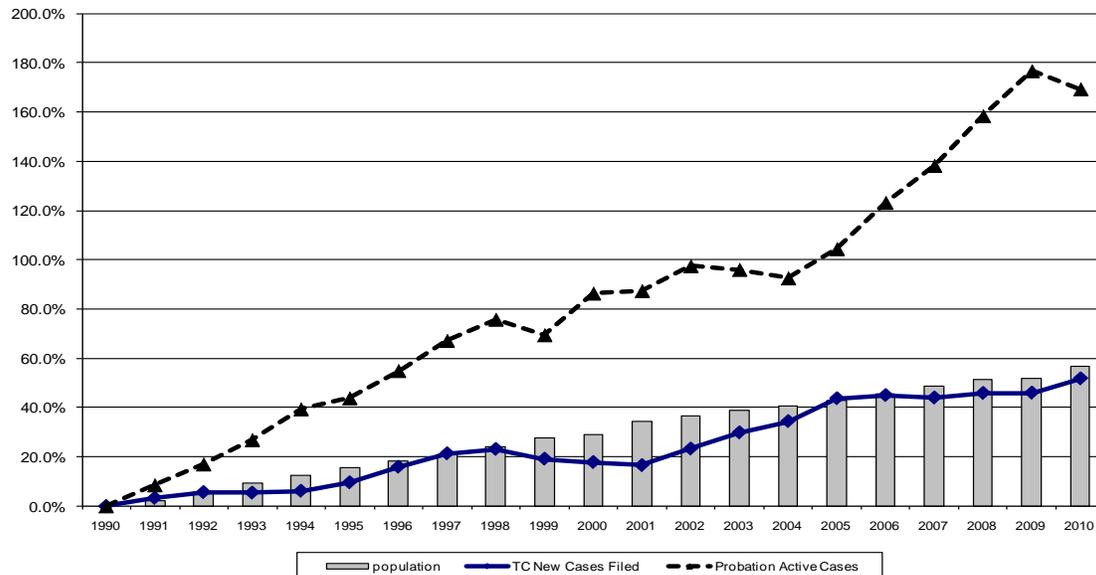
Personnel-Related Common Policies

From 2001 to 2011, the costs for salary and benefit-related appropriations have increased 144% from \$11.8M in FY2001 to \$28.9M in FY2011. These include appropriations for Health, Life & Dental benefits, salary survey/anniversary costs, Amortization Equalization Disbursement, Supplemental Amortization Equalization Disbursement, Worker’s Compensation, Risk Management and costs related to the state’s Multi-Use Network and General Government Computing Center.

Caseload Growth

The other significant budget driver is caseload growth and the related workload that accompanies it. The chart below demonstrates the level of both court and probation caseload growth as compared with population growth. For example probation active caseload has grown at nearly 3 times the pace of the state population.

**Colorado Population Growth  
Compared to Trial Court and Probation Case Growth  
1990-2010**



### Trial Court

The need for trial and appellate court FTE is linked directly to the volume and type of new cases filed with the courts. Court caseloads, and workload, are higher than ten years ago. The courts receive approximately 180,000 more filings per year than ten years ago. As a result, workload has increased in most case types over the last ten years. Appellate court caseloads have increased by 18% in the last decade while trial court caseloads have increased 30% in the same time period. Population has had the biggest impact on workload over the last ten years—generally speaking, more people in Colorado mean more new case filings. Economic factors, most notably the current economic downturn, have also had an impact on workload. The courts tend to see increases in civil cases (debt collection, business disputes, foreclosures, etc) during times of economic instability. A combination of population growth and the poor economy have driven up civil case filings (and the associated workload) to historic levels. Other areas of strong workload increase since FY 2001 include domestic relations cases (divorce, child custody), and juvenile caseloads (child protection, delinquency).

### Probation

In the past ten years, legislation to increase the population diverted from prison to probation (e.g. SB03-318) as well as increased length of probationary terms for some offenses has resulted in higher caseloads for probation. In response to legislation addressing specific populations, probation has developed and adopted risk assessment instruments and specific supervision guidelines in response to the generally higher risk these offenders pose. With regard to sex offenders, new laws defining additional behaviors that are classified as sex offenses have been introduced and adopted nearly every year for the past 18 years. This has resulted in a significant increase in the number of sex offenders and length of supervision required for this population. Additionally probation has identified other populations within the probation caseload that require more intensive levels of supervision, such as the mentally ill, those with co-occurring disorders, juvenile sex offenders, offenders convicted of significant economic crimes and those convicted of multiple drinking/drug driving offenses.

Many of the changes to probation have included managing higher risk populations. The higher the risk the greater the resources, including time, required to successfully manage the case. As the higher risk percentage of the total caseload increases so does the need for staff and other resources to manage these cases. Along with staff, in order to effectively manage offenders on probation, treatment services must be provided. As more offenders are seen on probation, the revenue into the various treatment-related cash funds increases due to more offenders paying court-imposed fees and the monthly probation monitoring fee. In order to access this revenue stream for treatment, cash-fund spending authority increases must be requested, which has increased the overall budget appropriation over the years.

- 2. Please describe how the Department evaluates the effectiveness of its programs, services, and staffing levels. Please include a description of the data you collect to evaluate the effectiveness of the court and probation services in each judicial district, as well as the workload models you employ to evaluate the staffing needs in each district (for both courts and probation). Finally, if the Department is currently statutorily required to administer one or more programs that are no longer effective or appropriate, please identify such programs and the associated statutory provisions.**

The majority of the work of the Judicial Department comes from the Department's constitutional and statutory responsibilities to adjudicate cases and supervise offenders. There are relatively few stand alone programs in the Department outside of the Department's traditional mission. That said, the Department uses a number of different tools to evaluate its services. First and foremost, the Department has actively sought feedback directly from the people who interact with our system by surveying court users, probationers, and crime victims regarding the quality of our services. For example, the Department has surveyed over 8,000 court users from every judicial district over the past three years to obtain feedback on the court's accessibility and how they were treated in court in terms of fairness, equality and respect. A similar initiative gathered feedback from probationers about their probation officers and from crime victims on the quality of their interactions with probation departments. Information obtained from these surveys has been used to help identify areas where further attention is needed and has led to improved business practices.

#### *Court Data for Effectiveness Evaluation*

The Department also collects a variety of quantitative data to aid managers in assessing the operational efficiency of the organization. Several entities in the criminal justice system rely on court data to help maintain public safety. As a result, the timeliness and quality of data entry related to criminal sentencing, bench warrants, and protection orders are tracked closely. Local court managers receive monthly feedback on their data integrity against established targets. Courts must strive to balance fairness and justice with access and timeliness. Quantitative performance data is provided quarterly to judges and senior managers. The measurements included in the quarterly reports include data on the age of active court cases, the age at case disposition, along with data on the volume of new filings and case terminations. The quarterly case management information aids judges in managing their caseloads by identifying emerging problems with case delay and backlog.

#### *Probation Data for Effectiveness Evaluation*

The primary outcome measures used to evaluate the effectiveness of probation include termination type (i.e. successful, unsuccessful due to a technical violation, unsuccessful due to a new crime) and post-release recidivism (i.e. a new filing within one year of successful probation termination). Measuring relevant practices and providing performance feedback are two of the eight principles of effective intervention as defined by the National Institute of Corrections (see graphic below). The Division of Probation Services (DPS) works with probation representatives from all judicial districts to establish target success rates and strategize methods for reaching those. DPS provides data to districts on a quarterly and annual

basis that serve as measurement for monitoring and achieving targets. The following reports include demographic (e.g. gender, age) and case type data (e.g. risk level, program type) to inform outcomes and achieve over-arching goals:

- Target success rate reports (quarterly)
- Annual statistical report
- Year In Summary report
- Annual Recidivism Reports (pre release and post release recidivism with goal of reducing or keeping low)

In addition to routinely published reports, probation has initiated several evaluation projects designed to improve program outcomes and overall success of probationers. Three major areas of study include:

- Adult and Juvenile Intensive Supervision Probation (A/JISP)
- Cognitive-behavioral skill-building groups (Thinking for a Change and Why Try)
- Technical violations and positive behavioral change.

Programming and policy changes in these areas are underway and will be pilot-tested in select districts, including an evaluation of the results, prior to statewide implementation.

## 8 Evidence-Based Principles for Effective Interventions



Bogue, B., Campbell, N., Carey, M., Clawson, E., Faust, D., Foria, K., et al. (2004). Implementing Evidenced-Based Practice in Community Corrections: The Principles of Effective Intervention. Washington, D.C.: National Institute of Corrections and Crime & Justice Institute.

### Internal Audit Role

The Department also has an internal audit unit that looks at organizational compliance with state statute, Chief Justice Directives, fiscal rules, and other internal policies. Every judicial district and the state administrative office are reviewed for compliance by the audit unit on a routine basis.

### Workload Models

The Judicial Department uses weighted caseload models to evaluate court and probation staffing needs in each district. A weighted caseload model is a method for translating court and probation caseloads (i.e. case filings or number of offenders) into workload (i.e. FTE) which recognizes that some case types and offenders are more resource intensive than others. In assessing the need for judges and court staff, the weighted caseload model identifies differences in the amount of time needed to process different types of cases from filing to termination through the conclusion of post-judgment activity. Similarly, the need for probation resources is calculated by identifying the time necessary to supervise offenders grouped by assessed risk level. The caseload standards represent the average time that is spent on a particular case type or offender group. These standards are developed and maintained through the use of time-motion studies.

The weighted caseload offers an advantage over other approaches by assessing FTE need based on the complexity of each case type. For example, homicide cases are more labor intensive than a traffic violation. Therefore, the weighted caseload model allots more time to process a homicide case than a traffic matter. Staffing need automatically tracks the changes in filings and probation admissions to reflect the impact on workload as caseloads change. Additionally, individual standards for each case type and offender group provide judges and managers with better information to gauge the effects of legislative changes, caseload growth or caseload shifts.

It is critical that the weighted caseload models be updated to ensure that they continue to accurately represent workload. Periodic updates are necessary to reflect changes to workload requirements that may result from increased efficiency, statutory changes, or case management initiatives. Therefore, the standards are in a cycle of continuous improvement that strives to encapsulate current practices and accurately interpret the need for resources. All of the court and probation workload models currently in use have been updated via time-motion studies conducted in concert with the National Center for State Courts within the last 24 months.

3. **Please identify your department's three most effective programs or services and your department's three least effective programs, and explain why you identified them as such. How do your most effective programs further the department's goals? What recommendations would you make to increase the effectiveness of the three least effective programs?**

The Judicial Department does not have programs per se. Instead, courts have jurisdiction over a variety of case types, which are driven by the Department's statutory and constitutional obligations, and the probation function provides supervision of offenders and delivers victim assistance services in order to achieve and support public safety interests. However, the Judicial Department does continuously assess its operations and utilizes the tools described in question #2 to determine how well it is doing in meeting its statutory obligations.

#### Successes

Juvenile case processing is one of the Department's most successful case areas. The Department has consistently prioritized resources toward juvenile caseloads (child welfare, delinquency, truancy, adoption, etc) because of the sensitive nature of these cases. Through FY 2010, approximately 97% of all juvenile cases met the goals for timely case processing established in Chief Justice Directive 08-05. Beyond timeliness, the Department has worked to improve programmatic support for juvenile cases via the work of a multidisciplinary Supreme Court committee. This committee's work has been key to establishing and maintaining best practices in the resolution of child welfare cases. Additionally, the committee's work has led to the electronic exchange of vital child welfare data so that all stakeholders are using consistent information when making decisions.

For probation, adult regular supervision is the most successful function based on the large number of offenders in that group (41,107 or 52%) and the low recidivism rate (approximately 7% both pre-release and post-release). The Female Offender Program (FOP) is relatively small but also has very high success rates (69%), because of the ability to address the needs of a certain typology of female offender (not all female criminals fit this typology) with relatively low caseloads and individualized case management.

Another area in which the Judicial Department has been very successful is in its use of automation to address case management needs. Its ICON/Eclipse court and probation case management system has been deployed statewide since 1997. That legacy CMS (case management system) is currently being replaced with jPOD which has already been deployed in the State's Appellate Courts. The jPOD system should be completed for the State's trial courts by December 2012. This CMS covers all business functions for all case-types in all State funded courts. It has eliminated many manual paper processes and has positioned the Judicial Department to electronically exchange data with numerous other governmental entities (Department of Public Safety, Department of Revenue, Department of Human Services, Department of Corrections, Colorado District Attorneys Council, etc) saving incalculable time in data entry, preparation of documents, storing and retrieving documents, enhancing public safety by distributing critical information to law enforcement, judges and

probation officers in a timely fashion, enhancing customer service by responding more quickly to requests, and processing cases in a more timely fashion. All of these are goals/objectives within the Judicial Department's strategic plan.

### Challenges

Areas in which the court side of the Judicial Department could improve include its Probate function and its Judicial Training function. These were areas identified in FY2008 and as a result, both probate and judicial training resources were sought and gained during that budget year. Unfortunately, due to budget shortfalls, the filling of those positions were part of the Department-wide hiring freeze in FY2009 and part of the vacancy savings effort in FY2010. The probate FTE have been filled effective February, 2010, but the judicial training staff were cut in FY2010 as part of the Department's overall FTE reduction of 173.0 FTE. The acquisition of additional probate and judicial training resources are part of the Department's strategic five-year plan.

Probation's least successful program is the Juvenile Intensive Probation Program (JISP) with a 46% success rate. To address this low success rate, the Probation division is working with outside expert contractors to analyze how to improve results with this difficult population of high risk youth with little self control.

Generally, the probation function tries to focus on the effectiveness of practices rather than programs. Evidence based research has documented that some practices, like Motivational Interviewing and cognitive-behavioral skill-building groups, have been documented to increase success when applied with fidelity by trained case managers who are supported by their supervisors. The focus in recent years has been to build this capacity and establish a culture throughout all probation districts to master the skill and apply it consistently.

Regarding technology, while the Judicial Department has had tremendous success with development, deployment and support of its many in-house automation projects, the e-citations program is stuck in neutral gear. This program electronically transfers data to the courts and the district attorneys from State/Local law enforcement entities. This task of migrating data from the traffic tickets to the Judicial Department and the local district attorney has been piloted in Weld County for well over a year (i.e., TOD—Tickets on Demand). The Judicial Department completed its connections to this program using national data exchange standards and has been trying to solicit the participation of other local law enforcement entities and the Colorado State Patrol in this program over the past couple of years.

Although everyone agrees that this program is needed and that it is one of the more important programs regarding the electronic exchange of data among governmental entities, the current budget climate has made it impossible for Colorado State Patrol and other local law enforcement entities to program for the data transfers at their end.

**4. For the three most effective and the three least effective programs identified above, please provide the following information:**

- a. A statement listing any other state, federal, or local agencies that administer similar or cooperating programs, and outline the interaction among such agencies for each program;**

There are no other agencies or government entities that provide state court services. Regarding probation services, for regular adult supervision, there are some municipal probation departments in Colorado; the DOC parole supervision has some similarities with probation supervision; and there is federal probation supervision in Colorado. At the district level, probation staff interacts with all of these agencies for any client with cross-supervision (assessing if one will take the lead, sharing information). Further, the Judicial Department and the DOC parole agency make numerous efforts to share best practices and coordinate positive change.

- b. A statement of the statutory authority for these programs and a description of the need for these programs;**

The authority of the Judicial Department is within Article VI of the Colorado Constitution and Title 13 of the Colorado Revised Statutes. Probation authority can be found as follows:

Section 16-11-208, C.R.S. Officer's appointment - salary – oath  
Section 16-11-209, C.R.S. Duties of probation officers.  
Section 16-11-211, C.R.S. Interdistrict probation department – personnel.  
Section 18-1.3-201, C.R.S. Application for probation  
Section 18-1.3-202, C.R.S. Probationary power of court  
Section 18-1.3.203, C.R.S Criteria for granting probation  
Section 18-1.3-204, C.R.S. Conditions of probation  
Section 18-1.3-208, C.R.S. Intensive supervision probation programs  
Section 19-2-913, C.R.S Sentencing- probation- supervised work program  
Section 19-2-306, C.R.S Juvenile intensive supervision program

- c. A description of the activities which are intended to accomplish each objective of the programs, as well as, quantified measures of effectiveness and efficiency of performance of such activities;**

As stated in question #2, the Department uses a variety of tools to continually assess the delivery of court and probation services. A strategic plan is updated every year that includes high-reaching goals and more specific objectives. The Department does not have a specific list of activities related to the broad delivery of court and probation services. Instead, as described above, the probation function has focused its efforts over the past few years on increasing the efficiency of its practices. The result of this effort has been a reduction in

technical violators sent to DOC and an increase in rates of successful completion of probation. On the court side, efforts have been undertaken to improve case management techniques which has enable the court to continue meeting case processing deadlines with fewer staff and increased caseloads. Further, the Department is always assessing how the use of technology can help address service delivery and positively impact the work process related to growing caseloads.

**d. A ranking of the activities necessary to achieve the objectives of each program by priority of the activities; and**

As stated in paragraph c above, a list of specific activities has not been generated. The Department is currently reviewing its strategic planning efforts in order to comply with HB10-1119, SMART Government and will report on its efforts in January, 2011 at the Joint Judiciary meeting.

**e. The level of effort required to accomplish each activity associated with these programs in terms of funds and personnel.**

The Department has a five-year plan that is updated every year during its strategic planning sessions. This five-year plan includes estimated resources that will be required in order to meet the changing demands of the court and probation functions. The annual budget request includes the required resources and related funding to address the strategic efforts of the Judicial Department.

**5. Detail what could be accomplished by your Department if funding is maintained at the fiscal year 2009-10 level.**

This response is based on the assumption that the Judicial Department would revert back to FY2010 appropriated levels for all fund sources and legislation authorized during the 2010 session would be funded on top of the FY2010 appropriated levels. This includes the last year of the judge bill and the three probation-related bills (HB1338, 1347 and 1352). To get back to FY2010 appropriated levels, the Department would have to cut \$1.2M in general funds and remove all of its FY2012 decision item requests.

*Personal Services General Fund Reduction*

Given that the Department is 86% personal services, any general fund reduction would have to be taken by holding positions vacant. Spread across the probation and trial court functions, the trial courts would have to hold 16.3 positions vacant while the probation function would have to hold just under 9.0 FTE vacant.

As was seen in FY2010, the Department planned to give back 93.0 probation officer FTE in order to help the state balance the budget. This reduction was ultimately not taken as it was determined that reducing or holding probation FTE vacant resulted in higher costs to the Department of Corrections. At this point, given the permanent 146.5 FTE reduction taken in the

courts for FY2011, the courts could not take on the entire burden of another \$1.2M personal services reduction. Therefore, the impact would have to be borne by both the probation and court function with the impact of slower court times, reduced success with probation and higher levels of technical violations for offenders.

*Impact of no FY2012 Decision Items*

In addition to the \$1.2M personal services cut, in order to get down to FY2010 appropriated levels, the Department would have to remove all of its FY2012 decision items requests. This would include its request for network upgrades, trial court and appellate court staff, problem-solving court funding, language interpreter contract rate increase and probation cash fund spending authority. While this would keep appropriation levels down, it would result in reduced efficiencies and capacity within the courts and probation. Courts, for example, place the highest priority on matters of public safety and child welfare—especially when resources are limited. As a result, additional reductions to court support staffing levels will negatively impact civil cases (primarily debt collection and business disputes) along with domestic relations cases the most at a time when these two case types are the fastest growing caseloads.

Adult treatment courts are another area that will be negatively impacted by returning to FY 2010 funding levels. The Colorado Judicial Department received a two-year Adult Drug Court / DUI Court Edward Byrne Memorial Competitive Enhancement Grant from the Office of Justice Programs Recovery Act in September, 2009. This grant will expire during FY 2012. The Department was able to expand the number of offenders in adult drug courts under this grant capacity. Without funding to continue drug court dockets currently supported by the Federal grant, adult treatment courts in Colorado will need to cut by 40% the number of offenders served by this successful program

Further, other than the language interpreter rate increase, the FY2012 decision item requests are cash-funded. Not pursuing/funding them would keep appropriation levels down, but would result in growing cash fund balances and un-used revenue. Revenue into the Stabilization Fund is specifically from court users and is intended to fund ongoing court operations to the benefit of the public. The FY2012 court staff, network upgrade and problem-solving requests support this intent. The probation cash fund requests are to utilize revenue from offender fees and supervision fees for treatment, which helps keep offenders out of prison. Not pursuing FY2012 decision items simply to keep appropriation levels down would mean offenders would be denied appropriate treatment since the cash-fund spending authority was not granted. Again, the likely result of inadequate treatment is that offenders end up in prison which is more costly to the state overall.

	TOTAL	GF	CF	RF	FF
<b>FY2010 Appropriation</b>	<b>347,422,742</b>	<b>229,939,795</b>	<b>105,341,151</b>	<b>7,711,376</b>	<b>4,430,420</b>
FY2012 Nov. 1 Request	<b>379,092,842</b>	242,241,857	123,981,306	8,326,504	4,543,174
Less PERA swap restore	(4,473,118)	(3,676,723)	(767,434)	(28,961)	
Less HB10-1338	(305,162)	(305,162)			
Less HB10-1347	(998,206)	(434,018)	(564,188)		
Less HB10-1352	(13,439,681)	(6,439,681)	(7,000,000)		
Less HB07-1054 Final Year	(4,512,917)		(4,512,917)		
Less Decision Items	(6,541,697)	(473,000)	(6,068,697)		
<b>Adjusted FY2012 Request</b>	<b>348,822,061</b>	<b>230,913,273</b>	<b>105,068,070</b>	<b>8,297,543</b>	<b>4,543,174</b>
<b>Reduct'n to get to FY2010 Level</b>	<b>(1,399,319)</b>	<b>(973,478)</b>	<b>273,081</b>	<b>(586,167)</b>	<b>(112,754)</b>
<b>Impacts:</b>					
Refinance GF to CF	-	273,081	(273,081)		
Staff Reductions	1,286,564	1,286,564			
Federal Grant SA reduction	112,754				112,754
Indirect Cost Adj	-	(586,167)		586,167	
Balance	0	(0)	(0)	(0)	-

## 2:00-2:25 STATE COURT SYSTEM

6. **Detail and discuss the current plan for filling the final 12 district court and three county court judgeships authorized by H.B. 07-1054. Please include caseload, workload, and performance data related to the affected district and county courts. Should the General Assembly consider delaying or eliminating any of the 15 remaining judgeships (e.g., in the 1<sup>st</sup> judicial district)? If so, please specify any General Assembly actions necessary to modify the plan.**

The General Assembly should not delay or eliminate the remaining judgeships under H.B. 07-1054. As noted in the Department's FY 2012 budget request, the Department will be seeking legislation during the 2011 legislative session to move one district judgeship authorized under H.B. 07-1054 from the 1<sup>st</sup> Judicial District to the 7<sup>th</sup> Judicial District.

Twelve of the remaining fifteen judgeships under HB 07-1054 are scheduled to begin in the current fiscal year (FY 2010-11) on January 1, 2011. The locations of the judges starting in January are shown in Table 1.

**New Judgeships Effective January 1, 2011**

Location	Number of Judgeships
Denver District Court	2
4 <sup>th</sup> Judicial District	3 (2 District; 1 El Paso County)
8 <sup>th</sup> Judicial District	1 (District)
17 <sup>th</sup> Judicial District	3 (2 District; 1 Adams County)
18 <sup>th</sup> Judicial District	1 (District)
19 <sup>th</sup> Judicial District	1 (District)
20 <sup>th</sup> Judicial District	1 (District)

**Table 1**

The process to appoint the twelve new judgeships began several months ago. This lead time was necessary in order allow the attorneys appointed to the judgeships the time needed to close down their law practice or otherwise resign their current positions. The process began with the prospective candidates submitting applications to their local judicial nominating commission. The local nominating commissions then conduct interviews with the candidates and forward the names of three finalists for each judgeship to the Governor for consideration. The Governor then has fifteen days to make the appointment from the list of names submitted.

Governor Ritter has made appointments to five of the twelve judgeships effective in January 2011. The appointed judges are already in the process of closing out their private practices or have resigned their current positions. Finalists for the remaining seven judgeships have been forwarded to the Governor with appointments expected any day. Logistically, it will be difficult to further delay the January judgeships because the appointees will have great difficulty in either reviving their law practices, regaining their former positions, or finding new positions on such short notice.

Beyond logistic concerns, the districts covered by the remaining judgeships under HB 07-1054 still need the new judgeships. Each of these jurisdictions is well below full judge staffing as illustrated in Tables 2 and 3. Additionally, the Department has taken steps to reduce the size of the Senior Judge Program in preparation for receiving these judgeships. The Senior Judge Program assigns retired judges to hear cases in which sitting judges have recused themselves for reasons set out in section 13-1-122, C.R.S., or so the court’s docket won’t be interrupted because of a judge absence or overscheduled docket. Further delays to the HB 07-1054 judgeships, exacerbated by the reduction in available senior judge coverage, will impair timely resolution of cases by judges in understaffed jurisdictions.

**District Judge Staff Level based on FY 2010 Filings**

<b>District</b>	<b>Staffing Percentage</b>	<b>Highlights in Caseload Growth</b>
1st (Jefferson, Gilpin)	75.57%	District Court filings have increased by 44% in the last 10 years. Largest areas of growth are civil and probate.
Denver District	61.36%	Prior to H.B. 07-1054, hadn't received a new judgeship since <b>1978</b> . Largest areas of growth over the last 10 years are Domestic Relations and Civil.
4th (El Paso, Teller)	73.12%	District Court filings have increased by 48% in the last 10 years. Largest areas of growth are Domestic Relations and Civil
8th (Larimer, Jackson)	81.65%	District Court filings have increased by 51% in the last 10 years. Largest areas of growth are Juvenile, Domestic Relations, and Civil.
17th (Adams, Broomfield)	74.62%	District Court filings have increased by 79% in the last 10 years. Largest areas of growth are Criminal, Domestic Relations, and Civil.
18th (Arapahoe, Douglas, Elbert, Lincoln)	71.67%	District Court filings have increased by 80% in the last 10 years. Largest areas of growth are Domestic Relations and Civil.
19th (Weld)	80.24%	District Court filings have increased by 92% in the last 10 years. Strong growth in all case types.
20th (Boulder)	76.02%	District Court filings have increased by 22% in the last 10 years. Largest area of growth is civil.

Table 2

**County Judge Staff Level based on FY 2010 Filings**

<b>County</b>	<b>Staffing Percentage</b>	<b>Highlights in Caseload Growth</b>
Jefferson	85.44%	County Court filings have increased by 31% in the last 10 years. Largest areas of growth are traffic, misdemeanors, and civil (debt collection).
El Paso	78.60%	County Court filings have increased by 18% in the last 10 years. Largest area of growth is civil (debt collection).
Adams	68.39%	County Court filings have increased by 68% in the last 10 years. Largest areas of growth are traffic, misdemeanors, and civil (debt collection).

Table 3

The final three judgeships under HB 07-1054 are scheduled to start on July 1, 2011 subject to available funding. As noted in Table 4, current statutory language calls for all three of these judgeships to be placed in the 1<sup>st</sup> Judicial District—two in district court and one in the Jefferson County Court.

**New Judgeships Effective July 1, 2011 (subject to available funding)**

Location	Number of Judgeships
1st Judicial District	3 (2 District; 1 Jefferson County)

Table 4

As noted earlier, the Department will be seeking legislation to move one of the new district judgeships authorized under H.B. 07-1054 from the 1<sup>st</sup> Judicial District to the 7<sup>th</sup> Judicial District (Delta, Gunnison, Hinsdale, Montrose, Ouray and San Miguel Counties). The Seventh Judicial District currently has the lowest district court judge staffing level in Colorado—just under 60% of full staffing. The First Judicial District was originally scheduled to receive five new judgeships over three years under H.B. 07-1054. Jefferson County, where the judgeships would be housed, has worked to reconfigure their court facilities to accommodate the new judgeships. At this time, they have not identified an agreeable plan that accommodates all of the new judgeships. Court management has previously asked for delays in implementing their final judgeships and was agreeable when approached about transferring one judgeship to help accommodate a needier district. Courts place the highest priority on matters of public safety and child welfare—especially when resources are limited. As a result, delaying the judgeships in the 1<sup>st</sup> Judicial District beyond July 2011 will negatively impact civil cases (the area of greatest growth in the 1<sup>st</sup> District; primarily debt collection and business disputes) along with domestic relations cases.

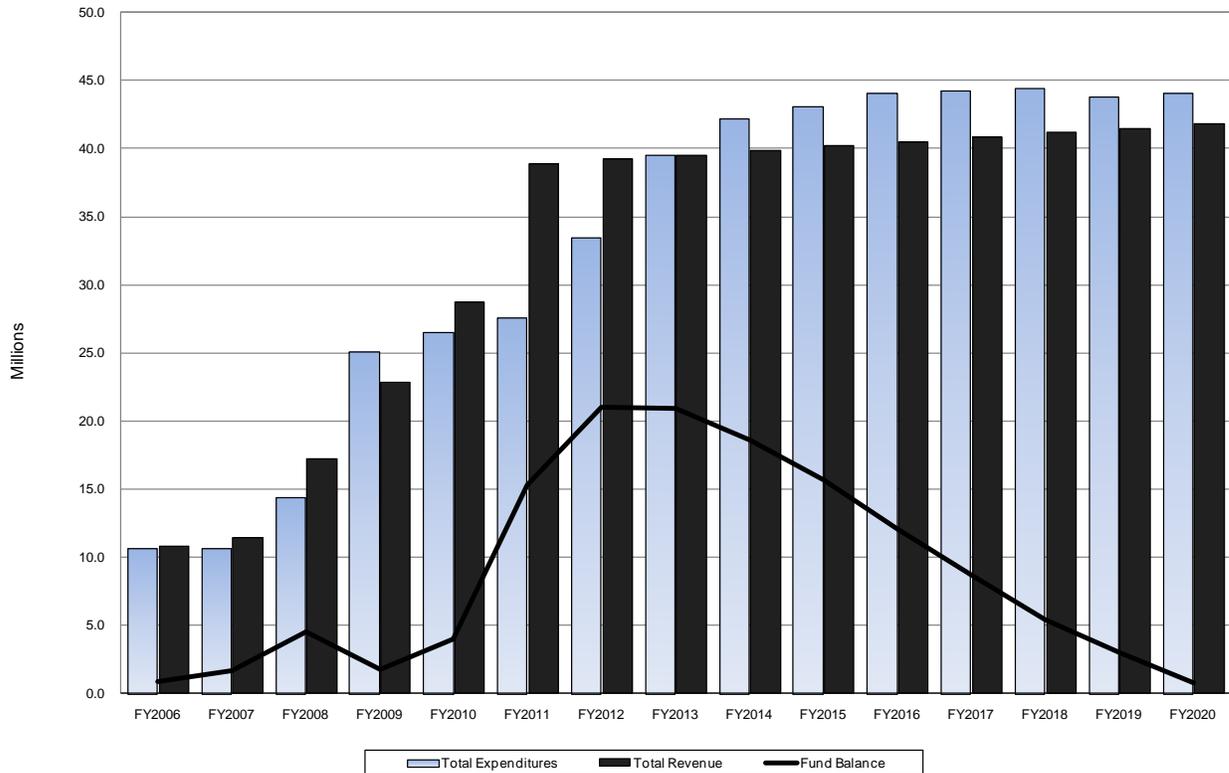
- 7. Provide information concerning the Judicial Stabilization Cash Fund, including a description of the sources of revenue and the statutorily authorized uses of the Fund. Further, please provide a cash flow worksheet that provides a history of revenues and expenditures from the Fund, as well as a projection of Fund revenues and expenditures based on the Department's FY 2011-12 budget request. If the Department's request is approved, is this a sustainable fund source over the long term?**

The Judicial Stabilization Fund was created with the enactment of SB 03-186. The bill increased court docket fees with the intent of creating a court user-fee cash fund specifically designed to help fund court personnel and operating costs. As intended, the creation of this cash fund has reduced the Department's need for statewide general fund resources.

Since the enactment of SB 03-186, this cash fund has enabled the legislature to fund and authorize new judgeships and related staff (HB 06-1028 and HB 07-1054) and it has funded other legislatively authorized staff (e.g., HB 08-1082 – Sealing of Records). Further, it has funded the Department's requests for new court staff and most recently for staff related to problem-solving court initiatives. Additionally, due to delays in the implementation of HB 07-1054 judges, the Department has been able to re-direct the savings from these delays to cover its courthouse capital needs over the past three years.

Based on the above actions, the court has grown in its level of cash-funding from 3% in FY2003 to almost 22% in FY2012. Consequently, the Department monitors the revenues and expenditures of this cash fund very closely and incorporates long-term cash fund projections into its strategic planning process to ensure that appropriate cash resources are being used to their maximum potential without over-commitment. This plan includes revenue estimates based on projected caseload changes, resource needs required to keep up with caseload growth as well as to address problem areas within the Department, and salary/benefit-related expenses (HLD, AED, SAED, Performance-Based Pay, etc.). As the chart below reflects,

based on the detailed long-term projections, it is expected that within the next 2-3 years, this fund will be at maximum funding capacity and will only be able to sustain existing appropriations.



8. [Decision Item #3 – Certified Spanish Interpreter Rate Increase] Please respond to the following questions related to this request:

- a. Please describe when and how language interpreter services are currently provided and paid for by the Judicial Branch. Further, please describe how the current practice compares to the requirements recently issued by the U.S. Department of Justice. What resources would be required for Colorado to fully comply with these federal requirements?

The Colorado Judicial Department Chief Justice Directive 06-03 outlines the requirements for providing language interpretation for the Courts. At this time, the Colorado Judicial Department mandatorily provides interpreters for in-court proceedings for cases where there is a potential loss of liberty, in cases where children are involved in the court process, in mental health and protection order cases and in all additional case types in which indigency has been determined. The Chief Justice Directive also outlines the provision of out-of-court interpreter services paid by the Judicial Department.

The requirements outlined by the U.S. Department of Justice are intended to provide universal free language access to all court users, not just those who are indigent. In order to be fully in compliance, the Colorado Judicial Department must also provide language interpreters for small claims, traffic infractions, probate, civil (to include domestic relations), non-domestic abuse protection orders, and additional paternity and support cases.

The Court Interpreter Program Administrator is currently conducting a study of Limited English Proficient (LEP) non-indigent civil cases to determine the cost of providing interpreters at Judicial Department expense. This case type encompasses the largest number of interpreter cases not currently in compliance with U.S. Department of Justice guidelines. The study is scheduled to conclude in the summer of 2011.

Once interpreters are provided for the above-mentioned case types through a revised Chief Justice Directive, the Judicial Department will be in compliance with the intent of the US Department of Justice's requirements in those areas governed by the Judicial Department. Colorado Courts are currently under investigation by the Department of Justice and working closely with their office to ensure eventual compliance once costs are determined and a proper budgetary request can be made.

- b. **Please describe the various rates currently paid to certified interpreters in Colorado (i.e., by the State court system, the federal court system, State Public Defender, probation, etc.). Further, please describe the Department's current rate structure as it relates to specific languages or individuals who are certified in more than one language.**

The Colorado Judicial Department's standard for in-courtroom proceedings and other areas governed by Chief Justice Directive 06-03 is to ensure certified interpreters are provided. Out-of-courtroom proceedings or proceedings which are not part of the official record do not always require the use of a certified interpreter, although they are always preferred.

Through Chief Justice Directive 06-03, the Colorado Judicial Department pays certified Spanish interpreters \$30/hour for interpreting time both in trial courts and probation. Certified interpreters working in languages other than Spanish are paid at \$45/hour for interpreting time both in trial courts and probation. At this time in Colorado there are six certified Russian interpreters and one certified Vietnamese interpreter. Additional certified interpreters in languages other than Spanish from other states are used as needed.

In reviewing the compensation for court interpreters, the Colorado Judicial Department Human Resources Division used certified rates for Federal Court Interpreter rates and other similarly situated states' rates as follows:

<b>Agency</b>	<b>Hourly Rate</b>	<b>Full-Day Rate</b>	<b>Half-Day Rate</b>
Federal Courts		\$388	\$210
U.S. State Department		\$435	
Alabama State Courts	\$45		
Arkansas State Courts	\$50		
California State Courts		\$282.23	\$156.56
Delaware State Courts	\$40		
Georgia State Courts	\$75		
Hawaii State Courts	\$45		
Iowa State Courts	\$50		
Kentucky State Courts	\$40		
Maryland State Courts	\$55		
Massachusetts State Courts		\$300	\$200
Michigan State Courts	\$150		
Minnesota State Courts	\$50		
Missouri State Courts	\$108		
Nebraska State Courts	\$50		
New Jersey State Courts		\$266	\$152.50
Nevada State Courts	\$60-120		
New Mexico State Courts	\$40		
North Carolina	\$40		
Oregon State Courts	\$32.50		
Pennsylvania State Courts	\$75		
South Carolina State Courts	\$45		
Tennessee State Courts	\$50		
Utah State Courts	\$36.23		
Virginia State Courts	\$60		
Wisconsin State Courts	\$50		

❖ Information on rates paid by state courts was obtained from the Consortium for Language Access in the Courts [http://www.ncsconline.org/D\\_Research/Res\\_CtInte\\_ConsortCertCompSurvey2010ContractPub.pdf](http://www.ncsconline.org/D_Research/Res_CtInte_ConsortCertCompSurvey2010ContractPub.pdf).

The Court Interpreter Program did not obtain State Public Defender rates prior to requesting an increase in compensation for certified court interpreters, particularly because the Public Defender's requirements for ensuring an accurate record is not the same requirement as the court's requirement. For many outside agencies interpreters may set their own rates, typically ranging from \$40-\$100/hour.

These rate structures are set for the language required for the specific interpreting assignment. At this time the Colorado Court Interpreter Program does not have interpreters certified in more than one language, but if this case presents itself, the interpreter would be paid according to the rate corresponding to the language required for the assignment. In addition to paying an hourly rate, the interpreter is paid for travel and mileage in many circumstances where the interpretation required is out of the Denver metro area.

- c. **Explain the impact the current rates are having on the Department’s ability to attract and retain a sufficient number of certified interpreters. Please include trend data concerning the number and availability of certified interpreters statewide.**

Currently Colorado has 57 approved certified Spanish independent contract interpreters and seven independent contract interpreters certified in languages other than Spanish. The availability of these interpreters varies by month, and scheduling changes occur on a daily basis according to the Judicial Department’s needs and outside work obtained by independent contractors. These interpreters are housed in the following regions, although many interpreters are willing to work statewide:

Region	Certified Spanish Interpreters	Certified languages other than Spanish Interpreters
Adams County	2	
Boulder	8	
Colorado Springs	6	2 - Russian
Denver Metro Area	27	4 - Russian, 1 - Vietnamese
Grand Junction/Montrose	4	
Greeley	5	
Fort Collins	2	
Northern Mountain Areas	3	

The Judicial Department’s Managing Court Interpreters have not formally tracked the requested trend data to determine when certified interpreters chose alternative jobs over court assignments. Informally, many interpreters cancel assignments with the Judicial Department when offered more lucrative assignments from other entities.

- d. **Has the State Court Administrator’s Office considered cooperating with other government entities that require language interpreter services (such as the University of Colorado Medical Center)?**

Because most of the interpreters who provide services in the Colorado Courts are independent contractors, by virtue of their independent contractor status, they do share their services with other agencies. The Colorado Judicial Department provides the names and contact information for certified interpreters to other agencies frequently. At this point in time, the Colorado Judicial Department is the only state entity which provides nationally recognized certification for interpreters. Language requirements by nature of the legal environment require slightly different qualifications for interpreters to proficiently provide language access in court. While many of our certified Court Interpreters provide services for the courts and other agencies contiguously, further collaboration at this time is neither financially beneficial nor harmful.

e. **Why is the Department requesting General Fund for this rate increase? Could the Judicial Stabilization Cash Fund be used for this purpose?**

Providing language interpretation services is a mandated cost for the courts and it is not the intent of the Judicial Department to fund mandated costs out of the Judicial Stabilization Fund. The purpose of the Stabilization Fund is to use court docket fees to help fund personal services and operating costs of the court. The use of this cash fund since its inception has only been to fund court staff. Over the past three years, due to the delay in judgeships, the Judicial Department has been able to fund one-time capital outlay needs with the savings from the judge delay. The Department has a long-term plan for this fund to help cover the growing need for court staff. As discussed above in question 7, the fund is expected to be at maximum funding capacity in the next 2-3 years and will only be able to sustain existing appropriations. Should any level of mandated costs be funded with this cash fund, it would be at the expense of court staff. For every \$500,000 in mandated costs that the Stabilization Fund would cover, it would mean a reduction in the fund's ability to pay for 13.7 court staff.

9. **[Decision Item #5 – Problem-solving Courts] The Department is requesting additional state funds to support two types of problem-solving courts: adult drug courts and family/dependency & neglect courts. Please provide data concerning the cost-effectiveness and outcomes associated with these types of courts.**

More research has been published on the effects of adult drug courts than virtually all other criminal justice programs combined and research continues to show better long term outcomes for the high-need and high-risk drug abusing criminal population<sup>1</sup>. On a national level, well-functioning adult drug courts have been found to reduce crime rates by 35% in high-risk and high-needs drug abusing offender populations with an average reduction in recidivism of approximately 10 to 15 percent. Beyond reduction in crime and recidivism, research is now showing that drug court participants are 20 percent less likely to use drugs, families report a significant reduction in family conflict and annual income is significantly higher than comparison groups. Additionally, research has shown that for every \$1 invested in adult drug courts, communities have reaped approximately \$2 to \$4 in benefits.

Colorado data, while in its infancy, indicates similar outcomes. Staff at the State Court Administrator's Office compared 502 drug court cases that entered programs during FY 2009 with a control group consisting of 521 drug cases heard in traditional criminal courts entering the system during the same time period.

Observations from this data indicate that drug court models are not only having greater success with participants (a 66% greater successful completion rate) but are doing so with a higher risk population. An independent, long-term evaluation is needed to report on the statewide effects of drug courts. The process of collecting necessary data is in progress and

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<sup>1</sup> Marlowe, Doug; 2010, The Facts On Adult Drug Courts, National Association of Drug Court Professionals

there is a plan to initiate this statewide evaluation process within the next 12 months, pending resource availability.

While comprehensive, statewide evaluation data is not yet available, Drug Court Coordinators from four different jurisdictions report the following:

- Rural, mid-size - Of the drug court graduates who have been out of the program at least three years, 94% of the graduates were arrest free one year post graduation resulting in a recidivism rate of only 6%. This is compared to FY09 statewide recidivism rates of 14.7% for offenders supervised by Regular: Maximum Probation and 11.3% for offenders supervised by AISP. Of note, this court also reported a three year recidivism rate of 19%; meaning 81% of the drug court graduates have remained free of new charges three years post graduation.
- Rural, small-size- Since the Adult Treatment Court was implemented nine years ago, 44 clients have successfully graduated from the program. Of these 44 graduates only 6 have been charged with new felony offenses. This is an overall recidivism rate of 13.6%. (The National Average rate of recidivism for Drug Court Graduates is 16.4%)<sup>2</sup>
- Urban - From November 2006 through June 2010, adult drug court has resulted in 35,813 county jail bed days being avoided by drug abusing offenders; resulting in a potential cost savings of \$1,723,991.
- Urban - In the first year of operation, this DUI court served 69 offenders. Of the 69 offenders who entered the DUI court program, 57.9% or 40 offenders successfully completed program requirements; 30.5%, or 21 offenders, remain active participants in the program (88.4% retention), while only 13% (8 offenders) were unsuccessfully terminated from the program.

On a national level, Family Treatment Drug Courts (FTDC) has the second most outcome data. Given the level of national research supporting this type of problem solving court and the potential impact FTDC can have in our communities, the Colorado Problem Solving Court Advisory Committee listed FTDCs as the second priority. A four-year, multi-site, national study of FTDCs<sup>3</sup> found that FTDCs are more successful than traditional child welfare case processing in helping substance-abusing parents enter and complete treatment and reunify with their children. Children of FTDC mothers spent fewer days in out-of-home placements and were more than twice as likely to be reunified with their parents, compared to non-FTDC children.

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<sup>2</sup> Huddleston, III, C. West, et al, 2004; Painting the Current Picture: A National Report on Drug Courts and Other Problem Solving Court Programs in the United States. *Drug Court Review 1.1*.

<sup>3</sup> NPC Research; March, 2007- Family Treatment Drug Court Evaluation

One Colorado FTDC reports having reduced the number of parental right terminations from approximately 50% to 7% since the program was implemented nearly three years ago. This particular court further reports saving \$234,803.98 in out of home placement costs. During the 36 months prior to FTDC implementation the traditional court served 98 children resulting in 56 children adopted (57%), 23 children returned home (23%), 6 children emancipated and 13 children were placed with relatives. Since the FTDC was implemented in 2008, they have served 68 children resulting in only three (4%) parental right terminations. In addition to an increased number of children who returned home, the actual out of home days was reduced to 2,290 days from the possible 12,460 days in care.

## **2:25-2:35 PUBLIC ACCESS AND INTEGRATED COLORADO COURTS E-FILING SYSTEMS**

### **10. Please detail the current fees charged to users of the public access system.**

Although the Public Access System has the capacity to allow the general public to access data from ICON/Eclipse (the Judicial Department's case management system), the current contract with the information resellers (ACXIOM and BIS), prohibits the Judicial Department from offering the general public such access, unless there are fewer than two information resellers under contract, through at least June 2011. The Judicial Department's web site directs individual, general public inquiries to ACXIOM and BIS. ACXIOM and BIS have a sliding scale of fees based on volume. Each of the information resellers hovers between 70,000 and 90,000 searches per month. They then pay the Judicial Department either \$1.75 or \$2.00 per search depending upon the actual number of monthly searches or their contractual obligation to meet a minimum number of monthly searches. The information resellers then charge their customers a fee for the pass through service. Our understanding is that the fee ranges from \$5.00 to \$6.00 per search for the pass through service, and more if the information reseller adds value to the content of the search by providing additional information (e.g., from other entities outside of Colorado, financials, official CBI background checks, etc).

In addition to the traditional name and case number searches, the Judicial Department is working with the information resellers, to produce alerts to their customers when certain parties are named in new cases.

### **11. Please explain why the Department's vendor contracts specifically prohibit the Department from providing mirror data to any customer for any purpose.**

The data contained in ICON/Eclipse, the Judicial Department's court/probation case management system is developed, compiled and managed at the expense of taxpayers for purposes of better managing the Judicial Department's workload. The uses of this data need to be managed by the Judicial Department to ensure its validity, reliability and timeliness (see Chief Justice Directive 05-01).

Mirroring/duplicating databases to information resellers eliminates: (1) the ability of the Judicial Department to control the distribution of the information (some of which is sensitive and protected by statute)—information resellers could further distribute the information in

batch mode to whomever offered them the best price; (2) the timeliness of the information (which is critically important in such areas as warrants and protection orders)—these need to be kept current by information resellers and their customers; (3) the ability to control how some of the more complicated information is analyzed and displayed (ICON/Eclipse is an incredibly complex database with lots of nuances and caveats that affect how data is displayed and interpreted); and (4) the ability to collect appropriate charges when third party information resellers distribute the information (and profit from that without any cost recovery going to the taxpayers on a database that they funded).

The current access methods provide information resellers with the most current and accurate data available. The Judicial Department sees no added value in sending copies of the database to third party resellers who are not acting in a capacity of being the Judicial Department's agent. The Judicial Department is working with information resellers to identify new and innovative ways to display information—all of which is governed by Judicial Department Policy (i.e., CJD 05-01). This would help ensure that the display of the information is done correctly and that taxpayers benefit from and have an ROI (return on investment) from the effort(s).

**12. The Department has indicated that it plans to develop a module for small claims cases first, followed by a module for domestic relations cases. Please describe the impact the availability of e-filing services for these cases will have on the court workload.**

It is anticipated that judge workload will be relatively unchanged due to the availability of e-filing services in small claims and pro se domestic relations cases while there will be some reduction in staff workload due to decreased data entry and file maintenance.

Small claims cases are civil actions involving \$7,500 or less and currently account for approximately 1.5% of all trial court filings—about 11,000 of the nearly 800,000 new cases filed in FY 2010. Court rules limit the involvement of attorneys along with the type and scope of pleadings that can be filed in a small claims case. As a result, small claims cases are not paper intensive but are more “people intensive”—court staff tends to spend more time addressing questions on a per case basis from small claims litigants than in other types of cases. The Department maintains standardized forms and instructions for small claims cases that are available online for free and also at the courthouse.

Similar to small claims, domestic relations cases (divorce, legal separation, child custody, etc.) require staff to spend a significant amount of time answering procedural questions from litigants. As noted in the Department's FY 2012 budget request, the number of parties without attorneys in domestic relations has increased by nearly 60% in the last decade. The number of new domestic relations cases is also growing rapidly of late—increasing by over 7% in the last year alone. Domestic relations actions can be paper intensive cases generating large numbers of paper filings within each case. **It is important to note, however, that electronic filing is already available in domestic relations cases to parties represented by attorneys.** As with small claims cases, the Department maintains standardized forms and

instructions in domestic relations cases that are available to parties without attorneys.

Workload savings to judges and magistrates in small claims cases due to electronic filing is anticipated to be minimal. Judge workload in small claims cases results primarily from trials and to a lesser extent from reviewing pleadings. Electronic filing will not have an impact on trial time, the same issues will need to be addressed at trial, nor will time spent reviewing paperwork be altered significantly given the current use of standardized forms in these cases.

Staff workload impact from small claims comes primarily from in person contact with litigants and secondarily from data entry and file maintenance. While in person questions from small claims litigants may be reduced by e-filing, the volume and content of procedural questions may well remain the same with the questions received in a different format—via e-mail or phone instead of in person. Additionally, some level of technical support questions related to the operation of the e-filing system is anticipated. Cost savings in small claims cases will come from reduced data entry time and the elimination of file maintenance (no more paper pleadings to file away). The main benefit of e-filing in small claims will be increased convenience to the litigants by eliminating the need to appear at the courthouse to file paperwork.

Workload savings in domestic relations cases will be limited to cases without attorneys since e-filing is already available to attorney represented parties. Electronic filing in pro se domestic relations cases is not anticipated to significantly change or streamline the information reviewed by judicial officers. It is possible that judicial officers may receive information faster because case information will not need to be physically routed to a judge's chambers. The time judicial officers spend in hearing is not likely to change.

Electronic filing will not reduce the number of procedural questions to staff about domestic relations cases—as with small claims the method of questioning may change, not the questions. Reducing, or in some cases eliminating, paper filings in pro se domestic relations cases will reduce staff time devoted to data entry and file maintenance. The amount saved will depend on the rate at which e-filing is adopted by pro se parties.

Ultimately, the full impact of electronic filing by unrepresented parties in domestic relations and small claims cases will need to be assessed via the Department's workload modeling tools. A time motion study of the work performed by judges and support staff once the new system has been implemented will give the clearest assessment of workload impact.

**2:35-3:15 PROBATION AND RELATED SERVICES**

- 13. Please describe general trends in the number of offenders sentenced to probation and those under supervision, including an explanation of the recent decline in the number of offenders on supervision. How do these trends relate to the overall criminal justice system?**

Over the last 20 years the **number of people on probation supervision has increased significantly**. During this period, there were only three instances when probation supervision declined from the previous year (FY99, FY04, FY10). Often past reductions were temporary and were followed by increases. It is unclear at this point in time whether the dip in FY10 is a trend or an aberration. The passage of HB10-1347, increasing penalties for DUI offenders, may increase probation sentences in the near future.

The adult regular population typically demonstrates steady growth, ranging between 1% and 8%, with a big increase of 11% from FY05 to FY06. Except for dips in FY04, FY05 and FY10, private supervision numbers have typically increased each year. These increases ranged from 8% to 39%.

Juveniles on probation supervision have decreased steadily over the last ten years with the greatest decrease of 14% in FY10. This trend is consistent with decreasing rates of arrest, delinquency filings, incarceration (detention and commitments), and parole over, at least, the last two to four years.

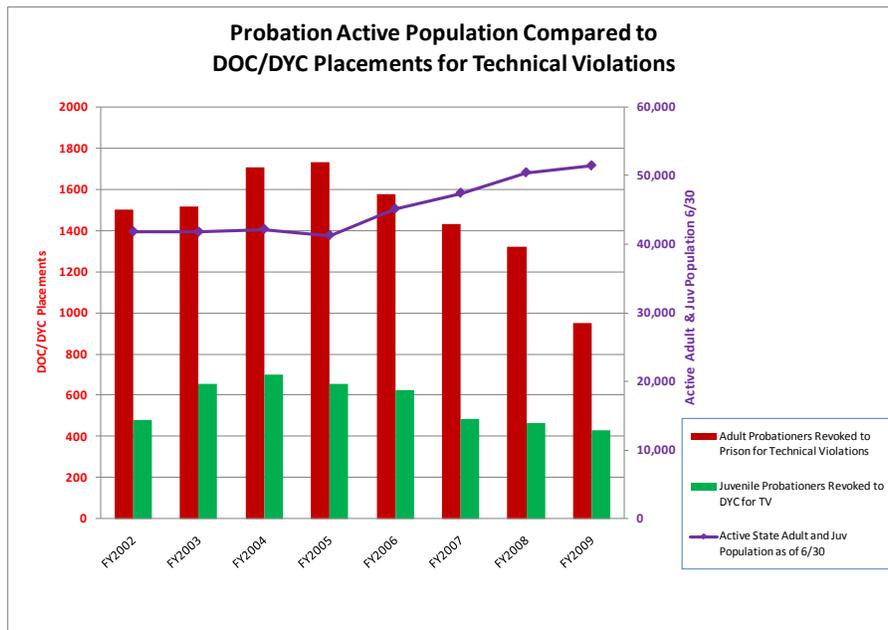
This year's decrease (FY10) in probation is attributable to two populations: juveniles and adult private probation. Both populations decreased by approximately 1,000 between FY09 and FY10. The exact reasons for the declines are unknown. Although the youth population in Colorado remains stable, every criminal justice agency has seen a decline in their juvenile population. Criminal filings have been on the decline for several years which may have a delayed effect on probation sentences, slowing the growth for adult regular supervision and decreasing the private population.

- 14. Discuss the findings contained in the Department's most recent recidivism study. Please include a discussion of the increase in the percentage of juvenile offenders who committed a new crime while under supervision. Further, describe the existing practices or resources that are most directly related to improved outcomes. Finally, what practices need to be improved or resources need to be added to continue to improve outcomes in the future?**

Over the past nine years, Colorado has seen the number of individuals placed on probation programs increase. State supervised probation has increased from 41,764 (FY2002) to 50,501 (FY2010). Despite the growth, probation has demonstrated improved outcomes in all programs since FY2006.

These improving success rates, since FY2006, are inversely related to the declining numbers of terminations due to technical violations in the same time period. These figures translate into fewer numbers of people terminating for a technical violation and subsequently completing their sentence through incarceration at the county jail or state prison. See Graph below.

In FY2010, for the first time in an eight-year period, the number of individuals terminated for a technical violation and sentenced to the Department of Corrections was less than 1,000 for the entire adult population. This is despite a total adult probation population that has grown over the same time period.



Pre- and post-release recidivism rates have been steady in most of the programs over the past nine years.

- **Adult** regular supervision **pre-release recidivism** rate: typically **6.5%**
- **Adult** regular supervision **post-release** (1 year out) **recidivism** rate: typically **7.5%**
- **Juvenile** regular supervision **pre-release recidivism** rate: typically **6.5%**
- **Juvenile** regular supervision **post-release** (1 year out) **recidivism** rate: typically **15%**

The juvenile pre-release recidivism rate (new crime while on supervision) increased by less than one half percent (.40%) between FY08 and FY09. This slight increase is equivalent to nineteen more juveniles committing an offense than in the previous year. Given the youthful and impulsive nature of this population generally, it is not surprising to see higher rates of recidivism.

There are three plausible explanations for improved outcomes in probation:

1. Staffing levels,
2. Availability of treatment services, and
3. Application of evidence based practices and principles.

In late 2002, probation was impacted by budget cuts and employees began to take involuntary furloughs. These furloughs continued into 2003 and then approximately 70 positions were cut by 2004. It was not until 2005 that probation began to fill lost positions and caseload sizes began feeling manageable again for the line officer. This loss of manpower hours and large caseload sizes certainly contributed to fewer successful terminations from probation. In the last several years, probation has been the benefactor of several new positions and probation officers have been staffed at higher levels than those following the budget cuts. It is not unreasonable to think that the **adequate staffing levels provided officers the time to work with probationers, who may otherwise have been violated in leaner years.**

In addition to increased numbers of officers, probation has also seen an increase in monies available for offender treatment via increased spending authority in the offender services fund and the influx of \$2.2 million in annual SB 03-318 appropriations since 2008. These funds have made substance abuse and mental health treatment services more available to individuals who may not be able to complete their sentence without the appropriate intervention.

Finally, the renewed use and broader implementation of evidence-based practices (EBP) and principles have contributed to positive probation outcomes. Although the state has been using EBP's (eg: validated assessments, motivational interviewing, cognitive behavioral skill building) for several years, a more formalized and concentrated effort has led to a better understanding of evidence-based principles, the use of evidence-based practices in the field, and an increasing focus on criminogenic needs. This effort has included:

- A probation statewide EBP committee,
- Newly developed performance feedback loops,
- Distribution of an EBP Overview training packet,
- Multi-agency EBP training, coaching & development of champions to sustain efforts (5 state agencies in the Evidence-based Practices Implementation for Capacity (EPIC) project, a federally funded grant)
- Modifications in practice that have concentrated on using technical violation revocations only for those individuals who are a danger to the community and positive reinforcement for pro-social behavior, aiming for long-term behavioral change.

With adequate staffing and services, probation is poised to continue effective supervision of offenders in the community. The ongoing efforts of building skilled staff, using proven methods of intervention in the supervision and treatment of probationers, will result in improved safety of the community and fiscal cost reduction, through recidivism reduction.

To continue to improve outcomes probation most needs:

- Funding the expansion of resource-intensive coaches to assist officers in further developing evidence-based skills such as motivational interviewing and evidence-based programming such as Multi-Systemic Treatment (MST), Family Functional Therapy (FFT), and cognitive-behavioral based programs.
- Equalizing staffing levels of probation supervisors to probation officer levels so supervisors can engage more frequently in quality assurance practices, receive coaching, building their capacity to coach and mentor their staff and providing adequate time to do it consistently and to do it well.
- Creation of sophisticated and real-time performance feedback mechanisms so that every officer knows their performance compared to their peers and every manager knows the performance level of their unit and officers. This information should be used to determine training needs, generate performance development plans, and allocate resources.

**15. Provide demographic data indicating the number of males and females served through each probation program. Further, please discuss the success of the Female Offender Program. Could a gender-specific approach to serving clients improve the success rates for other programs?**

<b>Probation Population on June 30, 2010 by Gender Percentage</b>					
<b>Population</b>	<b>Total</b>	<b>% Female</b>	<b>Number</b>	<b>% Male</b>	<b>Number</b>
Regular Adult	41,107	25%	10,277	75%	30,830
Regular Juvenile	5,946	22%	1,308	78%	4,638
Adult ISP	1,408	16%	225	84%	1,183
Sex Offender ISP	1,301	3%	39	97%	1,262
Female Offender	287	100%	287	0%	0
Juvenile ISP	452	13%	59	87%	393
DUI/DWAI Private Probation	14,126	28%	3,955	72%	10,171
Non- DUI Private Probation	9,067	30%	2,720	70%	6,347
State Monitored DUI/ DWAI	11,448	25%	2,862	75%	8,586
<b>TOTAL</b>	<b>85,142</b>	<b>26%</b>	<b>21,732</b>	<b>74%</b>	<b>63,410</b>

The Female Offender Program (FOP) was initially a 4-year grant funded pilot project developed in FY 1991, to intervene in the lives of high risk, prison eligible substance abusing female offenders. In FY 1995 the General Assembly, based on the results of the pilot program, provided state funding for the 6 FTE assigned to the program. The program is considered an intensive supervision program and is designed to deliver gender based case management to include frequent contact, cognitive/ behavioral skill building, regular employment or vocational/educational efforts, drug testing, home visits, parenting support,

electronic monitoring and participation in treatment, as required. For FY 2001 and FY 2002 there was a 0% recidivism rate, for one year following termination from probation, for those offenders that successfully completed the program. The FOP was increased by an additional 3.5 FTE in FY 2007. These 9.5 FTE FOP officers are placed in the 10 judicial districts that account for 90 percent of the women sentenced to DOC. The number of women assigned to each FOP officer is capped at 30. In FY 2009 there were 186 female offenders sentenced to FOP and on June 30, 2009 there were 265 in the FOP. **In FY 2009, 147 (73%) women, who might otherwise have been sentenced to the DOC, successfully completed the program.**

The probation officers managing FOP caseloads are exclusively female. At the heart of the FOP is the trust relationship developed between the offender and the probation officer. Early engagement and an ability to quickly address environmental problems are critical to the success of the program. Female offenders have different issues than their male counterparts and the Division of Probation Services trains FOP probation officers to assess for and address these issues. In addition to exhibiting substance use disorders, most female offenders in the program are the sole custodial parent of minor children, have higher levels of diagnosable mental illness, have fewer viable vocational skills, have prior histories of victimization (domestic violence and sexual assault), reproductive health issues and have lesser economic means to support themselves. The criminal pattern for these offenders is often economic in nature; prostitution, fraudulent use of a credit device, bad checks, theft and possession/ sales of controlled substances. The crimes are often related to the substance use disorder or a need to provide support for children. Initial case planning focuses on supervision to achieve stabilization and to address basic living needs. Offender Treatment and Services cash funds are often utilized to assist in securing emergency housing, bus passes for transportation, grocery coupons, medications and treatment. The goal of the FOP is to achieve a level of stabilization and progress such that the offender can be safely transferred to regular probation for completion of their sentence.

The Division of Probation Services provides training to both male and female probation officers specific to the assessment, case planning and supervision of female offenders placed on regular probation caseloads. Female offenders make up approximately 26% of the total population sentenced to probation but not all have the same constellation of significant issues found in the FOP population. It is clear from the results from the Female Offender Program that a gender based approach is successful with this high risk subpopulation of female offenders, in part due to the sensitivity of many of the issues that must be addressed. It is unknown if global gender based supervision would be more effective than current practice. To date there has not been any research into Colorado probation's success and failure rates of offenders based on the gender of the probation officer providing supervision.

16. **If the General Assembly were to add probation resources, could more offenders be sentenced to probation in lieu of incarceration (thereby reducing overall state expenditures) or is the probation system reaching its capacity?**

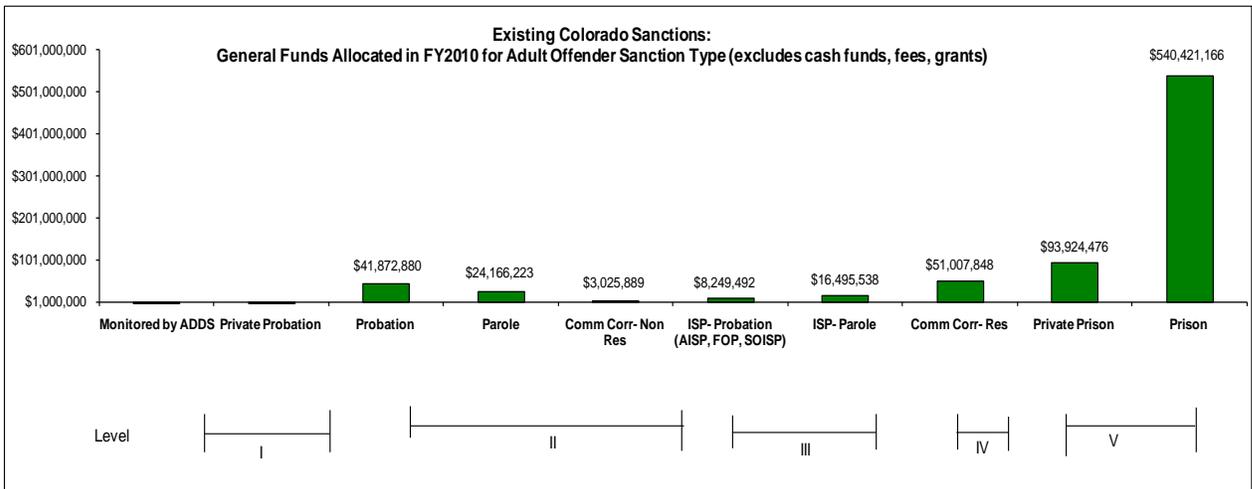
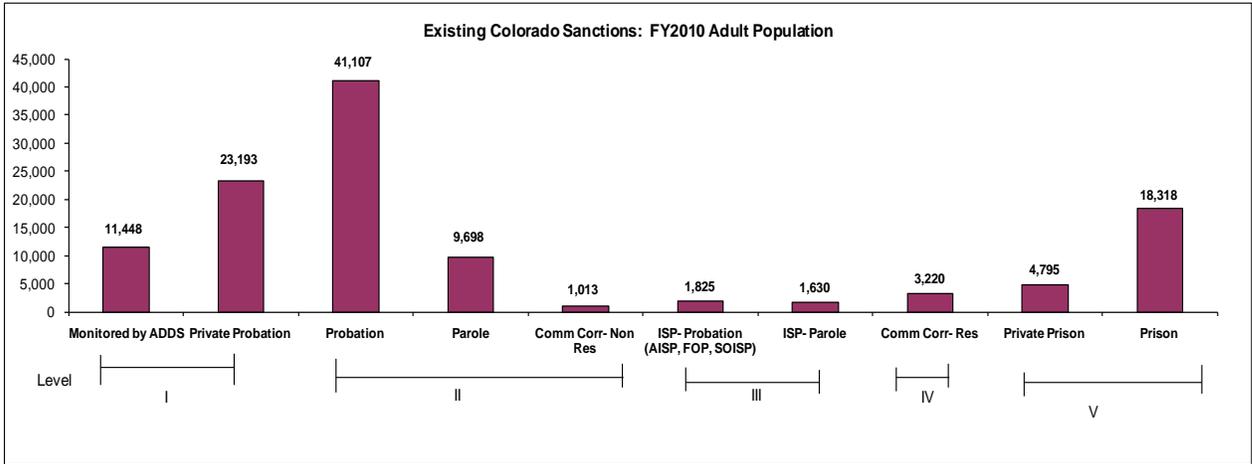
**Probation is not at theoretical capacity;** public safety and offender management would benefit from additional resources, and it would likely save downstream costs. While probation is at capacity given its current staffing, with additional staff and treatment resources capacity could be expanded. In contemplating expansion, the following issues must be considered:

- Counties are responsible for providing space for the probation departments. Providing additional space requires planning and negotiation with county government.
- Some offenders are not appropriate for community supervision on probation. An expansion would require defining appropriate cases. If the goal is decreasing DOC beds this task will be critical. The felony class of the case is not a proxy for risk.
- The average probation officer requires approximately two years of training and experience to be consistently effective.
- The ratio of probation officers to supervisors is currently unbalanced and additional supervisors are required to ensure appropriate levels of management support.

Any increase in capacity should be a phased process allowing time for securing additional space, training staff, identifying needed treatment resources and developing appropriate supervision responses to address any particular risks in the new population. Currently our five year plan would increase total probation staff by approximately 53 FTE annually to reach 100% staffing of the projected need in FY2014. We believe this would be a reasonable phase in to accommodate county space needs.

As noted in question 14, there was a decline in success (and increase in the rate of technical violators sent to DOC) as probation caseloads grew (and staff numbers declined) earlier this decade. It also notes the improvements in those measures as staffing was increased and case numbers became more manageable.

The following two charts provide information on the continuum of sentencing options for offenders. The first chart shows the number of offenders along the existing continuum of options while the second chart shows the general fund dollars arrayed along that continuum. **Prisoners comprise about 20% of the offender population but use over 80% of the general fund dollars expended for offenders.** We know that it is well worth the expense to incapacitate the violence-prone offender, but the goal should be to ensure we get a good return on the taxpayer's investment. Therefore a system should be built that maintains non-violent offenders in the community and uses intermediate options to gradually reintegrate those who were incarcerated and are on their way back to the community. To do so will require some sentencing reform (which CCJJ is attempting) and an expansion of intermediate and community based sanctions, including probation, parole, and community corrections. But as the charts indicate, any minor shift from the costly high end will generate the savings needed to expand the mid level options.



17. **Please describe how you monitor the quality of treatment and supervision services provided by private entities. Do you have the tools you need to properly evaluate the quality and cost-effectiveness of the services provided by private entities?**

Treatment

**Under current law, if the court orders counseling or treatment, then the counseling or treatment must be with a Department of Human Services (substance abuse and mental health) or Department of Public Safety (sex offender and domestic violence) approved agency or provider.** It is the charge of these agencies and boards to evaluate the effectiveness of that agency's standards for treatment. Probation serves an informal role in evaluating the quality of treatment via the interaction it has with the treatment provider or agency. The three most common types of treatment ordered are DUI/DWAI and other substance abuse, domestic violence, and sex offender treatment. The probation officers supervising offenders requiring those treatments are sufficiently familiar with the treatment standards to be able to question the offender about their progress and understanding of their treatment experience. Probation officers also depend on routine progress reports from the treatment provider. These are required by each discipline's standards. When those reports are not provided or it is clear the offender is not being engaged in the treatment process, the probation officer will often ask for a conference to address concerns about the quality of services being delivered. If concerns are not addressed, the probation department may ask for further consultation, make a formal complaint to the agency/board overseeing the provider's approval, or stop making referrals to the provider or agency. The issue of quality is of significant importance to probation.

While the research is clear that engagement in substance abuse treatment has a positive impact on substance abuse and can diminish criminogenic needs (problem areas that lead to criminal behavior), monitoring the effectiveness of individual providers is much more problematic. Recognizing this critical challenge, the probation Management Advisory Committee (MAC) has included in its long range plan, a project that will result in the development of options probation can utilize to enhance its knowledge of treatment providers' quality of service. This work is in its initial stage of development and will include the identification of existing tools that can be used to collect information (i.e. proxies of performance). Mechanisms for developing contracts specifying required reporting of performance data will also be explored.

Supervision Services

Supervision services delivered by private entities will be construed to mean the use of private probation services, authorized under Section 18-1.3-202, C.R.S. Private probation has been in widespread use since 1996. The authorization to use private probation was sought due to a lack of sufficient state probation resources to properly supervise all of the offenders sentenced to probation. Private probation contractors, by Chief Justice Directive, are restricted to serving lower risk cases only. Each judicial district probation department issues a competitive Request for Proposal and awards a contract to a private probation vendor. The contract stipulates the qualifications of the vendor's staff, level of service to be provided and other pertinent requirements. Contracts may be renewed annually for up to four years, following an

annual review. Offenders sentenced to or referred to private probation by state probation have their \$50 per month probation supervision fee waived and the monthly \$50 fee is then ordered to be paid to the private probation provider.

18. **[Decision Item #6 – H.B. 10-1352 Cash Fund Spending Authority]** The Department's FY 2011-12 budget request includes a General Fund appropriation of \$6,156,118 to the Drug Offender Surcharge Fund, consistent with the Legislative Council Staff fiscal note for H.B. 10-1352 (based on anticipated savings in the Department of Corrections). Please provide information about the implementation of this bill to date, including: (a) any data related to the number of offenders sentenced to probation rather than the Department of Corrections (and the related savings); (b) the proposed use of moneys appropriated to the Drug Offender Surcharge Fund pursuant to this act; and (c) the elements of your budget request for FY 2011-12 that directly relate to this act.

There are two areas in the FY2012 budget that directly relate to this legislation. The first is a new line within the probation section of the budget. It is titled "Appropriation for HB10-1352 to Drug Offender Surcharge Fund" and reflects the new general fund pass-through appropriation of \$6,156,118 to the Judicial Department. This appropriation should be off-set by a corresponding general fund reduction in the Department of Corrections budget. The intent is to appropriate this DOC general fund savings to the Judicial Department and then transfer that general fund directly into the Drug Offender Surcharge Cash Fund. The second element in the FY2012 budget that relates to this legislation is the Department's #6 decision item request. This request is seeking cash-fund spending authority from the Drug Offender Surcharge Fund in an effort to access the general fund pass-through money in order to use the money on treatment for offenders as specified in the legislation. Without the cash fund spending authority, the Department has no way to use the money for its intended purpose and the original general fund pass-through will remain in the Drug Offender Surcharge Cash Fund untouched.

Judicial has no data yet on the impact of this statutory change. Since this is effective for offenses committed on or after the effective date of the act (5/25/2010), few offenders would be in the correctional system under this act at this early date. In any case, the Division of Criminal Justice in the Department of Public Safety was allocated resources to track this data and they would be in a better position to respond to this question.

This appropriation is coordinated by a 10 member oversight board. All appointees have been notified of the new appropriation and responsibility; all appointments have been made except the Counties' representative. The Sheriff's representative has been unable to make either of the two meetings thus far held. It should be noted that there are two other related oversight boards that deal with different funds and purposes, with some overlap. Please see attachment A at the end of this document for a list of the three boards and the membership of each one.

The last meeting of the HB 10-1352 oversight board was held jointly with the other two boards and consensus was reached to jointly meet, plan and coordinate as much as possible. If

this is agreed to by the Sheriffs representative and the Counties representative, then further refinement of this commitment will ensue. There is an inherent tension between focused statewide direction and local flexibility and control that all recognize must be balanced.

Finally, it should be noted that the Commission on Criminal and Juvenile Justice has a Drug Funding Policy Task Force looking into the many funding streams for substance abuse in the state (including for offenders) and the three groups noted above are also coordinating with that body.

19. **The General Assembly is interested in tracking the actual impact of statutory changes to sentencing laws, such as H.B. 10-1338, H.B. 10-1347, H.B. 10-1352, and H.B. 10-1360, and H.B. 10-1374. To the extent that the General Assembly has requested that one or more agencies study and quantify the actual impact of these changes, has the General Assembly asked the relevant questions? Do you have the tools to quantify the impact of these acts or of sentencing bills that may be introduced in the future?**

This question involves agencies outside Judicial, but in our opinion there are not adequate resources to fully study and quantify the impact of sentencing changes proposed or enacted. Sentencing goals and processes are complex, with deliberate balance of powers and adversarial roles built into the system. The CCJJ has been wrestling with sentencing reform issues for the past several years, and it is time consuming for policy makers to discuss and difficult for them to gauge the impact of proposed changes. Underlying the difficulty are the many sometimes conflicting purposes of sentencing (punishment, deterrence, incapacitation, victim restoration, offender rehabilitation) not all of which apply in the varying cases before the court. CCJJ is attempting to fashion a process to improve the system, but they too suffer from an inability to quickly estimate the impact of proposed changes. Other states who have undertaken comprehensive sentencing reform have allocated permanent resources to develop and apply simulation models to better determine and track the impact of proposed or actual changes. Whether such an investment is appropriate in Colorado is a subject for wider discussion.

20. **[House Bill 08-1117 directed the juvenile diversion program to integrate restorative justice practices into the program when possible, and made restorative justice a sentencing alternative for the court unless the juvenile committed an offense involving unlawful sexual behavior or domestic violence.] Please provide information concerning the implementation of this act, including the number of cases (by judicial district, if possible) in which restorative justice was utilized as a sentencing alternative and any comparative data concerning the success rates for juveniles in these cases. Further, describe generally what role restorative justice plays in probation supervision and treatment.**

The Department does not have the ability to list restorative justice-related sentences, nor the number of cases where restorative justice was used as an alternative. Nor does it have Colorado comparative data about success rates, but national data does exist (see below).

**Over \$25M was collected in restitution for victims last year**, and the Department has dedicated collection staff affiliated with the courts to ensure restitution is collected as part of the offender's obligation.

Restorative justice is a core value of probation. The "statement of common ground" is as follows:

*"Colorado Probation is committed to Public Safety, Victim and Community  
Reparation through Offender Accountability, Skill and Competency  
Development and Services to the Communities of Colorado."*

Further, the Probation Department trains officers in restorative justice principles in its training academy and hosts information about restorative justice programs. Contacts for restorative justice agencies in each district are listed on the Probation website, in accordance with HB 07-1129. Several of the probation districts have well established initiatives, often working with community groups. This information can be obtained at <http://www.courts.state.co.us/Probation/Index.cfm>

Restorative justice approaches are very effective in providing opportunities for communication to occur between the offender, victim, and community. These practices are used extensively in many probation departments across the state. These practices include victim- offender mediation, programs designed to empower the family, and traditional practices such as community service and letters to the victim from the offender. Practices can be tailored to the offender and the victim but the goal is always about accountability and repairing the harm to the victim.

Some national research that provides comparison data:

- Law enforcement: referral to conflict resolution program in Harrisburg, PA reduced repeat calls to the same address when compared to formal court processing (Sheppard, 1995)
- Prosecution: referral to diversion can reduce case filings; result in greater satisfaction by victim (92% vs. 69%); and lower recidivism (2% vs. 4%) (Clarke et al 1992).
- Sviridoff studied a community service program in NYC and found increased completion rates for community service (75% vs. 50%) compared to regular process; quicker arraignment (18 hrs vs. 35 hrs); and increased community satisfaction with reduction of target crimes (nuisance crimes and prostitution).
- Sullivan and Tiffit in 2006 cite studies that found offenders referred to RJ programs are more likely to apologize and pay restitution than with the regular court process, and less likely to re-offend, with a 7%-22% reduction.
- Many other studies show when control group studies are conducted, RJ approaches result in increased victim satisfaction, increased restitution paid, and modestly reduced recidivism.

**21. Please describe how the controlled maintenance needs of the History Center Colorado and Ralph L. Carr Judicial Center facilities will be addressed and financed.**

SB 08-206 envisioned all costs associated with the debt service, operating expenses and controlled maintenance of the new judicial center to be paid for from court fees, rent and parking fees. The amount of controlled maintenance funds deposited in a trust fund will start at about \$900,000 annually and increase 2.5% per year. At 20 years there will be about \$25 million (or \$11 million in today's dollars) which will then be available for large controlled maintenance projects such as roof or boiler replacements.

The Museum should discuss plans for controlled maintenance.

**22. Please describe the current situation with respect to data sharing between the State court system, the Denver County Court, and district attorney offices statewide. Please explain what type of data is not being shared and what impact(s) this has on the Department and other entities that utilize the data. What actions, if any, could the General Assembly take to remedy this situation?**

The State Judicial Department electronically shares felony data with district attorney offices around the State through connections that the Judicial Department and CDAC have with the State's CICJIS program. This nationally recognized system has been in place since 1998 and originally included all district attorney offices. Over the last several years, the DA offices in Denver, the 18<sup>th</sup> Judicial District (primarily Arapahoe and Douglas counties), and the 9<sup>th</sup> Judicial District (primarily Glenwood Springs and Aspen) withdrew from CDAC so they are no longer part of the data-sharing system, which has created the problems outlined below. The data that are electronically exchanged with all other DA offices include: charges, litigant information, victim information, data on summons, scheduled event information, sentencing information and disposition information.

Having three DA offices not connected to the data sharing system creates problems. Currently, nearly half a million pieces of information in the 18<sup>th</sup> JD alone (e.g., names, charges, sentencing type and length, scheduling times for hearings and trials, etc) are being rekeyed by data entry staff of the receiving entity (whether it is the courts or the district attorneys—both are significantly affected by the lack of data transfers). This is especially egregious in normal budget situations, but is particularly bad in the current economic climate. The three offices who are no longer in the data exchange program complain that doing so is an unfunded mandate for which they have no budget.

Failure to electronically transfer this information requires redundant data entry among the entities, time delays in transferring critical information among the entities which could create public safety issues, significant increases in unnecessary phone calls among the entities, additional paper flow that may not be needed, mis-keying of data in the various systems that

results in different information in different systems and the need for data entry staff to spend extra time correcting mistakes, and bad information being made available to decision makers resulting from mistakes or redundant data.

The situation is further complicated by two factors: the lack of single stop shopping for information that results in research staff inefficiencies, e.g., staff doing background checks must now go to the three individual districts to get data from those districts, rather than just being able to go to either CDAC or the Judicial Department databases for a complete State picture. In addition, Denver County Court, a separate Constitutional Court does not electronically share data with the State system leading to unnecessary staff inefficiencies between Denver County Court and the State's Denver District Court.

Although all government entities have access to the newly developed Government Access System by the Judicial Department, that is for view only and does not mitigate the problems caused by redundant data entry mentioned earlier. Not only do understaffed Judicial Department clerks' offices in the 2<sup>nd</sup>, 9<sup>th</sup> and 18<sup>th</sup> judicial districts have to rekey information that should be sent to them electronically, but then those same district attorneys have statewide access to all of the information through the electronic Judicial Government Access program. That system is accessed heavily by staff in the offices of those same three district attorneys.

Over the next couple of years, those districts that have opted out of statewide data sharing will also lose the staffing and information benefits to be accrued from the State's e-filing effort in criminal cases; the State's e-citation effort in traffic cases; and the electronic sharing of information in misdemeanor cases. All of this will be coordinated between the Judicial Department and CDAC.

Recently, with the full involvement of the courts, the district attorney in the 17<sup>th</sup> judicial district created a new database and information system that successfully and fully integrates with the existing CDAC system.

The Legislative Audit Committee held a hearing on this topic on September 27, 2010. The general assembly has already passed the CICJIS statute years ago—the clear intent of which was to have the entities electronically share data—a review of the hearings will make the intent abundantly clear. Some additional options may include: (1) reaffirming that statutory requirement; or (2) lodging district attorney data in a stable, State funded entity (e.g., Attorney General's Office, OIT), or State funding the information system operations of CDAC would be helpful.

**ADDENDUM: OTHER QUESTIONS FOR WHICH SOLELY WRITTEN RESPONSES ARE REQUESTED**

**23. Please provide a table comparing the actual number of department FTEs in FY 2000-01 and the requested number of department FTEs for FY 2011-12, by division or program.**

Over the past 11 years, the Judicial Department has seen an increase of 858.0 FTE, more than half of which have been cash-funded (536.9 FTE). Of this amount, 43% (372.9.0 FTE) were authorized through legislation which includes all newly authorized judgeships and related staff and last year’s probation staff related to sentencing changes. The remaining staff increases are the result of budget decision item requests related to workload/caseload increases and include 282.0 FTE for probation, 172.8 FTE for the courts and 25.9 for the administration function.

**FY2001 vs. FY2012 FTE**

	<b>FY2001</b>	<b>FY2012</b>	<b>Inc/(dec)</b>	<b>Legislation</b>	<b>Other</b>
Appellate Courts	168.7	192.7	24.0	21.0	3.0
Administration & IT	166.6	192.5	25.9		25.9
Trial Courts	1,402.6	1,868.7	466.1	293.3	172.8
Probation	794.4	1,131.9	337.5	55.1	282.4
Collections Investigators	54.3	83.2	28.9		28.9
Courthouse Security		1.0	1.0	1.0	
Judicial Performance		2.0	2.0	2.0	
Family Friendly		0.5	0.5	0.5	
Grants/SB91-94 (FF & RF)	105.9	78.0	(27.9)		(27.9)
<b>Total</b>	<b>2,692.5</b>	<b>3,550.5</b>	<b>858.0</b>	<b>372.9</b>	<b>485.1</b>
GF	2,387.3	2,738.6	351.3	114.7	236.6
CF	201.0	737.9	536.9	258.2	278.7
RF	84.2	56.0	(28.2)	0.0	(28.2)
FF	20.0	18.0	(2.0)	0.0	(2.0)

**24. Please provide a table comparing the actual number of FTEs in FY 2008-09 and FY 2009-10 to the appropriated level of FTE for each of those fiscal years, by division or program.**

The following table depicts the appropriated versus utilized FTE for FY2009 and FY2010. The Judicial Department has never been fully funded for its personal services costs and generally expects to have a 4% vacancy rate in any year just to stay within budget. In FY2010, due to statewide budget shortfalls, the Judicial Department embarked on a plan to permanently reduce its FTE levels effective for FY2011. Therefore, the vacancy rate in FY2010 is unusually high due to the fact that as positions became vacant, they were left

vacant in anticipation of being abolished. Due to this effort, the Judicial Department reduced its FTE permanently by 173.0 FTE effective July 1, 2010.

	FY2009			FY2010		
	Approp	Actual	% Vacant	Approp	Actual	% Vacant
Appellate	146.0	141.8	-3%	146.0	138.2	-5%
Administration & IT	109.0	102.8	-6%	109.0	104.8	-4%
Trial Courts	1,867.0	1,751.1	-6%	1,900.6	1,671.0	-12%
Probation	1,129.8	1,081.2	-4%	1,139.6	1,038.6	-9%

**Attachment A – Inter-Agency Drug Treatment Funding Oversight Boards**

<b>Summary of Interagency Drug Funding Oversight Boards and Responsibilities as of 11/16/10</b>			
	<b>IAC - Interagency Advisory Committee on Adult &amp; Juvenile Correctional Treatment</b>	<b>ITFT - Interagency Task Force on Treatment (SB 03-318)</b>	<b>HB10-1352</b>
<b>Statute</b>	16-11/5-102(3)(a) 18-19-103(4)	16-11.5-102(4) and (7) 18-19-104	16-11.5-102(3)c 18-19-103 (5.5a)
<b>State Oversight Board</b>	DOC -Director of Parole, CC, YOS DPS - DCJ Director DHSS - ADAD Director - MH Director - DYC Director Judicial - Probation Services Director	DOC -Director of Parole, CC, YOS DPS - DCJ Director DHSS - ADAD Director - MH Director - DYC Director Judicial - Probation Services Director 3 District Attorneys 1 Public Defender representative	DOC -Director of Parole, CC, YOS DPS - DCJ Director DHSS - ADAD Director - MH Director - DYC Director Judicial - Probation Services Director 1 District Attorney 1 Public Defender representative 1 Sheriff representative 1 County representative
<b>Source of \$</b>	Offenders surcharge \$3.9M in FY10	GF \$2.2M in FY 10	GF Est.by DCJ based on savings
<b>Purpose</b>	Substance Abuse: Assessment Testing Education Treatment	Local treatment as ID'd by local plan Preference to Drug Courts Up to 20% for cross-district, innovative efforts	Treatment of Subs Abuse and Co-Occuring offenders on/in: diversion probation parole community corrections jail